

Birmingham City Council

Planning Committee

27 April 2023

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	2022/07980/PA Brindley Drive Multi-storey Car Park Brindley Drive Birmingham B1 2NB Erection of a 46 storey tower and a 15 storey tower to include 581 residential apartments (Use Class C3), with residential amenity space, associated engineering and enabling works, including site clearance.
Determine	7	2021/03125/PA Land north and south of Mill Street bounded by Aston Road (A38), Dartmouth Circus, Dartmouth Middleway and the Birmingham and Fazeley Canal Curzon Wharf Aston Birmingham B6 4BS A Hybrid Planning Application Constituting EIA Development Comprising: A. A Full Application For Partial Demolition And Other Works To The Listed Wall Between The Site And The Canal. B. An Outline Planning Application For The Demolition Of Existing Buildings And Redevelopment Of The Land For Mixed Uses across 4 buildings, comprising up to a maximum of 620 residential homes (Class C3), up to 732 purpose built student accommodation apartments (Sui Generis), and up to 12,000sqm (GIA) of Office / Research and Development floorspace (Class E(g)(i) and (ii)) with Ancillary Amenity And Operational Space, Retail And Food And Drink Uses [use Class E (a) (b) And (c)]; Indoor Sport, Recreation Or Fitness Space [use Class E (d)], Public House And Drinking Establishments / Bowling Alley / Cinema (Sui Generis) within buildings varying in height up to 282.5m AOD (illustratively shown as G+8 storeys, G+13 storeys, G+40 storeys and G+52 storeys); Hard And Soft Landscaping And New Public Open Spaces Including Sustainable Urban Drainage Systems, Car Parking Provision And Alterations to Pedestrian And Vehicular Accesses. Director of Planning, Transport & Sustainability

Canal wall south of Mill Street and north of the
Birmingham and Fazeley Canal
Aston
Birmingham

Partial demolition, reinstatement and other works to
the canal side wall fronting the section of the
Birmingham and Fazeley Canal situated between
Aston Road and Dartmouth Middleway,
Birmingham City Centre

Committee Date:	27/04/2023	Application Number:	2022/07980/PA
Accepted:	25/10/2022	Application Type:	Full Planning
Target Date:	06/07/2023		
Ward:	Ladywood		

Brindley Drive Multi-storey Car Park, Brindley Drive, Birmingham, B1 2NB

Erection of a 46 storey tower and a 15 storey tower to include 581 residential apartments (Use Class C3), with residential amenity space, associated engineering and enabling works, including site clearance.

Applicant:	Court BD Ltd and Birmingham City Council 85-89 Colmore Row, Birmingham, B3 2BB
Agent:	CarneySweeney Crossway, 156 Great Charles Street, Queensway, Birmingham, B3 3HN

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

1.1 This application has been submitted jointly by Court BD Ltd and Birmingham City Council and seeks to provide 581 residential apartments delivered through two blocks (A and B) together with amenity space.

1.2



Image 1: CGI view from the south west of the proposed scheme.

1.3 Block A 'the Tower' would be 46 storeys in height and Block B 'the Garden Mansion Block' would be 15 storeys in height and would provide 581 units as per the below

table 1. The proposed residential unit mix comprises 255 no. 1 bed apartments (44%) and 336 no. 2 bed apartments (56%).

Unit Size	Number of Units	Mix
1 Bed (B) 1 Person (P)	114	20%
1B 2P	141	24%
2B 3P	84	14%
2B 4P	242	42%
Total	581	100%

1.4

Table 1: Proposed housing mix (amended February 2023).



1.5

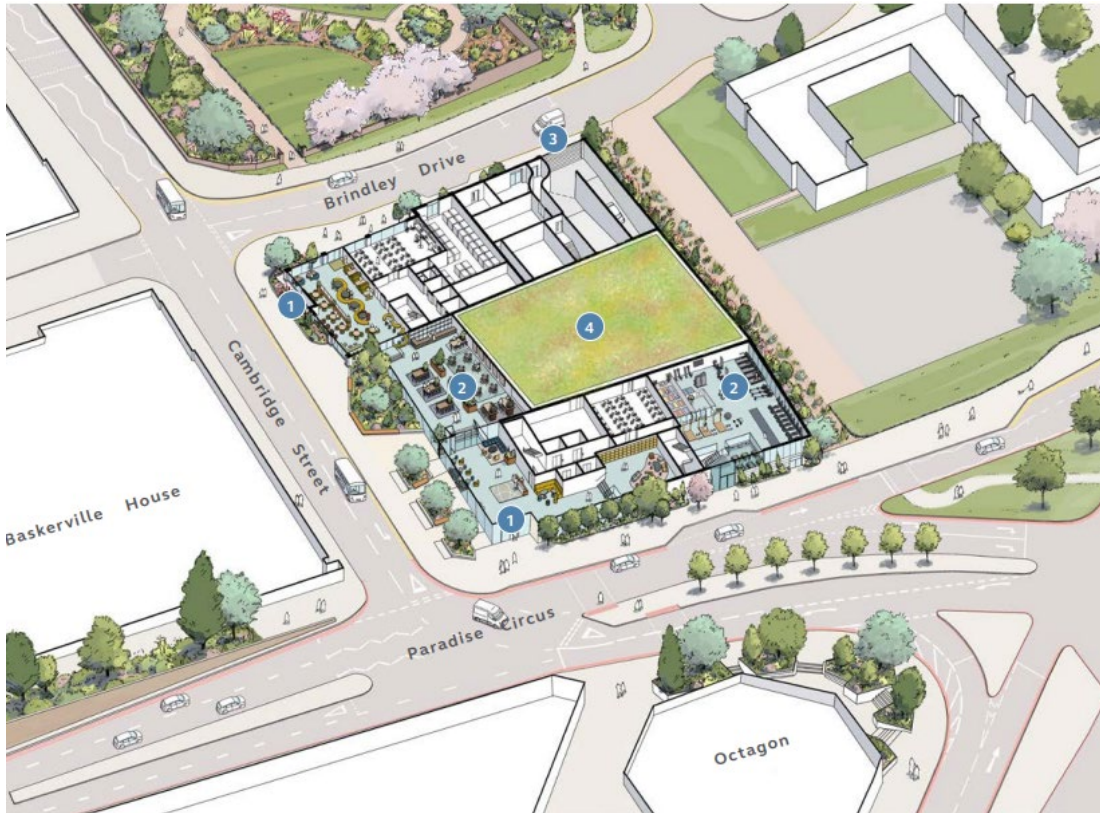
Image 2: CGI View from the west of the proposed scheme

1.6

At ground floor level, there will be a reception/concierge area for the residents fronting Cambridge Street, as well as residential internal amenity spaces, a lounge, gym, co-working space, and cycle parking.

1.7

Cycle storage for 590 cycle spaces will be provided in three separate, secure cycle storage rooms including at mezzanine level. Easy access both in and out of the cycle store areas via the ground floor and level 1 are provided along Brindley Drive and Paradise Circus.



1.8

Image 3: Ground Floor Use Plan

1.9 Zero car parking will be provided for residents. That said at lower ground floor levels (see below image 4) the provision of 100 car parking spaces will be re-provided under the agreement for lease between Birmingham City Council and Court BD Limited (the applicant for the planning permission). This re-provision of car parking will be restricted to the use of existing contract users, being Baskerville House tenants only. The car parking will not be for the benefit of residents living within the building. The car park will be concealed with a green roof cover as per label 4 in image 3 above.

1.10



Image 4: Lower Ground Floor Plan

- 1.11 Entrances into the site are provided off Brindley Drive (3 of image 3), Cambridge Street (1 of image 3) and Paradise Circus (2 of image 3). Vehicular and service access is provided to the northwest sections of the ground floor plan layout. Active street frontages together with soft landscaping will be incorporated along the east south and west flanks. Along the north side of the scheme (opposite the Cambrian Hall site) passive provision for a pedestrian link with landscaping is proposed (from Paradise Circus to Brindley Drive/City Centre Gardens).
- 1.12 Residential apartments will be located on Level 1 – 15 of the Garden Mansion Block (adjacent Brindley Drive) and Levels 1 – 44 of the Tower Block (adjacent Paradise Circus). Both buildings are organised around a centralised corridor in an east-west orientation, removing single aspect north facing units from the scheme. Both buildings have been designed to accommodate a double fire escape strategy to all levels of the buildings along with sprinklers systems to each apartment, creating open plan light filled habitable spaces.



- 1.13
- Image 5. Site Plan to show landscaped areas
- 1.14 The outdoor amenity space would amount to 1,060sq.m. Block A 'the tower' would provide amenity space at levels 44 and 45. Block B 'garden mansion block' would provide amenity space at level 15. Both blocks would also be connected at ground floor level and offer a shared, centralised landscaped podium (over the car park) as shown in image 5 above. In terms of internal amenity space 1,220sq.m. is provided.



1.15 Image 6: Artist's impression of views/connectivity from City Centre Gardens looking onto Block B.

1.16 The application has been accompanied by the following supporting documents:

Design and Access Statement
 Planning Statement
 Archaeology Assessment
 Air Quality Assessment
 Viability Statement
 Affordable Housing Statement
 Flue and Ventilation details
 Energy and Sustainability Statement
 Transport Assessment
 Travel Plan
 Preliminary Ecological / Bat Appraisal
 Aerodrome Safeguarding/Radar
 Revised Crane Assessment
 Phase 1 Geo Environmental Report
 TV & Telecoms Assessment
 Statement of Community Involvement
 Desktop Utility Survey
 Tall building report
 Fire Strategy
 Drainage Strategy (SUDs/FRA)
 Lighting Strategy (plans)
 Residential Standards Statement
 Sustainable Construction Statement
 Design and Access Statement Addendum
 Vehicle Tracking Plans (previously within Transport Assessment) 06/02/2023
 Landscaping Plan
 Design Specification Report
 Environmental Statement Addendum
 Cover Letter Feb 2023
 Drainage SUDs Maintenance Manual
 SBK Cover letter Response to LLFA

JRC Building Mitigation - Further Analysis Engineering Notes
Design and Access Statement Addendum

Environmental Statement

Covers - Glossary

Covers - Volume 1 - Front cover, Contents and Glossary

Covers - Volume 2 - Front cover

Covers - Volume 3 - Appendices Cover and Contents

Chapter 1 Intro

Chapter 2 EIA Methodology

Chapter 3 Existing Land Uses and Activities

Chapter 4 Alternatives and Design Evolution

Chapter 5 Proposed Development

Chapter 6 The Works

Chapter 7 Daylight, Sunlight

Chapter 8 Heritage

Chapter 9 Noise and Vibration

Chapter 10 Socioeconomics

Chapter 11 Wind Microclimate

Chapter 12 Effect interactions

Volume 2 TVIA

Volume 3 Appendices

Volume 4 Non-Technical Summary

- 1.17 In addition, a Viability Assessment has been submitted, which seeks to demonstrate that the scheme cannot support the contribution towards affordable housing or any sums towards planning obligations. That said, the applicant has committed to honouring to deliver 46 no. apartments for affordable private rent at a 20% discount (8.1% of the total number of apartments) which equates to a monetary sum of c£2,880,000
- 1.18 However, at a 30% market discount the development could provide 31 no. units (5.33%). Although a higher discount results in fewer units being provided - these would be genuinely affordable apartments as explained further on page 43 of this report.
- 1.19 An Environmental Statement (ES) has been submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to assess the likely significant environmental impacts arising from the development including any cumulative effects with other developments during the construction and operational phases of the scheme. It also identifies any mitigation measures that are required to address these environmental effects.
- 1.20 Following a scoping exercise in June 2022 it was identified that the development would likely give rise to several significant environmental effects that would, therefore warrant full assessments as part of the EIA process. These were categorised as below:
- 1.21 Daylight, sunlight, overshadowing and solar glare, heritage, noise and vibration, socioeconomics, wind microclimate, townscape and visual.
- Amended plans
- 1.22 Consultee responses have resulted in modifications being made and amended plans and documents being submitted. Additional EIA information has also been submitted (in the form of an addendum to the ES) to include the Paradise Development consent (referred to as Cumulative Site 15). A further press notice expires 17th April and all

those that were originally consulted and have commented (including the Planning Casework Unit) have been re-notified by letter and any comments received after the publication of the final committee report will be presented to members at planning committee.

1.23 [Link to Documents](#)

2. **Site & Surroundings:**

- a. The application site relates to a four storey 1960s Multi-Storey 610no. Car Park building located at the junction of Paradise Circus, Cambridge Street and Brindley Drive. Early this year a prior notification application was submitted and determined for the demolition of this existing multi storey car park building.



Image 7: Application site boundary

- b. The site is 0.33ha in size and lies adjacent to the Paradise development area to the east – see image 8 below.



Image 8: Paradise development area (to the east) and application site in red (to the northwest)

- c. The site is not located within an area at risk of flooding nor is it located within a designated ecological site. The existing car park building is not Listed nor is it within a Conservation Area and does not include any designated or non-designated heritage assets within the extent of the site boundary. However approximately 90-100 metres north of the application site is the Grade II* Listed Coffin Furniture Works and to the south is Baskerville House, a grade II Listed Building which fronts Centenary Square. There are further Listed Buildings to the east around Centenary Square including the Grade I Listed Hall of Memory, Grade II Listed Alpha Tower and the Grade II Listed 301 Broad Street/former Municipal Bank Building (now 'The Exchange'). To the north of the site is the Jewellery Quarter Conservation Area and to the east, beyond Paradise Circus is the Colmore Row and Environs Conservation Area.

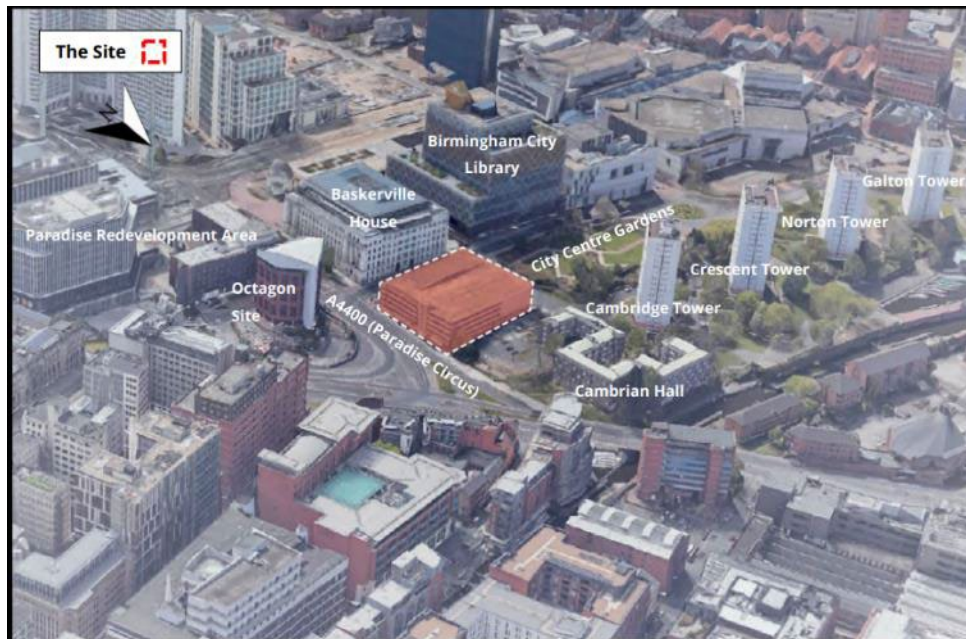


Image 9: Virtual aerial view of the site

- d. In terms of the surrounding development the multistorey car park sits lower than most of its surrounding buildings on Paradise Circus; and the existing site levels drop somewhat in a south to north direction, as can be seen in photo 2 at the end of this report. There are several tall buildings in close proximity, these being 10 - 15 storeys, Alpha Tower at 28 storeys as well as the Octagon which is currently under construction and to stand at 49 storeys.

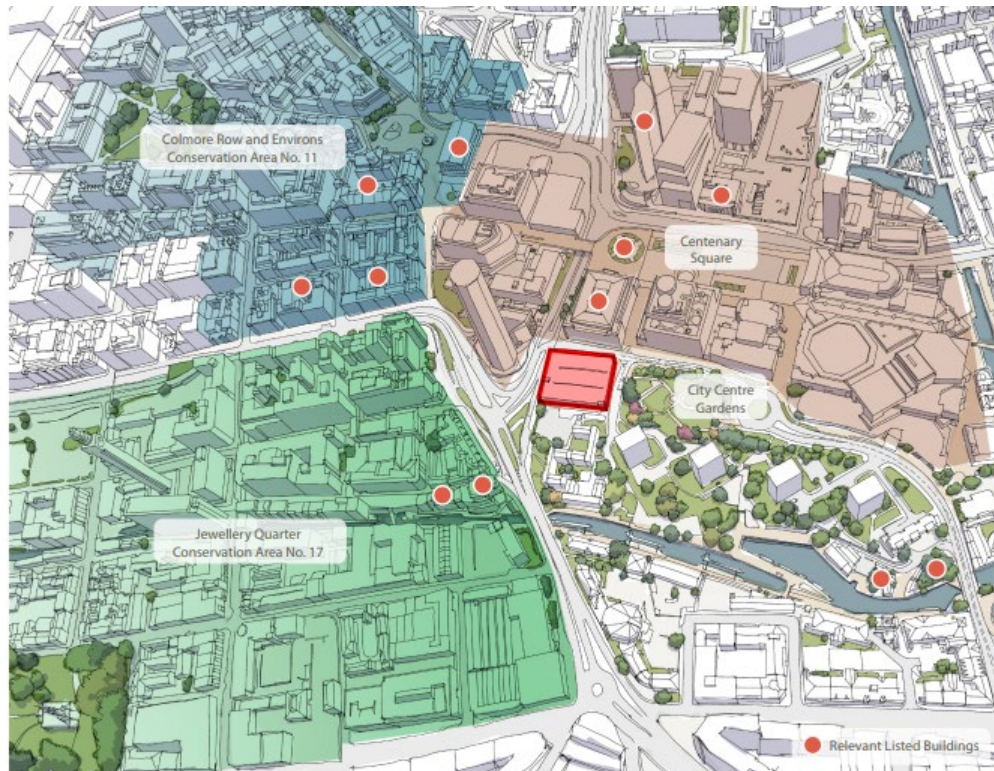


Image 10: Location of listed buildings and conservation areas.

- e. A small area of scattered scrub is located along the southern and eastern boundaries. Hardstanding pavement is located along the southern, eastern, and western boundaries of the site.
- f. In terms of access the site is located approximately 11 minutes' walk southeast from the site through the City Centre Core. There are nearby metro and bus stops and Cambridge Street is part of a designated Strategic Cycling route.
- g. The site is identified in the 2022 the BCC Housing Economic Land Availability Assessment (HELAA) (Ref CC493) as being suitable for residential development subject to meeting local plan policy requirements.
- h. [Site location](#)

3. **Planning History:**

- a. 05.01.2023 - 2022/09020/PA – Application for a prior notification for proposed demolition of existing multi storey car park building. Prior approval required.

28.07.2022 – 2022/04830/PA – EIA Scoping Opinion Request.
- b. Wider surrounding site - east of the application site (Paradise redevelopment) Land at and bounded by Paradise Circus Queensway and surrounding including Chamberlain Square, Parade and Paradise Street.

08.02.2013 – 2012/0511/6/PA – Outline planning application (all matters reserved for demolition of all building on the site (save for the Joseph Chamberlain Memorial) and commercial led mixed used redevelopment of up to 170,012 square metres gross internal floorspace. Approved

10.10.2014 - 2014/05319/PA - Variation of Conditions 2, 5, 6, 7, 10 , 11, 12, 13, 15, 16, 18, 22, 24, 25, 26, 27, 29, 30, 32, 36 and 55 attached to planning

permission 2012/05116/PA to reflect the proposed phasing of development.
Approved.

11.09.2017 - 2017/03356/PA - Variation of conditions 40, 43 and 44 to allow for changes to the approved plans and design protocol, variation of condition 56 to allow for a reduction in the minimum distance between the hotel and building F, variation of condition 41 to allow for an increase in the number of hotel bedrooms and the removal of condition 53 to remove the requirement for the replacement of the Adrian Boulton Hall of application 2014/05319/PA. Approved.

24.08.2021 – 2020/08215/PA – Demolition of existing buildings, site clearance and the erection of a 49-storey building comprising 370 residential apartments (Use Class C3), lower ground/upper ground floor commercial/leisure space (Use Class E (a), (b) and (c) and residents' reception. Approved subject to conditions and a Section 106.

10.03.22 - 2021/07244/PA - Variation of conditions attached to planning permission reference 2017/03356/PA including: variation of conditions 40, 43 and 44 to allow for changes to the approved plans, parameter plans and design protocol (to reflect proposed changes to building heights and massing, as well as changes to highways layout); variation of condition 55 to allow flexibility for an alternative hotel taxi drop off and servicing strategy; variation of condition 41 to allow for changes to the maximum floorspace limits for ancillary uses and changes to the maximum unit size for ancillary uses; variation of condition 39 to allow demolition to occur prior to reserved matters approval; and variation of conditions 28, 35, 41 and 49 to reflect amendments to the Use Class Order. Approved.

Further other reserved matters, non-material amendments and discharge of details applications.

4. **Consultation Responses:**

Amendments to the application and an addendum to the Environmental Statement have been submitted whereby a new press notice has been published (with an expiry date of the 17th of April) and all that have commented and were originally consulted have been re-notified of these revisions (also with an expiry date of 17th April).

BCC Archaeology: no objections subject to condition for a scheme of investigation for a programme of archaeological works.

Aerodrome Safeguarding & Planning Officer: no objections subject to conditions around crane equipment and an aviation warning light system.

Amenities Societies: no comments

Birmingham Civic Society: Objects to the application in its current form and raise the following comments:

1) We have noted the changes made since last being consulted upon the scheme and these appear to be very minor. We have included our previous response below for reference.

2) Material quality, as discussed in point 6) of our previous letter appears to have diminished with aluminium cladding proposed rather than Portland stone etc.

Previous response dated 24.11.22 raised the following concerns:

-Redevelopment of the site accords with the BDP.

-The completed development has been assessed as having minor-moderate magnitude of change upon the setting of a number of built heritage assets ranging from negligible to minor with three moderate adverse effects (namely on Baskerville House, Hall of Memory and Council House/City Museum and Art Gallery). The building must have a significant impact on the skyline however, and numerous buildings and conservation areas beyond the immediate area so we conclude there will be significant impact.

- We feel the Octagon should be considered the 'pinnacle' of whatever cluster is developed, justified by its distinctive design. Two towers of a similar height are not needed to signal visitor's arrival in the city centre, and the new tower will dilute this gesture. There are enough gateways to Birmingham – every application appears to use this as a justification for height, with a spine of gateway buildings now proposed or consented along the A38 from Gravelly Hill Interchange to Bristol Road South.

-It is difficult not to see this as a 'standard' tall building, rather than being distinctive, that doesn't respond to its context in any meaningful way. Portland stone has been recognized as a high-quality material used in listed buildings locally, but concrete has been employed in this instance. Similarly, The Exchange and Hall of Memory make use of solid bronze, but bronze coloured metal is proposed here. Material quality is therefore significantly lower than those buildings which have apparently inspired it. Where developments such as the consented Octagon are truly distinctive, and justify their impact on the skyline, this does not have the same investment in design or material quality.

-The proposal comprises only 1 and 2 bedroom units, which is not a sustainable mix, and will make it difficult for families to inhabit and does not meet BCC's targets.

-It is regrettable that viability does not allow for affordable housing. Is there an opportunity for this to be the first phase of a wider redevelopment and improvement of City Centre Gardens and the four social housing blocks behind the library? The affordable housing provision could be provided to relocate the residents of one tower to enable its demolition and subsequent redevelopment, moving from east to west and facilitating a new pedestrian friendly and activated canal-side space, new public park and improved urban fabric and street scene that makes this area feel less hostile and empty? The development would create active frontages along Paradise Circus and Cambridge Street. The City Centre Gardens would benefit from having the Garden Block however the units overlooking the park could have benefitted from having balconies. The access strategy and location of car park entrance also precludes the closure of Brindley Drive to traffic in the future and the reimagining of the wider area. A building of this scale and impact should bring greater social value, through provision of affordable housing, positive impact on the locality, and high-quality design.

Cadent Gas: no objections however will require the developer take note of an informative to prevent damage to Cadent Gas's assets/interference with their rights

Canal and River Trust: no objections subject to conditions requiring signage/wayfinding strategy, a phase 2 site investigation. CRT also states that whilst the current proposal would be set back from the Canalside retaining the open character of the area, to some extent, future proposals in the area will need to be carefully considered when there is the potential for open character between Tindal Bridge (King Edwards Road) and Saturday Bridge (Summer Row) to be affected.

Civil Aviation Authority: no comments

Community Infrastructure officer: The planning application is liable for CIL, a charge of £3,277,325.25.

Conservation - The proposed development would cause low to medium levels of less than substantial harm to the Jewellery Quarter Conservation Area (JQCA) and low levels of less than substantial harm to the Colmore Row (CR) and Environs Conservation Area (ECA). The proposed development would cause varying degrees of 'less than substantial harm' to a number of grades II, grade II* and grade I listed buildings through development in their settings and through cumulative impacts. The harm arises through varying levels of distraction and detracting in views of these heritage assets by virtue of the scale of the Development. The tests of paragraph 202 of the NPPF will need to be applied to this development and the concluding levels of harm weighed against the public benefits of the overall scheme.

Those whereby the overall impact would be at the mid to high end of the less than substantial scale are:

Baskerville House -grade II. Those at the midpoint are Hall of Memory – grade I, Council House, City Museum and Art Gallery and Council House Extension -grade II*. Cumulatively at the high-point of less than substantial harm are Baskerville House – grade II, Hall of Memory grade II, Council House, City Museum and Art Gallery and Council House Extension – grade II* and 13& 15 Former Coffin Works -grade II*.

BCC City Design – no objections subject to conditions for materials, architectural details, sample panel and landscaping.

Ecology: No objections subject to a bat survey and landscaping conditions

Employment Access Team: no objections subject to a construction management plan

Environmental Pollution Control: no objections subject to conditions for land contamination remediation scheme, contaminated land verification report, noise insulation scheme, an overheating assessment, construction method statement/management plan, extraction and odour control details, noise insulation, low emission parking

Highways Agency: No objections or comments – are satisfied that the proposal is unlikely to impact on the operation or free flow of the network.

Historic England: have concerns on heritage grounds and are concerned at the impact this scheme would have on some of Birmingham's most significant and celebrated historic sites.

Historic England do not agree with the statement set out in the revised Supporting Statement letter from Carney Sweeney dated 6 February 2023 which sets out that a benefit of the scheme 'is townscape and visual effects associated with providing a landmark building'. The heritage assets in Centenary Square are already the landmarks highlighting that landmarks do not have to be tall buildings, but elements of a place that are at a human scale. They should be sensitively and appropriately responded to.

Notwithstanding that, in all cases of harm, Historic England concur with the applicant's assessment that the scheme will result in 'less than substantial harm' as referred to in the NPPF, requiring great weight to be given to the assets' conservation, irrespective of the level of harm.

Paragraph 202 of the NPPF calls for this harm to be weighed against the public benefits of the proposal. This harm should only be permitted if it would be outweighed by public benefit.

Health and Safety Executive (HSE): after reviewing the planning application HSE are satisfied with the fire safety design and makes some recommendations that can be built into the scheme via internal alterations.

Leisure Services: requests a total public open space contribution of £1,212,075 to be spent on the provision, improvement and/or biodiversity enhancement of public open space and play and the maintenance thereof at POS priority sites within the Ladywood Ward.

LLFA: no objections subject to the following 2 conditions and 2 informative:
Sustainable Drainage Scheme
Sustainable Drainage Operation and Maintenance Plan
Informative for discharge rate, detailed calculations, above ground SUDs, cross sections, finished floor levels.

Natural England: no objection and considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes

NHS: queries how the application addresses the impact on the health service and have asked to meet the case officer to discuss. Case officer has responded.

Network Rail: no objections

Planning and Growth Strategy: no objections and considers the principle of the proposed development acceptable in this location however states it would be preferable to see 3 bed units incorporated into the housing mix. Confirms the BREEAM excellent standard will not apply as the proposal will comprise of less than 1,000 square metres non-residential floorspace.

Planning Case Work Unit (SoS): confirms no comments on the Environmental Statement and has since been reconsulted on the updated ES.

Sports England: objects in the absence of an agreed package of S106 contributions. They state the application would potentially generate demand for 0.46 pitches at a capital cost of £63,768 together with an appropriate maintenance contribution (suggested to be £9567 per annum for 15 years), and 0.7 changing rooms at a capital cost of £114,048 to provide a total playing pitch contribution of £321,321. Sport England also seeks a contribution of £373,627 towards indoor sports facilities. Total of: £694,948

Severn Trent Water: no objections subject to drainage plans of foul and surface water flows.

Sufficiency Officer (Early Years and Childcare): states there are no childcare issues with this proposal based on the following - there is an undersupply of 249 PTE (Part Time Equivalent) childcare places for the 0 to 4 year old age group for the Ladywood Ward.

However, based on the current childcare sufficiency places available local childcare providers have the capacity to absorb any increased demand from the proposed development due to oversupply of 202 PTE (Part Time Equivalent) childcare places

for the 0 to 4 year old age group for the Bordesley and Highgate Ward and 2,507 PTE places for the Edgbaston ward.

The Gardens Trust: have considered the information in support of the application and confirm they do not wish to comment on the proposals at this stage.

Transportation: no objections subject to the following conditions:

No occupation until the Highway works are completed through a suitable Highway agreement, likely to be a s278 agreement for all necessary works and associated Traffic Regulation Orders.

1. Stopping-up resolution s.247 T&CP Act.
2. Cycle parking provided before occupation.
3. Construction Traffic Management plan in place before any demolition and construction works take place.

Trees: confirms no objections to the application. The tree officer did previously query whether the scale of the operations might spill over into the Cambrian Hall site (where there are trees) however applicants clarified that certain that operations can be contained to the redline of the application site.

West Midlands Police: No objections subject to conditions for a Refuse Strategy, Lighting and Access control. States short term lets in an 'Air bnb' style will not be permitted by the landlord or operator and will be considered a breach of tenancy should the tenant attempt to use their home on this basis. Also asks landscaping does not obscure lighting and consideration is required to ensure the landscaping does not encourage crime and ASB as a by-product of its design.

WMP state they were unable to find anything that covers the Counter Terrorism Security Advisors' (CTSA) comments in relation to hostile vehicle mitigation and glazing standards. WMP highly recommend that glazing standards and HVM are considered at this site (specifics to be determined with WMP CTSA's).

West Midlands Fire Service: makes several design recommendations

Victorian Society: do not wish to object to the proposals as presented, as there will not be an immediate or direct impact on any building from their period of interest. VS defer to the Twentieth Century Society regarding the impact on the grade II listed Baskerville House and other buildings of their period of interest in the vicinity. However, VS would also point out that their non-objection (at this point) is not to be taken as a statement of support for the proposals.

5. **Third Party Responses:**

5.1 Major and EIA site and press notices posted. Local Councillors, Residents' Associations and the occupiers of nearby properties notified of the application.

5.2 Ten letters of objections received outlining the below reasons for concern:

- Conflict of interest
- Meaningful engagement required
- Poor connectivity to public routes
- Impact on neighbouring development
- Inappropriate in its location
- City Skyline will become overcrowded
- Impact on wind conditions/adverse weather conditions

- Loss of light on neighbouring schemes
- Health and safety matters
- Impact on traffic and existing busy roads
- Amenity Impacts
- Height of the building and proximity to the landmark Library of Birmingham, completely overshadowing it.
- Loss of car parking for disabled drivers/families and other Library visitors
- No extra infrastructure to support additional residents
- Concerns about evacuation from such a high building in the case of an emergency
- Design Quality
- Heritage and townscape impacts
- Dust and noise pollution during construction period
- Concerns regarding the robustness of the ES
- Landscaping mentioned but no landscaping plan available to view
- EIA was not made available for public viewing until 21st November
- Provision of insufficient detail to assess the development, including lack of detail and inconsistent information
- Concerns regarding the detailed design quality of the development
- Townscape impacts including impacts on nearby heritage assets
- Failure to maximise the site potential and improve permeability through and around the site.
- Will overwhelm fragile existing public services and general infrastructure
- Dramatic increase in footfall and late-night taxi traffic
- Existing walk from City Gardens and James Brindley walk is already heavily used
- Impact on local sewers
- Is there appropriate space for the evacuation of residents from the development in an emergency
- Is there a need for these PRS schemes
- Risk being oversupplied with this type of accommodation built by corporations who have no real social investment in the local community
- Too high density

Substantive letters of objection from the following:

Hermes Ltd letter of objection
University City Birmingham

Concerns are listed above but are expanded on pages 42-50 of the report.

Statement of Community Involvement

A Public consultation was undertaken by private consultants during September 2022 on behalf of and under the instruction of the applicant. It was conducted through a virtual public consultation website managed by Gough Bailey Wright. The consultation included:

- Briefings to key politicians and stakeholders
- A media release issued to all local and regional media
- Targeted advertisements launched on social media platforms
- A consultation leaflet delivered to local residents and businesses
- An online consultation with a digital feedback form for public comments
- The launch of a dedicated email address for ongoing questions and feedback

A total of 64 responses were received with a range of views expressed including

'support', 'support some' and 'do not support'. These are provided in Appendix 6 of the accompanying Statement of Community Involvement.

6. **Relevant National & Local Policy Context:**

a. **National Planning Policy Framework**

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 11
Chapter 4: Decision-making – paras. 56, 57
Chapter 5: Delivering a sufficient supply of homes – paras. 60, 62
Chapter 8: Promoting healthy and safe communities – paras. 92, 98
Chapter 9: Promoting sustainable transport – paras. 104, 110, 112
Chapter 11: Making effective use of land – paras. 119, 120, 124,
Chapter 12: Achieving well-designed places – paras. 126, 130, 131, 132, 133,
Page 13 of 45
Chapter 14: Meeting the challenge of climate change, flooding and coastal
change – para. 152
Chapter 15: Conserving and enhancing the natural environment – paras. 174,
180, 183, 185, 186, 187
Chapter 16: Conserving and enhancing the historic environment – paras. 189,
194, 195, 197, 199, 202, 206

b. **Birmingham Development Plan 2017:**

G1 Overall levels of growth
PG3 Place making
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP5 Low carbon economy
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and geodiversity
TP9 Open space, playing fields and allotments
TP11 Sports facilities
TP12 Historic environment
TP26 Local employment
TP27 Sustainable neighbourhoods
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP31 Affordable Housing
TP37 Heath
TP38 A sustainable transport network
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development
TP46 Digital communications

c. **Development Management DPD:**

DM1 Air quality
DM2 Amenity
DM3 Land affected by contamination, instability and hazardous substances
DM4 Landscaping and trees

DM6 Noise and vibration
DM10 Standards for residential development
DM12 Residential conversions and Specialist accommodation
DM14 Transport access and safety
DM15 Parking and servicing

d. Supplementary Planning Documents & Guidance:

Birmingham Parking SPD 2021
Birmingham Design Guide 2022
Public Open Space in New Residential Development SPD 2007
Conservation Through Regeneration SPG 1999
City Centre Canal Corridor Development Framework 2002
Big City Plan 2011
Our Future City Plan 2021

7. **Planning Considerations:**

a. The main material considerations are:

- principle of the development including design, scale, mass, layout, architecture, and materiality
- impact on heritage assets and archaeology
- housing mix
- impact on residential amenity and outdoor amenity
- microclimate
- access, parking and highway safety
- future development of adjacent Cambrian Hall
- fire and building safety
- drainage, flooding and ground conditions
- air quality
- landscaping, biodiversity and ecology
- noise
- energy and sustainability
- aviation safety
- other matters
- the letters of objection and
- the environmental effects set out in the Environmental Statement (cumulatively - with outline planning consent) and CIL/Planning Obligations.

- 7.1 Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well-designed high-quality environments. Most of the new housing is expected to be delivered on brown field sites within the existing urban area.
- 7.2 The application demonstrates that the proposal meets the requirements of BDP policy TP28 (the location of new housing) and with policy GA1 supporting residential development in this location, there is no policy objection to the principle of residential development on this site.
- 7.3 The Birmingham Development Plan became 5 years old on 10th January 2022 and is currently being updated. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies

for decision taking.

- 7.4 For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted **unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits**, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Footnote 7 of the NPPF notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets. This has a qualified application in cases of harm to designated heritage assets and this is discussed later.

Design

- 7.5 The proposal would lie within an existing and developing cluster of tall buildings around Centenary Square, the eastern end of Broad Street, Arena Central, Alpha Tower, Octagon and Navigation Street.
- 7.6 It would be located where is considered an appropriate key arrival point and to act as key view terminators around the city centre.
- 7.7 The Design and Access Statement reviews a number of options for the scheme in this location at varying heights and form which satisfies the EIA requirement to consider alternatives as set out in the Environmental Statement (Chapter 4 – Alternatives and Design Evolution). The height of the 46-storey tower has also been considered with the below parameters plan (for paradise) in mind.

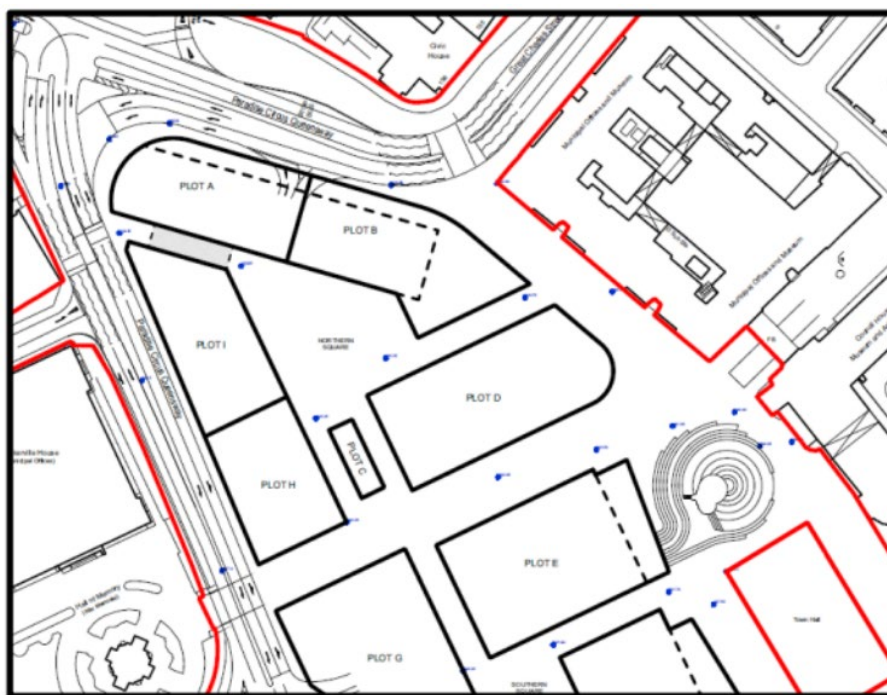


Image 11: Paradise circus parameter plan document

- 7.8 Paradise Plot A (as per image 11) was approved as a separate full planning permission; plots B, C, I and H were approved outline planning consent and are identified for significant urban regeneration.

- 7.9 With regards townscape, BCC City Design accepts the sensitivity apportioned to the Local Townscape Character Areas (LTCA). BCC City Design states with regards to effects, it is hard to concur what is beneficial (in townscape terms) with regards the various LTCA for Centenary Square, Colmore and Environs CA and the Jewellery Quarter Fringe, when the tower is considered in isolation, however it re-affirms in conjunction with the now committed Octagon tower, that it validates the group as a considered cluster.

Scale and mass

- 7.10 In terms of the scale and massing of these components, both the case officer and BCC City Design view the 15-storey garden mansion block comparative to the existing towers running along the northern side of City Centre Gardens, they will provide enclosure to what is otherwise a very open space with poor surveillance.
- 7.11 With the evolution of the Paradise Development to incorporate the Octagon tower, the concept is that this location in Birmingham will no longer be an area at the back of a major site. It will now serve as a key frontage and an epicentre in the city. It is therefore considered by officers both a terminus to key routes and a gateway through to the cultural quarter of Birmingham.
- 7.12 BCC City Design and the application documents state the Octagon tower was never envisaged by the LPA to be a stand-alone object, but part of a small and dynamic group of towers that helped guide people north from Centenary Square towards the northern part of the city centre (and onwards towards the Jewellery Quarter) thereby transforming a much over-looked and stagnant part of the city centre.
- 7.13 A Tall Building Assessment has been submitted with the application; it demonstrates that the tower meets the criteria set out within the newly adopted Design Guide for the delivery of tall buildings in the city. It appraises views, but largely defers analysis of them to the more technical Environmental Statement (ES).
- 7.14 The ES tests not only the scale and mass of the tower, but also its cumulative impact with other schemes, including the wider paradise consent. The Townscape and Visual Impact Assessment sets out a sound methodology, following nationally recognised process with a Zone of Theoretical Visibility evidencing viewpoints.
- 7.15 An addendum to the ES has been submitted and there is no objection to scale/mass/height, and such is supported by BCC City Design.

Layout

- 7.16 The site layout and block arrangement present a back of pavement development with an entrance on each of its 3 street facing elevations. Both the case officer and BCC City Design consider that this layout forms a strong traditional urban block, reinforcing the building line along all street frontages; seeking to create a functional amenity space for residents.
- 7.17 With regards to site level differences, these have been consolidated in the formation of a podium that is largely embedded to grade at street level to the west (on Brindley Drive) and is fully expressed along Paradise Circus. As such it's taken the opportunity to activate, at street level the lower ground floor along Paradise Circus, concealing the car park.
- 7.18 External amenity space extends on the upper ground floor around the block along Cambridge Street and partly on Brindley Drive itself, such ensures that the building presents active frontages in key locations, in association with servicing. As such,

BCC City Design considers the application has successfully handled the steep topography of the site.

- 7.19 BCC City Design acknowledges the challenges of designing an active frontage on all elevations of this site (by reason of car parking provision within the site) and believe that such has hampered the ability to provide activate frontages in a more desirable and otherwise possible way. That said BCC City Design considers the activity along Cambridge Street to be excellent. There is partial activity along Paradise Circus and Brindley Drive although no activity along the new route to the north. That said City Design believe the best of a problematic situation has been achieved. The case officer concurs with these views.
- 7.20 The site to the north which currently contains the Cambrian Hall (vacant) student halls (approximately 20m away) challenged the applicant to provide a solution that considered the future redevelopment of this site as well as future connections through to City Centre Gardens. Windows in both blocks A and B are therefore dual aspect and largely orientated sideways in a north and southerly direction. The proximity to the site adjacent (to the north) has been tested (by the applicant) via a layout exercise, it allows for a separation distance which is comparable to similar relationships elsewhere across the City Centre. Furthermore, the footprint of the tower is somewhat alike other towers in the City Centre too. Both the application details and layout exercise demonstrate there will be no impediment to the adjoining landowner in bringing a scheme forward.
- 7.21 The wider comprehensive approach to how this proposal would not prejudice the adjacent site (and deliver positive regeneration of the area through future connectivity) is also seen through the passive provision for a pedestrian link (north of the site) from Paradise Circus to Brindley Drive/City Centre Gardens. The active lower ground frontage to Paradise Circus is extended round the northern corner into an area of hardstanding at grade with Paradise Circus. This allows for the Cambrian Hall site to follow suit and continue with the provision and form a new/extended route should this site come forward for redevelopment in the future. It is therefore necessary for this scheme to provide a graded route from Paradise Circus through to Brindley Drive (along its northern side). BCC City Design considers that this is now broadly achieved.
- 7.22 BCC City Design considers the Cambrian Hall site to be large and open and the careful layout of this application to help facilitate the delivery of development on this neighbouring site in the future. The case officer agrees and is confident that this application will not impede on a future scheme being brought forward.

Architecture and Materiality

- 7.25 Material finishes, colours and tones have been selected to relate the development to its immediate context and to reinforce the areas established identity.



Image 12: Paradise Circus ground level views of the Tower. (Source: Design and Access Addendum)



Image 13: Ground level view the Tower from Paradise Circus/Cambridge Street. (Source: Design and Access Addendum)

- 7.24 Glass reinforced concrete (GRC) is to be used as the primary building material to the base of the buildings (with closed joints), along Paradise Circus and Cambridge Street. From level 1 upwards the tower will consist of an aluminium frame and panels.
- 7.25 GRC is to be used along the primary entrance to the garden mansion block at the corner of Cambridge Street and Brindley Drive. From level 1 upwards the garden block will be made up of GRC, brickwork, and white mortar – see image 14 below. The GRC columns will extend up between the buildings (as image 14) along Cambridge Street to form a protection screen for wind mitigation to pedestrians along the south of the building.

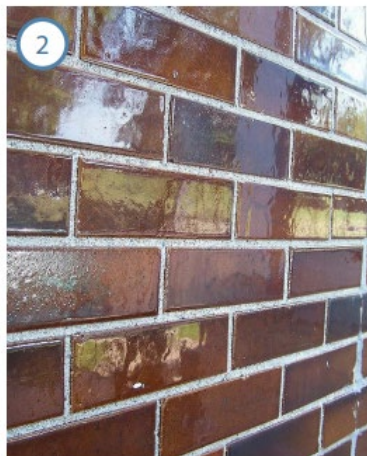


Image 14: View of the tower and 15 storey garden mansion blocks from Cambridge Street (from the south). (Source: Design and Access Addendum)

- 7.26 On the ground elevation of the garden mansion block red/orange bricks in a English Brick Bond is proposed as well as textured brickwork and elements of glazed bricks. See images 15 and 16 below. A piece of bespoke artwork is also proposed and details to be conditioned.



Image 15: Elevational view of the garden mansion block from Brindley Drive (Source: Design and Access Addendum)



Glazed brick base to Brindley Drive



Brickwork with white mortar



Image 16: Examples of the proposed materials for the 15-storey garden mansion block and examples of bespoke artwork (Source: Design and Access Addendum)

- 7.27 The northern façade, at ground level (see image 17) presents the side of the tower (GRC and metal doors), a boundary brick wall of both textured and hit and miss brickwork between buildings. The northern side of the 15-storey garden mansion block will be made of up brickwork and white mortar with a glazed brick base. In addition, lighting integrated with low lying shrub planting will be added and secured by conditions.



Image 17: View from Cambrian Halls/Northern façade of proposed scheme

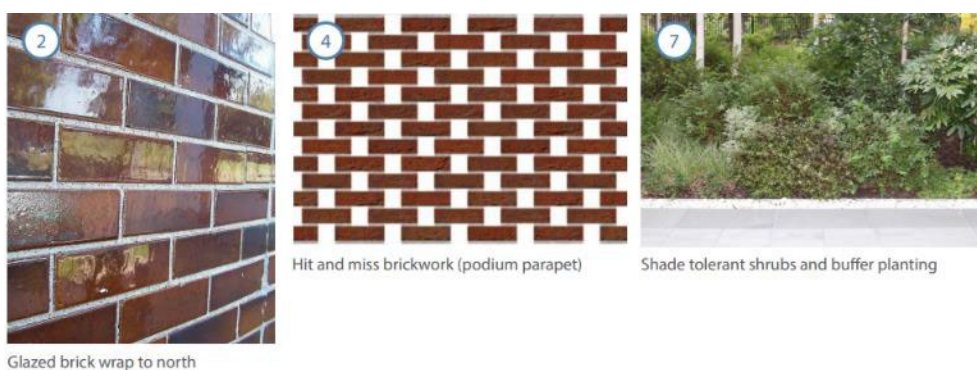


Image 18: Shows glazed bricks, hit and miss brickwork and planting.

- 7.28 The tower is stepped in profile and is of a design that is responsive to its environment. Originally PV panels and solar hoods were integrated into the design. However, the PV panels have been removed following further discussions with Building Regulations. To compensate, greater modelling has been applied to the elevation.
- 7.29 Birmingham City has recently been supporting the precast method of construction as the favoured solution for major projects, whereby guaranteed quality can be assured. This application however has had metal cladding proposed, from lengthy pre-application discussions through to this decision processing stage, therefore an objection is not raised by BCC City Design. The case officer concurs with this view, requesting an alternative method of construction, at this stage of the process would be deemed unreasonable.
- 7.30 With regards to neighbouring and consultee design quality concerns, further design details have been submitted that show that the Glass Reinforced Concrete to be close jointed which is accepted by BCC City Design. Columns will be made from one continuous piece of GRC (according to the design addendum). BCC City Design continue to express concerns over the quality of soffits, particularly around the need to have matching materials, therefore such details will be conditioned with a 'before above slab level works commence' trigger. Such has been agreed with the applicant and it is thought such will secure high quality on this site.
- 7.31 The 15-storey garden mansion block is considered conventional in its design, being of typical red/orange Birmingham brick. The 'lighter stone material' applied to lintels appears now to be GRC as well. As already stated, the design addendum now shows English bond, which BCC City Design states to be superb.
- 7.33 In summary the proposed scheme features appropriate façade detailing, good quality materials, well designed and well-articulated elevations as well as many other appreciated architecture styles and modelling that would result in the delivery of an

exciting and innovative building. Further public realm improvements are not included within the proposal (i.e., Improvements to surrounding street paving) however that said, both the tower and shoulder would respond positively within its surrounding context and wider area as well as improve the quality overall. They would be located along this main highway route through to the city both enhancing the character and in keeping with the establishing density and according to the aims of Design Principle 14 and 19 of the Design SPD. In this instance therefore the proposal is distinctive and meets the design principles and considerations set out.

Furthermore, BCC City Design supports the application subject to conditions.

Impact on Heritage Assets

- 7.34 There are no designated or non-designated heritage assets within the application site red line boundary. However, there are a number of designated heritage assets that sit close by and in the wider site area. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA in considering applications for planning permission has a statutory duty to pay special regard to the desirability of preserving listed buildings, their setting or any features of special architectural or historical interest which they may possess (section 66 (1)).
- 7.35 Under Section 72(1) the statutory duty only arises in relation to land and buildings within a conservation area. This Site is not within a Conservation Area but does lie in the setting of the Jewellery Quarter Conservation Area and the Colmore Row and Environs Conservation Areas and so regard is also given to Section 72(1).
- 7.36 NPPF paragraph 199 states 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 (and the more important the asset the greater the weight should be). Caselaw additionally establishes that very considerable weight should be attached to any effect upon the significance of a designated heritage asset and that there should be a presumption against any such adverse effects. Where any such effect arises and is unavoidable then it must be weighed against the public benefits of such a proposal with considerable weight being given to such adverse effects in such balance.
- 7.37 Paragraph 200 of the NPPF states that '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' and 'where a proposal will lead to less than substantial harm to the significance of a heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 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. Great weight should be afforded to the conservation of designated assets.
- 7.38 In paragraph 203, NPPF states that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.
- 7.39 Paragraph 206 of the NPPF further states 'local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably'.

- 7.40 Policy TP12 of the BDP requires proposals for new development affecting a designated or non-designated heritage asset to be determined in accordance with national policy. Policy TP12 states that great weight will be given to the conservation of the City's heritage assets and that development affecting a designated or non-designated heritage asset or its setting, will be expected to make a positive contribution to its character, appearance and significance.
- 7.41 The application is accompanied by a Heritage and Archaeological Assessment (Chapter 8 of the ES).

Archaeology

- 7.42 With regards to archaeology the site has potential for archaeological remains associated with Birmingham's 19th century canals and canal side industries.
- 7.43 An archaeological desk-based assessment has been submitted with the application. It concludes that although there will have been truncation from the construction of the multi-storey car park, that there is the potential for remains connected to Crescent Wharf, the Newhall branch canal and a potential canal link between Crescent Wharf and Gibsons Wharf to survive.
- 7.44 The recommendation of the report is for a staged programme of archaeological investigations to take place ahead of the development. The impact of the scheme is considerable, and the DBA assumes that any surviving archaeological deposits would be removed by the proposed development and that the mitigation would be to excavate and record the remains. A condition is therefore recommended to secure a programme of archaeological works to be carried out ahead of during development.

Built Heritage

- 7.45 In determining applications, the NPPF states LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 7.46 The BCC Conservation Officer views the approach of the heritage assessment (HA) to be sound and accord with standard practice. The ES is considered a good appraisal of the base line historic character of the area and the extent of heritage assets scoped in for assessment within the study area are deemed reasonable and consistent with the EIA. The BCC Conservation Officer states she has since reviewed the addendum to the ES and states there are no changes to the assessment methodology, baseline conditions or comments. The assessment presented on the Heritage Assessment does not alter the findings within the Heritage Assessment and Chapter 8 of the ES. Although the likely residual cumulative effects of Cumulative Site 15 were not originally taken into consideration, this has now been included and the effects on the following heritage assets are set out in detail within the HA (as before). The cumulative impact of site 15 do not alter the findings of the Heritage Assessment.
- 7.47 The position in the HA is that the development could impact on the setting of a number of designated heritage assets and a limited number of non-designated heritage assets.

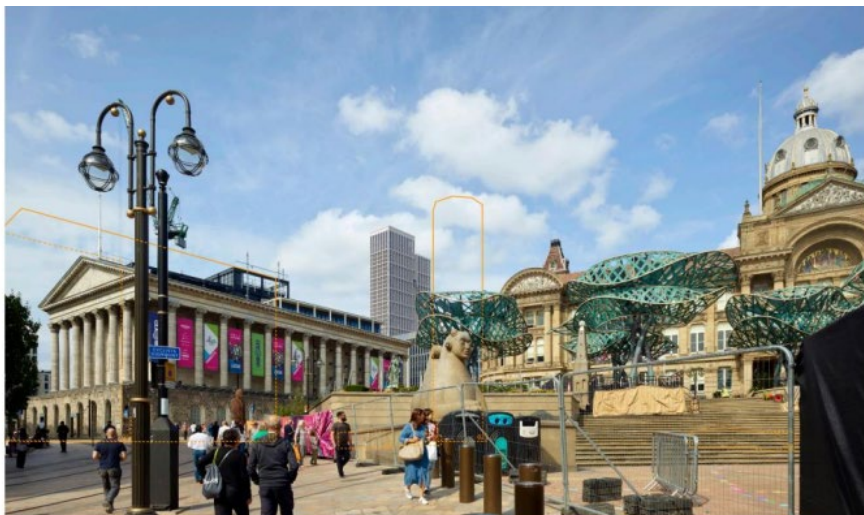


Image 19: TVIA View 04 - Victoria Square.

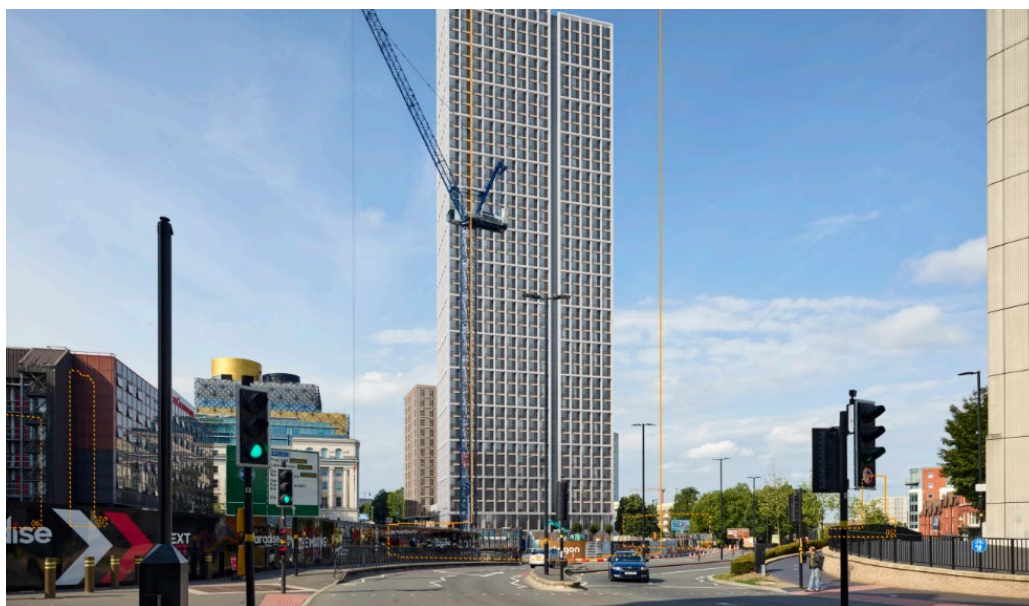


Image 19a): TVIA View 05 Great Charles Street Queensway

- 7.48 With so many heritage assets assessed these have been grouped together below, generally based on location, for ease of understanding and concluding positions of harm.

Heritage assets-Centenary Square

- 7.49 Kinetic Viewpoints I-VII- at Appendix 14 of the HA are supplied in relation to Baskerville House (Grade II listed), Municipal Bank (Grade II), Edward VII Memorial Statue (Grade II listed) and Hall of Memory (Grade I listed). Alpha Tower is also included for assessment within this group.

Baskerville House Grade II

Completed and Operational Development represents 'less than substantial harm' at the mid-point and high end of the scale, the latter along Cambridge Street.

Cumulative effect (presence of the Octagon and aforementioned schemes) is identified in the HA as representing 'less than substantial harm' at the higher end of the scale.

Hall of Memory (Grade I)

Completed and Operational Development represents 'less than substantial harm' at

the mid-point of the scale

Completed and Operational Development is identified in HA as representing 'less than substantial harm' at the higher end of the scale.

Former Birmingham Municipal Bank Trustee Savings Bank (Grade II)- now UoB Exchange Building

Completed and Operational Development represents 'less than substantial harm' at the lower end of the scale

- 7.50 The consented number 5 Centenary Square and the implemented Octagon would be visible travelling east along the Metro line. The identified harm associated with the Completed and Operational Development and visible elements of the aforementioned schemes on the Former Birmingham Municipal Bank represents 'less than substantial harm' at the mid-point of the scale.

Edward VII Memorial Statue (Grade II)

Completed and Operational Development and the presence of the Octagon and visible elements of the aforementioned schemes on the skyline represents 'less than substantial harm' at a mid-point of the scale.

Alpha Tower (Grade II)

The identified harm in the HA associated with the Completed and Operational Development represents 'less than substantial harm' at the lower end of the scale. The proximity and space between the Alpha Tower and the Development and intervening built development does not diminish the landmark qualities of the Alpha Tower which would continue to be clearly distinguishable.

The identified harm in the HA associated with the Completed and Operational Development represents 'less than substantial harm' at the mid-point of the scale

Heritage assets- Victoria Square

- 7.51 Kinetic Viewpoints VIII-XI-School of Art, Birmingham City University (Grade I), Town Hall (Grade I listed) and City Museum and Art Gallery and Council House Extension (Grade II* listed building), Joseph Chamberlain memorial (Grade II listed).

School of Art, Birmingham City University (Grade I)

No harm concluded

Town Hall (Grade I)

The identified harm associated with the Completed and Operational Development represents 'less than substantial harm' at the lower end of the scale.

Completed and Operational Development and the presence of the Octagon and aforementioned schemes on the skyline represents 'less than substantial harm' at the mid-point of the scale

Council House, City Museum and Art Gallery and Council House Extension (Grade II*)

The identified harm in the HA associated with the Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the mid-point of the scale increasing along Cambridge Street to 'less than substantial harm' at the high end of the scale

The identified harm associated with the Completed and Operational Development

represents 'less than substantial harm' at the higher end of the scale

The Joseph Chamberlain Memorial (Grade II)

No harm

Former General Municipal Post Office (Grade II)

No harm

7.52 Heritage assets- Colmore Row, Temple Row, Waterloo Street, Cathedral Square

Barclays Bank International Limited, 61 and 67 Colmore Row, 71 and 73 Colmore Row, 75 and 77 Colmore Row and 79-89 Colmore Row (Grade II)

No harm

Lloyds Bank, Temple Row West (Grade II)

No harm

102-120 Colmore Row (Grade II) and 122 and 124 Colmore Row (Grade I)

No harm

44 Waterloo Street (Grade II*)

No harm

Cathedral Church of St. Philip (Grade I)

The identified harm in the HA associated with the Completed and Operational Development represents very much less than 'less than substantial harm' (interpreted as very much 'less than substantial harm'). The upper storeys of the development would not detract from the prominence of the Cathedral or the character of the open space. The remaining kinetic views would be unaffected causing 'no harm'.

Cumulative effects on St. Philip's are identified harm associated with the Completed and Operational Development and the Octagon on the skyline represents 'less than substantial harm' at the lower end of the scale, this diminished by distance and the role of this historic asset as a local landmark. The Development would not diminish appreciation of the outstanding architecture.

Britannia Building (Grade II), 11 (Grade II*) and 36A and 37 Waterloo Street (Grade II*)

No harm

Heritage assets- Offices Locality

- 7.53 Kinetic Viewpoints XVII-XIX have been identified in relation to views from the 'Offices Locality' and include, The Birmingham Midland Institute, 85 and 87, 89 and 91, 93 and 95 Cornwall Street (Grade II*), beyond Newhall Street and associated Grade II* listed buildings, 50-52 and 54 Newhall Street (Grade II) and 56-60 Newhall Street (Grade II*) and 100-102 Edmund Street (Grade II).

50-52 and 54 Newhall Street (Grade II) and 56-60 Newhall Street (Grade II*)

No harm

Town Clerk's Department (Municipal Offices), 100-102 Edmund Street (Grade II)

Completed and Operational Development represents very much less than 'less than substantial harm' (interpreted as very much 'less than substantial harm').

Cumulative effects in the HA note the identified harm associated with the Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the lower end to mid-point of the scale.

The Birmingham Midland Institute (Grade II*)

Completed and Operational Development represents very much less than 'less than substantial harm' (interpreted as very much 'less than substantial harm').

Cumulative effects in the HA: the identified harm associated with the Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the lower end to mid-point of the scale

85 and 87, 89 and 91, 93 and 95 Cornwall Street (Grade II*)

Completed and Operational Development represents very much less than 'less than substantial harm' (interpreted as very much 'less than substantial harm')

Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the lower end to mid-point of the scale.

Heritage assets- Jewellery Quarter

- 7.54 Kinetic Viewpoints XX-XXIII have been identified in relation to 1, 3, 4 and 5 St Paul's Square (Grade II) and 35-38 St Paul's Square (Grade II), 63, 42a, 52-54 and 55 St Paul's Square and the Church of St Paul's (Grade I).

The Church of St Paul's (Grade I)

Completed and Operational Development represents 'less than substantial harm' at the lower end to mid-point of the scale

Cumulative effects in the HA: the identified harm associated with the Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the mid-point of the scale

1, 3, 4 and 5 St Paul's Square (Grade II)

Completed and Operational Development represents very much less than 'less than substantial harm' (interpreted as very much 'less than substantial harm').

the Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the lower end of the scale

35-38 St Paul's Square (Grade II)

No harm

63 St Paul's Square (Grade II)

Completed and Operational Development represents very much less than 'less than substantial harm' (interpreted as very much 'less than substantial harm').

Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the lower end of the scale.

42a St Paul's Square, Cogent Works (52-54) and 55 St Paul's Square (Grade II)

The identified harm associated with the Completed and Operational Development represents very much less than 'less than substantial harm'(interpreted as very much 'less than substantial harm').

Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the lower end of the scale.

Greek Orthodox Cathedral at Arthur Place (Grade II)

Completed and Operational Development represents very much less than 'less than substantial harm' (interpreted as very much 'less than substantial harm' the Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm' at the lower end of the scale.

Three and a half storey works (27 George Street), 28 George Street (Crosby Court) and 11 Brook Street (Grade II)

No harm

Queens Arms Public House and 144 Newhall Street (Grade II)

No harm

Numbers 31-33; 37-39; 61 and 63-64 Ludgate Hill (Grade II)

No harm

13 & 15 former Coffin Furniture Works (Grade II*) and 5-11 Rayboulds Foundry (Grade II)

Completed and Operational Development represents less than 'less than substantial harm' (interpreted as lowest level of less than substantial harm) where limited visibility of the Development is anticipated within a context surrounded by modern buildings and where existing tall buildings are currently glimpsed. Whereas clearer views provided by the gap adjacent to Coffin Furniture Works would result in 'less than substantial harm' at the high end of the scale.

Cumulative effects: the identified harm associated with the Completed and Operational Development and the presence of the Octagon on the skyline represents 'less than substantial harm', at the mid-point of the scale in relation to Numbers 5-11 and at the high end of the scale in relation to Numbers 13 & 15

7.55 Heritage assets- Broad Street, Gas Street, Kingston Row, Sloane Street,

Barclays Bank, Second Church of Christ Scientist and The Brasshouse Public House, 44 Broad Street (Grade II)

No harm

264 and 265 Broad Street, 2, 10-12, 14-16, Wall and ramps, Cottage and outbuildings and 44-48 Gas Street (Grade II)

No harm

1-4, 5 and 6 Kingston Row (Grade II)

No harm

1-7 Sloane Street (Grade II)

No harm

Birmingham New Street Signal Box (Grade II)

No harm

Roving Bridge over entrance to Birmingham Fazeley Canal and Farmers Bridge Locks (Grade II)

The identified harm associated with the construction represents very much less than 'less than substantial harm' (interpreted as lowest level of less than substantial harm).

The identified harm in the HA associated with cumulative schemes and the construction represents 'less than substantial harm' at the lower end of the scale. With regards to the completed and operational development- no harm is concluded to setting.

7.56 Heritage assets within 5km ZTV

The Cathedral Church of St Chad (Grade II*)

Completed and Operational Development represents 'less than substantial harm' at the lower end of the scale

Completed and Operational Development is unlikely to contribute significantly to the cumulative effect, causing negligible levels of change to local views without affecting other aspects of heritage value. This change represents 'less than substantial harm' at the lower end of the scale.

Warstone Lane Cemetery and Cemetery Lodge (Grade II) and Key Hill Cemetery (Grade II*) Registered Parks and Gardens

No harm

Jewellery Quarter Conservation Area (JQCA)

7.57 Overall impact on JQCA

Taking account of the impact on these four localities within the JQCA, the HA has concluded in relation the Development levels of between very much less than 'less than substantial harm' (interpreted as lowest level of less than substantial harm). and the low end of 'less than substantial harm' in identified areas.

Cumulative harm is concluded as very much less than 'less than substantial harm' (interpreted as lowest level of less than substantial harm) to the mid-point of 'less than substantial harm' in identified areas.

Colmore Row and Environs Conservation Area (CR&ECA)

7.58 Overall impact on CR&ECA

Taking account of the impact on these three localities within the CR&ECA, the HA has concluded in relation the Development levels between very much less than 'less than substantial harm' (interpreted as lowest level of less than substantial harm) and the low end of 'less than substantial harm' in identified areas.

Cumulative harm is concluded at levels between very much less than 'less than substantial harm' (interpreted as lowest level of less than substantial harm) and the low-end to mid-point of 'less than substantial harm' in identified areas.

7.59 Locally listed buildings

No harm

7.60 The BCC Conservation Officer has reviewed the submitted HA and considers the conclusions to be fair, evidence and supported. I concur with the officer's views below:

'that the proposed development would cause varying degrees of 'less than substantial harm' to a number of grade II, grade II* and grade I listed buildings, through development in their settings and through cumulative impacts.

the proposed development would cause low to medium levels of 'less than substantial harm' to the JQCA and low levels of 'less than substantial harm' to the CR&ECA.'

- 7.61 Historic England (HE) considers that the proposed development would harm some of Birmingham's most significant and celebrated historic sites. HE is concerned at the impact this scheme would have on some of Birmingham's most significant and celebrated historic sites. HE does not agree with the statement set out in the revised Supporting Statement letter from Carney Sweeney dated 6 February 2023 which sets out that a benefit of the scheme 'is townscape and visual effects associated with providing a landmark building'. Although significant weight is normally attached to the views of Historic England; on this occasion the case officer disagrees with their statement and views townscape and visual effects to form part of regeneration and good place making benefits.
- 7.62 HE states heritage assets in Centenary Square are already the landmarks, highlighting that landmarks do not have to be tall buildings, but elements of a place that are at a human scale and they should be sensitively and appropriately responded to. Notwithstanding this view, in all cases of harm, HE concurs with the applicant's assessment that the scheme will result in 'less than substantial harm' as referred to in the NPPF, requiring great weight to be given to the assets' conservation, irrespective of the level of harm. Paragraph 202 of the NPPF calls for this harm to be weighed against the public benefits of the proposal. This harm should only be permitted if it would be outweighed by public benefits.
- 7.63 The concerns raised by Historic England and Birmingham Civic Society are noted regarding the impact of these towers in this heritage sensitive setting and the resulting harm caused to the significance of two conservation areas, multiple listed buildings through development in their setting.
- 7.64 In accordance with para. 202 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The more important the asset the greater the weight should be. This balancing exercise is undertaken towards the end of this report.
- 7.65 The Conservation officer raises no objects to the application.
- 7.66 **Housing Mix**
- 7.67 BDP Policy TP30 sets the requirements for the type, size and density of new housing; the application proposes a mix of 1- and 2-bedroom units as well as a limited level of affordable rental units. With regards to the mix and the level of affordable being provided it can be said the scheme somewhat conflicts with policy TP30 and TP31.
- 7.68 As a result of design changes, the housing mix was revised as shown in the table below.

Unit Size	Number of Units	Mix
1 Bed (B) 1 Person (P)	114	20%
1B 2P	141	24%
2B 3P	84	14%
2B 4P	242	42%
Total	581	100%

Table 1: amended mix submitted February 2023.

- 7.69 Although amendments were sought, figures present as 44% (255) 1 beds and 56% (326) 2 beds dwellings with an over-provision of 1 bed units.
- 7.70 The Councils newly published Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and replaces the existing SHMA referred to in the policy. Whilst it is not expected that every proposal would provide the exact mix suggested, it would be preferable to see 3 bed units incorporated into the housing mix. This would contribute to the aim of creating a more varied supply of family homes in the central area, suggested in the HEDNA and GA1 of the Birmingham Development Plan 2031.
- 7.71 Therefore, it would be preferred to see a reduction in the number of 1 bed units and an increase in the number of 2 and 3 bed units. A revision would contribute to the aim of creating a more varied supply of homes in the central area, as suggested in the Housing and Economic Needs Assessment (HEDNA).
- 7.72 With regards to further revising the mix the agent made a case regarding viability and explained how amendments would potentially result in fewer units overall and a reduced affordable housing contribution offer. It was suggested a more varied mix could be provided via the scale of development being increased, however given the scale of the site, existing differences in levels and close proximity of immediate neighbours this option was viewed unrealistic and unviable.
- 7.73 As mentioned previously the Council does not have a 5-year housing land supply and in fact can only demonstrate 3.99years supply. There is no specific guidance on how much weight should be given to housing land supply in the tilted balance, that said the LPA attach considerable weight to this shortfall.
- 7.74 Therefore although the proposed mix does not wholly adhere to the aims of policy TP30, by reason of the weight attributed to the lack of a 5-year housing land supply (5YHLS), the weight afforded to the policy conflict is limited.

Impact on residential amenity

Daylight/Sunlight and overshadowing to surrounding sensitive receptors

- 7.75 In accordance with PG3 of the BDP, DM2 and DM10 of the DPD as well as design principles 11 and 13 of the Design SPD all new developments must ensure they do not have an unacceptable impact on the amenity, outlook, or privacy of existing or new residential properties.

- 7.76 A daylight/sunlight, overshadowing and solar glare assessment has been conducted and submitted as part of the ES and confirms that the overall daylight availability for the affected residential properties, given the city centre location, is adequate.
- 7.77 In terms of sunlight, with the additional cumulative schemes in place, all of the surrounding properties apart from the Octagon and Cambrian Hall will be unaffected by the development. That said the reductions in sunlight amenity to these properties are limited and all the surrounding residential properties will continue to receive adequate levels of sunlight with the development in place.
- 7.78 In terms of the potential for the development to result in overshadowing of existing amenity spaces with the additional cumulative schemes in place, City Centre Gardens will continue to receive sunlight well in excess of the target criteria set out in the 2022 BRE Guidelines, and the development will not cause any reduction to sunlight amenity.
- 7.79 The development site is currently low-rise and therefore underdeveloped for its city centre location and the emerging height and density in the locality. As such, baseline daylight and sunlight levels are higher than would typically be anticipated in such a location. Notwithstanding, 575 out of 885 (65%) windows and 596 out of 649 (92%) rooms will meet the BRE daylight criteria, whilst 235 out of 246 (96%) rooms will meet the BRE sunlight criteria. This is considered to be a good rate of compliance for a high-density development in the city centre.
- 7.80 Concerns regarding a loss of light and privacy to the currently vacant Cambrian Halls has been raised, however, having considered the layout and orientation of the proposed scheme the case officer does not consider the design to result in an unacceptable quality of living standards for occupiers at this site. The proposed residential units would be dual aspect whereby the secondary, (as opposed to primary windows) will lie opposite Cambrian Hall. Furthermore, an approximate distance of 20m would separate these sites. Thirdly the daylight, sunlight and overshadowing report states it would overall comply with BRE guidelines and continue to provide an acceptable living environment. With regards to the secondary side facing windows (at the garden mansion block) the applicant has agreed to obscurely glaze these by condition.
- 7.81 With regards to the Octagon and the wider paradise site a separation distance of approximately 25m (and more) would lie between both buildings/sites. Submitted microclimate reports demonstrate any sunlight/daylight impacts are also acceptable.

Outdoor Amenity

- 7.82 With regards to amenity provision, Design Principle LW-13 of the Design SPD states all residents should be able to access private outdoor amenity space of sufficient size and quality to service intended occupants; and as a minimum requires 10sq.m per resident for sui-generis shared residential use.
- 7.83 As a minimum, the SPD states following requirements must be provided for each apartment:
- 5sq.m (1 bed flat),
 - 7sq.m (2 bed flat) and
 - 9sq.m (3 bed flat).
 - 10sq.m per resident for C2 Uses, sui -generis shared residential and HMOs.
- This would therefore equate to a requirement of 3,627sq.m.
 (5sq.m. x 355no. 1 bed 255 = 1,275sqm + 7sq.m. x 336no. 2 bed = 2,352sq.m.
- 7.84 The application seeks to provide around 1,060sqm of outdoor amenity space and this

provision would clearly fall below the standards set in the BDP by 2,127sq.m. In the case of a shortfall, the BDP requires proposals to demonstrate how the reduction would not impact on the delivery of quality amenity space.

- 7.85 Although the space falls considerably short of the standards the proposed level of amenity would create several smaller spaces offering residents a variety of use i.e., dog walking, social engagements, and private seating. Additionally, the site benefits from access to roof gardens, a number of public squares and open spaces within close proximity. This includes the squares and terraces within the adjacent Paradise development, and nearby parks such as City Centre Gardens to the west and the canal network to the north. Additionally, a good level of internal amenity space is being provided (approximately 2sq.m per apartment) split over 5 levels across the site providing various and convenient offers depending on where they reside. Overall, it is considered the proposed development is well located in relation to existing and proposed areas of open space. For these reasons the case officer considers the level of amenity space proposed acceptable in this case and thereby attaches limited weight to the shortfall.

Nationally Described Space Standards

- 7.86 When assessed against the nationally prescribed housing standards all apartment sizes well exceed minimal standards and the scheme fully accords with DMB Policy DM10.

Wind

- 7.87 The October 2022 ES concludes that the effects relating to the wind microclimate are largely insignificant once the proposed mitigation (soft landscaping) is included. A condition is recommended to ensure that this is therefore delivered. The ES stated that in the absence of soft landscaping that wind mitigation would have a moderate to major adverse significant effect. However, with soft landscaping proposals and wind mitigation measures in place these effects were insignificant in terms of safety and minor adverse in terms of comfort.
- 7.88 The ES addendum further states that it is not anticipated that the most recent design amendments would result in any new effects or changes to previously identified effects related to wind. Wind conditions are expected to be adequate for the resident recreational access and dog walking facilities added to the podium, being suitable for strolling or better in all seasons, with no exceedances of the pedestrian safety criteria, in either the existing or cumulative surrounding context. The addition of Cumulative Site 15 (Paradise Development) would be expected to have minimal impact on the wind microclimate results, with only minor adverse effects in terms of comfort, at worst. In terms of safety, the addition of Cumulative Site 15 would have insignificant effects.
- 7.89 A letter of objection states that the trees, proposed for wind mitigation - at the base of the Octagon and as part of Octagon development - should not have been included within the wind assessment by reason of ownership concerns and future control/management. However, in response to this point, the trees are to be delivered, in accordance with planning conditions for that consent and as part of the Octagon's wind mitigation strategy and remain in position in perpetuity. A landscaping plan has recently been considered acceptable via a discharge of condition application and construction on the Octagon has begun. Whilst these trees lie outside the site red line the LPA have no reason to believe the trees will not be planted in accordance with agreed details or that the developer will not comply with the planning decision notice. The LPA therefore have no concerns with these trees being included within the wind assessment.
- 7.90 With regards to wind, the case officer is therefore satisfied the proposal will have an acceptable impact on its surrounding environment and comply with PG3 of the BDP, DM2 and DM10 of the DPD as well as the design principles in the Design SPD.

Access, parking and highway

- 7.74 The site lies within a highly accessible location and is in walking distance of the city core. There are numerous bus stops within a 400m walk and the site is a short walk from Birmingham New Street Station and metro stops.
- 7.75 The site is currently in use as a multi storey car park therefore by reducing the vehicle trips/providing a scheme which reduces around 500 car parking spaces and proposes 100 for contracted users is a transport improvement and one which complies with policy and supporting guidance. Although Cycle storage for 590 cycle spaces is being provided, no parking provision (as per the SPD) has been made for those future residents with disabilities. The case officer asked the applicant to explore the possibility of entering into a highways agreement and providing disabled bays offsite however by reason of viability this is not an option. That said there is a row of disabled spaces on the western side of Brindley Drive, that is available 24 hours a day every day. BCC's highway officer has confirmed the arrangement is acceptable.
- 7.76 With regards to the non-residential 100 car parking spaces the Environmental Protection Unit have requested a condition requiring low emission vehicle parking. Although the provision of car parking is not for the residential element, providing low emission vehicle parking is environmentally beneficial (in addition to the reduction of 500+ car parking spaces) and in line with planning policy and guidance. The case officer therefore agrees with this view and has agreed (with the applicant) for a 5% level of EVP to be secured by condition.
- 7.77 The site would be serviced from Brindley Drive/Cambridge Street. Originally access to the refuse store required refuse vehicles to wait either in the carriageway and subsequently temporarily disrupt traffic or further along on the restricted parking area. In response to highway safety concerns amended plans were submitted to include a narrower loading bay to partially accommodate designated vehicles whilst prioritising pedestrian movements in the location. Amendments allow a vehicle to access this bay and pull in partially off the carriageway and still allow sufficient width for two cars to pass between it and the row of disabled spaces on the western side of the carriageway (if spaces are in use).
- The loading bay on Brindley Drive is to be integrated into the public realm treatment of this frontage, marked through the provision of a change in material to reduce the conspicuousness of this within the landscaped area but also to give priority to pedestrian and non-car users.
- The refuse truck already serves the existing residential tower blocks on Brindley and would pull into the area on the frontage on the way out back to Cambridge Street.
- 7.78 These details have been reviewed and BCC Transport Development supports the application subject to conditions and a highways agreement. With regards to affecting the servicing of the adjacent site this is not a matter of concern. It is noted that some of the proposed street located landscaping crosses over onto Highway land whereby a Stopping-up resolution is required as per image below, along Paradise Circus, Cambridge Street and Brindley Drive.

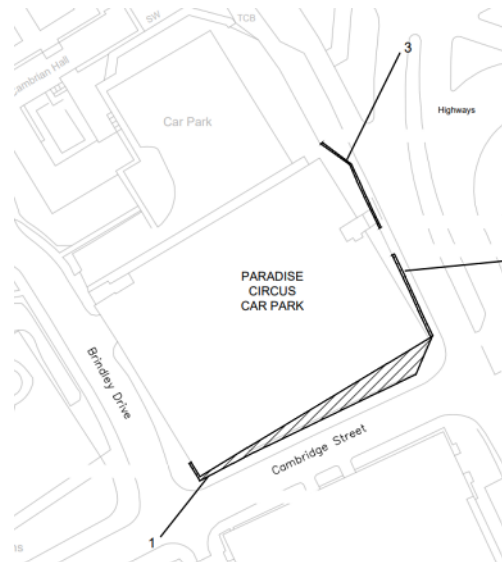


Image 20: Locations where a stopping up of the highway is required.

- 7.79 The transport details presented are acceptable and accord with Policies TP38, TP39, TP40 and TP44 of the BDP and Policies DM14 and DM15 of the DMB.

Prejudicing future development of adjacent land (Cambrian Hall)

- 7.80 An objection has been made by the owner of the adjacent land (Cambrian Hall). Cambrian Hall comprises a vacant arrangement of student halls which are to the north of the application site. The objection letter highlights concern with daylight/sunlight impacts and contends that the application proposed will prejudice future development at the Cambrian Hall site and servicing arrangements.
- 7.81 As part of the design development process the case officer confirms the applicants have studied the relationship with the adjacent site to the north and state there are a number of physical development constraints including a sewage line (7) and a water and gas pipe (14) across the site which influenced the layout exercise shown below.

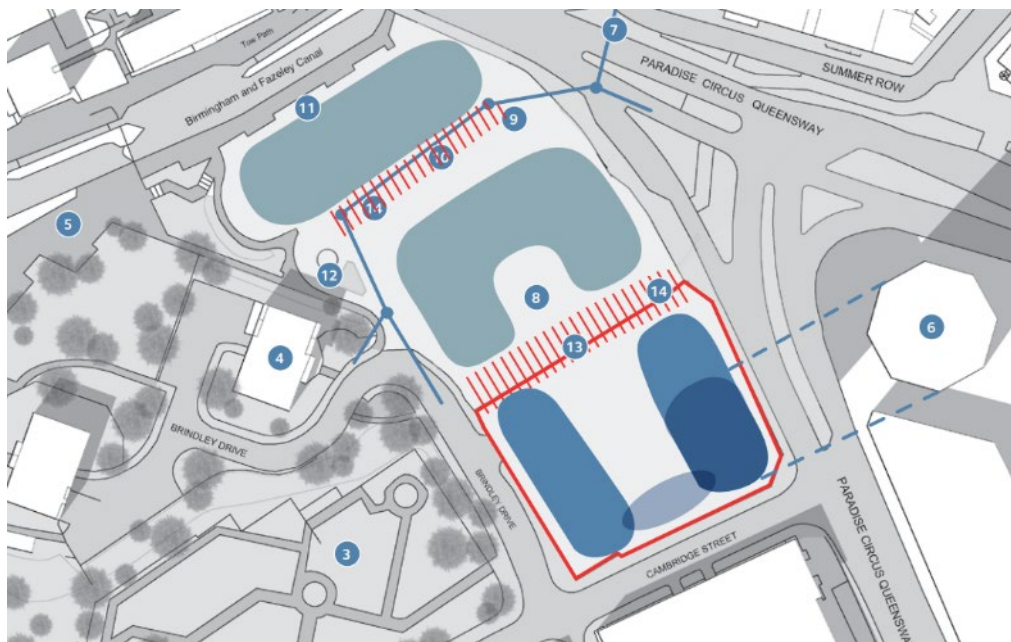


Image 21: Layout exercise (contained with the design and access statement of the Brindley Drive application)

- 7.82 The layout exercise (above) illustrates what could potentially be delivered (on site).

With regards to passive provision for a pedestrian link through the sites (13) LPA officers are confident that a route of acceptable proportions could be provided. The case officer considers some weight can be attached to this point. The layout demonstrates that the effect of the grant of permission would not sterilise the development of the adjacent site, even if it were to put limits upon its potential development, which is not uncharacteristic or unusual in a dense urban environment such as this Birmingham City Centre.

- 7.83 That said the effect of a proposed development upon an adjacent site which could otherwise be developed in a different way is a material consideration for members to consider. If such an effect is considered to be material, then as with all material considerations the weight to be afforded such a concern is for the decision maker.

- 7.84 Members should note that the owners of the adjacent site have objected to this application for several reasons around design, harm to heritage, amenity and limiting development on their site. That said please also note that although a pre-application has been submitted for the site, a planning application has not been.

Fire and building safety

- 7.85 The City Design Guide SPD confirms that tall building proposals should seek to meet all regulatory requirements with regard to safety and the needs of disabled users.

- 7.86 The building has been designed to meet Building Regulations, providing suitable and safe access for all members of the community. Jensen Hughes have undertaken a review of the proposed development to consider the fire safety of the proposal and will continue throughout the construction process. The report confirms that Fire service access will be in line with the guidance in BS 9991 with Block A to 42 be provided with a wet rising fire main in the firefighting core and Block B to be provided with a dry rising fire main in the firefighting core.

Drainage/Flood Risk and Ground Condition

- 7.87 Policy TP28 stipulates that new residential development should: Be located outside flood zones 2 and 3a (unless effective mitigation measures can be demonstrated) and 3b.* The site is in flood zone 1 and so is suitable for residential development. With regards to TP6, to minimise flood risk an 875 sqm green roof and an attenuation tank have been included within the Sustainable Construction & design statement. This will accommodate for peak rainfall in a 1 in 100-year flood event.

- 7.88 The scheme has been reviewed by Severn Trent Water and the Local Lead Flooding Authority whereby the LLFA confirm no objections to the application submitted subject to the inclusion of the following planning conditions and informative to ensure the development complies with the minimum requirements of the NPPF and Policy TP6 of the BDP:

Requires the prior submission of a Sustainable Drainage Scheme and Sustainable Drainage Operation and Maintenance Plan.

Ground Conditions

- 7.89 A Phase 1 Desk Study has been undertaken by RSK to consider the ground conditions on the Site. The study confirms that potential contaminates will need to be assessed further through appropriate site investigation; albeit based on the proposed development, it has been assumed that much of the made ground present beneath the site will be excavated at construction phase, which may reduce the risk levels.

- 7.90 The findings of the geotechnical assessment also require an appropriate site investigation to be undertaken following and subject to the granting of planning

permission. EPU have assessed the application and have no objections subject to planning conditions specified in the consultations chapter.

Air Quality

- 7.91 An Air Quality Assessment has been undertaken by Air and Acoustic Consultants (AAC) in support of the planning application. The air quality monitoring locations within the surrounding area of the application site showed a mixture of compliance and non-compliance of the Nitrogen Oxide annual mean objective for the past 5 years of available monitoring data. However subject to implementation of the suggested mitigation measures, the residual effects of dust and emissions from demolition and construction activities are considered to be 'not significant'.
- 7.92 The Air Quality Assessment concludes that the proposed development will not lead to any adverse impacts in relation to air quality, and it is considered that the development accords with draft Policy DM6 of the emerging Development Management DPD. EPU have reviewed the report and supports the application subject to conditions.

Landscaping, Biodiversity and Ecology

- 7.93 The application site offers very limited ecological value comprising shrub, scattered trees and scattered scrub. The proposal offers the opportunity to enhance the soft landscaping and biodiversity of the site, however in concurrence with BCC City Design the indicative landscaping scheme is rather limited in its planting proposals and could deliver a more attractive biodiverse development.



Image 22: Illustrative landscape plan of ground level and roof terraces

- 7.94 Additionally, although planting directly into the ground is proposed along Cambridge

Street, landscape details regarding the size of tree pits is lacking. Therefore, landscape details will need to be secured by condition.

- 7.95 The development will improve and enhance this site including the provision of a garden amenity area, green roofs, street planting and landscaping throughout the site. Further tree planting and landscaping will also be conditioned to assist with wind mitigation. With regards to Biodiversity Net Gain the scheme would result in the reprovion of habitat units however no figure on net gain or loss has been provided in the application. Whilst it is noted the Environment Act 2021 recently brought in a mandate for a minimum 10% biodiversity net gain the implementation of this requirement is currently delayed until approx. Nov 2023 therefore it is not reasonable to insist developers comply. That said the NPPF paragraph 180 states new developments should pursue opportunities for securing measurable net gains for biodiversity; therefore landscaping details (to demonstrate no biodiversity net loss) and management plan will be secured by condition.
- 7.96 A preliminary ecological appraisal has been undertaken by Tetra Tech which confirmed that the development proposals are considered to have a negligible impact on any statutory designated sites due to the limited scope and duration of works.
- 7.97 The BCC Ecologist agrees with the findings within the developer's Ecological Appraisal and states the site has minimal ecological value and the existing building has negligible potential at present for bats which was confirmed though a bat activity survey - this has a validity period of 18 months. The BCC ecologist has no objections subject to landscaping conditions and a further bat survey should demolition occur post 2024.

Noise

- 7.98 Chapter 9 of the Environmental Statement accompanying this application assesses the effects arising from the development in relation to noise and vibration.
- 7.99 The ES states demolition and construction work has the potential to increase the ambient noise levels, however, with the implementation of specific mitigation measures, the impacts will be monitored and controlled under a site-specific Construction & Environmental Management Plan. Any adverse impacts will be minimised to ensure that the overall effects of the demolition and construction activity are negligible with only brief periods of minor to moderate adverse impacts which with appropriate mitigation in place are anticipated to be are not significant.
- 7.100 Mitigation measures will ensure that noise impacts from the development are reduced to acceptable levels at the existing and proposed sensitive receptors. With the proposed mitigation measures in place, the effect will be less than the Lowes-Observed-Adverse-Effect Level (LOAEL) at all proposed sensitive receptors and the impacts will be 'not significant'
- 7.101 Overall the assessment concludes that the proposed development will not result in any unacceptable impacts in respect of noise and vibration on existing and future occupiers and is in accordance with Policy DM6 (Noise and Vibration) Development Management DPD. Furthermore, BCC EPU have raised no objection and recommend conditions.

Energy and Sustainability

- 7.102 Policy TP3 'Sustainable construction' of the BDP is important to ensure that developments are designed in ways that maximise energy efficiency, reduce energy consumption, minimise the use of carbon and can be resilient and adapt to the effects of climate change. Policy TP4 requires all new development to incorporate the

provision of low and zero carbon forms of energy generation or connect into a network where it exists, unless it can be demonstrated that the cost of achieving this would make the proposed development unviable.

- 7.103 A revised Energy and Sustainability Statement (Feb 2023) has been prepared in support of the application which sets out how the proposed scheme will maximise energy efficiency by using a fabric first approach to improve air tightness, for example using triple glazing. Wastewater efficiency will be improved by using low flow fixtures and fitting, maximised use of LED and low energy lighting and the use of natural ventilation where possible.
- 7.104 Air sourced heat pumps will serve amenity areas while air source heat pumps will provide hot water to domestic areas. Space heating shall be achieved via direct electric panel heat emitters.
- 7.105 The applicant previously included photovoltaic panels into the façade of the building, these have since been removed from the design due to issues with fire safety. That said the remaining photovoltaic panels will be located on the roof the garden mansion block. It is considered the applicant has addressed how the scheme will meet the individual requirements listed under policy TP3 and TP4 within the submitted documents. Notwithstanding this a condition will be imposed to ensure compliance with TP3 and TP4.
- 7.106 The proposal will comprise of less than 1,000 square metres non-residential floorspace the requirement for BREEAM excellent standard will not apply.

Aviation Safeguarding, Television / Radio and Communications

- 7.107 The Applicant has engaged directly with Birmingham Airport and a study has been specifically commissioned to consider the impact of a crane on Birmingham Airport's Instrument Flight Procedures (IFP). This has shown that the proposed development can come forward without impacting upon the airport's radar system or requiring it to be altered. The aerodrome Safeguarding Officer confirms no objections subject to conditions around crane equipment and an aviation warning light system.
- 7.108 As part of the Telecommunications Impact Assessment, which was submitted with the planning application, a number of external consultees were informed. A delayed response from one of their consultees was received, Joint Radio Company (JRC,). JRC advised that the proposed building would require mitigation due to interference and a requirement to redirect the Ultra High Frequency (UHF) telemetry link from the link end to a different transmitter so that it does not cross the proposed development. The UHF scanning telemetry link is owned by NGED (National Grid Electricity Distribution) and JRC states the following regarding link information:
- "Unfortunately, no link details apart from the link identifiers can be supplied due to persistent breaches in confidentiality. This can be reviewed on a case-by-case basis and may require a non-disclosure agreement to be drawn up".*
- 7.109 The applicant advises that a further report was undertaken in the background (to identify the mitigation required), which will allow the proposed development to come forward. As a result of this, Pager Power suggested a condition which could be attached to the planning permission, if the LPA felt it necessary, which they consider suitable, given that the existing urban area context also interferes with the telemetry link to above the 5-metre height. A copy of the proposed draft condition wording is provided below:

"No development shall proceed above 5 metres above ground level (including crane usage) until a suitable mitigation solution for the identified Joint Radio Company (JRC)

UHF link (JEMUS1 Darby's Hill to JEMUO32 Sommerville Road SS) has been agreed and implemented in co-ordination with the JRC. The developer will pay reasonable costs associated with the mitigation of the communications link, in line with the figures provided in the 'Birmingham Paradise Circus Mitigation Version 1.0 Final.pdf' report produced by the JRC on 23/02/23.

Reason: To offset any impacts caused by the development upon the identified JRC telecommunications infrastructure."

- 7.110 The above condition has been reviewed and the case officer considers the information provided insufficient to justify the imposition of such a condition. Secondly the mitigation to redirect the communications link would sit outside of the red line application boundary and therefore the condition would be neither reasonable nor enforceable, neither is the term 'reasonable costs'. It is considered the condition above does not meet the condition tests and therefore will not be imposed at this time. That said this will be brought to the developer's attention to resolve outside of the remit of planning via an informative, as are other utility services.

Other matters

NHS

- 7.111 Although the NHS have requested to meet to discuss healthcare provision/financial contributions towards increased Primary Care/GP activity. The LPA do not consider the request to meet the tests for such Section 106 contributions, in particular the necessity test (Regulation 122.(2)(a) *necessary to make the development acceptable in planning terms*). The LPA believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and HEDNA) gives sufficient information to allow the Trust to plan for population growth and associated. In order for the LPA to better understand their planned investments in the city and how the Council might best be able to support that, discussions with the relevant Trust will continue (outside of the planning application process) this matter.

West Midlands Police state they were unable to find anything that covers the Counter Terrorism Security Advisors' (CTSA) comments in relation to hostile vehicle mitigation (HVM) and glazing standards. WMP highly recommend that glazing standards and HVM are considered at this site (specifics to be determined with WMP CTSA's). These comments have been shared with the applicant whereby they have agreed to providing a scheme of Counter Terrorism measures, such will be secured by condition.

Community Infrastructure Levy/Planning Obligations

- 7.112 This planning application is CIL liable as it lies within a High Residential Market Value area for CIL whereby the charge equates to CIL payment circa of £3,277,325.25.
- 7.113 Given the number of proposed apartments the City Councils policies for Affordable Housing and Public Open Space in New Residential Development apply. The applicant is not able to meet in full the affordable housing or off-site public open space requirements of £1,212,07. Neither is the applicant able to meet Sport England's contribution request of £694,948. The applicant has submitted a Viability Assessment with the application, which has been independently assessed by the City Council's assessor.
- 7.114 Policy TP31 Affordable Housing: requires housing developments of 15 dwellings or more to provide 35% of dwellings as Affordable Housing. The Viability Assessment establishes that the proposed development cannot support any affordable housing provision or planning obligations, that said the developer has agreed to honour the provision of 31 apartments for affordable private rent, which is equivalent to 5.3% (as

concluded by the Council's independent financial advisor). The report originally offered 46 units at a 20% discount off market rent however this discount was not considered to be affordable. The example table below shows what the average rent per calendar month would be without a discount and the table further below applies 20% and 30% discounts. Whilst the higher discount (30%) on rent results in fewer affordable units they are genuinely affordable, see the below.

Block	Unit Type	Total Units	Avg. Unit NSA (ft²)	Total NSA (ft²)	Avg. Gross Rent PCM (£/Unit)	Avg. Gross Rent PA (£/Unit)	Total Gross Rent PA (£)	Avg. Gross Rent (£/ft²)
Block A	1B(1P)	87	468	40,693	£1,141	£13,693	£1,191,273	£29.27
	1B(2P)	87	543	47,198	£1,270	£15,238	£1,325,669	£28.09
	2B(3P)	84	678	56,963	£1,550	£18,602	£1,562,541	£27.43
	2B(4P)	174	775	134,859	£1,675	£20,101	£3,497,591	£25.94
Sub-Total:		432	647	279,712	£1,462	£17,540	£7,577,075	£27.09
Block B	1B(1P)	27	452	12,192	£1,088	£13,056	£352,512	£28.91
	1B(2P)	54	548	29,614	£1,253	£15,035	£811,889	£27.42
	2B(4P)	68	790	53,728	£1,660	£19,922	£1,354,693	£25.21
Sub-Total:		149	641	95,534	£1,409	£16,907	£2,519,094	£26.37
Scheme Total:		581	646	375,246	£1,448	£17,377	£10,096,169	£26.91

Source: CBRE

Table 1: Potential future rental values

Type of unit	Rent per calendar month	Rent PCM after 20% Discount	Rent PCM after 30% discount
1B (1P)	£1141	£913	£798.7
1B (2P)	£1270	£1016	£889
2B (3P)	£1550	£1240	£1085

Table 2: Rent per calendar month with 20% and 30% market discount.

- 7.115 The applicant has agreed to provide 5.33% affordable private rent units to be let at 30% discount to market rent (in perpetuity) comprising 16 No. 1 bedroom apartments and 15 No. 2 bedroom apartments. A total of 31 units. They have also asked for flexibility in the S106 in the event the scheme changes from a PRS scheme whereby the offsite affordable housing contribution is paid in lieu. In the event the PRS scheme changes to market sale the financial viability will be reviewed to include First Homes.
- 7.116 The FVA has been rigorously tested by the Council's independent assessor and it is noted that on the basis of 8% affordable units at a 20% discount equates to a monetary sum of c£2,880,000, together with CIL payment of c.£3.27m totals to a figure of £6,157,000.
- 7.117 In conclusion it is their opinion that the applicants offer is the most that the scheme can sustain from a viability perspective.

- 7.118 BCC Leisure Services and Sport England have also requested financial contributions. However, in this instance it is considered that affordable housing is the greater priority.

Third Party Letters of Objection

- 7.119 Extensive letters of objection have been received. Below outlines the reasons for objecting/concern along with the case officer response.

7.120 **University College Birmingham (UCB)**

UCB are currently in pre-application discussions with Birmingham City Council (BCC) regarding the potential redevelopment of the Cambrian Hall site. As we have set out previously, any proposed development on the application site must then have due regard to the existing and proposed conditions for the Cambrian Hall site.

Meaningful engagement with adjoining landowners

UCB has sought to take a proactive approach to engaging with adjoining landowners to ensure that schemes are coming forward in a co-ordinated manner. This approach reflects the wider aspirations of Birmingham City Council for the whole of the city centre, as set out in the draft of Our Future City Plan (2021). UCB remain concerned that not only was engagement from Court limited from the outset, but that the original planning application failed to address the issues associated with the adjoining development at Cambrian Halls. Given the very limited changes that have been made in response to feedback provided following submission of the application, we remain of the view that the fundamentals were set with no scope for material changes.

Case Officer Response:

In relation to the Brindley Drive application the applicant and project team underwent extensive pre-application discussions with BCC between 2020-2022 which primarily focussed on heritage and other main considerations. Design principles were discussed with the adjacent sites in mind (particularly Cambrian Halls), whereby the LPA encouraged conversations between the two sites applicant/agents whereby meetings were had to provide the opportunity to share plans and work collaboratively together.

With particular regard to the interrelationship between the Court scheme and the emerging proposals for the UCB site, we note that the Design and Access Statement Addendum (dated 30 January 2023) does not outline any meaningful changes to the area on the northern elevation of the Brindley Drive scheme. We therefore remain confused as to how the applicant considers that their scheme has been shaped with UCB's emerging proposals in mind.

Case Officer Response:

A further design and access addendum (March 2023) along with two revised west and northern elevational plans have been submitted. These amendments provide additional detail and are considered acceptable by the BCC City Design and in accordance with policy – see paragraphs 7.27-7.33

Response to additional information provided

Officers will be aware that we have twice written to the Chief Executive of Birmingham City Council to express concerns about the process by which the Court scheme has been considered during both pre-application and now the application stages. As with our previous representations, the focus of our remaining comments is on technical matters associated with the application. For the avoidance of doubt, UCB has no objection to the principle of redevelopment of the car park, nor the potential for it to accommodate high density development.

Case Officer Response:

Council land ownership/property and planning functions are separate teams within the

Council and work independently of one another. Although BCC owns the site, land sale is not a material consideration in the planning balance, neither is it a public benefit weighed in the public benefits exercise. The pre-application process has been conducted in same manner as other pre-applications whereby discussions and meetings have taken place and advice provided. Discussions are still on going.

Affordable housing provisions and mix of dwellings

It is noted that there has been an increase in the proposed level of affordable housing from 0% to just 8% (46 apartments). This continues to fall significantly short of the requirements of TP31. Furthermore, the mix of dwellings proposed does not meet the requirements of TP30. We remain disappointed that an application that relates to the sale of a publicly owned asset falls short in these policy areas.

Case Officer Response:

See section Housing Mix and paragraphs 7.114 – 7.118.

UCB would welcome assurance from the Planning Committee that the Court scheme will not be given permission to proceed until all matters raised by stakeholders have been adequately addressed.

Connectivity and Public Routes

No route along the northern boundary has been included within the Brindley Drive scheme, which is a missed opportunity to ensure integration within this part of the city centre.

Case Officer Response:

See section proposal, paragraphs 1.11 and image 3.

It is considered the proposed development will improve the environment at Brindley Drive in terms of pedestrian safety and visual amenity. The revised details have sought to address these concerns.

With regards to the route, in practical terms, it is unclear as to how a route that is shared proportionately between the two schemes, on a fair basis, can be delivered once the parameters have been set by the Brindley Drive scheme.

Case Officer Response:

How each site contributes to providing a route and what proportion is subject to discussion, negotiation, site constraints and by differences in site area. It is considered the proposed layout and orientation of the scheme will allow development along with a route to come forward via the Cambrian Hall site.

Neighbourly Development

Concerns regarding the apparent overdevelopment of the Brindley Drive site, particularly in the light of UCB's willingness to incorporate distance from the boundary in its own plans.

Massing Townscape and Heritage

UCB object to Court seeking to build so close to their ownership boundary significantly prejudicing the development potential of the Cambrian Halls site. Specifically, it was considered that the width of the tower should be reduced, with the pull-back from the northern boundary used to create meaningful public realm to improve pedestrian connectivity and activity, and that the Garden Block should be reduced in width along Brindley Drive. The revised proposal does nothing to address the concerns previously raised, and the Council will therefore need to be satisfied that the proposals are of a suitably high design standard for this part of the city centre.

Case Officer Response:

The proposed development responds to section 11 of the NPPF which seeks to make effective and efficient use of land. As part of previous joint discussions with BCC and UCB and the Applicant, amendments were included within the planning application proposal (window size and orientation to the Garden Block) to minimise the stand-off distances between the two sites. The site is located within the City Centre, where a building of this scale and mass is appropriate and supported by BCC City Design. See paragraphs 7.10- 7.15 for further discussion on scale and mass.

UCB remain concerned that the minimal amendments to the scheme as submitted to not address the concerns raised in our original letter of objection, and therefore maintain their objection to the application. We would request that due consideration is given to the issue raised in this letter, and that we are notified as and when any further information is submitted by the applicant.

Case Officer Response:

An Environmental Statement addendum has been submitted and the revised submission addresses those concerns.

7.121 Federated Hermes Ltd (FH Ltd)

FH Ltd submitted representations to the application in December 2022, and in March 2023 registered their objection on the following grounds:

- *Provision of insufficient detail to assess the development, including lack of detail, inconsistent information, and incomplete assessment of the Paradise development as a cumulative scheme within the Environmental Statement (ES)*
- *Concerns regarding the detailed design quality of the development*
- *Townscape impacts, including impacts on nearby heritage assets; and*
- *Failure to maximise the site's potential and improve permeability through and around the site.*

It is noted that the Applicant has since made some minor amendments to the scheme and has provided within their Covering Letter a direct response to Hermes' previous comments.

The previous representations noted that design quality is fundamental to the acceptability of any proposed development on the site and to this end concerns were raised about the lack of committed detail regarding design quality, particularly given the scale of the building and its likely prominence in the townscape. Developments such as the remodelled Centenary Square, Library of Birmingham and Paradise Masterplan have transformed the area surrounding the site, and it remains imperative that the bar of high design quality is not lowered as regeneration presses northwards. As per the response above, Hermes accept that the Octagon need not be a stand-alone object – indeed it will be joined by sizeable commercial architecture as part of Paradise Phase 3, nor do they consider the principle of a tall building unacceptable. The concern is the quality of design, and the bulk of the proposals in key townscape view.

Hermes state the quality of the materials and design need to be exceptional for a tall building in this sensitive and historical setting. Together with the Octagon, they must both be innovative and distinctive to create a pair of northern gateway landmarks.

Case Officer Response:

BCC City Design considers the scheme acceptable subject to conditions. Although the BCC City Design seeks architectural and materiality assurances and for the scheme to be of pre-cast construction the case officer believes the scheme as submitted ties in with the aims of the BDP and SPD. Furthermore, the applicant has agreed to material and sample panel conditions.

Comments from BCC's Conservation Officer confirm that the siting of the proposed development has been fully considered within the townscape and the level of harm assessed to be vary degrees of "less than substantial harm" in line with our Heritage Assessment.

Notwithstanding this, although the building does present a slender elevation to the north and south, none of the proposed amendments within the revised submission address Federated Hermes' concerns with the 'bulk' of the eastern and western elevations; elevations which will be particularly visible from the wider civic heart of the City Centre. Whilst we agree with the Council's Design Officer that "the Octagon tower was not envisaged to be a stand-alone object," the proposed massing arrangement appears to create a "wall" of tall buildings, as opposed to the cluster or "small and dynamic group of towers" (Design Officer) that we understood had been envisaged by BCC. This was, and remains, particularly evident in Views 04, 05, and 06 of the TVIA which highlight the harmful impact on Baskerville House and the wider townscape and given its high visibility and 360 degree views across the City.

City Note LW42 states that designs should consider not only the relationship with other buildings, but also how "it could aid 'the street' and human experience of the buildings and its surroundings". One of the Council's key aspirations in redeveloping the site was its potential for improved connectivity, building on the strong pedestrian permeability improvements which have come from the Paradise masterplan. Hermes' previous representations raised concerns that the proposed development failed to maximise the opportunity to support pedestrian permeability and movement through the site. In particular, the raised plinth at the base of the proposed tower was considered to adversely impact on the streetscape as it lacked activity and presence. It is noted that the Applicant has made some minor revision in this regard, however, as shown in the comparison images, it is not considered these changes address the identified concerns, leaving much of the development with blank and inactive facades which fail to maximise the potential of the site. It is appreciated that a degree of blank façade is inevitable in most developments to allow for suitable servicing and access, however, this should be minimised as far as possible, be focussed in areas with the lowest footfall, and all opportunities to maximise activity should be taken.

Along the Paradise Circus Queensway elevation, the variety/activity has actually decreased, with upper level glazing reduced and replaced by more blank cladding. The opportunity of creating a pedestrian route through to Brindley Drive/City Centre Gardens remains unaddressed, contrary to the recommendation of the Design Officer, which stated, "It is therefore necessary for this scheme to provide a graded route from Paradise Circus through to Brindley Drive (along its northern side), through an amended arrangement to that currently proposed."

The elevational changes to Brindley Drive are also disappointing, and despite the use of additional greening, cannot disguise the fact that this streetscape elevation is almost entirely inactive and provides no animation to the pedestrian experience.

Hermes remain concerned that the proposed development does not align with the City's design policies and guidance and fails to support the wider aspirations in the area, including the proposed 'Greenways' project.

Case Officer Response:

The proposal demonstrates a high-quality development in a city centre location where a building of this scale and massing is appropriate. Comments from BCC City Design have been addressed in this revised submission whereby further design and access details and plans have been submitted – see paragraphs 7.25 - 7.33. Materials and landscaping details are to be secured by condition. Furthermore, it should be noted

that this elevation will serve the cycle store and main residential entry, additionally across the road is access into the City Gardens whereby pedestrian presence will activate this highway. Given the scheme has had to provide a below ground car park on a site with site level differences both the case officer and BCC City Design consider the design acceptable.

As noted previously, the red line boundary for the MSCP planning application overlaps with the red line boundary as established under the operative outline planning permission (ref: 2021/07244/PA) for Paradise. The overlap in red line boundaries occurs from the corner of Paradise Circus Queensway and along the northern side of Cambridge Street, including the junction with Brindley Drive. Notwithstanding the wider concerns outlined in this letter, it remains important that any requirement for works on land overlapping with the Paradise red line boundary, be they within the MSCP red line or via Section 278 works, have been fully assessed by the Council to ensure they can be accommodated without conflict between the permissions. This is particularly important regarding the large street trees given these have been determined as necessary for wind mitigation but sit within the areas included within the Paradise red line highways extent. In line with our comments on architectural design quality, the public realm around the site, including this area, should be of the highest quality. If the Council are minded to approve the application, the quality of the landscape improvements should be appropriately conditioned/set within the S106 Agreement to ensure these are delivered prior to the occupation of the development and maintained in perpetuity.

Case Officer Response:

Any discrepancies with the red line relating to the Section 278 will be dealt with separately and does not conflict between the permissions. With regards to wind mitigation location and land ownership see paragraphs 7.89 – 7.90.

Cumulative Impacts

The ES Addendum models and assesses Buildings A, B, C, I and H of the Paradise development as 'Cumulative Scheme 15', which is welcomed. Paragraph 7.10 of the Addendum suggests that this is based on the 'Paradise Circus Outline Planning Application Plans Document – July 2021', the latest approved plans for the development. However, having reviewed in further detail, we note that the AOD heights annotated on the visuals contained in Appendix 7.1 of the Addendum appear to suggest that the assessment has been based on the minimum parameter building heights on approved Parameter Plan 02, as opposed to the maximum parameter heights on approved Parameter Plan 03 (see attached plans for further details).

We would very much welcome clarification on this point and would be grateful to receive confirmation that the maximum height parameter (i.e., the 'worst-case scenario') has been assessed, and that the cumulative effects reported within the Addendum are therefore an accurate reflection of the potential effects which may arise as a consequence of the two developments.

Case Officer Response

The assessment has been re-run using the maximum parameters and results can be viewed alongside the assessment presented in the ES. The increase in height to the Paradise Circus masterplan leads to an improvement in VSC daylight compliance to Cambridge Tower and Crescent Tower. This is because the baseline VSC levels are lower, meaning the same reductions with the proposed development in place lead to lower percentage reductions. As an example, Window 10 on Floor 03 of Cambridge Tower in both scenarios is shown below.

	Baseline VSC	Proposed VSC	Percentage Reduction	BRE Compliant?
Minimum Heights	30.6%	24.1%	21.2%	No
Maximum Heights	29.9%	24.1%	19.4%	Yes

The window is left with the same VSC daylight figure with the proposed development in place in both scenarios. However, the greater baseline level with the minimum heights built out means the percentage reduction increases above 20% and falls outside the BRE target.

In respect of the Octagon, 13 further windows do not meet the VSC daylight criteria, and 11 further rooms do not meet the APSH sunlight criteria using the maximum heights. This is a direct result of the masterplan within which Octagon is located, and the increase in height to Plot I in particular, reduces the baseline levels which means windows on lower levels of the building are affected where they were not previously. An example of this is below, using Window 06 on Floor 07 of Octagon:

	Baseline VSC	Proposed VSC	Percentage Reduction	BRE Compliant?
Minimum Heights	28.8%	24.9%	13.5%	Yes
Maximum Heights	5.9%	2.1%	64.4%	No

The lower baseline levels to Octagon brought about by the maximum parameter heights mean that relatively small changes in absolute VSC (5.9% to 2.1% is a reduction of just 3.8% VSC) lead to a proportionally greater percentage reduction of 64.4%. As can be seen from the minimum parameter heights assessment, the same absolute change results in a much reduced, and BRE compliant, effect with improved baseline VSC daylight levels.

The only other change with the maximum parameters in place is one additional window to Islington Gates which does not meet the VSC daylight criteria. This window is reduced by 20.6% against a target of 20%, which is a minor effect and not significant. The changes to daylight and sunlight to the surrounding residential properties are minimal with the maximum parameter heights built out. The effects are not considered significant, and it does not alter the conclusions regarding significant effects reported in the ES Addendum.

A review of the overshadowing assessment using the maximum parameters and there is no impact on City Centre Gardens.

In addition to the above, we note that, in respect of wind, a new exceedance of the safety criteria is identified on the north-west corner of Plot I in the cumulative scenario. Paragraph 11.11 of the ES Addendum states "it is noted that this location is within the demise of the Paradise Development and would be expected to benefit from landscaping installed around the base of Octagon as well as any proposed for the detailed design of Plot I...Consequently, it is expected that this direct, long-term and local effect that is of major adverse significance can be reduced to become insignificant." We would welcome further clarity on whether there is any available

evidence to confirm that this significant cumulative effect can be effectively mitigated through future landscaping, and would welcome confirmation as to how it is envisaged such mitigation will be tested and secured in the future.

Case Officer Response

In response to the second of the bullet points it is noted that the outline scenario was not assessed beyond the initial baseline configurations, as was noted in the ES addendum the results presented were from the initial studies, prior to the refinement of the model for the detailed design of the proposed development. Based on the corresponding results for the proposed development in existing surrounds, the reduction in speed-up at this location due to the revised design (as well as incorporation of the Octagon landscaping) would result in notably calmer conditions that are expected to be suitable, both in terms of safety and comfort, for the intended use. Furthermore, it is noted that the reported result is directly influenced by the geometry of the outline massing (being located on the corner of the building) and should this change in any way as a result of the detailed design then the results would be expected to differ, with the corresponding Reserved Matters application needing to give consideration to the cumulative impact with Brindley Drive, thus securing any mitigation that would be required.

Summary

Hermes retains no in principle objection to development coming forward at this site, or a tall building in this location. However, Hermes' do not consider that their detailed concerns regarding the quality and form of the proposed development have been addressed through the limited scheme revisions, nor is it considered that the additional supporting information addresses the wider concerns regarding the robustness of the Applicant's assessment. The MSCP site represents the next logical step for the expansion of world class development and given the scale of the proposals next to sensitive heritage assets, it is imperative only a development of the highest quality be permitted. If BCC is minded to approve the proposed development, Officers and the Planning Committee must be confident in the quality of any proposals brought forward and ensure that quality is maintained throughout the post planning and construction process

Case Officer Response

Much of the above summary comment has been addressed throughout the report. It is evident from the above that the assessments included in the ES provide a robust assessment of the likely significant effects of the proposed development and that no additional environmental information needs to be submitted

7.122 Third Party members of the Public

Loss of parking may result in reduction of visitors

Loss of light

Massing and wind concerns

Impacts of construction on existing residents

7.123 Case Officer Response:

The reduction in parking is in line with the City's aspirations to reduce car parking/Car Parking SPD. BCC Transportation support the application subject to conditions.

Minor effects have been identified in respect of a reduction in daylight and overshadowing. Overall, the adjacent properties retain acceptable levels.

Massing is considered appropriate in its setting and location.

The proposal will not cause a significant adverse effect in terms of wind – see paragraphs 7.152-7.156. Matters of noise during construction have been raised, whilst this is noted, construction is a day-to-day occurrence across the City and beyond whereby it would be for a temporary period. A Construction Environmental

Management Plan will be conditioned and for details to be submitted to an approved by the LPA before development commences. This will cover working practices and hours of construction/deliveries. Furthermore, EPU have been consulted who confirm no objections subject to noise and amenity mitigating conditions during construction.

Conclusion of the Environmental Statement

- 7.124 Environmental Impact Assessment (EIA) is the process undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI2017/571) the 'EIA Regulations'. The EIA process is where development proposals deemed likely to have significant environmental effects are appraised. EIA establishes the nature of a development and the environment in which it is likely to take place, during both the construction and operational phases. The Environmental Statement (ES) is the document that reports the assessment process and is submitted with the planning application. It has the status of a material consideration during the determination of the application.
- 7.125 For information – moderate and major effects are considered significant in EIA terms. Minor and negligible are not considered significant.
- 7.126 An ES should focus on the likely significant effects of the proposed development. The subject areas are identified via a scoping opinion and in this case they are:
- 7.127 Daylight, sunlight, overshadowing and solar glare, heritage, noise and vibration, socioeconomics, wind microclimate, townscape and visual. The ES was submitted during the application process and an addendum to chapters 7-11.
- 7.128 The ES predicts what the significance of each environmental effect would be, which is determined by two factors.
- The sensitivity, importance or value of the environment (such as people or wildlife); and
 - The actual change taking place to the environment (i.e., the size or severity of change taking place).

Most environmental disciplines classify effects as negligible, adverse or beneficial, where effects are minor, moderate or major.

- 7.129 During the assessment of likely significant effects, the EIA (in line with requirements of the EIA Regulations) has considered measures to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects. This is commonly termed 'mitigation'. Finally, each chapter determines whether the level of effect reported is 'significant' or not. This determination is based on professional judgment.
- 7.130 Taking the chapters separately there follows a summary of the predicted significant effects

Daylight, sunlight, overshadowing and solar glare,

- 7.131 Chapter 7 of the October 2022 ES comprises an assessment of the likely significant effects of the Development on the daylight and sunlight amenity to the occupiers of neighbouring sensitive properties, overshadowing to existing amenity areas and instances of solar glare to pedestrian and road junction viewpoints in the vicinity of the Site. The ES addendum has also considered the additional cumulative sites and design updates to the Development and identified any new or altered significant effects which could arise from that presented in the October 2022 ES..
- 7.132 The ES addendum considered the following eight buildings as sensitive receptors. A

summary of results against the development for surrounding buildings is provided below with further detail in the document.

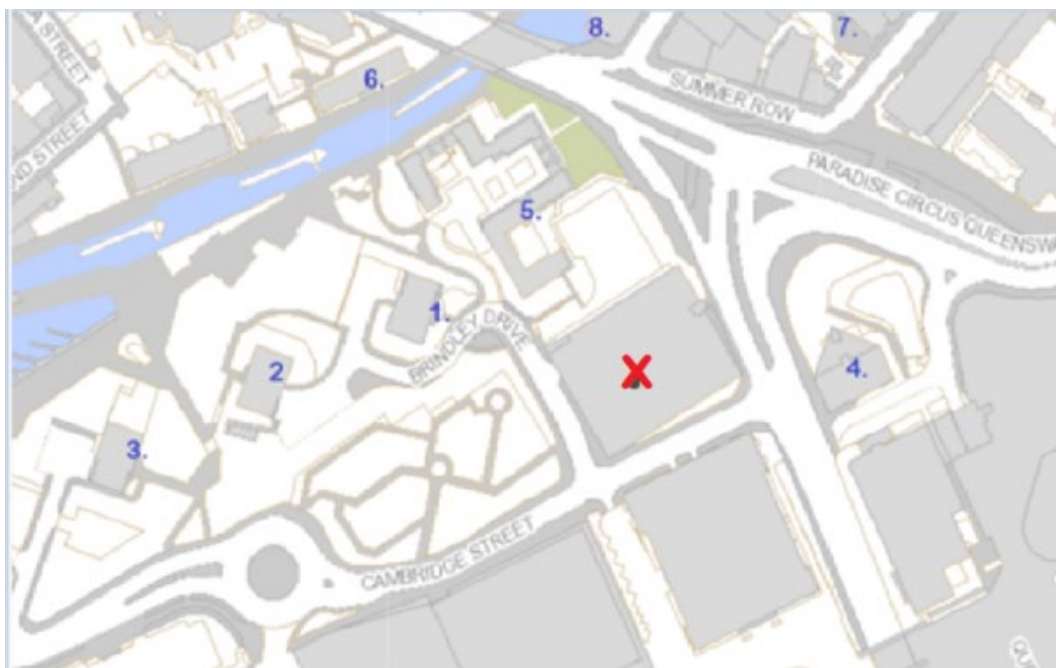


Image 22: Location of the eight buildings considered in the daylight, sunlight and overshadowing assessment (red cross application site).

1. Cambridge Tower
2. Crescent Tower
3. Norton Tower
4. Octagon
5. Cambrian Hall
6. Richard Lighton House
7. IBIS Hotel, Lionel Street
8. Islington Gates

Construction Phase

- 7.133 The potential daylight and sunlight effects relating to demolition and construction works will vary throughout the construction programme and gradually increase to the potential effects identified for the completed proposed development. As such no mitigation is considered necessary during the demolition and construction phases of the work.

Completed and Operation Development

- 7.134 The impact on daylight impacts to the surrounding properties is considered insignificant to minor adverse and the impact on sunlight is considered negligible to minor adverse. No further mitigation is considered necessary for daylight sunlight and overshadowing.
- 7.135 Significant effects were reported at three junctions, Cambridge Street (CS2), Suffolk Street Queensway (PC1) and Paradise Circus (PC2) which is unchanged since the October 2022 ES. However as result of the detailed solar glare intensity assessments provided in ES Addendum, it is not considered necessary to further mitigate, the significant solar glare effects have been mitigated to the greatest extent feasible and it is not considered that the significant solar glare effects identified present a safety concern.

- 7.136 Following completion of the development, and with the additional cumulative schemes in place, the results of the assessment show that the existing residential properties surrounding the site will continue to receive adequate levels of daylight. Whilst daylight to the surrounding properties would be noticeably affected as a result of the development, this is not unusual given the urban context of the site and its surroundings.

Heritage

- 7.137 Several specific heritage receptors were identified with potential to be affected during the construction and/or operational phases of development.

Construction phase

- 7.138 The proposed development has the potential to bring construction impacts through the presence of construction activity in views of and including heritage assets, through direct impact to the fabric of heritage assets to facilitate development and in temporary restrictions to access around heritage assets.
- 7.139 At most, the effects would be of Moderate Adverse significance to the following assets: Baskerville House Grade II, Hall of Memory Grade II and Council House, City Museum and Art Gallery and Council House Extension (Grade II*) and 13 & 15 Former Coffin Furniture Works (Grade II).

All other effects to built heritage assets would be Negligible or Minor Adverse.

- 7.140 Operation phase – Impacts are likely through changes in the character of views to and including heritage assets that contributes to their heritage significance, and through changes to the character of the development site itself and its relationship to nearby heritage assets. Adverse effect of, at most, Moderate significance are expected, to. Baskerville House Grade II, Hall of Memory Grade II and Council House, City Museum and Art Gallery and Council House Extension (Grade II*) and 13 & 15 former Coffin Furniture Works (Grade II*) and 5-11 Rayboulds Foundry (Grade II).

Noise and Vibration

Demolition and Construction

- 7.141 The demolition and construction work has the potential to increase ambient noise levels however, with the implementation of site specific CEMP and specific mitigation measures, adverse impacts will be minimised to ensure the overall effect of demolition and construction activity are considered to be negligible, with only brief periods of minor to moderate adverse impacts which (with appropriate mitigation in place) are anticipated not to be significant.
- 7.142 Completed and Operational Phase
- 7.143 Impact on the surrounding highway has been considered and shown to be negligible and not significant.
- 7.144 Internal noise levels will be mitigated suitably and controlled by suitable worked conditions, potential impacts from fixed plant associated with the development can also be controlled via condition.
- 7.145 Cumulative

- 7.146 The combined impacts of both construction projects working simultaneously is likely to be small at most noise sensitive receptors because the projects will be at different stages. Currently the Octagon is past demolition and piling phases which produce the most noise therefore cumulative construction noise experienced at the noise sensitive receptors is unlikely to be higher than the residual levels associated with the construction of this development. Therefore the cumulative impact of the development would be categorised as having temporary minor adverse impact, which would be classified as not significant. The road cumulative construction traffic noise impacts are therefore expected to be negligible.

Socioeconomics

- 7.147 The pre-mitigation effects of demolition and construction phase are expected to be direct, indirect, induced, temporary and minor beneficial, not significant for construction employment at the local authority level. No mitigation or enhancements are required.

7.147 Completed and Operational Phase

No mitigation or enhancement is agreed to address the likely effects during the completed and operational phase. The residual effects equate to:

- Increase in housing supply – moderate beneficial at a local authority scale, major beneficial at a neighbourhood scale
- Net expenditure from new households, minor beneficial (estimated at £2.7m per annum (net)) at local authority level.
- Increased patients per GP and dentists – minor adverse, not significant at both neighbourhood and regional scale
- Increase demand for school places – moderate adverse, significant at neighbourhood scale and minor adverse at not sufficient at local authority scale
- Increased use of recreational space, negligible, not significant
- Increase need for play space – major adverse, significant at neighbourhood and moderate at local authority scale

- 7.149 Net employment (additional jobs created) - Minor beneficial, not significant at local authority and regional scale

- 7.150 The development is expected to have adverse effects on the use of play space, take up of health services and demand for school places. The EIA states it would expect through the development management process for some mitigation of these to be put in place – most likely through CIL contributions. Being as though a CIL contribution of 3.27 million is being agreed it is possible that most of the adverse impacts would be addressed and therefore the residual effects would be considered to have a net neutral and therefore insignificant effect. With regards to increased patients per GP and dentists this is identified as minor adverse.

- 7.151 Most notable adverse cumulative effects arising from these combined developments would be on the demolition and construction labour market given the tight supply and high demand for workers within the construction sector. However, there is the potential to provide mitigation for this impact via participation in training initiatives within the sector, if this occurs the effects would most likely be considered as minor beneficial (albeit not significant). Together with Cumulative Scheme 15 it would result in a moderate beneficial impact on labour demand as the non-residential uses would create a demand for workers by creating new jobs on site. At least some of these jobs would be likely to offer opportunities for residents of Brindley Drive across a range of occupations. Given wider labour supply dynamics (for example an unemployment rate of 7.7% in Birmingham) the supply of jobs alongside an increase in population will have a positive impact

Wind Microclimate

Construction

- 7.152 The assessment has not identified any significant adverse effects with respect to the wind microclimate for the construction of the development. As such, no wind mitigation is required. This represents a direct, temporary, short term and local residual effect that is insufficient.

Completed and Operational Development

- 7.153 With the introduction of the development, in the absence of soft landscaping and wind mitigation, wind conditions generally remain suitable, both in terms of pedestrian safety and comfort, for the intended uses with a few exceptions:
- at entrances on the north-east and south-west corners during winter, in terms of pedestrian comfort only;
 - to the south of the podium, in terms of pedestrian safety and comfort;
 - around the south corner of Cambridge Street and Paradise Circus, in terms of pedestrian safety and comfort; and
 - on the north corner of The Octagon, in terms of pedestrian safety and comfort (during winter).

- 7.154 These represent direct, long-term and local effects that are of moderate to major adverse significance.

- 7.155 However, with the introduction of key elements of the soft landscaping proposals and targeted wind mitigation, wind conditions improve to become suitable, in terms of pedestrian safety and comfort, for their intended use at all locations, with the sole exception of the north corner of The Octagon. This represents a direct, long-term and local residual effect that is insignificant, in terms of safety, and of minor adverse significance, in terms of comfort.

Cumulative

- 7.156 With the introduction of cumulative schemes, wind conditions remain suitable, both in terms of pedestrian safety and comfort, for the intended uses, with the sole exception of the north corner of The Octagon. This represents a direct, long-term and local cumulative effect that is insignificant, in terms of safety, and of minor adverse significance, in terms of comfort

Townscape and Visual

- 7.157 Chapter 12 of the Environmental Statement assesses the likely townscape character and visual effects associated with the proposed development.

- 7.158 It is considered that through the regeneration of the Site and the Paradise Circus Masterplan Area, the settings of the neighbouring Centenary Square and Jewellery Quarter Conservation Area Fringe LTCAs will be enhanced in relation to their Townscape character, with an enhanced quality of built form and more considered streetscapes, responding positively to the surrounding LTCAs and notable buildings.

- 7.159 No significant adverse cumulative effects are identified within the receiving localised townscape character, with the identified sites considered to represent beneficial effects within a locality that is undergoing positive regeneration at a local and strategic level.

- 7.160 The ES concludes no significant adverse cumulative effects are identified within the receiving localised townscape character, with the identified sites considered to represent beneficial effects within a locality that is undergoing positive regeneration at a local and strategic level as part of the Big City Plan. When considering the potential cumulative visual effects within the localised visual environment the development would help to redefine a more prominent city gateway and would be viewed in the

context of the existing and emerging city centre skyline which contains numerous approved projects incorporating tall vertical elements.

8. Planning Balance

- 8.1 Relevant factors in the balancing exercise
- 8.2 Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provision of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that 'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.'
- 8.3 NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11d) states:

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 8.4 Footnote 8 confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 8.5 The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites, and the latest published housing supply figure is 3.99 years. This is derived from a 5- Year requirement of 37,464 dwellings (including a 5% buffer) and a supply of 29,944 dwellings. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 8.6 However, Footnote 7 notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets.
- 8.7 The proposals would cause less than substantial harm to the significance of several designated heritage assets and, if found to provide a clear reason for refusal, in this case because the public benefits of the scheme do not outweigh the heritage harm identified, then planning permission should not be granted.
- 8.8 The harm identified to the significance of designated heritage assets needs to be

weighed against harm; considerable importance and weight is to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in sections 66 and 72, as well as the degree of accordance with BDP policy TP12 and the relevant paragraphs in the NPPF. These are presented below.

Potential public benefits of the proposal

8.9 Economic Benefits

-The development would generate 499 temporary construction jobs over the construction period, of which 131 would be located in the local authority area. These temporary construction jobs would generate £6.3 million in Gross Value Added (GVA) to the local authority area.

-Additional expenditure in the local economy through the introduction of new residents in Birmingham City Centre

-Creation of skilled and training opportunities during construction.

-The provision of 581 residential units will generate additional convenience, comparison, and leisure services expenditure in the local area.

-Birmingham City Council will gain a direct contribution through the New Homes Bonus, provided by the Department for Communities and Local Government.

-The proposed development will generate additional Council Tax revenue

-CIL payment of £3.27million would assist the Council in providing strategic infrastructure benefits to the local authority area

8.10 Para. 81 of the NPPF states that “Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” (my emphasis). Accordingly, the economic benefits in terms of jobs and expenditure above are welcomed, as are the CIL contributions.

8.11 However, I also note that a significant number of new jobs would only be for a temporary period, and whilst post job roles in servicing, repair and maintenance would be permanent and ongoing these would be a low figure. Furthermore, the low affordable housing offer is disappointing (considering the scale of need), and the absence of public open space contributions/ provision of sports facilities are also noted. Despite these factors moderate weight is afforded to these benefits.

8.12 Social Benefits

8.13 Taking account of the extent of the 5YHLS shortfall, the provision of housing should be given substantial weight in the determination of this application.

8.14 However the HEDNA indicates that the city’s greatest need is for two- and three-bedroom properties but 44% of the 1bedroom residential units would have one bedroom only. Therefore, while the provision of housing is welcome in broad terms, the type of housing proposed in this scheme is not likely to address the city’s greatest need.

8.15 The low affordable housing offer is disappointing considering the scale of the need for affordable housing, and the absence of contributions towards public open space and

the provision of sports facilities are also noted. Despite these factors considerable weight is afforded to these social benefits.

- 8.16 This site is ideally situated to host a landmark development. The plans show appropriate layout, scale and height and there is sufficient detail to ensure that a high-quality development is delivered. I am confident that the resulting development accords with the thrust of BDP policy PG3 and the Birmingham Design Guide. This should be given substantial weight.
- 8.17 Enhancing social cohesion (by means of passive provision) for a pedestrian connectivity route from Paradise through to the City Gardens is a benefit, again in accordance with the thrust of PG3 and the City Design Guide. However, for this link to completely fulfil its potential it will be subject to the neighbouring site. Therefore, in isolation this should be given moderate weight.

Environmental Benefits

- 8.18 The scheme would bring significant sustainability benefits (including the reduction in car parking) over and above those normally secured through the BDP's sustainability policies (TP1-5 but particularly TP3 and TP4). Therefore, moderate weight should be attributed here.
- 8.19 There would be a moderate beneficial impact with the loss of the 1950s multi storey car park building on views. However, less than substantial harm to the significance of heritage assets further afield has been identified, within a range from *no harm* to *high levels*, with Baskerville House Grade II, Hall of Memory Grade II and Council House, City Museum and Art Gallery and Council House Extension (Grade II*) and 13 & 15 Former Coffin Furniture Works (Grade II) experiencing a *moderate* degree of harm. The ES also identifies effects of adverse significance on these heritage assets. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance.
- 8.20 The site will enhance the ecological and biodiversity offer and contribute in a meaningful way to the greening and biodiversification of the city centre in accordance with TP8 and DM4. That said there are missed opportunities such as the lack of planting details i.e., tree pit/size details (that will be addressed via conditions), therefore moderate weight is given in the balance.
- 8.21 This proposal demands a finely balanced judgement.
- 8.22 Weighing most highly in its favour are the place making, economic and environmental benefits associated with such a prominent development at the key gateway into the city centre when approaching from the north.
- 8.23 There are reservations concerning the mix of residential development proposed, namely the large proportion of one-bed apartment and lack of affordable housing, however, I consider they are outweighed by the resulting ability to create a landmark development. I am also mindful of the heritage benefits associated with the loss of the multi storey car park building, the improvements to security and the general environment which would create a new connection between the paradise development and the site.
- 8.24 Taking a city-wide approach, the provision of housing would help to address the city's need for housing and, in view of the lack of a 5-year housing land supply this should be given considerable weight. I also attach moderate weight to additional employment, the CIL, new homes bonus and the other economic benefits. In both cases, the weight

would have been greater but for the reservations expressed above. In respect of the sustainability aspirations, I attach considerable weight to this benefit.

- 8.25 Set against these benefits are concerns regarding the small amount of affordable housing proposed, and the less than substantial harm identified to designated heritage assets ranging in scale from 'very low' to 'moderate'.
- 8.26 With specific regard to the impact of harm caused to the significance of heritage assets, both the BDP and NPPF place great weight on their conservation. Paragraph 199 of NPPF states that the more important the asset the greater the weight should be, additionally paragraph 202 calls for this harm to be weighed against the public benefits of the proposal. Whilst policy TP12 is silent with regards to the public benefits test, it states that proposals for new development affecting a designated or non-designated heritage asset or its setting, including alterations and additions, will be determined in accordance with national planning policy (the NPPF).
- 8.27 These buildings hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation advisors to reach a moderate level. However, in my view, and very much on balance, I consider there are enough benefits associated with this proposal to outweigh the heritage harm. The paragraph 202 test of the NPPF is therefore favourable to the proposal.
- 8.28 In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies which protect heritage assets, as referenced by NPPF para.11(d)i and Footnote 7.
- 8.29 Considering para. 11(d)ii, whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the NPPF when taken as a whole, in my view, several of the benefits of the proposal have their shortcomings which I have sought to present openly in this report. However, again very much on balance, I do not consider that the impacts arising would, either individually or cumulatively, outweigh the benefits of the scheme.
- 8.30 Consequently, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

9. **Conclusion**

- 9.1 The proposed development would see the delivery of a high-quality development residential development in a sustainable gateway location. The proposed 581 residential units would make a meaningful contribution towards Birmingham's Housing shortfall and contribute towards the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver 5.3% of affordable housing at a 30% market discount in accordance with local and national policies and generate a CIL payment of £3.27 million. The scheme would provide economic and environmental benefits by means of employment, visitor spend during the construction phase as well as re-use this brownfield site and increase the biodiversity value. Furthermore, the scheme would not impede future development on the adjacent site nor have an adverse impact on residential amenity.
- 9.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the application would accord with the development plan taken as a whole and is therefore acceptable subject to completion of a legal agreement and safeguarding conditions

10. **Recommendation:**

10.1.

- That application 2022/07980/PA be APPROVED subject to the prior completion of a Legal Agreement (Section 111 or Section 106) to secure the following:
- 5.33% (31) affordable rental units at a mix of 1- and 2-bedroom apartments provided on site at a discount on market value of 30%.
- A mechanism to secure a review payment or payments in lieu of any affordable units that may be released as affordable housing on site, in the event that the scheme changes from a PRS scheme.
- A mechanism to secure a further viability review (to also capture 25% for First Homes units) should any units be offered for sale.
- Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.

10.2 In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 20th July 2023 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason:

- In the absence of any suitable legal agreement to secure the provision of onsite affordable housing the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.

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

10.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 20th July 2023, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

10.5 That no objection be raised to the stopping-up of (Paradise Circus, Cambridge Street and Brindley Drive) and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.

List conditions

-
- | | |
|---|----------------|
| 1 | Time Limit |
| 2 | Approved Plans |
| 3 | Levels |
| 4 | WSI |
| 5 | Sample Panel |
-

6	Wind Mitigation Measures
7	CEcMP
8	CMP
9	Extraction and Odour Control Details
10	Construction Employment Plan
11	Contamination Remediation Scheme
12	Arboricultural Method Statement and Tree Protection Plan
13	Overheating Assessment
14	Noise Insulation
15	Materials
16	Architectural and specification details
17	Submission of hard and soft landscape details
18	Requires the submission of hard surfacing materials
19	Requires the submission of boundary treatment details required
20	Aviation warning light
21	Requires the submission of a contaminated land verification report
22	Requires low emission vehicle parking
23	Noise Insulation
24	Requires details of CCTV
25	Requires a Lightning Scheme to be submitted
26	Landscape management plan
27	Waste Management
28	Noise Levels for Plant and Machinery
29	Energy and Sustainability
30	Highways Suitable Agreement
31	Wayfinding Plan
32	Scheme for ecological/biodiversity/enhancement measures
33	Requires the cycle parking area to be laid out prior to occupation

34	Details of foul and surface water details
35	Bat Survey
36	Areas of public realm to be retained and kept open for public use
37	Height equipment restriction of 295m
38	Remove PD rights for telecommunications equipment
39	No obstruction, displays or signage fitted external facades
40	Short term lets/use restriction
41	Obscure glazing
42	Sustainable Drainage Scheme
43	Sustainable Drainage Operation and Maintenance Plan
44	Bespoke Artwork Details
45	Scheme of Counter Terrorism Security Measures

Case Officer: Sarah Plant

Photo(s)



Photo 1: View from Summer Hill Road, looking at Baskerville House to the left and the application site in the centre (Multi Storey Car Park Building)



Photo 2: View of Cambrian Hall site, and site level differences

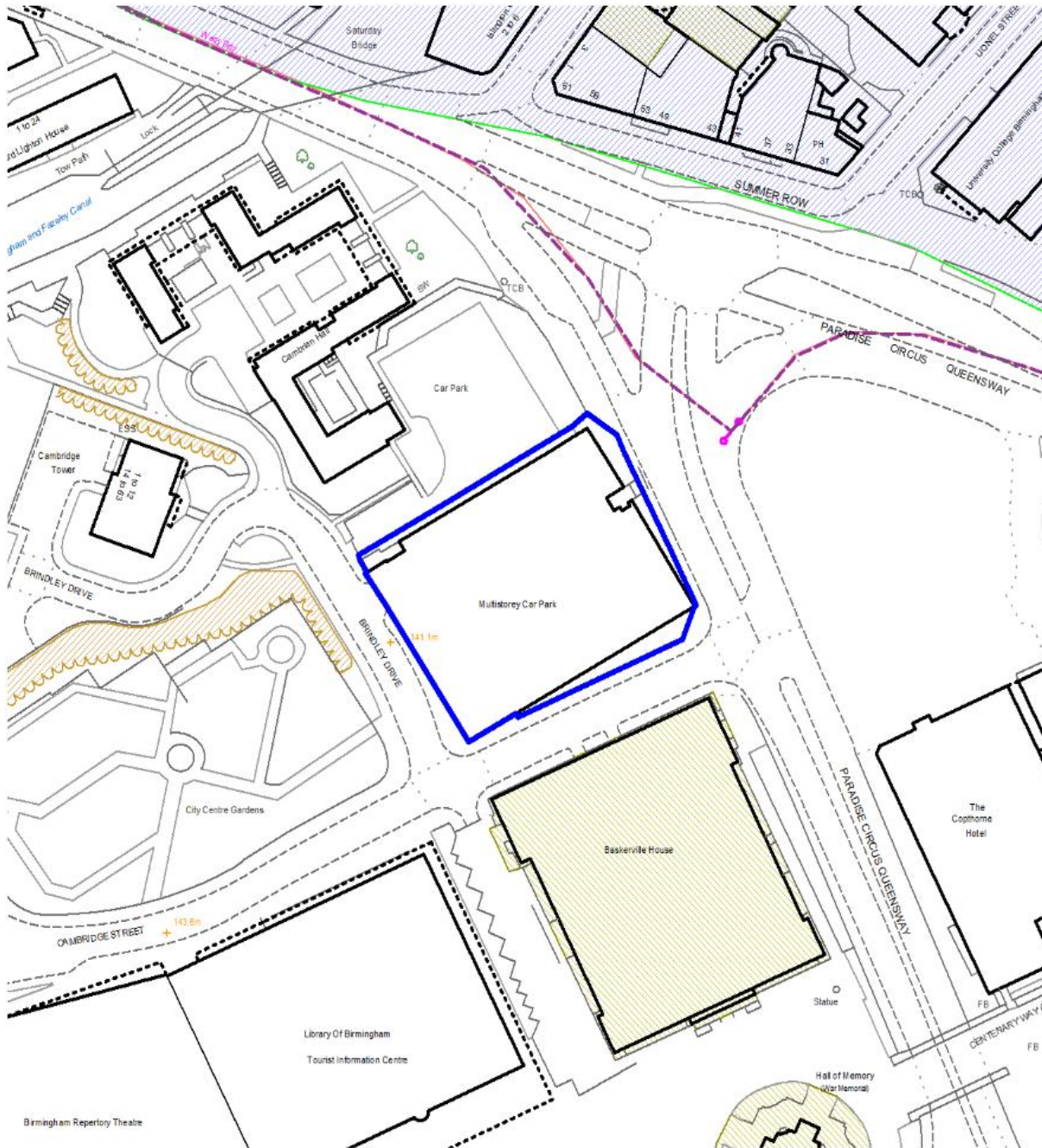


Photo 3: View of Brindley Drive and City Gardens/ Birmingham Library to the right



Photo 4: View of the application site to the right and Cambrian Hall site to the left

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date:	27/04/2023	Application Number:	2021/03125/PA
Accepted:	02/08/2021	Application Type:	Outline
Target Date:	07/04/2023		
Ward:	Nechells		

Land north and south of Mill Street bounded by Aston Road (A38), Dartmouth Circus, Dartmouth Middleway and the Birmingham and Fazeley Canal, Curzon Wharf, Aston, Birmingham, B6 4BS

A Hybrid Planning Application Constituting EIA Development
Comprising:

A. A Full Application For Partial Demolition And Other Works To The Listed Wall Between The Site And The Canal.

B. An Outline Planning Application For The Demolition Of Existing Buildings And Redevelopment Of The Land For Mixed Uses across 4 buildings, comprising up to a maximum of 620 residential homes (Class C3), up to 732 purpose built student accommodation apartments (Sui Generis), and up to 12,000sqm (GIA) of Office / Research and Development floorspace (Class E(g)(i) and (ii)) with Ancillary Amenity And Operational Space, Retail And Food And Drink Uses [use Class E (a) (b) And (c)]; Indoor Sport, Recreation Or Fitness Space [use Class E (d)], Public House And Drinking Establishments / Bowling Alley / Cinema (Sui Generis) within buildings varying in height up to 282.5m AOD (illustratively shown as G+8 storeys, G+13 storeys, G+40 storeys and G+52 storeys); Hard And Soft Landscaping And New Public Open Spaces Including Sustainable Urban Drainage Systems, Car Parking Provision And Alterations to Pedestrian And Vehicular Accesses.

Applicant:	Woodbourne Group (Mill Street) Ltd Woodbourne House, 10 Harborne Road, Birmingham, B15 3AA
Agent:	CBRE Ltd 55 Temple Row, Birmingham, B2 5LS

Recommendation
Determine

1.1. Report Back

- 1.2. This application was first reported to the Planning Committee at its meeting on 23rd February 2023. During discussion Members raised concerns about housing mix and the amount of affordable housing proposed. In response, the applicant has proposed two changes:

- a) a condition requiring at least 51% of the residential units to be built to have 2 or 3 bedrooms; and
- b) an increase in the affordable housing offer from 3% to 5%.

2.0. Housing mix

- 2.1. This is not currently fixed within the application, although the Financial Viability Appraisal (FVA) was based on a 50/50 split between 1 and 2 beds. The following condition has been proposed by the applicant:

For each Reserved Matters application for a phase of the development that includes residential (Class C3) use, the mix of apartments included within that phase shall comprise of at least 51% 2 or 3 bedrooomed apartments.

- 2.2. They advise that this condition will ensure a majority of apartments within the development have two or more bedrooms and will achieve a better mix than many of the other tall buildings recently approved in the city centre, including One Eastside and The Octagon. The following table provided by the applicant sets out for comparison the housing mix on other sites approved in the city centre during the last two years:

Scheme	App Number	Date of Decision	Total No of Units	Mix
One Eastside	2019/04239/PA	21/04/2021	667	54% 1-bed 46% 2-bed
Irish Centre, Digbeth	2020/05247/PA	01/03/2021	454	40% 1-bed 60% 2-bed
The Octagon	2020/8215/PA	23/08/2021	370	59% 1-bed 39% 2-bed 2% 3-bed
Upper Trinity Street	2020/02906/PA	31/05/2022	943	51% 1-bed
Digbeth Bus Station	2020/01796/PA	24/03/2021	1250	49% 1-bed, 48% 2-bed and 3% 3-bed (for full element, mix not secured for outline)
The Square	2020/03701/PA	01/04/2021	440	46.4% 1-bed 53.6% 2-bed
Great Charles Street Queensway	2020/02556/PA	21/04/2021	722	51% 1-bed 44% 2-bed 5% 3-bed

3.0. Affordable housing

- 3.1. The 3% affordable housing offer was based on an assessment of the FVA and was in fact 0.5% above that which the independent assessor appointed by the Council identified as being achievable.
- 3.2. The applicant states that, in this case, viability is particularly impacted by the following factors:

- a) CIL at c.£2.1m, to be paid on the PBSA element of the development. This is equivalent to a further c.9% affordable housing.
 - b) Public realm improvements at c.£2.5m, equivalent to a further 11% affordable housing.
 - c) Net Zero Carbon (NZC) readiness, at c.£11m, which is needed to achieve what they consider to be an important benefit of the scheme which will make a valuable contribution and benchmark towards the ambition of the Council's 'Route to Zero' Strategy for the Council and the wider city to become NZC by 2030.
- 3.3. Notwithstanding the above commitments, the applicant is proposing to increase the minimum level of affordable housing from 3% to 5%, increasing the number from 18 units to 31 units. This would reduce the level of return from the development to what the applicant describes as "well below that which would normally be expected by a developer". They state that 5% would be similar to or higher than many other recently approved tall buildings in the city centre which do not carry the significant costs outlined above, including NZC-readiness.

4.0. Conclusion

- 4.1. The proposed condition concerning housing mix would give Members certainty that no more than 49% of the residential units are one-beds, whilst giving flexibility over the final mix according to the housing market conditions and the internal layouts to be secured later through the reserved matters applications.
- 4.2. In respect of affordable housing, the 5% proposed is double what the independent assessment indicated could be achieved and although it is still a low offer against the target of 35%, the applicant has done what they can to improve it, absorbing the cost themselves. The Council's independent viability assessor has made the following points in respect of the increase:
- A reasonable profit expectation would be 15% on cost. As a result of the increased affordable housing offer, the profit on cost would be reduced from 15.19% to c.15% and is therefore unlikely to prejudice delivery of the scheme.
 - Build costs are likely to have increased since the FVA was last updated but the Build to Rent and PBSA sectors continue to perform well so additional value may balance those increased costs.
 - The NZC-readiness commitment must be secured through the planning permission, given the significant cost involved in achieving it.
 - Reference to what has been achieved at other sites is irrelevant as each scheme is assessed on its own merits taking account of its individual circumstances.
- 4.3. This commentary does not support the applicant's assertion that the return would be "well below" what would normally be expected but it does indicate that the modest increase proposed could be accommodated without compromising the delivery of the scheme.
- 4.4. Overall, the changes proposed are welcome, but they do not significantly alter my original planning balance exercise, with the affordable housing only gaining a little weight as a result of the increased offer. I continue to conclude that, on balance, the benefits which would flow from the development would outweigh the harms.

5.0. Recommendation

- 5.1. That planning application 2021/03125/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:

- i) A minimum of 5% affordable housing to be provided on site.
 - ii) A Financial Viability Assessment ('FVA') review to be undertaken before the commencement of each and every phase of the Development that includes residential apartments or purpose built student accommodation to identify the level of any additional affordable housing to be provided above the 5% minimum, including as a result of a situation where that phase did not achieve Net Zero Carbon ('NZC') readiness.
 - iii) A Canal Environs Contribution of Twenty Thousand Pounds (£20,000) payable to the Council towards improvements to the canal environs which are adjacent to the Development.
 - iv) Provision of new public realm within the site of a value of no less than £2,494,000 (index linked to construction costs from the date of this resolution to the date on which payment is made). In the event that the agreed public realm works cost less than £2,494,000 the difference will be provided to the Council to be spent on off-site affordable housing.
 - v) A financial contribution of £25,000 for the public realm works supervision fee.
 - vi) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.
- 5.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 27th June 2023, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:
- i) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
 - ii) In the absence of a legal agreement to secure a review of the Financial Viability Appraisal to be undertaken before the commencement of each and every phase of the Development that includes residential apartments of purpose built student accommodation to identify the level of any additional affordable housing which can be provided, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
 - vii) In the absence of a legal agreement to secure a Canal Environs Contribution of Twenty Thousand Pounds (£20,000) payable towards improvements to the canal environs which are adjacent to the Development, the proposal conflicts with Policies PG3 and TP12 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.
 - viii) In the absence of a legal agreement to secure the provision of new public realm within the site of a value of no less than £2,494,000 (index linked to construction costs from the date of this resolution to the date on which payment is made), the proposal conflicts with Policy PG3 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.

- 5.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 5.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 27th June 2023, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

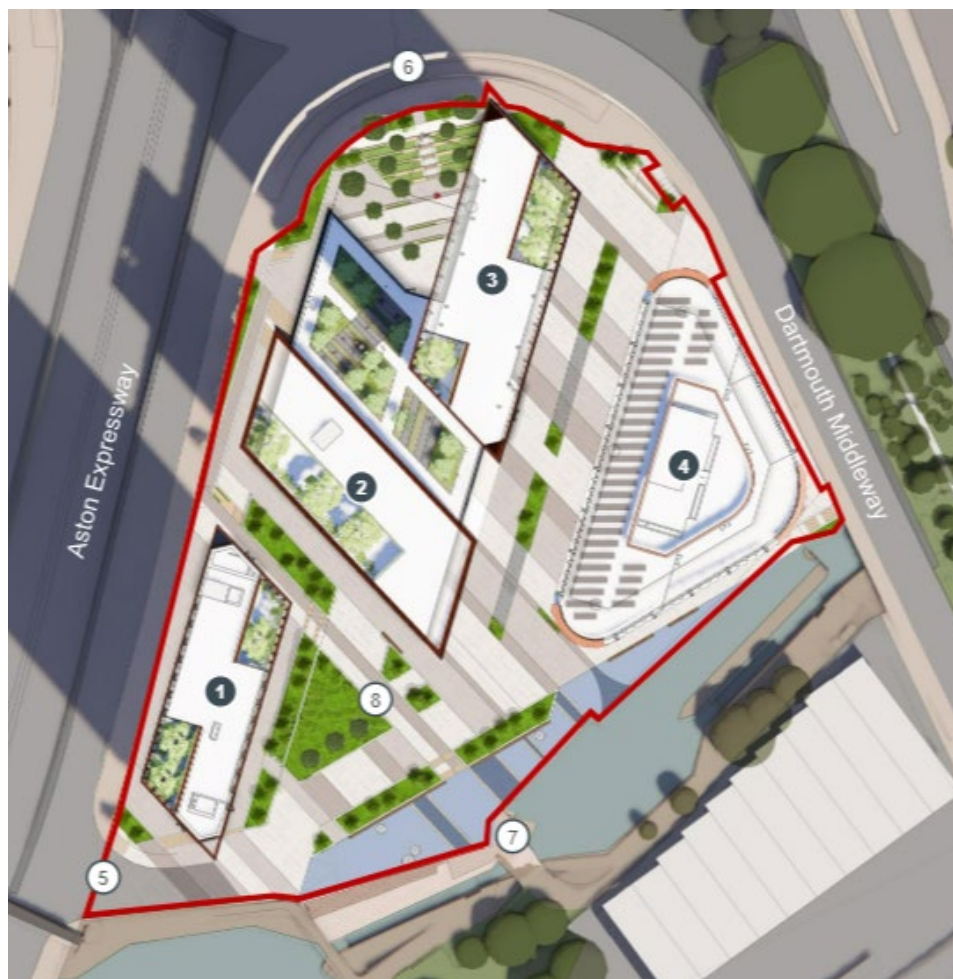
[End of report back]

1. Proposal

- 1.1 This is a hybrid application seeking planning permission for the following development:
- 1.2 **Outline permission** for the demolition of existing trade storage and distribution and training centre buildings and redevelopment of the site with 4 new buildings to accommodate the following uses:
- up to 620 residential homes;
 - up to 732 purpose-built student accommodation bedspaces;
 - up to 12,000sqm (GIA) of commercial space for office/research and development floorspace (Class E(g)(i) and (ii)) with ancillary amenity and operational space; and
 - up to 526sqm (GIA) other flexible and *sui generis* uses comprising retail and food & drink uses (Class E (a) (b) and (c); indoor sport, recreation or fitness space (use Class E (d)); public house and drinking establishments/bowling alley/cinema (*sui generis*).
- 1.3 Proposed buildings would vary in height up to 282.5m AOD, illustratively shown as 9, 14, 41 and 53 storeys. The uses would be distributed as follows:
- Plot 1: student accommodation (up to 732 bedspaces); retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema.
 - Plot 2: up to 122 residential apartments; retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema; parking spaces.
 - Plot 3: residential units (up to 498); retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema; parking spaces.
 - Plot 4: office/R&D; retail, food and drink; gymnasium; public house/drinking establishments; bowling alley; cinema.
- 1.4 Also proposed is hard and soft landscaping; new public open space (approx. 7,100sqm) including sustainable urban drainage systems; car parking provision (35 spaces); and alterations to pedestrian and vehicular accesses.
- 1.5 All matters are reserved except for access.



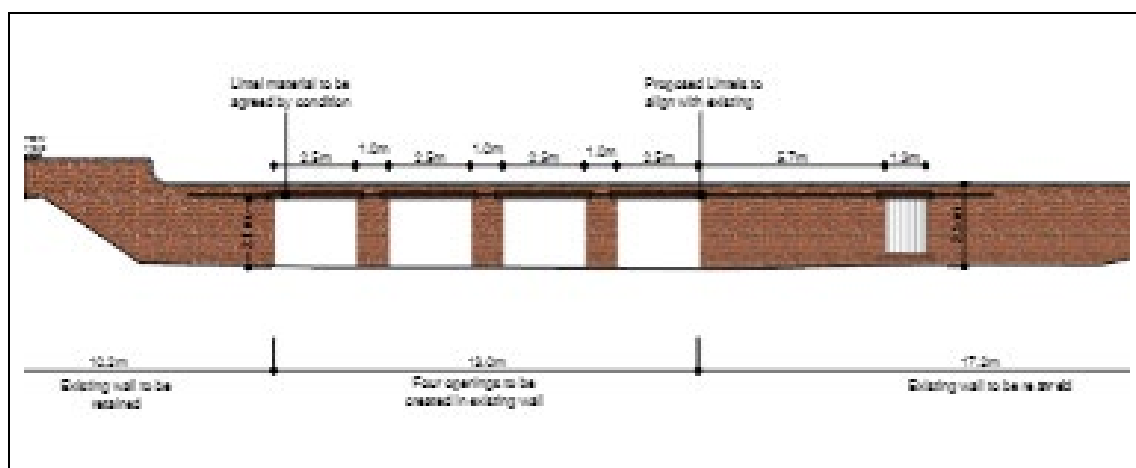
Figure 1: Indicative image of the proposed development
(Source: Design Code)



Key:

- Student Accommodation (Sui Generis)
- Residential PRS (C3)
- Commercial (Class E - R&D / Office)

1.6 **Full planning permission** for partial demolition and other works to the Grade II Listed wall between the application site and the canal. A concurrent application for Listed Building Consent (2021/03035/PA) has also been submitted. The removal of part of the wall would open up views and pedestrian access between the canal and the application site and new public realm would connect the two environments.



1.7 Employment: Existing: 104 full time
Proposed: 880 full time equivalent

- 1.8 Parking: Cars: 35 spaces proposed primarily within car park on ground floor of the podium linking buildings 2 and 3 with access from the realigned Mill Street and across the shared public surface.
- Cycles: minimum of 25 spaces recommended for the office use and 425 spaces for the residential elements. These would be spread across three locations within the site.
- 1.9 Site area: 1.14ha
- 1.10 A Design Guide sets out the principles guiding the detailed design of the development. This sets 'Mandatory' and 'Recommended' principles and future Reserved Matters proposals would need to accord with the mandatory principles.

1.11 Supporting Documents:

Environmental Statement	Design and Access Statement
Aviation Safeguarding Assessment	Parameter Plans Document
Television and Radio Baseline Survey	Bat Survey Report
Utilities Report	Preliminary Ecological Appraisal
Flood Risk Assessment	Archaeological Assessment
Air Quality Assessment	Tall Buildings Report
Ventilation Statement	Energy and Sustainability Report
Phase 1 Geotechnical and <u>Geoenvironmental</u> Desk Study	Environmental Noise Report
Build to Rent Report	Sunlight and Daylight Assessment
Co-Living Report	Daylight Factor Assessment
Viability Assessment	Student Housing Needs Assessment
Affordable Housing Statement	Framework Travel Plan
Loss of Employment Land Report	Transport Assessment
Telecommunications Impact Assessment	Wind Study
Planning Statement	Heritage, Townscape and Visual Impact Assessment
Instrument Flight Procedure Safeguarding Assessment	CIL Additional Information Form

1.12 [Link to Documents](#)

2. **Site & Surroundings**

- 2.1 The application site is located immediately to the south of Dartmouth Circus with the Aston Expressway passing underneath to the west of the site; Dartmouth Middleway is to the east; and the Aston Junction of the Birmingham & Fazeley Canal/Digbeth Branch Canal lies to the south. Aston Road brings traffic off Dartmouth Circus

southbound into the city centre parallel with the western boundary of the application site and the Mill Street cul-de-sac leads off it into the site giving vehicular access to the existing commercial units and the canal.

- 2.2 The site sits at a lower level relative to the elevated dual carriageways surrounding it. Pedestrian subways underneath Dartmouth Circus provide connections between the site and other commercial premises to the north.



Figure 5: Aerial photograph of the application site

- 2.3 The site is located within the Aston Science Park Core Employment Area and is located to the north of the Aston University campus. It falls within the City Centre Growth Area (BDP policy GA1) and abuts the Aston, Newtown and Lozells Growth Area (BDP policy GA3).
- 2.4 The canal is considered to be a non-designated heritage asset throughout the city centre and the two footbridges at Aston Junction are Grade II Listed structures. The canal wall, by association, is also Listed. The canal is a wildlife corridor and SLINC area (Site of Local Importance for Nature Conservation).
- 2.5 [Site location plan](#)

3. Planning History

Application site

- 3.1. 07/04/2021 - 2021/03035/PA – Application for Listed Building Consent for partial demolition, reinstatement and other works to the canalside wall fronting the section of the Birmingham and Fazeley Canal situated between Aston Road and Dartmouth Middleway – Awaiting decision.

Nearby sites

- 3.2 9/4/2020 - 2019/10607/PA - Innovation Birmingham, Holt Street (rear of Icentrum), Nechells - Erection of 11-storey office building (Use Class B1) with associated plant, highway and access improvements, hard and soft landscaping and other associated works – Approved subject to conditions and now under construction.

4. Consultation Responses

- 4.1 **Transportation Development:** No objection subject to the recommended conditions listed below. The existing vehicle access would be altered to formally stop-up Mill Street with some alterations to the entrance but improved pedestrian and cycle access to the canal by removing the boundary wall, and new steps up to the elevated Dartmouth Middleway.
- 4.3 Limited amount of car parking proposed which is allocated to disabled residents, servicing and registered drop-off/pick-up requirements. Predicted vehicle trip movements are likely to reduce given the change in activity on the site. Level of car and cycle parking provision is suitable given city centre location. Plans provided confirm all sized vehicles can access and manoeuvre within the site including an articulated HGV. All refuse and service vehicle movements can suitably take place within the site.
- 4.4 Recommended conditions:
- Pedestrian access rights to be maintained through the site connecting Aston Road and Dartmouth Middleway.
 - Projection from plot 3 which extends over the public footway to be a minimum 2.6m headroom provided and a BCC oversailing licence is required.
 - No occupation until the highway works have been carried out on the junction of Aston Road and Mill Street.
 - Car parking and cycle parking to be provided before the development is occupied.
 - Private access and turning area to be provided for servicing before any part of the site is occupied.
 - Construction Management Plan to be provided before any demolition and construction works commence.
 - Student term start/finish arrival/departure management plan to be provided before any student accommodation is occupied.
 - EVCP car parking provision to be provided; emerging guidance seeks 10% provision.
- 4.5 **Regulatory Services:** No objection subject to recommended conditions.

Initial comments

- 4.6 Air Quality: Submitted report states *“The assessment has identified potential exceedances of the annual mean nitrogen dioxide air quality objective at several proposed building facades up to and including second floor level of the proposed tower and office blocks. This indicates that any residential units which fall within these specific areas will require mechanical ventilation with heat recovery. The apartments will either require NOx filtration to protect the health of future occupants, or air intakes to be positioned higher than second floor level or on non-affected facades.”*
- 4.7 The report states that on-site monitoring during the construction phase may indicate improved air quality at the building facades. Further monitoring should take place during construction and a further air quality report submitted with its findings to determine the ventilation required.
- 4.8 Noise: Appropriate façade and glazing insulation is set out in sections 5 and 6 of the submitted report.
- 4.9 Contaminated land: Submitted report reviewed.
- 4.10 Recommended conditions:
- Contamination Remediation Scheme
 - Contaminated Land Verification Report

- Requires submission of an air quality management plan
- Requires a scheme of ventilation prior to occupation of the residential/work units
- Extraction and odour control details
- Noise levels for plant and machinery
- Scheme of noise mitigation
- Scheme of noise insulation between commercial and residential premises
- Scheme of noise insulation to establish residential acoustic protection.
- Construction Method Statement/Management Plan
- Requires low emission vehicle parking

Further comments on air quality in external amenity areas

- 4.11 *“The scheme itself is in an area that will be expected to have elevated air pollutant levels and also will be affected by noise. As this is an outline scheme it is difficult without further evaluation to fully comment on potential impacts however I would be content that as this is shared amenity space, the incorporation of design and potential barrier mitigation would be sufficient to adequately control noise impacts. In respect of air quality it is more complex as the method we use to assess adverse air quality is based on pollutant levels at building facades – these are not exposure levels but are based on a balanced view of what is accepted in terms of air pollution levels at residential uses. There is no specific criteria to consider air quality impacts related to amenity space and again as this is not dedicated but shared amenity space and given the locations, whilst it is not ideal to have these in uses in areas where the air quality is poor I would not have any real objection to the scheme solely on that basis. It is already introducing residential receptors into an area of poor air quality which we would not support but based on other schemes in the area with similar impacts which have been supported it is a matter for consideration of the planning balance as with other schemes we can always condition sealed windows and nitrogen dioxide treatment although this is not particularly good residential amenity.”*
- 4.12 **City Design Team:** No objection subject to conditions.
- 4.15. **Layout:** The layout to retain the historic alignment of the street is supported. Re-orientation of Mill Street as proposed is also accepted. The development seeks to establish four plots (with plots 2 and 3 linked). Whilst it has been difficult to align the spaces and routes around and between these development plots with historic streets beyond the site, a rationale based on connection has steered the design. There is a clear division between the first three plots (residential) and the fourth (commercial).
- 4.16 The elevated enclosure of the modern expressway around the northern corner has presented challenges. The openings now agreed upon through the canal boundary wall, seek to open up less of this listed structure, yet still achieve the degree of surveillance and connectivity through it and onto the canal and the strategic routes across the City.
- 4.20 The three residential plots comprise three towers each having a parallelogram plan form. The interplay between them and the linking podium repeat the acute and obtuse angles of this form. The repetition is bold and would give this development identity. The continuous interlocking parallelogram layout keeps an acceptable distance between the buildings.
- 4.23 **Scale, height and massing:**
- 4.24 *Plot 1:* It sits closer to the expressway than the principal tower (plot 3) thereby stepping the forms and creating an interesting grouping on the approach into the city. This tower holds the view north west along Digbeth Branch Canal towards the site.

- 4.25 *Plot 2:* This plot sits between plots 1 and 3. This reads as a mid-scale structure that encloses the gap but leaves a degree of permeability. The podium between this plot and plot 3, reads most strongly with this form as secondary massing to the scale and form of the principal towers.
- 4.26 *Plot 3:* This contains the principal and tallest tower.
- 4.27 *Plot 4:* Lower than the mid-scale building on plot 2, this building is intended to comprise a more typical emerging city scale in this district, holding the edge of the Middleway, but absorbing the change in topography more than any of the other three plots.
- 4.28 The scale of the development, its location and orientation all contribute to matters of microclimate (wind, daylight and sunlight) which are addressed in the following two documents submitted with the application.
- 4.29 *Pedestrian Wind Comfort Assessment:* This concludes that most of the direct vicinity of the proposed buildings would be suitable for pedestrian standing. Several spots would be less comfortable and are classified as suitable for walking. Lower wind velocities can be expected in zones behind Tower 1 and near the entrance to Tower 3 – these areas would be comfortable for frequent and occasional sitting. Various wind mitigation solutions are proposed including the use of solid canopies and porous screens. The use of canopies must be avoided and the Design Code has been amended to specifically commit to this.
- 4.30 *Sunlight and Daylight Assessment:* This indicates that the Curzon Wharf development has a degree of impact on the sunlight and daylight reaching the residential properties however remains in line with guidelines as set out in BRE 209. The level of impact can therefore be considered not detrimental to the neighbouring properties to the North and the South East of Curzon Wharf development.
- 4.35. Submission of a Phasing Plan and revised Design Code are noted. The Phasing Plan offers a sensible phasing of the development and provides a strategy that addresses the regeneration of the site effectively.
- 4.36. The revised Design Code is a very well organised document that considers comprehensively the character of this development as a single entity, not as a piecemeal jumble. The vision is clear and concise. A hierarchical approach has been given to both buildings and spaces and it is written in such a way that offers up certainty in terms of design quality.
- 4.38 [Principal Conservation Officer:](#) The HTVIA presents a summary of heritage position as follows:

Moderate degrees of enhancement to Canal Roving Bridges

Very Low degrees of less than substantial harm to the significance of:

Birmingham Children's Hospital
Listed buildings on Warstone Lane

Low degrees of less than substantial harm to the significance of:

Steelhouse City Centre Conservation Area
Victoria Law Courts
Methodist Central Hall
West Midlands Fire Service HQ
St. Chads Cathedral
Clock Tower

Low to moderate degrees of less than substantial harm to the significance of:

Bartons Arms Public House

Moderate degree of less than substantial harm to the significance of:
Jewellery Quarter Conservation Area

- 4.39 The summary of position can be supported and as varying levels of less than substantial harm have been identified and acknowledged to 17 designated heritage assets then the tests of paragraph 202 of the NPPF will need to be met.
- 4.40 **Principal Ecologist:** The main development site is of limited ecological value as indicated by the Preliminary Ecological Appraisal and the Preliminary Roost Assessment for Bats. Redevelopment of the site and opening out public realm onto the canal has the potential to improve the biodiversity on the site if delivered at acceptable levels of urban greening. No objection to the demolition of a section of the existing wall but there will need to be consideration as to how this is done without polluting the canal water with dust and debris.
- 4.41 The indicative landscaping concentrates too much on hard rather than soft landscaping. The Urban Greening Factor should be used, aiming for a factor of 0.4 or above, to secure a more appropriate proportion of planting. Green roofs are also recommended and would facilitate ecological enhancements.
- 4.42 Recommended conditions:
- Bat activity survey prior to demolition of the existing buildings.
 - Landscaping scheme to be submitted.
- 4.43 **Employment Access Team:** No objection subject to a condition securing a Construction Employment Plan prior to commencement.
- 4.44 **Leisure Services:** The scheme, although on a relatively compact site which is surrounded by major roads and the canal, makes little contribution to increasing the surrounding green infrastructure. Apart from small areas adjacent to the canal, the environment would be predominantly hard paved and this is disappointing for such a high profile scheme on a such a visible site. It is also within an area (Nechells) currently severely lacking in green infrastructure and public open space (POS). More structure planting which would be visible from beyond the site would be welcomed.
- 4.45 The residential and co-living elements should be liable for an off-site POS contribution at full application stage. Whilst we would understand viability issues and support other requests from Sport England for contributions to nearby leisure facilities, this should not be at the expense of a contribution towards off-site POS and play.
- 4.46 Estimating the total number of people to be accommodated in the residential units (including co-living and excluding students) the total contribution would be £1,756,775 to be directed to the provision, improvement and/or biodiversity enhancement of public open space and play and its maintenance within Nechells and surrounding wards.
- 4.47 **Lead Local Flood Authority:** No objection subject to the following conditions and associated informatives to be attached to the decision document:
- Requires the prior submission of a sustainable drainage scheme
 - Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
- 4.48 **Severn Trent Water:** No response received.
- 4.49 **Environment Agency:** No objection. The site has a predominantly industrial historic land use and the development may result in re-mobilisation of any contaminants

present; a condition is recommended requiring a remediation strategy prior to commencement.

4.50 **Canal and River Trust**

4.51 Works to listed canal wall: Following amendments, the proposal better represents the protection of the historic canalside features sought by BDP policy TP12. The central section of wall would be retained at its full height, maintaining the character and sense of enclosure the wall provides. The proposed openings would be similar in style to the existing opening and provide a sense of connection between the proposed development and the towpath and canalside environment, increasing levels of engagement and providing safety through surveillance without a complete loss of historic character or a greater loss of historic fabric.

4.52 Conditions are recommended to secure details of the following: lintels, hard-surfacing, methodology for the works, external lighting, boundary treatment, pedestrian safety measures and phasing. Mitigation is also sought due to the loss of historic fabric including removal of graffiti, improvements to the surfacing of the listed bridges, and new planting to replace that lost by the creation of openings in the canal wall.

4.53 Proposed development: The towers would be set back from the towpath/waterspace and in an orientation that would not result in harmful shading of the canal. The potential for positive opportunities in relation to public realm adjacent to the canalside, increased activity, connectivity and surveillance are noted.

4.54 Other matters: a demolition and construction management plan should be provided to protect the canal during works; details of the construction of surface water drainage will be needed; further evidence is needed concerning the ground conditions and the nature of the canal lining to protect the canal's structural integrity and to prevent pollution of the water; details of foundation design and construction methods will be needed at reserved matters stage; improvement should be secured to the nearby pocket park; wayfinding and signage should be secured.

4.55 **West Midlands Fire Service**: No objection.

4.56 **Health and Safety Executive**: No objection; the site does not lie within the consultation distance of a major hazard site or major accident hazard pipeline.

4.57 **West Midlands Police**: No objection to the proposed uses. Detailed design advice provided concerning security, lighting, CCTV, access control, landscaping and boundary treatment. Query raised regarding the testing to be carried out to ensure the 4G telecommunications network will not be compromised.

4.58 **Civil Aviation Authority**: No response received.

4.59 **Birmingham International Airport**: No objection subject to conditions to ensure airspace safety.

4.60 **Historic England**: Concern raised that the development would cause less than substantial harm to the following heritage assets:

- Steelhouse Lane Conservation Area – Harm to the character and appearance of the CA and to the significance of its key landmark listed buildings including Aston Fire Station (Gr II), Victoria Law Courts (Gr I), Methodist Central Hall (Gr II*) and Birmingham Children's Hospital (Gr II). (Viewpoints 6 and 28)

- Jewellery Quarter Conservation Area – Considerable impact on character and appearance on the CA whose significance is derived in its low scale townscape and domestic origins. Overbearing scale would cause harm to the CA, to the Chamberlain Clock Tower (Gr II), and to numerous listed buildings along Warstone Lane. Very limited visibility from St Paul’s Church (Gr I) but visibility likely to be significantly increased in winter when trees are bare of leaves. (Viewpoints 29 and 30)
 - St Chad’s Roman Catholic Cathedral (Gr II*) – Scheme would add to the growing cumulative impact which has caused the setting of the cathedral to suffer greatly in recent years due to the increasing encroachment of tall buildings. Only partial visibility from a fixed position (viewpoint 34), the proposed tower would add to the growing number of tall buildings affected the cathedral’s prominence, and the outline of its form in view from the southwest.
- 4.61 In the case of less than substantial harm, great weight should be given to the assets’ conservation and the harm should only be permitted if it would be outweighed by public benefit.
- 4.62 **Birmingham Civic Society:** Proposal is supported but some points to be addressed when a detailed application comes forward.
- Suitable site for tall buildings and major development.
 - Visible from St Chad’s Cathedral and the Victoria Law Courts but not unduly overbearing.
 - Less than substantial harm to heritage assets including Newhall Penworks (Gr II), Steelhouse Lane Conservation Area and former Fire Station (Gr II).
 - Potential to improve transport connections with a cycle hub and Sprint. Poor pedestrian connectivity and security.
 - Unfortunate that no affordable housing provision to be made. Co-living would add to the range of housing options in the city centre. Amenity space would be insufficient.
 - New public realm and opening up of the canal would be a benefit.
 - Potential new jobs would exceed the number of existing jobs on the site.
 - Design and material quality should be high given the prominent gateway location.
- 4.63 **Sport England:** Objects in the absence of a S106 agreement to secure a financial contribution towards the provision of sports facilities. The occupiers of the proposed development, especially residents, would generate demand for sporting provision which should be met with the following contributions (based on an occupancy rate of the apartments including co-living of 1.7 persons per dwelling resulting in 1054 persons):

Sports Hall sum:	£183,061
Swimming pool sum:	£188,270
Playing Pitches sum:	£244,669
Total:	£616,000

5. **Third Party Responses**

- 5.1 Site and press notices posted. Local Councillors, Residents’ Associations and the occupiers of nearby properties notified of the application. One response received as follows:
- 5.2 **Birmingham Women’s and Children’s Hospitals** (BWC) express concern about the impact on the aircraft transferring patients for major trauma services. Aircraft use the adjacent Nechells playing fields for landing and would at certain phases of the flight be below the rooftop of the main Mill Street building. This leads to the concern that the aircraft would not be able to identify the red obstruction beacons on the rooftop. Some

form of lighting around the middle or along the height of the building should be added to enable continued operations as a major trauma centre.

- 5.3 The applicant has also forwarded a letter of support from the Birmingham Knowledge Quarter Alliance (B:KQA) which considers residential to be the missing component within the area and one which would provide an important aspect to the place-making and vibrancy of the Quarter. The gateway location of the site would be a key element in the B:KQA aim to reach into the surrounding areas of Aston and Nechells helping to spread its benefits into communities characterised by low levels of economic activity, skills and educational attainment. The commercial aspects of the proposal are also supported for the positive contribution they would make to the B:KQA's overall aim of furthering knowledge and providing employment opportunities for local communities.

6. Relevant National & Local Policy Context:

6.1 National Planning Policy Framework

The following paragraphs are particularly, but not exclusively, relevant to the proposal:

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 11
Chapter 4: Decision-making – paras. 56, 57
Chapter 5: Delivering a sufficient supply of homes – paras. 60, 62
Chapter 8: Promoting healthy and safe communities – paras. 92, 98
Chapter 9: Promoting sustainable transport – paras. 104, 110, 112
Chapter 11: Making effective use of land – paras. 119, 120, 124,
Chapter 12: Achieving well-designed places – paras. 126, 130, 131, 132, 133,
Chapter 14: Meeting the challenge of climate change, flooding and coastal change – para.152
Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180, 183, 185, 186, 187
Chapter 16: Conserving and enhancing the historic environment – paras. 189, 194, 195, 197, 199, 202, 206

6.2 Birmingham Development Plan 2017

PG1 Overall levels of growth
PG3 Place making
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP5 Low carbon economy
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and geodiversity
TP9 Open space, playing fields and allotments
TP11 Sports facilities
TP12 Historic environment
TP17 Portfolio of employment land and premises
TP19 Core employment areas
TP20 Protection of employment land
TP21 The network and hierarchy of centres
TP26 Local employment
TP27 Sustainable neighbourhoods
TP28 The location of new housing

TP29 The housing trajectory
 TP30 The type, size and density of new housing
 TP31 Affordable Housing
 TP33 Student accommodation
 TP37 Heath
 TP38 A sustainable transport network
 TP39 Walking
 TP40 Cycling
 TP44 Traffic and congestion management
 TP45 Accessibility standards for new development
 TP46 Digital communications

6.3 Development Management DPD

DM1 Air quality
 DM2 Amenity
 DM3 Land affected by contamination, instability and hazardous substances
 DM4 Landscaping and trees
 DM6 Noise and vibration
 DM10 Standards for residential development
 DM12 Residential conversions and Specialist accommodation
 DM14 Transport access and safety
 DM15 Parking and servicing

6.4 Supplementary Planning Documents & Guidance:

Purpose Built Student Accommodation Supply and Demand (January 2023)
 Birmingham Parking SPD 2021
 Large Scale Shared Accommodation SPD 2021
 Birmingham Design Guide 2022
 Loss of Industrial Land to Alternative Uses SPD 2006
 Public Open Space in New Residential Development SPD 2007
 Conservation Through Regeneration SPG 1999
 City Centre Canal Corridor Development Framework 2002
 Big City Plan 2011
 Our Future City Plan 2021

7 Planning Considerations

- 7.1. As the majority of the development proposed in this application is in outline form only, aside from the principle, the only matters for detailed consideration are access and works to the canal wall. However, the application is accompanied by a set of parameter plans and by documents such as the Design and Access Statement and the Design Code which give information about the form the applicant envisages the development could take. The Birmingham Design Guide (and previously the High Places SPD now superseded) indicates that proposals for tall buildings should be submitted as detailed applications however the applicant has chosen to submit largely in outline form and consequently the images reproduced in this report are indicative unless noted otherwise.

Principle – Office/R&D building

- 7.2. The application site falls within the Aston Science Park Core Employment Area (CEA) so BDP policy TP19 applies to this proposal. It states that applications for development within CEAs that are not in a Class B use will not be supported unless an exceptional justification exists. Class B uses, some of which have moved into the new E(g) class following changes to the Use Classes Order in 2020, cover industrial and

storage/warehousing uses together with some types of office use. It is important to note that TP19 refers to employment uses including B1(b) Research and Development and B1(c) Light Industrial. B1(a) Offices is not referred to. The application, which refers to the updated use classes, seeks outline planning permission for E(g)(i) Offices and E(g)(ii) Research and Development. While the E(g)(ii) floorspace would accord with policy TP19, the E(g)(i) floorspace would not and is therefore in conflict with TP19.

- 7.3. Policy PG1 of the Birmingham Development Plan requires the city to maintain a minimum 5 year reservoir of 96ha of land for employment use. According to the 2020-2021 Authority Monitoring Report, at 1st April 2021, there was 113.5ha of readily available employment land giving 5.9 years' worth of supply. More recently, the Council's *Housing and Economic Development Needs Assessment* (HEDNA), published in April 2022 to inform the review of the BDP, concludes that the overall gross needs for employment space are:

Offices: 453,900sqm and 22.7ha
Industrial: 1,353,500sqm and 268.7ha

- 7.4. The HEDNA notes that a broad indication of current supply indicates a slight shortfall in office permissions but a potential oversupply when all future supply is taken into account. For industrial, a shortfall of 52.8ha is calculated however potential sites released from HS2 works may help to meet this need. The HEDNA states that further assessment of Core Employment Areas and an Urban Capacity Study are needed to identify ways to address the industrial land shortfall.
- 7.5. From this I conclude that the additional employment floorspace if used for R&D purposes would accord with the requirement of TP19 to retain land in employment use, however it would not help to address the greater need for industrial floorspace rather than the office-based employment uses. The more general E(g)(i) office floorspace would not accord with TP19, although I acknowledge it would still generate employment.

Principle – Residential (up to 620 dwellings)

- 7.6. The residential elements of the proposal would not accord with the requirements of TP19 so the applicant must demonstrate exceptional circumstances in their favour. Section 5 of the Loss of Industrial Land SPD provides guidance on circumstances where exceptions may exist. In particular, paragraph 5.6 states that within the city centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives. In such cases, proposals which involve the loss of industrial land may be supported but only where they lie in areas which have been identified as having potential for alternative uses within other adopted planning policy documents.
- 7.7. A Loss of Employment Land Report submitted with the application argues that there is an exceptional justification for the non-industrial elements of the scheme based on the following:
- The proposed development as a whole supporting the objectives of wider strategies such as the Big City Plan, the emerging Our Future City Plan, the Aston University Campus Masterplan, the Knowledge Quarter Masterplan and the Curzon Masterplan SPD.
 - With reference to the Clean Air Zone, an expectation that industrial and warehousing operators will want to relocate outside of it, including from within city centre CEAs.
 - The recent granting of planning permissions within the CEA for non-industrial.
 - The prominent gateway location into the city centre.
 - The unique sustainability Net Zero Carbon attributes of the development.

- Job creation.

7.8. Some of these justifications have weaknesses:

- The site does not fall within the Curzon Masterplan SPD area and the Aston University Campus Masterplan is not a recognised planning document;
- No evidence is provided that the existing units on the site have become undesirable or vacant as a result of the CAZ. There is certainly activity within several of the units on site. There is also no indication of what would happen to the existing uses assuming they would be displaced by the development.
- The other recent permissions referred to do not incorporate residential uses.

7.9. I do acknowledge the prominent location of the site and the likelihood that a landmark development would need to include a range of uses to: make efficient and effective use of the site; to create a viable scheme; and to meet place-making aims with activity and vitality flowing from the mix of uses. Therefore, in principle and on balance, I consider it acceptable for that mix of uses to include a residential component. I am, however, mindful that in this case the proposed floorspace is weighted in favour of the residential element, at approximately 46,000sqm, and the employment use, although larger than existing, would at only 12,000sqm appear to be a subservient use.

7.10. BDP policy PG1 sets out the overall levels of growth required including 89,000 new homes, of which 51,100 dwellings are to be provided within the city boundary. Policy TP29 sets the housing trajectory requiring 2,850 dwellings per annum to meet the overall target. However, these two policies are now considered to be out of date as the BDP is five years old. Changes to the Standard Local Housing Need Method adopted by the Government in 2018 and the subsequent 35% uplift for the 20 largest cities and urban areas have increased the city's annual housing requirement to 7,493 dwellings per annum from January 2022 (including the required 5% buffer). Given this significant increase, the proposed 620 residential units could make a meaningful contribution towards housing supply. It is noted that the site falls within the City Centre Growth Area identified in BDP policy GA1.1 where residential development will be supported as part of the mix of uses.

7.11. The Financial Viability Assessment is based on an even split between one and two bedroom apartments. The HEDNA indicates that the greatest need across all tenures within the city as a whole is for two and three bedroom apartments so although the two bedroom apartments proposed would help to meet this need, no larger units are envisaged despite the need for them.

Principle – Purpose Built Student Accommodation (up to 732 bedspaces)

7.12. BDP policy TP33 requires proposals for off campus PBSA to demonstrate a need for the development.

7.13. A Student Housing Needs Assessment (SHNA) has been submitted with the application which reviews the supply of PBSA provision within Birmingham, both to the targeted universities of Aston University, BCU and UCB, and citywide, in order to demonstrate the need/demand for the proposed development. Due to the date of the report, April 2021, the data in the SHNA is drawn principally from the Planning Policy Team's report on Student Accommodation Supply and Demand (SASD), presented to Planning Committee on 7th January 2021.

7.14. The applicant's SHNA reiterates the Council's SASD report highlighting that within the city centre there was a shortfall of 1,058 bedspaces when comparing existing demand (based on 2018/19 Higher Education Statistics Agency (HESA) data) to existing and committed supply. Potential future demand is also drawn from the SASD and indicated

as 19,103. A further 3,182 bed spaces were being considered at the time of the SASD through current planning applications and pre-application schemes, including the application scheme. Adhering to the SASD report, the SHNA demonstrates that if these additional schemes are granted planning consent and are built out, the total supply of city centre PBSA would equate to 17,789 PBSA bed spaces, resulting in an under supply of 1,314 bedspaces against potential future demand.

- 7.15. The applicant's SHNA notes that the above figures do not consider those students who wish to change accommodation from HMO's and those who wish to reside in PBSA rather than being home based. However, the Council's SASD paper has shown a past trend of more and more students living at home over the past 5 years.
- 7.16. The Council's most recent SASD paper, dated January 2023 is based on data held by the Council and that published by HESA in January 2023. This considers various scenarios and continues to indicate a city-wide shortfall in PBSA bedspaces based on both existing demand and potential future demand. The figures are shown here for ease of reference:

Table 3: Demand/ supply analysis

Blue = surplus
Red = shortfall

University/ Location	Uni. of Bham (Selly Oak/ Edgbaston)	Aston, BCU, UCB (City Centre)	Newman Uni. (Bartley Green)	City-wide
Scenario 1				
Existing demand	23,095	17,690	210	40,995
Existing + Committed Supply*	10,047	18,239	306	28,591
Shortfall/ surplus	-13,047	548	-98	-12,401
Scenario 2				
Potential future demand	24,407 - 25,407	19,139	516	44,062 - 45,062
Existing + Committed Supply*	10,047	18,239	306	28,591
Shortfall/ surplus	-14,360 to -15,360	-900	-210	-15,471 to -16,471
Scenario 3				
Potential future demand	24,407 - 25,407	19,139	516	44,062 - 45,062
Existing + Committed supply + Current applications	10,452	20,829	306	31,845
Shortfall/ surplus	- 13,955 to -14,955	1,948	-210	-12,217 - 13,217
Scenario 4				
Potential future demand	24,407-25,407	19,139	516	44,062-45,062
Existing + Committed supply + Current applications + HMOs	23,516	28,692	566	52,774
Shortfall/ surplus	- 891 to - 1,891	9,553	50	8,712 - 9,712

Figure 6: Table 3 from Purpose Built Student Accommodation: Supply and Demand Update 23 January 2023

- 7.17. For existing demand the citywide shortfall would be 12,401 bedspaces (scenario 1) and for future demand it would be up to 16,471 bedspaces (scenario 2). These figures

are based on committed and existing supply – i.e. those already built or currently under construction. However, looking more closely at the potential future demand, once current applications are factored in (including this application) there would be a 1,948 bedspace surplus in the City Centre (scenario 3). While a degree of flexibility in supply is needed, the projected surplus is not insignificant, and this scheme would account for approximately one third of it. This matter will be addressed later in this report as part of the planning balance exercise. A significant shortfall in the number of bedspaces would remain in the South of the city (up to 14,955).

- 7.18. The applicant has provided a prompt response to the 2023 Supply and Demand Paper following its publication, submitting an Update Note. This clarifies that while the proposed development generally targets the city centre based universities (Aston, BCU and UCB), it also takes in the city-wide supply and demand to demonstrate need. Para. 3.1.2. states,

“Whilst the proposed development at Curzon Wharf is generally aimed at students studying at BCU, AU and UCB, a large proportion of students who study at the universities outside of the city centre at UoB and NU prefer to reside within the city centre near to public transport hubs (bus, tram and rail) and all available amenities.”

- 7.19. No evidence is provided to support this statement. Their assessment also fails to take account of full time students who do not require accommodation because they live in their own home or with parents, or who are not in attendance. Para. 3.1.6 also suggests that demand may come from students living in HMOs who may prefer PBSA however those living in HMOs and other rented accommodation have already been included in the Council’s estimation of demand and it is assumed that all students requiring some form of accommodation would choose to live in PBSA.
- 7.20. Notwithstanding the shortcomings with the applicant’s Update Note, under scenario 2 of the Council’s 2023 report, there is a shortfall of 900 bedspaces based on future demand against existing and committed supply. A limited unmet demand of 900 bedspaces could therefore be argued.
- 7.21. In addition to demonstrating need, policy TP33 requires the proposed development to be very well located in relation to the educational establishment that it is to serve and to the local facilities which will serve it, by means of walking, cycling and public transport.
- 7.22. At the time the applicant’s SHNA was prepared, the targeted universities were identified as being Aston University, Birmingham City University and University College Birmingham, however no nomination rights had been agreed and therefore it should be assumed that occupiers could be enrolled with any university within the city. This is confirmed in the Update Note at Para. 3.1.2. quoted above (para. 7.18).
- 7.23. The site is in a sustainable location, with convenient access via walking and bicycle to the targeted universities and Birmingham city centre, where all facilities including public transport bus and train hubs are located along with services, commercial, community and leisure facilities. However, it is rather less well-located to where the future need for bedspaces will be, principally in the south of the city. There is no formal definition of ‘very well located’ in the context of policy TP33 however the Guidance Note on Student Accommodation Statements refer to a 15—20minute walk as a guide and is based on BDP policy TP45 Accessibility Standards for new development. This equates to approximately 1.5km.
- 7.24. Google Maps calculates the following travel times from the site:

- University of Birmingham Selly Oak campus (5.34km as crow flies):

Cycling: 22 mins Walking: 1 hour Bus: 32 mins

- Birmingham City University, Westbourne Road campus (3.5km as crow flies):

Cycling: 19 mins Walking: 57 mins Bus: 37 mins

- 7.25. Google Maps does not offer a route via train as the bus is more convenient however calculating this separately for UoB, it would take 27 minutes to walk to New Street Station, 7 minutes on the train and a further 1 minute walk into the campus, a total of 35 minutes assuming you can walk straight onto a train without having to wait.
- 7.26. All of these times and distances are beyond the 1.5km/15-20 minute walk indicated in the Guidance Note and consequently the application site cannot be considered to be 'very well located' in respect of campuses in the south of the city.
- 7.27. TP33 also requires the proposed development to have an acceptable impact on the local neighbourhood and residential amenity. The site is located within a commercial area and there are no residential properties in the immediate vicinity.
- 7.28. The final two criteria in TP33 relate to the design of the development, internally and externally. The scale and massing of the development is considered below (under the heading 'Design') however given that this is an outline application, very limited information is provided concerning the internal arrangements and thus a conclusion on their appropriateness cannot be made.

Principle – Other non-residential uses

- 7.29. The application proposes 560sqm of a mix of uses including retail and food and drink uses, gymnasium space, public house and drinking establishments/bowling alley/cinema (sui generis) across all four buildings. The NPPF requires main town centre uses, including retail, to be located within the boundaries of existing centres. The site falls outside of the City Centre Retail Core but within the City Centre Growth Area (BDP policy GA1), which states, "*Appropriate scale retail development will be supported where it complements the existing Retail Core and as part of mixed-use redevelopments throughout the City Centre*". Considering the relatively small amount of floorspace involved, I consider this to be appropriately scaled development which would complement rather than compete with the existing retail core within the context of a mixed-use development.

Principle - Conclusion

- 7.30. The renewed employment offer at the site would roughly double the existing employment floorspace and increase jobs significantly however only one of the uses proposed, class E(g)(ii) would directly accord with BDP policy TP19. In my view there is a reasonable justification for incorporating a residential element in the mix of uses in order to meet place-making and regeneration aims, as well as to increase the supply of housing. However, the following should be noted:
- the type of employment space provided is not all that which is normally permitted in a Core Employment Area and none of it is that for which there is the greatest need in the city;
 - half of the PRS residential units proposed are one-beds of which there is already a good supply in the city centre; similarly, there is a projected surplus of PBSA bedspaces based on future demand;
 - the site is not 'very well located' in respect of the UoB where there is the greatest demand for PBSA;

- the proportion of the total floorspace proposed is heavily weighted in favour of the residential component.
- 7.31. The reservations listed here should be taken into account in the planning balance exercise at the end of this report.

Sustainability

- 7.32. The Planning Statement refers to the development as being high quality Net Zero Carbon (NZC) ready and says it will reflect the Council's Route to Zero objectives and support the Clean Air Zone. It is intended to be a unique, sustainable ecosystem that will be the first of its kind in Birmingham and the UK. It is important to emphasise that the supporting documents indicate the development would be 'net zero carbon ready'. This means it is intended at this stage to be designed and built to be highly energy efficient and powered by renewable energy sources but it would be technically capable of operating more traditionally using non-renewable energy. Occupants would be able to offset on-going carbon demand by procuring zero carbon electricity or using recognised carbon offsetting frameworks.
- 7.33. The development would be NZC-ready by:
- Reducing the use of embodied carbon by specifying low carbon materials.
 - Reducing energy demand by creating a well-insulated building envelope which is airtight and thermal-bridge-free, with high performance glazing.
 - Increasing energy efficiency through the use of, for example, LED lighting and low power fans and pumps.
 - Dealing with remaining energy demand through the use of air source heat pumps, exhaust air heat pumps and photovoltaics.
- 7.34. As a result of the above, the following carbon emission reductions are expected (compared to the minimum achieved through the Building Regulations):
- Tower 1: Carbon emissions reduction of 13% through energy efficiency measures alone, and 69% through the inclusion of low and zero carbon technologies.
 - Tower 2: Carbon emissions reduction of 8% through energy efficiency measures alone, and 74% through the inclusion of low and zero carbon technologies.
 - Tower 3: Carbon emissions reduction of 31% through energy efficiency measures alone, and 72% through the inclusion of low and zero carbon technologies.
 - Office: Carbon emissions reduction of 20% through energy efficiency measures alone, and 43% through the inclusion of low and zero carbon technologies.
- 7.35. The office building, whose residual energy demand would be met through heat pumps, would target BREEAM certification of 'Very Good'. The pre assessment has demonstrated a score 58.6%. It cannot meet the BREEAM 'Excellent' rating required by TP3, because the NZC approach allocates resources and budget in a different way to the BREEAM criteria.
- 7.36. Of the other three buildings, Towers 1 and 2 would generate hot water through efficient air-source heat pumps, and heating and hot water for Tower 3 would be generated by exhaust heat pumps. Photovoltaic panels would be provided where appropriate on the roof or façades throughout the development.
- 7.37. The development has the potential to be highly sustainable, complying with the requirements of BDP policies TP3 and TP4 but going beyond what is normally proposed to comply with them and well beyond normal Building Regulations requirements. However, there is some uncertainty on this matter in two respects:
- Firstly, the technology to be included in the development. The applicant advises that

the full range of materials and construction of the development are not currently finalised and that, given the rapid development of the NZC industry, newer and more efficient alternatives may be available before reserved matters applications are submitted.

- Secondly, the on-going operation of the development. The intention is for the buildings to be operated by renewable energy sources but they would be technically capable of operating with non-renewable energy sources too, in which case they fall short of achieving the carbon emission reductions indicated above.

- 7.38. The applicant has suggested the imposition of a planning condition which would require the submission of an NZC strategy and compliance report for each phase of the development. This is the text of the condition:

On or before the submission of reserved matters in respect of a development phase hereby permitted, except for the commercial building (building 4), a Net Zero Carbon Strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority. In accordance with section 12 of the Energy Document dated March 2021, the Net Zero Carbon Strategy shall specify and quantify the requirements and carbon emission reductions to be achieved for the phase to:

- a. minimise embodied carbon during construction through the use of low embodied carbon building materials; and*
- b. ensure the delivery of a Net Zero Carbon ready development for operation through the use of energy demand reduction measures, energy efficiency measures and, low and zero carbon energy sources.*

Prior to occupation of that phase, a Net Zero Carbon Report shall be issued to the local planning authority to assess compliance with the Strategy. The phase must be implemented in accordance with the approved Net Zero Carbon Report.

- 7.39. Such a condition has its limitations. What it would secure is a series of strategies and reports which *may* demonstrate a lack of compliance with the NZC-readiness aims set out in the Energy Document. Furthermore, the condition would not *guarantee* the ongoing operation of the building as NZC; at any point the development could, in theory, be swapped to use higher carbon emitting energy sources.
- 7.40. In an effort to give more certainty, the applicant has confirmed through the Design Code the use of a specific range of materials for the external façades of the buildings which are likely to help meet the low embodied carbon aspirations. This is helpful, although the external material choices are only one element of the overall sustainability credentials of the scheme. The applicant has also indicated that the two trigger points within the condition – on or before reserved matters and prior to occupation – are points where there will be much more certainty about the materials and technology to be used.
- 7.41. The general NZC aspirations associated with this development are very much to be welcomed, especially in light of the city's climate emergency declaration in 2019. The applicant would be investing heavily in delivering a NZC-ready development and is consequently keen that a good amount of weight should be attributed to this element of the proposal. Assuming they are able to deliver the carbon emissions savings proposed such that it can be considered to be a NZC-ready development, then this would be a progressive project, paving the way for similar developments in the future. However, as this is a largely outline planning application, until applications to deal with the reserved matters are submitted, with the accompanying NZC Strategies and the subsequent NZC Reports, there remains an element of doubt over whether what is

being proposed can be delivered. The applicant has acknowledged this and has agreed that, should the NZC-readiness not be delivered, following appropriate viability reviews, the proposed financial contribution towards affordable housing could be increased. As this would be based on a viability assessment, it is possible that it would conclude that to provide additional affordable housing would make the development unviable. In such a case the potential benefits of either the NZC-readiness or any additional affordable housing would both fail to materialise. The development is, however, still likely to reach a betterment over more standard tall building sustainability achievements.

Design

- 7.42. As this is largely an outline application, the parameter plans establish some principles, for example minimum and maximum heights of the proposed buildings and their position on the site, but the detailed scale, layout, appearance and landscaping would be dealt with at reserved matters stage. The Design Code gives a good indication of the likely appearance of the proposed buildings.
- 7.43. *Layout:* Retention and improvement of the existing access point is accepted, along with the indicative re-orientation of Mill Street and establishment of 4 plots. Opening up of the canal wall would achieve connectivity and surveillance. There are difficulties relating to the elevated highway around much of the site and pedestrian routes/connections including with an underpass to the north, however the general layout and footprint of the four buildings is acceptable.
- 7.44. *Scale, height, massing:* The location of the site is suitable for a tall development being at a key gateway into the city centre when travelling by vehicle from the north and at an important node on the ring road. The variation in height between the buildings would create an interesting grouping on the approach into the city. The Pedestrian Wind Comfort Assessment accompanying the application indicates that mitigation for wind is needed and suggests the use of canopies. Your City Design Manager has concerns about canopies which can result in poor design and the Design Code has been amended to remove reference to canopies. A Sunlight and Daylight Assessment notes a degree of impact on nearby residential properties to the north and southeast of the site but this would not be to the extent that it would be detrimental to residents' amenity.



Figure 7: View of proposed development from Park Lane bridge over A38 Aston Expressway (Source: HTVIA)

- 7.45. *Architecture and materiality:* The submitted Design Code in its revised form is a thorough and detailed document which addresses a range of design matters including

the site approach, built form, landscape strategy, and transport and access. It contains in excess of 200 mandatory requirements, including those relating to materials for the main façades, and is intended to ensure that the designs submitted in subsequent reserved matters applications meet the high quality expected by BDP policy PG3 and the Birmingham Design Guide, including Design Principle 26: Fulfilling Design Quality. The City Design Manager is satisfied with the content of the document and the schedule of mandatory requirements within it.

- 7.46. Based on the mandatory requirements within the Design Code, the residential blocks would be expected to have a checkerboard-style façade while the commercial block would express a vertical language with horizontal feature banding every 1 or 2 storeys to break up the elevation. The podium would feature the pocket park with translucent screens enclosing it.

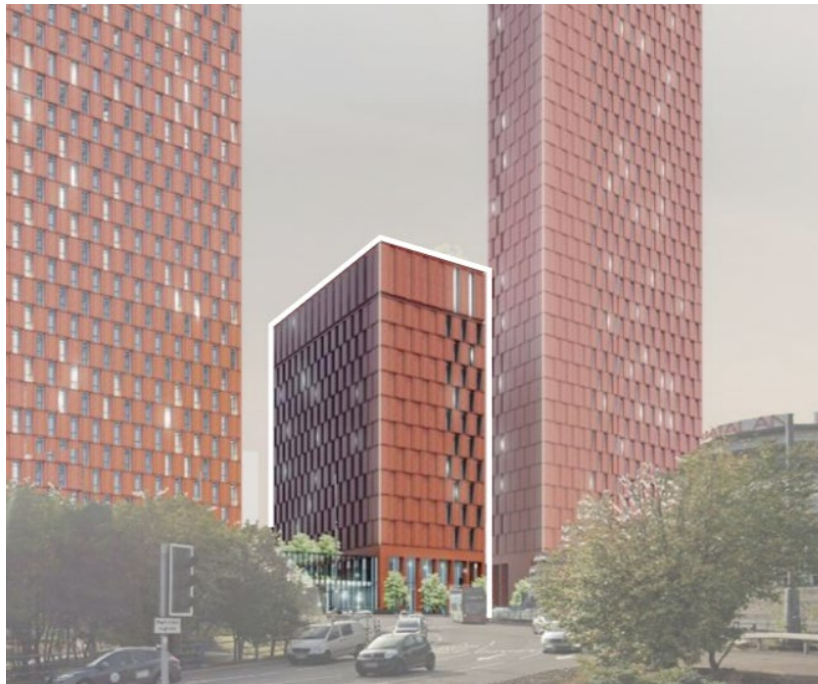


Figure 8: Checkerboard-style façade on residential buildings
(Source: Design Code)

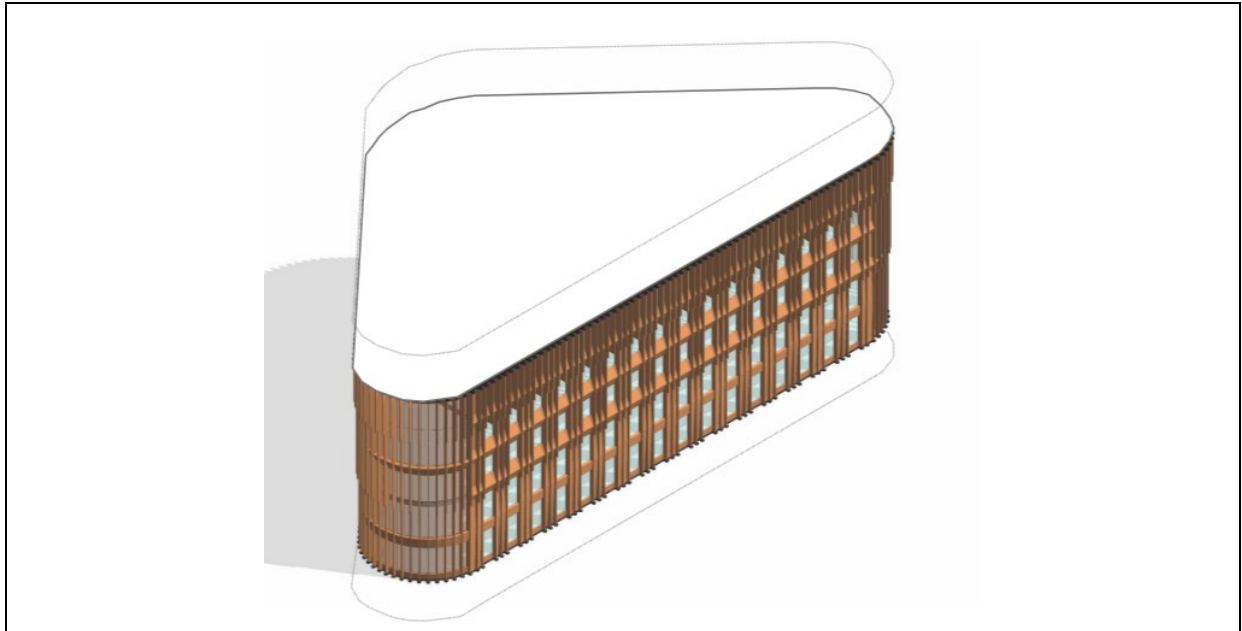


Figure 9: Commercial building façade detail (Source: Design Code)



Figure 10: Podium pocket park (Source: Design Code)

7.47. Principal materials would include Corten cladding panels, contemporary brickwork and precast concrete cladding.

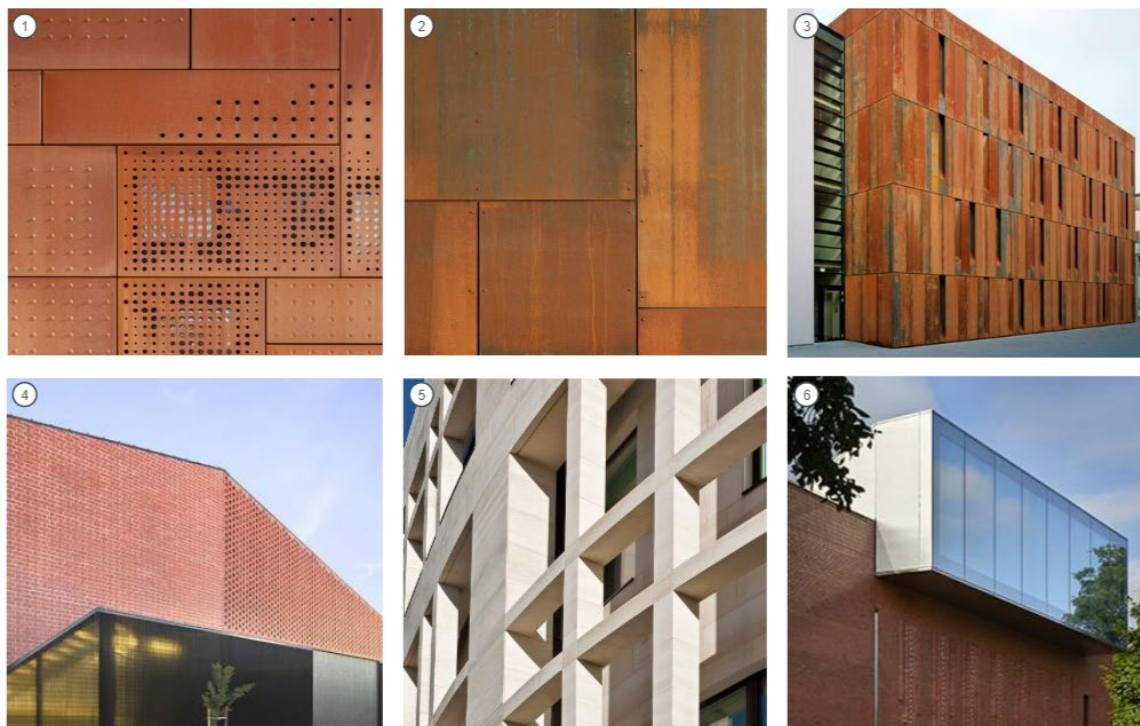


Figure 11: Examples of the proposed materials (Source: Design Code)

- 7.48. *Phasing Strategy*: This indicates that the first phase of development would bring forward the office building and improvements to the canal, including canalside landscaping, together with internal vehicle access and manoeuvring areas through the centre of the site, with the remaining buildings and public realm following in two further phases. Your City Design Manager is satisfied that this strategy would secure the public realm works at an early stage in the development.

Landscaping/biodiversity

- 7.49. The application site has very limited ecological value at present and is largely hard-surfaced. The proposal offers the opportunity to enhance the soft landscaping and biodiversity of the site however I agree with your Principal Ecologist that the indicative landscaping scheme is rather limited in its planting proposals and could deliver a more attractive and biodiverse development. Improvements have been made in the revised Design Code however as layout and landscaping are reserved matters, the space to be given over to landscaping is not fixed at this stage.

Impact on heritage assets

- 7.50. There are two key issues in respect of heritage assets – the impact on the canal wall and the Grade II Listed bridges in the area immediately adjacent to the site, and the impact of such a tall development on heritage assets in the wider area.

Immediate impact: canal wall and bridges

- 7.51. The application site forms part of the setting of two Grade II Listed roving canal bridges on the Birmingham and Fazeley Canal. Part of the application site includes the connecting wall between the two bridges which forms the southern boundary to the site and is listed by way of attachment to the two bridges. In addition, throughout the city centre, the canal corridor is considered to be a non-designated heritage asset.



Figure 12: Aerial photograph of the canal bridges

- 7.52. There have been detailed discussions with the Canal and River Trust and the heritage specialists about the extent of the canal wall to be removed. The final design includes the reduction in height of some parts of the wall, removal of other sections and, in the centre section, the creation of four new apertures to facilitate pedestrian movement between the towpath and the public realm within the application site.
- 7.53. The original Heritage Assessment and the Heritage Note accompanying the final plans conclude that on balance and notwithstanding the loss of historic fabric, there would be moderate degrees of enhancement to the significance of the canal bridges, on the basis that they would be more visible and appreciable as a result of the opening up of the canal wall.



Figure 13: Photograph of canal wall at the boundary with the application site

- 7.54. Your Principal Conservation Officer agrees with this conclusion, noting that the heritage benefits would comprise improved movement/access to the bridges, creation of new views, new experiences and new audiences and this would better reveal their significance. Less than substantial harm would be caused to the significance of the bridges due to the loss of the original form and fabric of the wall which forms part of their setting, but this would be a low level of harm and would be outweighed by the heritage benefits. It is noted that the majority of the section of wall proposed to be fully removed would be the least significant part of the wall.
- 7.55. In respect of the rest of the proposed development, this has the potential to alter the visual setting of the canal and the bridges. There have already been significant

changes to their setting due to modern industrial development and highway infrastructure; the surrounding environment is rather hostile due to lack of surveillance and poor access onto the canal. The proposed development would have a beneficial impact on heritage assets through the creation of landscaped public realm adjacent to the towpath with improved connections between the site and the canal and the creation of a safer and more attractive environment. On balance, your Principal Conservation Officer is satisfied with the impact of the proposal on the canal bridges and wall and I have no reason to disagree with her conclusion.

Wider impact: surrounding heritage assets

- 7.56. The application site is located in a prominent position and, due to its scale, would be visible from a number of heritage assets principally to the west of the city centre.
- 7.57. The Heritage Assessment has considered a number of heritage assets with inter-visibility with the proposed development to the degree that the proposal might impact on their significance through development within their setting. Your Principal Conservation Officer broadly agrees with the conclusions of the HA as follows:

Very Low degree of less than substantial harm to the significance of:

- *Birmingham Children's Hospital* - The proposed development is considered to present an adverse impact to the asset's significance and appreciation of that significance through development in its setting which on balance, taking account of distance and the presence of other tall development visible to the rear of the hospital, equates to a very low level of less than substantial harm.
- *Listed buildings on Warstone Lane* – The proposed towers would project above and to the background of these properties but their architectural interest is principally experienced from their front elevations and the towers would not be visible in such close views.

Low degree of less than substantial harm to the significance of:

- *Steelhouse City Centre Conservation Area, Victoria Law Courts, Methodist Central Hall and West Midlands Fire Service HQ* - The introduction of the towers into this location would diminish the ability to appreciate what is essentially a designed and notable view from within the conservation area as well as compete (albeit at some distance) with the landmark status and prominence of scale of the listed buildings causing harm.
- *St. Chads Cathedral* – The towers would be visible in the background of the cathedral to varying degrees depending on viewing position. They would challenge the cathedral's landmark status, particularly the positive experience of its two slender spires. However, the cathedral's setting has already been significantly compromised by modern development, particularly tall buildings near to it, and the cathedral and towers would only be visible together from a small number of highly localised areas.
- *Clock Tower* – The proposed tower would feature in views of the clock in the distant background and present a degree of challenge to the clock's landmark status through the introduction of a new visual distraction. However, the core elements of its form and function, architectural design and key location would remain, and the Big Peg as already introduced large scale development into the traditional low-rise Jewellery Quarter environment and is an existing visual distraction within the affected view.

Low to moderate degree of less than substantial harm to the significance of:

- *Bartons Arms Public House* – The proposed towers would be visible above and behind the pub when travelling from the south and would challenge the pub's prominence and

landmark status within the townscape. However, the surroundings are already modified by modern development and the towers would be in the distant background.



Figure 14: View of proposed development behind Bartons Arms PH (Source: HTVIA)

Moderate degree of less than substantial harm to the significance of:

- *Jewellery Quarter Conservation Area* – The towers would be a terminating feature in the view along Warstone Lane and would project above the roof lines of rows of traditional buildings fronting Warstone Lane. Visibility of such tall buildings would also represent an encroachment upon the Jewellery Quarter’s traditional low-rise environment. However, modern development already introduces high-rise buildings into the Conservation Area and the proposal would add to a cumulative impact rather than an entirely new impact.



Figure 15: Proposed view along Warstone Lane (Source: Viewpoint 30 of HTVIA)

- 7.58. I am satisfied that a rigorous process of assessment has been carried out by both the applicant’s representatives and your Principal Conservation Officer, considering the impact on numerous heritage assets in the vicinity of the site and further afield. I have no reason to differ from your Principal Conservation Officer’s conclusions and therefore agree that there is less than substantial harm caused to the significance of the designated heritage assets listed above.
- 7.59. In accordance with para. 202 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. This balancing exercise is undertaken towards the end of this report.

Highway safety/parking

- 7.60. The entrance to Mill Street would remain in its existing position but with alterations to the access point and improvements for pedestrians and cyclists accessing the canal towpath. Although layout is a reserved matter, indicative and conceptual plans in the

Design and Access Statement suggest the remainder of Mill Street would be stopped up. Vehicle access would still be available across the public realm to provide for servicing, disabled parking and registered drop off/collections. I note Transportation Development has no objection to the proposal subject to a number of conditions.

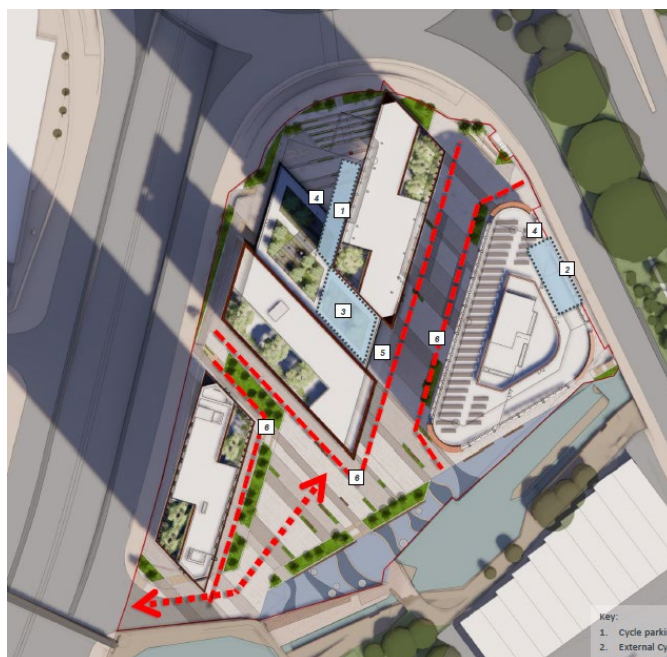


Figure 16: Proposed access arrangements

Air quality/noise/contaminated land

- 7.61. *Air quality:* The site is located at the intersection of major arterial routes through and around the city centre, consequently, and notwithstanding the implementation of the Clean Air Zone, the air quality assessment identifies exceedances of the annual mean nitrogen dioxide air quality objective at several proposed building façades. Although technically within the Clean Air Zone, the development would be adjacent to the ring road which may well see greater levels of traffic as a result of the CAZ. Nevertheless, Regulatory Services advise that further air quality monitoring and appropriate ventilation could be secured by condition to ensure a suitable internal residential environment.
- 7.62. In respect of the external residential environment, Regulatory Services advise there is no specific criteria to consider air quality impacts here and, taking account of the shared rather than private nature of the outdoor amenity space proposed for use by residents and the location of it, they offer no technical objection. However Regulatory Services does acknowledge it is not ideal to have residential uses in areas where air quality is poor.
- 7.63. *Noise:* The Noise Assessment identifies the main source of noise at the site as traffic. It specifies glazing and ventilation attenuation accordingly and Regulatory Services recommends conditions to secure suitable noise insulation and ventilation to protect residential amenity within internal spaces.
- 7.64. *Contaminated land:* Historically, the site has been in industrial use and the Preliminary Geotechnical and Geo-environmental Assessment indicates potentially high land quality risks as a result. Conditions are recommended by both the EA and Regulatory Services to secure further investigatory work and appropriate mitigation.

Impact on residential amenity

7.65. Given the outline nature of the application, a full assessment of the impact on the amenity likely to be afforded to residential occupiers of the development is not possible, however, some information is provided in the parameter plans, the Design Code and other documents accompanying the application, which can be considered along with the technical comments above concerning noise and air quality.

7.66. I note the following information:

- Apartments would be designed to meet or exceed the Nationally Described Space Standards (NDSS).
- PBSA is likely to be arranged as clusters of 6-10 rooms with shared living and dining facilities, plus wider shared space, for example, gym, study areas and cinema room. A small number of studios may also be provided.
- Outdoor amenity space would be in the form of sky terraces, an elevated pocket park on the podium between buildings 2 and 3, and winter gardens. Together this would amount to approx. 1,500sqm.

7.67. Compliance with the NDSS and the emphasis on cluster flats for PBSA accords with policies DM10 and TP33 respectively,

7.68. In terms of the various outdoor areas, in principle their provision satisfies policy DM10 and Design Principle 15 of the BDG, however I have concerns about their potentially small size relative to the number of users, and their general ambience and quality given their proximity to major roads.

7.69. In respect of size, the Birmingham Design Guide sets out guidelines for different types of accommodation, in accordance with which, the following amenity space would be required for this development:

Apartments:	3,720sqm
PBSA bedspaces:	<u>7,320sqm</u>
Total:	11,040sqm

7.70. The size of the amenity space proposed, approx. 1,500sqm, would clearly be very significantly below the standards set in the BDG. In the case of a shortfall, the BDG requires proposals to demonstrate how the reduction would not impact on the delivery of quality amenity space, for example by providing innovative architectural design which creates a number of smaller spaces providing variety, benefit from sunlight at different hours of the day, and enable different residents to have private space.

7.71. Balconies may be incorporated into the designs of the towers which would give some additional, individual outdoor space however they are unlikely to deliver a significant amount. The application indicates that residents would have access to internal amenity space and also to the public realm within the site, although this would not be as enclosed or private as communal amenity space solely for residents' use. The applicant has also pointed to other developments in the city centre with very limited outdoor space.

7.72. Looking more generally at the character of the surrounding environment, in particular the elevated roads which wrap around it, creating pleasant outdoor space of any size would be difficult and this is a drawback of the site and its location.

7.73. The nearest parks are some 750m or more away (Tower Street recreation ground and Phillips Street Park) walking through industrial areas and/or across or under dual carriageways. These are not realistic alternatives which would compensate for the lack of amenity space on site. The canal might offer some amenity opportunities but

primarily for walking or sitting on a bench rather than socialising with housemates or neighbours in a semi-private setting rather than in a public place.

- 7.74. The most recently approved relevant planning policies DM2 Amenity and DM10 Standards for Residential Development make direct references to the provision of outdoor amenity space, its attractiveness and its useability. The proposal due to the location of the site cannot be said to wholeheartedly reflect these aspirations.
- 7.75. I note from the parameter plans that at their closest points the towers would be approx. 10-14m apart. City Note LW-3 of the BDG sets separation distances in order to protect residents' privacy, requiring 21m between building faces for 2 storey dwellings and 27.5m to 3 storeys and above. The City Note states that the weight given to these standards may be influenced by the location of the development and the scale of surrounding properties and that in the city centre they will be applied more flexibly. In the absence of detailed internal layouts it is impossible to assess the full impact of separation distances on residential amenity however the proposed distances may well be acceptable taking account of the city centre location and the design and layout considerations associated with a landmark development at a gateway location.
- 7.76. In summary on this issue, internally a suitable living environment could be created. Externally the creation of pleasant outdoor space for residents is more challenging and does not, in my view, entirely accord with policies DM2 and DM10 of the Development Management in Birmingham DPD and this should be weighed in the planning balance.

Drainage/flood risk

- 7.77. The site lies within Flood Zone 1 where there is the lowest risk of flooding including from fluvial, surface water and groundwater sources. Existing drainage is via private separate foul and surface water drainage systems discharging into the separate foul and surface water Severn Trent Water (STW) network on Mill Street.
- 7.78. The proposed drainage strategy cannot include soakaways or swales/ponds due to the nature of the proposed development and site conditions, however porous construction material, rainwater gardens and green/blue roofs would be incorporated where practical. Discharge would be partially into the canal (proposed office building) and partially into the STW network (rest of site). A detailed layout of the proposed foul water drainage is yet to be developed.
- 7.79. The Flood Risk Assessment and Drainage Strategy concludes the proposed development would not increase the risk of flooding on or off the site including at the access and egress points and I note there is no objection from either the EA or the LLFA. Conditions are recommended to secure a more detailed Sustainable Drainage Scheme and Operation and Maintenance Plan.

Community Infrastructure Levy (CIL)/Planning Obligations

- 7.80. CIL would be payable on the PBSA element of the scheme at reserved matters stage and, if it comes forward as per the floorspace currently proposed would be in the region of £1.7m.
- 7.81. The site falls within the Low Value Residential Area and although at present CIL would not be charged on the remaining accommodation, in the event the draft Charging Schedule is adopted prior to the determination of this application, a further CIL payment would have to be made.

- 7.82. In developments where more than 15 residential units are proposed, the Council seeks 35% affordable homes, in accordance with BDP policy TP31. BDP para. 8.21 states the Council is committed to providing high quality affordable housing for people who are unable to access or afford market housing and that this is an important commitment to ensure a choice of housing for all. The HEDNA concludes on affordable housing that there is a “*notable need*” and “*it is clear that provision of new affordable housing is an important and pressing issue in the area.*” Where meeting the 35% target would make the development unviable, the application must be supported by a financial viability appraisal (FVA) to demonstrate this. The FVA is independently assessed on behalf of the LPA and it may be the case that a lower amount of affordable housing can be offered instead.
- 7.83. An FVA has been submitted with this application and following independent assessment the applicant has agreed to provide 3% affordable private rent units to be let at 20% discount to market rent in perpetuity. These would be provided on site and amount 18 in total. The actual discount to rents (based on the assessor’s view of expected rents) would be as follows:
- 1 bed apartments reduced from £1,150 to £920
2 bed apartments reduced from £1,450 to £1,160
- 7.84. The FVA has been rigorously tested by the Council’s independent assessor and it is noted that the development incorporates new public realm at a cost of c.£2.5m and the CIL payment of c.£1.7m. The NZC element of the scheme is a significant cost, at c.£11.1m, however this is expected to be largely offset by the assumed “green premium” associated with higher rents. Notwithstanding these factors, it is disappointing that the development cannot provide a more meaningful number of affordable units. In order to improve on this situation if possible, review mechanisms are proposed within the legal agreement which could see the amount of affordable housing increase should viability allow later on during the construction period. This would include a situation whereby the NZC-readiness of the scheme is not met and the £11.1m allocated does not secure the promised sustainability benefits.
- 7.85. BDP policy TP9 requires residential developments to provide new public open space (POS) at a rate of 2ha per 1000 population. This should be provided on site in most circumstances. In this case, Leisure Services has requested a contribution towards off-site POS and play facilities based on the residential and co-living elements of the scheme. However, as the review of the FVA has only managed to secure a very limited amount towards planning obligations and affordable housing is a priority for the Council, there is no additional funding available for POS. Sport England’s request for a contribution towards the provision of sports facilities is also noted, but again the development cannot support any further contributions.
- 7.86. The Canal and River Trust (CRT) has also requested a financial contribution towards improvements to the canal environment in the vicinity of the application site, including to remove graffiti, to provide additional landscaping and for resurfacing of the towpath in the vicinity of the application site. In the absence of a cost estimate from CRT for this work, the applicant has offered £20,000 based on their own estimations. CRT suggest the following list of improvement works to the canal infrastructure to accommodate increased use:
- Delivery of improvements to the two listed bridges;
 - Environmental improvements and making good of the canalside from any works on/near the boundary;
 - Removal of graffiti on historic fabric in relation to all historic fabric within the setting of and visible from the site;
 - Interpretation of historic context;

- Improvements to the pocket park opposite (to the east) such as seating, bins, etc.;
 - External lighting; and
 - Wayfinding and signage on and off site.
- 7.87. The improvement of the canal environment would play an integral part in the success of the place-making potential of this proposal and the first three items listed above are considered essential to that effect.

Environmental Statement

- 7.88. Environmental Impact Assessment (EIA) is the process undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI2017/571) the 'EIA Regulations'. The EIA process is where development proposals deemed likely to have significant environmental effects are appraised. EIA establishes the nature of a development and the environment in which it is likely to take place, during both the construction and operational phases. The Environmental Statement (ES) is the document that reports the assessment process and is submitted with the planning application. It has the status of a material consideration during the determination of the application.
- 7.89. An ES should focus on the likely significant effects of the proposed development. The subject areas are identified via a scoping opinion and in this case they are:
- Townscape and Visual
 - Built Heritage
- 7.90. Topics scoped out as being unlikely to give rise to significant effects on the environment were: socio-economics; noise and vibration; air quality; transport; biodiversity; water resources and flood risk; daylight, sunlight and overshadowing; wind microclimate; ground conditions; archaeology; land use; natural resources; waste; human health; risk of major accidents and disasters, and climate change.
- 7.91. The ES was submitted during the application process in August 2021 and an addendum to chapters 6 and 7, updating the Heritage, Townscape and Visual Impact Assessment, followed in November 2021 in response to minor alterations to the proposals for works to the canal wall.
- 7.92. The ES predicts what the significance of each environmental effect would be, which is determined by two factors:
- The sensitivity, importance or value of the environment (such as people or wildlife); and
 - The actual change taking place to the environment (i.e. the size or severity of change taking place).
- 7.93. Most environmental disciplines classify effects as negligible, adverse or beneficial, where effects are minor, moderate or major.
- 7.94. During the assessment of likely significant effects, the EIA (in line with requirements of the EIA Regulations) has considered measures to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects. This is commonly termed 'mitigation'. Finally, each chapter determines whether the level of effect reported is 'significant' or not. This determination is based on professional judgment.

- 7.95. Taking the chapters separately there follows a summary of the predicted significant effects:

Townscape and Visual

- 7.96. Construction phase - Short term adverse effects on local townscape character and views are unavoidable and are likely to take the form of the use of cranes and construction activity on and around the site. Effects on surrounding receptors are expected to range from Negligible to Major Adverse. The construction process would be subject to a Construction Environmental Management Plan (CEMP), which would help control and minimise these effects.
- 7.97. Operational phase: Townscape Effects - The baseline assessment identified that at present the application site adversely influences local townscape character, for example through the general low quality of the buildings and public realm, poor relationship with the canal, and its failure to optimise the gateway location. The proposal would introduce high quality, highly sustainable, landmark buildings into the site and improve the public realm. Effects on the local townscape character areas are expected to range from Minor to Moderate Beneficial to Moderate to Major Beneficial.
- 7.98. Operational Phase: Visual Effects – The proposed development would play a limited role in adaptations to established views from the south, east and west, with Major to Moderate Beneficial effect on Views A and B though the contribution to the skyline. The development would be highly prominent in views from the north and while many views from the north are less sensitive, a number of higher sensitivity receptors from the north have been considered. Effects on these views vary from Moderate Beneficial (Views 15, 16 and 23) to Negligible (Views 18, 21, 31-33) with one adverse effect expected at View 19 (Bartons Arms PH in foreground) (Moderate Adverse). The development would be highly prominent in close range views from the Grand Union Walkway, the Birmingham and Fazeley Canal and the Digbeth Branch Canal, as well as forming a significant backdrop in views further from the site along the waterways. Effects on these views vary from Major to Moderate Beneficial to Major Beneficial due to the scheme's ability to enhance the canalside setting, create high quality new public realm, aid legibility and create a new landmark. Finally, views from the south including the city centre have been considered and the distance from the city core and the topography result in modest levels of influence. There would be Negligible to Minor Beneficial to Major to Moderate Beneficial effects on 13 of these views with the remaining 3 (Views 6 (Corporation St), 27 (Snow Hill tram stop with St Chad's Cathedral in foreground) and 28 experiencing Major to Moderate Adverse effects.

Built Heritage

- 7.99. 19 specific built heritage receptors were identified with potential to be affected during the construction and/or operational phases of the development.
- 7.100. Construction phase – The proposed development has the potential to bring construction impacts through the presence of construction activity in views of and including heritage assets, through direct impact to the fabric of heritage assets to facilitate development and in temporary restrictions to access around heritage assets. At most, effects would be of Moderate Adverse significance to the following assets: the two listed canal bridges adjacent to the site, a cluster of assets on Corporation Street, St Chad's Cathedral, the Bartons Arms PH and the Jewellery Quarter Conservation Area. All other effects to built heritage assets would be Negligible or Minor Adverse. Mitigation measures are proposed in respect of the two listed canal bridges to be controlled through planning condition.
- 7.101. Operation phase – Impacts are likely through changes in the character of views to and including heritage assets that contributes to their heritage significance, and through changes to the character of the development site itself and its relationship to nearby

heritage assets. Adverse effect of, at most, Moderate significance are expected, to the cluster of heritage assets on Corporation Street, St Chad's Cathedral, the Bartons Arms PH and the Jewellery Quarter Conservation Area. The proposed development would bring effects of Moderate Beneficial significance to the two listed canal bridges adjacent to the site.

- 7.102. An Addendum submitted in November 2021 following amendments to the proposals for the canal wall confirmed that the changes would not affect the original conclusion of the Built Heritage chapter of the ES. A further Heritage Note submitted in March 2022 following another amendment to the canal wall confirmed that in respect of heritage, townscape and visual impacts there would be no change to previous conclusions.

Cumulative effects

- 7.103. It is a requirement of the EIA Regulations for the ES to assess the cumulative effects arising from the proposed scheme. It is common for these to be broken down into two types of effect:

- Effect Interactions – the interaction of environmental effects of the proposed scheme affecting the same receptor, either within the site or in the local area; and
- In-combination Effects – the combination of environmental effects of the proposed scheme with approved projects.

- 7.104. Townscape and visual: The ES considers the likely effect interactions, taking account of the residual effects following any mitigation, for both construction and operational phases. It concludes no cumulative effects are anticipated. Consented schemes within 1km of the site have been considered for in-combination effects on townscape and visual. Cumulative residual effects ranging from Major Adverse to Major Beneficial were identified at construction and operational phases. However for various reasons, including distance to and from the site and the level of change proposed it is not considered there would be significant cumulative effects resulting and no additional mitigation is required.

- 7.105. Built heritage: Inter-development effects are only expected in regard to St Chad's Cathedral and Birmingham Children's Hospital in both the construction and operational phases. Effects would be Major Adverse for St Chad's and Minor Adverse for BCH. It should be noted that nearby construction sites have already met the threshold for Major Adverse impact during both the construction and operation phases.

- 7.106. According to the EIA Regulations, the Local Planning Authority (LPA) should reach a reasoned conclusion on the individual and cumulative significant effects and this conclusion should be integrated into the decision as to whether planning permission should be granted. If it is to be granted, the LPA should consider whether it is appropriate to impose monitoring measures. These effects are therefore considered in the planning balance discussion below.

Planning Balance

Relevant factors in the balancing exercise

- 7.107. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provision of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

7.108. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11d) states

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
-

7.109. Footnote 8 confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

7.110. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.

7.111. However, Footnote 7 notes the specific policies which protect important areas or assets and these include policies relating to designated heritage assets.

7.112. The proposals would cause less than substantial harm to the significance of several designated heritage assets and, if found to provide a clear reason for refusal, in this case because the public benefits of the scheme do not outweigh the heritage harm identified, then planning permission should not be granted.

7.113. The harm identified to the significance of designated heritage assets needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in sections 66 and 72, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.

Potential public benefits of the proposal

7.114. **Economic benefits**

- 12,000sqm office/R&D space within the Core Employment Area. This would be a notable increase on the existing employment space, its quality and the number of jobs. The class E(g)(ii) R&D element clearly accords with BDP policy TP19 however a more general class E(g)(i) office use would not accord with TP19. Furthermore, although both would generate employment, according to the HEDNA, none of the space is of a type which is in greatest need. Therefore, while the provision of additional employment

space in a CEA would normally attract substantial weight, in my view the weight attached here should be more modest due to the specific type of uses proposed.

- Economic/planning obligations. Benefits would arise from the following:
 - Jobs: 460pa construction; 880 direct on-site FTE; 300 indirect net additional jobs.
 - Once operational, total direct, indirect and induced economic output of up to £44.1m GVA in Birmingham.
 - Increased resident expenditure of £7.8m per annum on retail goods and £5.2m per annum on leisure goods and services.
 - CIL on PBSA c.£1.7m
 - Public realm works c.£2.4m
 - Minimum 3% affordable housing contribution
 - £20,000 towards canal works

7.115. Para. 81 of the NPPF states that “*Significant weight* should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” (my emphasis). Accordingly, the economic benefits in terms of jobs and expenditure are welcomed, as are the CIL, public realm and canal work contributions. However, I also note the following: the construction jobs would only be temporary, and there is no guarantee that PBSA occupiers would be retained in the city long term so their spending power may also be temporary. Furthermore, the very low affordable housing offer is disappointing considering the scale of the need for affordable housing, and the absence of contributions towards public open space and the provision of sports facilities are also noted. These factors moderate the weight afforded to these benefits.

7.116. Social benefits

- Provision of housing including PBSA bedspaces. The city is only able to demonstrate a 3.99 year housing land supply (including the 35% uplift for the 20 largest towns and cities and the 5% buffer) rather than the required 5 year supply. Taking account of the extent of the shortfall, the provision of housing should be given substantial weight in the determination of this application. However, in my view, the weight afforded to it must be tempered by the following factors:
 - The residential component of the scheme involves the loss of industrial land and in terms of floorspace it far outweighs the additional employment floorspace proposed.
 - The HEDNA indicates that the city’s greatest need is for two and three bedroom properties but 50% of the residential units would have one bedroom only.
 - Although there is a demonstrated need for more PBSA, the greatest need is in the south of the city to serve UoB, rather than in the city centre, which in respect of future demand and supply is projected to be well into a position of a surplus of supply. The site is not very conveniently located in terms of travel to campuses in the south of the city.
 - The external residential environment would be compromised by the character of the surroundings.

Therefore, while the provision of housing is welcome in broad terms, the type of housing proposed in this scheme is not likely to address the city’s greatest need and the general residential environment would be reduced in quality due to the proximity to the ring road, and therefore the weight afforded to it in the planning balance should be reduced to reflect this.

- Creation of a landmark development on a gateway site. This site is ideally situated to host a landmark development. The parameter plans show appropriate layout, scale and height and the Design Code is sufficiently detailed to ensure that a high-quality development comes forward through the reserved matters applications. I am confident that the resulting development would accord with the thrust of BDP policy PG3 and the Birmingham Design Guide. This should be given substantial weight.
- Provision of new public realm contributing towards place-making and connectivity at a strategic point on the canal network and to security/pedestrian safety. This is a substantial benefit, again in accordance with the thrust of PG3, and the phasing plan indicates that the canal works would form part of the first phase of work.
- Provision of 560sqm of retail floorspace. This would be a moderate benefit providing ancillary uses bringing vitality to the development and in particular its public realm.

7.117. Environmental benefits

- Net zero carbon/sustainability measures. If developed as proposed, the scheme would bring significant sustainability benefits over and above those normally secured through the BDP's sustainability policies (TP1-5 but particularly TP3 and TP4). However there are uncertainties surrounding the delivery and thus the weight attributed to this should be reduced accordingly.
- Heritage. There would be a moderate beneficial impact in respect of the canal with a loss of historic fabric outweighed by the benefit of opening up views and experiences of the Listed bridges. However, less than substantial harm to the significance of heritage assets further afield has been identified, within a range from *very low* to *moderate*, with the Jewellery Quarter Conservation Area and the Bartons Arms PH experiencing the *moderate* degree of harm. The ES also identifies effects of Moderate Adverse significance on these heritage assets, and a Major Adverse cumulative effect on St Chad's Cathedral. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance.
- Landscaping/BNG/ecological enhancements. The site is starting from a very low base but the dominance of hard landscaping in the proposal represents a missed opportunity to contribute in a meaningful way to the greening and biodiversification of the city centre in accordance with TP8 and DM4. This is given low weight in the balance.

7.115. This proposal demands a very finely balanced judgment.

7.116. Weighing most highly in its favour are the place-making benefits associated with such a prominent development at the key gateway into the city centre when approaching from the north, and with the opening up of the site to the canal at what is currently a rather unpleasant junction on the city's canal network. The creation of a landmark development is facilitated by the mixed use nature of the scheme, with the residential element filling the floorspace of the towers. In my view, the most compelling justification for the non-industrial uses within the Core Employment Area is to achieve this urban design benefit. There are reservations concerning the type of residential development proposed, namely the large proportion of one-bed apartments, the distance of the PBSA from universities with campuses in the south of the city where the greatest need for PBSA is and the projected surplus of supply in the city centre, and the poor external environment for residents due to the location of the site, however I consider they are outweighed by the resulting ability to create a landmark development. I am mindful also of the heritage benefits associated with the enhanced views and appreciation of the listed canal bridges and the improvements to security and the general canal environment which would flow from the new connection between the canal and the site.

- 7.117. Taking a city-wide approach, the provision of housing – both apartments and PBSA – would help to address the city's need for housing and, in view of the lack of a 5 year housing land supply this should be given good weight. I also attach good weight to the additional employment floorspace in a CEA, the associated jobs and the other economic benefits. In both cases, the weight would have been greater but for the reservations expressed above.
- 7.118. In respect of the NZC aspirations, although this is highly desirable in principle, in view of the uncertainties over delivery I only attach moderate weight to this benefit.
- 7.119. Set against these benefits are concerns regarding the very small amount of affordable housing proposed, and the less than substantial harm identified to designated heritage assets ranging in scale from 'very low' to 'moderate'. Here conflicts arise with policies in the development plan and these bring the scheme into conflict with the development plan as a whole.
- 7.120. In respect of affordable housing, I note this has increased during the course of the application process from 0% to 2.5% and again to 3%. It may be further increased in the event that NZC-readiness cannot be achieved so 3% is the minimum, but this is still disappointing against a target of 35%.
- 7.121. With specific regard to the impact of harm caused to the significance of heritage assets, I am particularly mindful of the great weight that both the BDP and NPPF place on the conservation of assets. The NPPF states that the more important the asset, the greater the weight should be. The Bartons Arms is a Grade II* Listed Building, primarily due to its well-preserved interior, though it also has an impressive external appearance which naturally impacts on the interior. The list description states,
- "The intactness of this pub interior and the wealth of tile work make it the best example of its date in Birmingham."*
- 7.122. St Chad's Cathedral is also Grade II* Listed, for architectural and historic reasons:
- "As an early work and first Cathedral of AWN Pugin ...instrumental in the development of his ideas ... an elegantly proportioned, and skilfully composed mid-C19 cathedral, which incorporates thoughtful detailing and high-quality craftsmanship Remarkable quality of the ornate interior... As the first Catholic cathedral to be built in England since the Reformation..."*
- 7.123. The Jewellery Quarter Conservation Area is described in its Character Appraisal and Management Plan as being *"unique within the local, national and international context, for its high concentration of craft industry with associated trades in one small area, based in converted 18th and 19th century domestic properties and purpose-built later workshops and factories illustrating the whole history of the development of the industry. As such it is of major significance with no immediate parallels either in Britain or overseas"*.
- 7.124. These buildings hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation advisors to reach a moderate level. However, in my view, and very much on balance, I consider there are enough benefits associated with this proposal to outweigh the heritage harm.
- 7.125. In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies which protect heritage assets, as referenced by NPPF para.11(d)i and Footnote 7.

7.126. Considering para. 11(d)ii, whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the NPPF when taken as a whole, in my view, several of the benefits are less than ideal and some elements of the proposal have their shortcomings which I have sought to present openly in this report. However, again very much on balance, I do not consider that the adverse impacts arising would, either individually or cumulatively, outweigh the benefits of the scheme.

7.127. Consequently, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

8 Conclusion

8.1. This application offers the opportunity to create a landmark development at the key gateway site into the city centre when approaching from the north. There is enough detail within this largely outline application to be satisfied that the site could be laid out appropriately, with well-designed buildings, and that the connections between proposed public realm within the site and the canal environment would bring significant place making benefits. The prospect of a NZC operational phase is an exciting one for the city and may set a standard for similar development to follow. If this cannot be achieved, a mechanism is in place to try to secure a larger amount of affordable housing to enhance the wider public benefits of the scheme.

9 Recommendation

9.1. That consideration of application 2021/03125/PA be deferred pending the completion of a Section 106 Legal Agreement to secure the following:

- ix) A minimum of 3% affordable housing to be provided on site.
- x) A Financial Viability Assessment ('FVA') review to be undertaken before the commencement of each and every phase of the Development that includes residential apartments or purpose built student accommodation to identify the level of any additional affordable housing to be provided above the 3% minimum, including as a result of a situation where that phase did not achieve Net Zero Carbon ('NZC') readiness.
- xi) A Canal Environs Contribution of Twenty Thousand Pounds (£20,000) payable to the Council towards improvements to the canal environs which are adjacent to the Development.
- xii) Provision of new public realm within the site of a value of no less than £2,494,000 (index linked to construction costs from the date of this resolution to the date on which payment is made). In the event that the agreed public realm works cost less than £2,494,000 the difference will be provided to the Council to be spent on off-site affordable housing.
- xiii) A financial contribution of £XX,XXX for the public realm works supervision fee.
- xiv) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.

5.5. In the absence of a suitable legal agreement being completed to the satisfaction of

the Local Planning Authority by 23rd May 2023, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:

- iii) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- iv) In the absence of a legal agreement to secure a review of the Financial Viability Appraisal to be undertaken before the commencement of each and every phase of the Development that includes residential apartments of purpose built student accommodation to identify the level of any additional affordable housing which can be provided, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- xv) In the absence of a legal agreement to secure a Canal Environs Contribution of Twenty Thousand Pounds (£20,000) payable towards improvements to the canal environs which are adjacent to the Development, the proposal conflicts with Policies PG3 and TP12 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.
- xvi) In the absence of a legal agreement to secure the provision of new public realm within the site of a value of no less than £2,494,000 (index linked to construction costs from the date of this resolution to the date on which payment is made), the proposal conflicts with Policy PG3 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.

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

5.7. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 23rd May 2023, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- | | |
|---|--|
| 1 | Requires the submission of reserved matter details following an outline approval |
| 2 | Implement within 10 years (outline) |
| 3 | Requires Reserved Matters application to be made in accordance with the Development Phase Design Brief |
| 4 | Requires submission of a Net Zero Carbon Strategy and Report for each phase of development |
| 5 | Requires the prior submission of wind assessment for each phase |
| 6 | Requires the prior submission of a construction employment plan. |
| 7 | Requires the prior submission of a demolition works statement/management plan |
-

-
- 8 Requires the prior submission of an additional bat survey
 - 9 Requires the prior submission of a phasing plan
 - 10 Works to the Canalside Wall - Entering of Contract
 - 11 Requires the prior submission of a construction method statement/management plan
 - 12 Requires the prior submission of a contamination remediation scheme
 - 13 Requires the submission of a Canal Protection Plan for each phase of development
 - 14 Works to the Canalside Wall - Structural Details and Method Statements
 - 15 Requires the prior submission of a sustainable drainage scheme
 - 16 Requires the prior submission of level details on a phased manner
 - 17 Requires the submission of a further air quality assessment
 - 18 Requires the prior submission of architectural details
 - 19 Requires the prior submission of sample materials in a phased manner
 - 20 Requires the prior submission of noise mitigation measures
 - 21 Requires the prior submission of noise insulation
 - 22 Requires the submission of an air quality mitigation and management plan for each phase
 - 23 To ensure information on the proposed low/zero carbon energy technology is submitted
 - 24 Requires the prior submission of a contaminated land verification report
 - 25 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan in a phased manner
 - 26 Prior to Occupation Submission of Extraction and Odour Control Details for Commercial Unit(s) within Use Classes E(a), (b), (c) and (d)
 - 27 Requires the submission of a CCTV scheme
 - 28 Requires the submission of a lighting scheme in a phased manner
 - 29 Requires the submission of an obstacle lighting scheme
 - 30 Requires the submission prior to occupation of hard and soft landscape details
 - 31 Requires the submission of hard surfacing materials
 - 32 Requires the submission of a landscape management plan
 - 33 Requires the submission of boundary treatment details
-

-
- 34 Requires the submission of a Residential Travel Plan for phases with a residential component
 - 35 Requires the submission of a commercial travel plan
 - 36 Requires details of electric vehicle charging points
 - 37 Requires the submission of cycle storage details in a phased manner
 - 38 Requires the submission of a Residence Management Plan for PBSA
 - 39 Requires the scheme to be in accordance with the listed approved plans
 - 40 Requires the approval of amendments to the airspace by the Civil Aviation Authority
 - 41 Requires implementation in accordance with the Design Code
 - 42 Limits the noise levels for Plant and Machinery
 - 43 BREEAM Certificate
 - 44 Pedestrian access rights
 - 45 Public footway headroom
 - 46 Vehicle Turning
 - 47 Highway works to be carried out prior to occupation
 - 48 Prevents the use from changing within the use class
 - 49 Limits the hours of operation
 - 50 Limits delivery time of goods to or from the site
 - 51 Requires the scheme to be in accordance with the environmental statement
 - 52 Requires specific housing mix
-

Case Officer: Amy Stevenson

Photo(s)



Photograph 1: View looking south towards site from Aston Expressway

Location Plan

This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date:	27/04/2023	Application Number:	2021/03035/PA
Accepted:	07/04/2021	Application Type:	Listed Building
Target Date:	07/04/2023		
Ward:	Nechells		

Canal wall south of Mill Street and north of the Birmingham and Fazeley Canal, Aston, Birmingham

Partial demolition, reinstatement and other works to the canal side wall fronting the section of the Birmingham and Fazeley Canal situated between Aston Road and Dartmouth Middleway, Birmingham City Centre

Applicant: Woodbourne Group (Mill Street) Ltd
Woodbourne House, 10 Harborne Road, Edgbaston, Birmingham, B15 3AA

Agent: CBRE Ltd
55 Temple Row, Birmingham, B2 5LS

Recommendation

Approve subject to Conditions

1. **Proposal**

1.1 This application relates to a section of canal wall at Aston Junction, shown below:



1.2. The following works are proposed:

1) Removal of a section of wall to the east of the canal bridges, shown in red below:



2) Increase the height of the remaining east 'wing' of the wall to a consistent level – see red dotted line:



3) Introduce 4 apertures in the wall alongside an existing door opening, between the two bridges, shown in the following CGI:



- 4) Reduce height of west 'wing' of wall to 1.1m, shown in the following CGI:



- 1.2 Existing fabric, e.g. coping stone, will be re-used where possible and changes in the height of the wall will see the replication of the wall's existing sweeping form. Specific paving will mark the path of the wall where it is removed.
- 1.3 Supporting statements: Planning Statement; Design, Access and Heritage Statement; Listed Elements Report – Canalside Structures.
- 1.4 [Link to Documents](#)

2. **Site & Surroundings**

- 2.1. The application relates to the wall to the north of the towpath of the Birmingham and Fazeley Canal on Mill Street. The wall forms part of the curtilage of two grade II listed roving canal bridges; a mid-1780s brick built roving bridge to the northeast of Aston No.1 Lock, and an early 19th century cast iron roving bridge, located over the head of the lock at the junction of the Birmingham and Fazeley Canal and Digbeth Branch Canal. The wall links both bridges and extends westwards to the junction of Mill Street and the Aston Expressway tunnel.
- 2.2. The proposal is connected to a wider proposal for the redevelopment of industrial units off Mill Street. The wider site is located immediately to the south of Dartmouth Circus with the Aston Expressway passing underneath to the west of the site; Dartmouth Middleway is to the east. Aston Road brings traffic off Dartmouth Circus southbound into the city centre parallel with the western boundary of the application site and the Mill Street cul-de-sac leads off it into the site giving vehicular access to the existing commercial units and the canal.
- 2.3. The canal is considered to be a non-designated heritage asset throughout the city centre. The canal is a wildlife corridor and SLINC area (Site of Local Importance for Nature Conservation).
- 2.4. [Site location plan](#)

3. **Planning History**

- 3.1. 02/08/2021 - 2021/03125/PA - Land north and south of Mill Street bounded by Aston Road (A38), Dartmouth Circus, Dartmouth Middleway and the Birmingham and Fazeley Canal, Curzon Wharf, Aston, Birmingham, B6 4BS – Planning permission sought for a hybrid planning application constituting EIA development comprising:

A. Full Application For Partial Demolition And Other Works To The Listed Wall Between The Site And The Canal.

B. Outline Planning Application For The Demolition Of Existing Buildings And Redevelopment Of The Land For Mixed Uses across 4 buildings, comprising up to a maximum of 620 residential homes (Class C3), up to 732 purpose built student accommodation apartments (Sui Generis), and up to 12,000sqm (GIA) of Office / Research and Development floorspace (Class E(g)(i) and (ii)) with Ancillary Amenity And Operational Space, Retail And Food And Drink Uses [use Class E (a) (b) And (c)]; Indoor Sport, Recreation Or Fitness Space [use Class E (d)], Public House And Drinking Establishments / Bowling Alley / Cinema (Sui Generis) within buildings varying in height up to 282.5m AOD (illustratively shown as G+8 storeys, G+13 storeys, G+40 storeys and G+52 storeys); Hard And Soft Landscaping And New Public Open Spaces Including Sustainable Urban Drainage Systems, Car Parking Provision And Alterations to Pedestrian And Vehicular Accesses.

Awaiting decision.

4. **Consultation Responses**

- 4.1. Historic England: No objection.

- 4.2. Canal and River Trust: No objection subject to conditions:

- Details of type, material and finish of lintels to be used for the proposed openings to the wall.
- Details of hard surfacing proposed either side of boundary wall.
- Details of methodology of how the works will be carried out.
- Details of proposed external lighting.
- Consideration of increased risk of access to the lockside and potential risk to pedestrian safety, and proposed mitigation measures.
- Removal of graffiti on listed bridges and remaining sections of wall.
- Works to make good the towpath and provision of replacement planting.

- 4.3. The amended proposal retains the character and sense of enclosure the wall provides. The openings proposed are similar in style to the existing opening and provide a sense of connection between the proposed development beyond the wall and the towpath/canalside environment, both visually and physically, increasing levels of engagement, activity and overlooking, and thus providing safety through surveillance without a complete loss of historic character or a greater loss of historic fabric.

- 4.4. Principal Conservation Officer: No objection subject to conditions:

- Building recording
- Method Statement
- Repair and work to historic fabric
- Full architectural and specification details
- Mortar mix to be agreed

- 4.5. The heritage benefits to the listed bridges through improved movement/access to, creation of new views, new experiences and new audiences would enhance and better reveal the significance of the bridges and, on balance, would outweigh a low degree of 'less than substantial harm' caused to the significance of the listed wall through loss of original form and fabric, and the significance of its place in the setting of the listed canal bridges. In line with the requirements of paragraph 202 of the NPPF and policy TP12 of the BDP the proposal is acceptable on balance.
- 4.4. City Design Team: No objection. The opening up of this wall will allow the site to be better connected to the south, along the canal and for the principal amenity space to benefit from the asset that the canal networks offer the city. It will also improve surveillance and safety both within the site and along this critical stretch (and junction) along the canal. The design may be difficult to implement well, however, the Conservation Officer will be best to advise on the manner and detailing of the delivery.
- 4.5. Regulatory Services: No objection.

5. **Third Party Responses**

- 5.1. Site and press notices posted; local MP, councillors and residents' groups notified; no responses received.

6. **Relevant National & Local Policy Context**

6.1. **National Planning Policy Framework**

Section 8: Promoting healthy and safe communities - Paragraph 91-92

Section 11: Making effective use of land - Paragraph 118

Section 12: Achieving well-designed places - Paragraph 124-132

Section 16: Conserving and enhancing the historic environment - Paragraph 189-202

6.2. **Birmingham Development Plan 2017**

PG3 Place making

TP12 Historic Environment

7. **Planning Considerations**

- 7.1. This application supports application 2021/03125/PA which, if approved by your Committee, would see the wider redevelopment of land to the north of the canal off Mill Street. It would facilitate the place-making aims of that proposed development to create new connections between the canal towpath and new public realm to be created within that application site, along with improved surveillance and security on this part of the canal network.
- 7.2. The scheme of proposed works to the canal wall has been amended during the application process, having originally proposed the removal of a large section of wall between the two listed bridges. The amended proposals, involving the creation of apertures instead of full removal, seek to create connections between the towpath and the wider application site, whilst limiting the loss of historic fabric.

- 7.3. The Design, Access and Heritage Statement (DAHS) divides the wall into sections A and B:



FIGURE 4.3 | CANAL WALL

- 7.4. Section A: The DAHS states that the architectural and historic interest lies in it being a substantive 19th century wall, typical of similar features along the Birmingham and Fazeley Canal. It is in generally good condition but has been subtly altered in a number of areas including with several apertures to enable access. Some of these openings have been re-filled. Graffiti is prevalent along its length.
- 7.5. Section B: This exhibits multiple phases of construction and major alterations. The integrity of traditional elements is very low with substantive intervention and reconstruction. The majority dates from the 20th century. Graffiti detracts from its aesthetics and overgrown vegetation is steadily eroding the fabric. It has negligible architectural or historic interest and makes little to no contribution to the significance of adjacent heritage assets beyond a minor contribution to the canal's sense of enclosure.
- 7.6. The DAHS states that the proposal presents both beneficial and adverse impacts to the assets' heritage significance and the ability to appreciate that significance.
- 7.7. Beneficial: The existing wider site presents an adverse impact on the heritage assets and the unlit, tightly enclosed nature of the areas adjacent to the listed bridges create a hostile environment that neither promotes access onto the canal nor appreciation of its heritage assets. The proposal to open out the space and create improved public realm, with landscaping and improved accessibility will be of great benefit to the significance of the heritage assets, creating new experiences of their heritage significance from within their immediate setting, whilst preserving those which already exist.
- 7.8. Adverse: Loss of traditional fabric will result from the partial demolition of sections of the canal walls. However, this is confined as much as possible to Section B of the wall which is of least heritage interest.
- 7.9. Overall, the DAHS concludes that the proposed development presents a moderate degree of enhancement to the significance of the listed bridges.
- 7.10. An update to the DAHS following the amendments to create apertures instead of fuller removal of the wall between the bridges acknowledges the slightly reduced visibility of the bridges from within the wider application site, however there would be greater retention of historic fabric and the designed sense of enclosure between the

locks. On balance, the net effects of both the reductions in adverse and beneficial outcomes are found to be neutral: balancing one another out.

- 7.11. Your Principal Conservation Officer agrees with this conclusion, noting that the heritage benefits would comprise improved movement/access to the bridges, creation of new views, new experiences and new audiences and this would better reveal their significance. Less than substantial harm would be caused to the significance of the bridges due to the loss of the original form and fabric of the wall which forms part of their setting, but this would be a low level of harm and would be outweighed by the heritage benefits.
- 7.12. I am satisfied that a rigorous process of assessment has been carried out by both the applicant's representatives and your Principal Conservation Officer, considering both the positive and negative impacts on the designated heritage assets. I have no reason to differ from your Principal Conservation Officer's conclusions and therefore agree that while there is less than substantial harm caused to the significance of the assets, it would be outweighed by the heritage benefits.

8. **Conclusion**

- 8.1. The proposed development would facilitate the place making endeavours of the concurrent hybrid planning application, resulting in an overall positive impact on designated heritage assets. The Principal Conservation Officer has recommended a number of conditions to ensure the work is carried out in a suitable manner and these are attached.

9. **Recommendation:**

- 9.1. Approve subject to conditions

-
- | | |
|---|--|
| 1 | Implement within 10 years (conservation/listed buildings consent) |
| 2 | Building recording |
| 3 | Method Statement |
| 4 | Works to the Canalside Wall - Structural Details and Method Statements |
| 5 | Repair and work to historic fabric |
| 6 | Mortar |
| 7 | Implement as part of wider development |
| 8 | Requires the scheme to be in accordance with the listed approved plans |
-

Case Officer: Amy Stevenson

Photo(s)



Photo 1: View from Aston Rd looking northeast and showing Section A of wall



Photo 2: View of canal wall from Mill Street

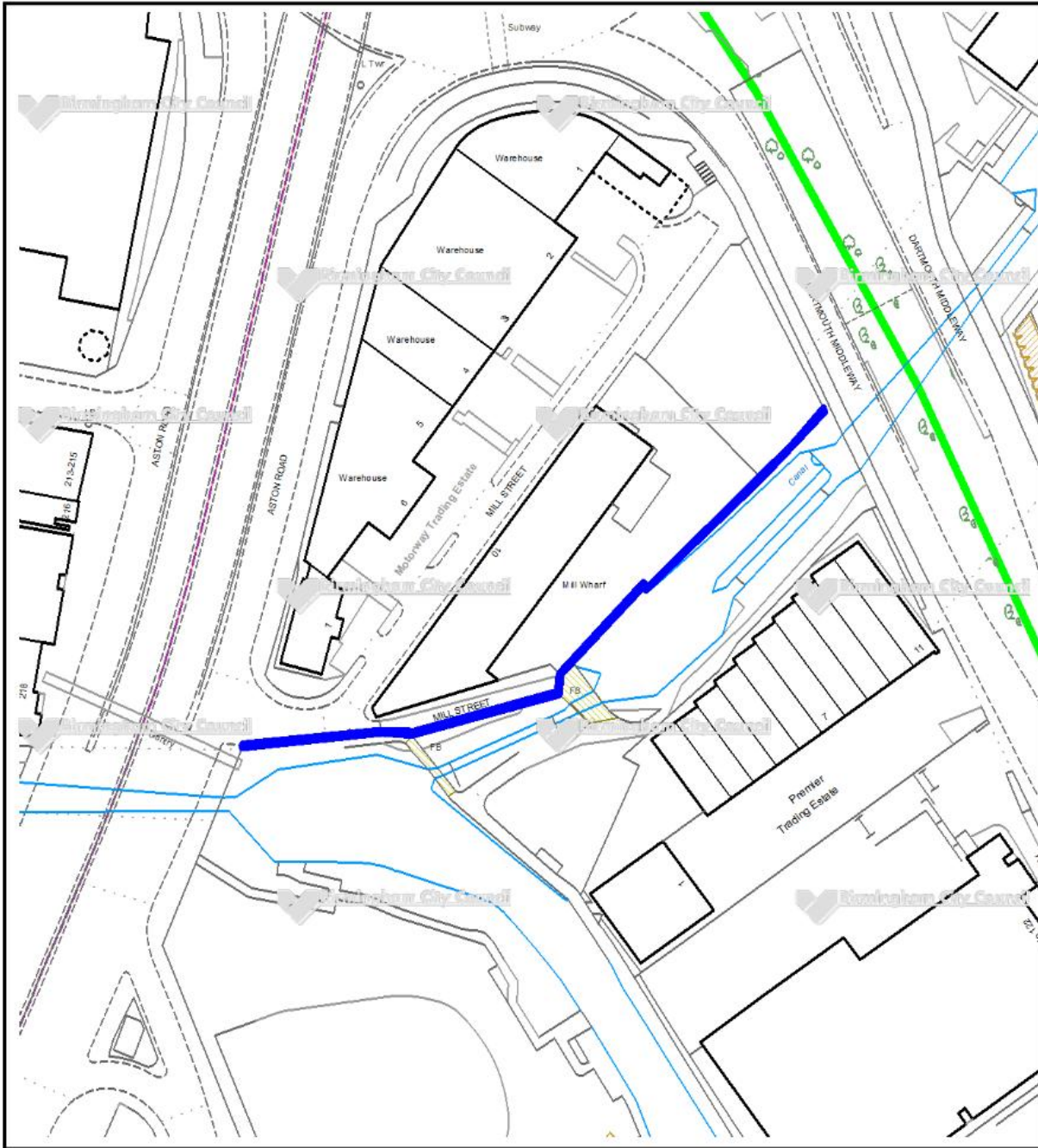


Photo 3: Location of proposed apertures



Photo 4: Section B of wall - proposed to be demolished

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Birmingham City Council

Planning Committee

27 April 2023

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	9	2022/09551/PA 750 Bristol Road South Northfield Birmingham B31 2NN Change of use of ground floor unit from retail (Use Class E) to an Adult Gaming Centre (AGC) (Sui Generis)
Approve – Conditions	10	2022/03860/PA Recreation ground at Boleyn Road Rubery Birmingham B45 Erection of 58no. dwellings and 12no. apartments (total of 70no. units of which 43no. affordable) with associated public open space and children's play area, landscaping, access, parking and associated works

Committee Date:	27/04/2023	Application Number:	2022/09551/PA
Accepted:	22/12/2022	Application Type:	Full Planning
Target Date:	16/02/2023		
Ward:	Northfield		

750 Bristol Road South, Northfield, Birmingham, B31 2NN

Change of use of ground floor unit from retail (Use Class E) to an Adult Gaming Centre (AGC) (Sui Generis)

Applicant:	Luxury Leisure C/o Agent
Agent:	RR Planning Limited 82a Otley Road, Headingley, Leeds, LS6 4BA

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application seeks planning permission for the proposed change of use of the ground floor unit from retail (use Class E) to an adult gaming centre (Sui Generis) at 750 Bristol Road South, Northfield, B31 2NN.
- 1.2 The ground floor retail unit at 750-752 Bristol Road South is currently vacant. The unit would be subdivided into two units. No external works are proposed.
- 1.3 Only one unit would be subject to the change of use which would be at 750 Bristol Road South. The second unit (no. 752 Bristol Road South) would remain in retail use.
- 1.4 The proposed opening hours would be 08h00-22h00 daily.
- 1.5 The proposal would provide the equivalent of 12 full time employment opportunities.
- 1.6 The application is supported by the following documents:
 - Site Plan
 - Existing/Indicative Plan
 - Planning Statement
 - Security and Social Responsibility Statement
- 1.7 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site is located within a parade of local shops and services on Bristol Road South and lies within the Northfield District Centre and its Primary Shopping Area.

- 2.2. The site comprises of a three-storey mid terraced brick-built property with a vacant commercial unit at ground floor level (previously Boots the Chemist). The first and second floors above appear to be open plan offices in this case although broadly the surrounding area appears to be characterised by residential units above ground floor commercial units.
- 2.3. The uses adjacent to the site are a barber shop (no. 748) and a firm of solicitors (no. 754) with an existing adult gaming centre two doors down the street (no. 756). There is another existing adult gaming centre at no. 799-801 Bristol Road South.

[Site Location Map](#)

3. **Planning History:**

- 3.1. None relevant

4. **Consultation Responses:**

- 4.1. *Transportation*-no objection
- 4.2. *Regulatory Services*-no objection
- 4.3. *West Midlands Police (WMP)*-initial responses were that WMP would be unable to support the application. Following the submission of further information and clarification, the final set of consultation comments received confirmed that whilst this is a high demand area for general crime and anti-social behaviour it is not possible to directly attribute these issues to the proposed or existing uses of this nature in Northfield. The proposed reduction in operating hours to 08h00-22h00 is welcomed along with measures set out in the Security and Social Responsibility document. WMP now confirm support of the application subject to conditions relating to CCTV, provision of appropriate alarm systems, opening hours, provision of a physical security deterrent to deter anti-social behaviour and that the application site be developed to enhanced security standards produced by Police Crime Reduction initiative 'Secured by Design' Commercial Developments.

5. **Third Party Responses:**

- 5.1. A site notice was posted and neighbours and local ward councillors were consulted for the statutory period of 21 days.
- 5.2. An objection was received from Gary Sambrook MP citing the following concerns:
- An increase in antisocial behaviour;
 - There is no requirement/demand for a further adult gaming shop in this location;
 - Unacceptable loss of a retail unit;
 - The proposal would be out of keeping for the High Street;
 - Impact on High Street vitality;
 - Reduced ability to create employment opportunities compared with a retail unit;
 - Would create dead frontage during daytime; and
 - The proposal would result in an overconcentration of adult gaming centres in this location.

5.3. Fifteen additional local representations were received separately (including one duplicate) raising the following concerns:

- No demand/need for adult gaming centre in this location;
- Criminal activity already an issue in this location which would be exacerbated by 24 hour opening hours;
- Safety and security of local residents and fear of crime;
- Loss of a retail unit;
- There are already two adult gaming centres locally/cumulative impacts;
- A threat to vulnerable people in terms of gambling and addiction; and
- Adverse impact to the vibrancy and vitality of the retail centre in this location.

6. **Relevant National & Local Policy Context:**

6.1. National Planning Policy Framework

6.2. The following chapters are particularly, but not exclusively, relevant to the proposal:

- Chapter 2: Achieving sustainable development
- Chapter 6: Building a strong, competitive economy
- Chapter 11: Making effective use of land
- Chapter 12: Achieving well-designed places

6.3. Birmingham Development Plan 2017:

- PG3 Place Making
- TP21 The Network and Hierarchy of Centres
- TP24 Promoting a Diversity of Uses Within Centres
- TP44 Traffic and Congestion Management

6.4. Development Management DPD: (if relevant)

- DM2 Amenity
- DM14 Transport Access and Safety
- DM15 Parking and Servicing

6.5. Supplementary Planning Documents & Guidance:

- Birmingham Design Guide 2022
- Shopping and Local Centres (2012)
- Birmingham Parking SPD (2021)

7. **Planning Considerations:**

7.1. This application has been assessed against the objectives of the policies set out above.

7.2. The main considerations in the determination of this application are the principle of the development, design and appearance, residential amenity, highway safety and crime/fear of crime.

Principle of Development

- 7.3. The application site is located within Northfield District Centre which is considered to be a sustainable location and the proposal would provide the equivalent of 12 full time local employment opportunities.
- 7.4. Policy TP21 of the BDP sets out the objective of maintaining and enhancing the vitality and viability of local centres and also confirms that local centres are the preferred location for a range of uses including leisure. In this instance, the proposal would bring back into use part of a vacant double commercial unit within the local centre and is broadly considered an appropriate use in this location whilst also assisting in retaining economic investment in the area.
- 7.5. Policy TP24 of the BDP confirms the importance of ensuring that centres maintain their predominantly retail function and provide shops (Class A1 uses) to meet day to day needs whilst also promoting diversity of uses within centres where the retail offering is not compromised. This is reiterated within Shopping and Local Centres (2012) SPD in which Policy 1 states that 55% of all ground floor units in the Sub-Regional and District Centres (including District Growth Points) should be retained in retail (Class A1) use. It is acknowledged that recent changes to Use Classes have resulted in a wider range of uses now sitting within Use Class E which includes the former A1 retail use.
- 7.6. Policy 2 of Shopping and Local Centres (2012) SPD sets out the factors for consideration in instances where changes of use from retail to non-retail uses are sought within a Primary Shopping Centre. In this instance, there are two existing adult gaming centres in the local area along with a number of betting shops, due to the spatial separations involved, coupled with the length of the road and its varied mix of shops and uses is considered sufficient to avoid a clustering of this use type and as such the proposal would not cause an undue proliferation of establishments of this nature in this location. Furthermore, the adjacent uses fall within Use Class E and the use of only one half of the premises is to be changed in this case.
- 7.7. The Council's most recent data (2022) shows that Northfield District Centre contains 199 units, of which 166 are in the Primary Shopping Area. Of those, 109 (65.66%) are in retail (class E(a) use). The loss of one unit would reduce this percentage only slightly, to 65.06% and as such would remain well within the 55% minimum policy threshold.
- 7.8. The proposal is considered to comply with Policies TP21 and TP24 of the BDP and Policies 1 and 2 of Shopping and Local Centres (2012) SPD.

Design and Appearance

- 7.9. The application does not include any external works and therefore it is not considered that the proposed changed of use would have any impacts on visual amenity.

Residential Amenity

- 7.10. The originally submitted proposal sought 24 hour daily opening hours. West Midlands Police (WMP) were consulted on this application and whilst initial consultation comments confirmed a lack of information to allow a full assessment, comments nonetheless included a strong recommendation against 24 hour opening hours from an early stage.
- 7.11. There appear to be no other 24 hour uses in the Northfield District Centre and whilst there is no residential accommodation directly above the proposed adult gaming centre, the area is broadly characterised by residential properties above ground floor

commercial uses and as such the proposal would have the potential to adversely impact residential amenity in these cases in terms of additional footfall, noise and disturbance at any time of day.

- 7.12. In view of the WMP position on opening hours alongside concerns in relation to residential amenity, the agent subsequently agreed to an amendment to the opening hours to 08h00-00h00 daily. There are two existing adult gaming centres locally, one two doors down at no. 756 and another nearby at no 799-801 Bristol Road South. Both have planning consent including opening hours until 22h00 on weekday evenings with the more recent of the two at no. 756 having consent for opening hours of 08h00-22h00 daily. As such, ultimately it has been considered appropriate to include an opening hours condition with this application from 08h00-22h00 daily only which is directly in line with these other existing uses in this local centre.

Highway Safety

- 7.13. The application is located within the Northfield District Centre which is a sustainable location and whilst there is no parking provision within the site there are a number of car parks within walking distance and easy access to public transport.
- 7.14. Transportation raised no objection to the proposal and it is not considered that it would cause any additional harm in highway safety over and above the existing situation.

Crime/Anti-Social Behaviour

- 7.15. Fear of crime is a material planning consideration and has been raised within public representations with concerns relating to existing crime and also anti-social behaviour associated with the proposed use with initial concerns also raised by WMP. The agent was made aware of the concerns originally raised by WMP during this current application and subsequently a Security and Social Responsibility was submitted for review. Whilst local crime analysis (which has been requested not to be released to the public due to its sensitive nature) raised some concerns that there would be an increase in demand on WMP resources in this existing high demand area, a direct and specific correlation between the nature of the proposed use and crime rates was not clear and further re-consultation with WMP was carried out accordingly.
- 7.16. One of the key issues in a recent appeal that was allowed for a betting shop in Erdington (Ref: APP/P4605/W/22/3307082), included whether or not the proposed use would create a safe environment with particular regard to anti-social behaviour and fear of crime. While this appeal related to a change of use to a betting shop within a local centre, the principles of this case are similar. The Inspector highlighted that no specific evidence had been submitted to demonstrate a link between crime levels or anti-social incidents associated with existing betting offices, or that an additional betting office would significantly increase anti-social behaviours. The Inspector concluded that based on the evidence provided, the proposal would not directly lead to an increase in anti-social behaviour, or that fear of crime would be a material consideration upon which to withhold planning permission and as it would not conflict with BDP Policy PG3, which seeks, amongst other things, to ensure development designs out crime in order to create safe environments. It is considered that similar conclusions can be reached on this application in Northfield- there is no direct evidence to indicate that a new gaming centre for adults would lead to a direct increase in crime in the area or anti-social behaviour, sufficient to defend a reason for refusal. This has now also been confirmed to be the case by WMP in this instance.
- 7.17. Further to the proposed reduction in operating hours to 08h00-22h00 along with measures set out in the Security and Social Responsibility document, WMP have now confirmed support for the application subject to conditions relating to CCTV, provision

of appropriate alarm systems, opening hours, physical security deterrent to deter anti-social behaviour and that the application site be developed to enhanced security standards produced by Police Crime Reduction initiative 'Secured by Design' Commercial Developments. The conditions relating to opening hours and specifically to CCTV are considered appropriate for inclusion in this instance, however the remaining conditions requested are not considered to meet the relevant tests and as such have not been included. It would however be advisable for the applicant to take note of the measures requested by WMP.

Other

- 7.18. It is acknowledged that concerns have been raised within public representations in relation to the lack of requirement/demand for an adult gaming centre in this location/cumulative impacts, an increase in criminal activity/fear of crime and the promotion of gambling.
- 7.19. This report addresses the concerns raised apart from the promotion of gambling. This application does not include any advertisement elements which would be dealt with separately and furthermore advertisements would be subject to control only in the interests of amenity and public safety. It is also important to acknowledge that the role of planning is not to control processes or issues that are subject to approvals under other regimes such as licensing.

8. **Conclusion**

- 8.1. In this instance there is a balance between bringing this currently vacant unit back into use, maintaining and enhancing the vitality and viability of local centres, promoting a diversity of uses within centres, the provision of local employment opportunities in a sustainable location and the impacts on residential amenity and the fear of crime.
- 8.2. It is considered possible, in this instance, that any significant impacts on residential amenity can be mitigated subject to the implementation of conditions and there are no additional impacts in terms of highway safety over and above the existing situation. There is no specific evidence to suggest that the proposal was increase crime and anti-social behaviour.
- 8.3. The principle of the proposed development is policy compliant and as such the proposal is considered acceptable in this case subject to the implementation of conditions.

9. **Recommendation:**

9.1. Approve subject to conditions

List conditions

-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Limits the hours of use 8h00-22h00 daily |
| 4 | Requires the submission of a CCTV scheme |
-

Case Officer: Christina Rowlands

Photo(s)



Front photo

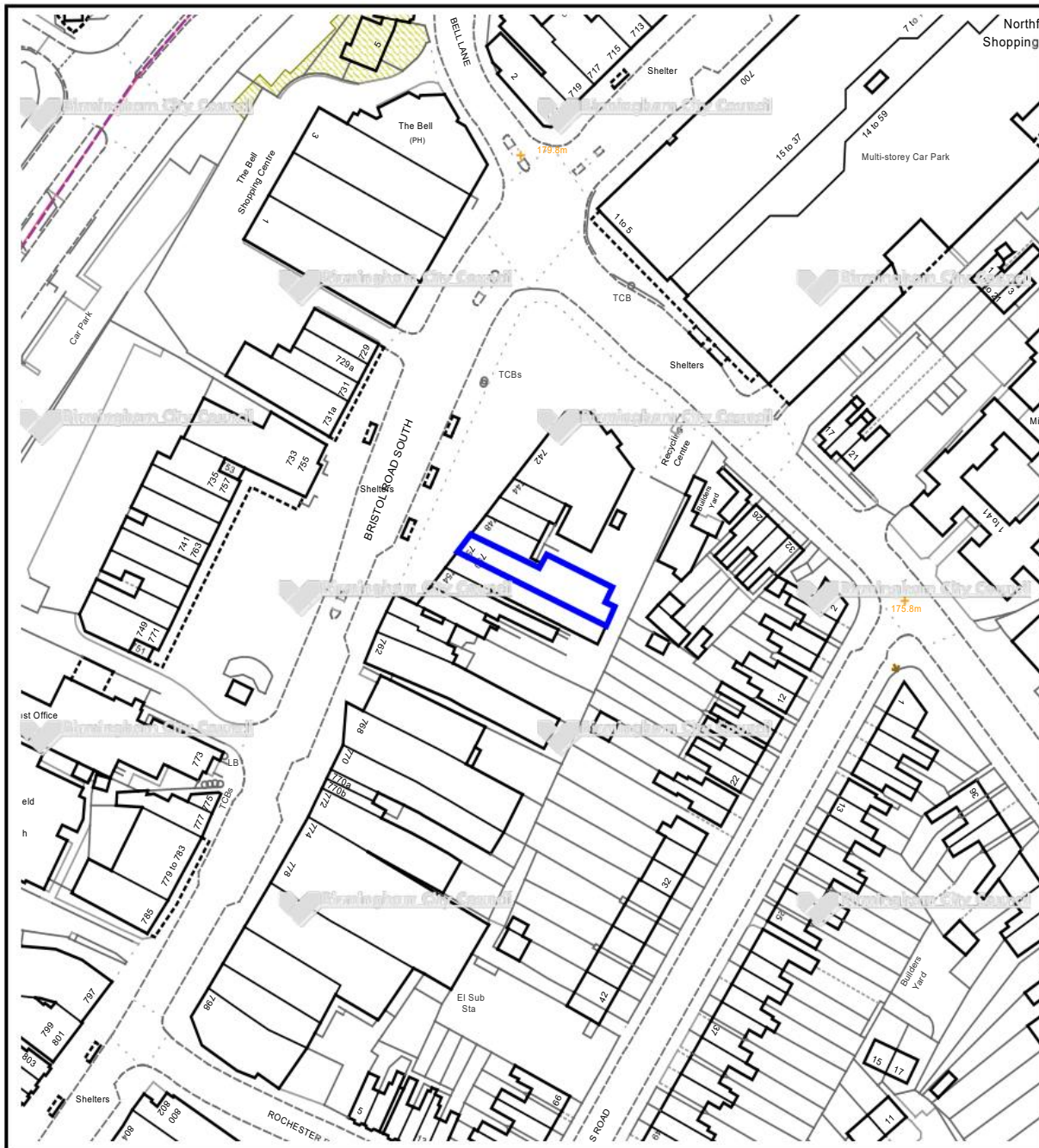


Streetview 1



Streetview 2

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date:	27/04/2023	Application Number:	2022/03860/PA
Accepted:	25/05/2022	Application Type:	Full Planning
Target Date:	28/04/2023		
Ward:	Frankley Great Park		

Recreation ground at Boleyn Road, Rubery, Birmingham, B45

Erection of 70no. dwellings (with a mix of 58no. houses and 12no. apartments of which 43no. affordable) with associated public open space and children's play area, landscaping, parking and access

Applicant:	Birmingham City Council Birmingham Municipal Housing Trust, Economy Directorate
Agent:	BM3 Architects 28 Pickford Street, Birmingham, B5 5QH

Recommendation

Approve subject to Conditions

1. Proposal:

- 1.1. The application seeks planning permission for the erection of 70no. dwellings (with a mix of 58no. houses and 12no. apartments) of which 43no. would be affordable with associated public open space and children's play area, landscaping, access, parking and associated works at land off Boleyn Road in Rubery. The application has been submitted by Birmingham Municipal Housing Trust (BMHT).
- 1.2. The proposed layout seeks to provide access off Boleyn Road from the west with a new main access road through the site, new internal road and turning circle at the north-eastern end of the site. The new dwellings would be situated along the new road with the proposed bungalows being situated within the south-west and adjacent to the access, and the proposed apartment building situated within the north-eastern corner of the site and adjacent to the new public open space and children's play area with a new pedestrian access from the open space to Boleyn Road.



Figure 1: Proposed Site Plan

ACCOMMODATION SCHEDULE					
	UNIT TYPE	AREA m ²	STOREY	TOTAL	Tenure mix%
	MOSELEY (2B4P)	80.4	2	4	35
	WALMLEY (2B4P)	80.8	2	20	
	WALMLEY G (2B4P)	84.6	2	1	
	HARBORNE (3B5P)	93.8	2	10	30
	HARBORNE+ (3B5P)	96.7-101.8	2	6	
	HIGHGATE(3B5P)	94	2	2	
	COTTORIDGE+ (3B5P)	104	2	2	
	NORTHFIELD (4B7P)	123	2	5	11
	LIFFORD+ (4B7P)	130	2	3	
	BRANDWOOD (2B4P)	82.7	1.5	4	7
	BORDESLEY (2B4P)	91.4	1.5	1	
	2 BED APARTMENT	70.0	1	5	17
	2 BED APARTMENT	79.0	1	1	
	2 BED APARTMENT	70.0	1	6	
GRAND TOTAL				70	100
TOTAL CAR PARKING					98

Figure 2: Accommodation Schedule

- 1.3. The scheme proposes the provision of 70no. dwellings with a mix of 25no. two-bed 2-storey dwellings, 5no. two-bed 1 ½-storey bungalows, 20no. three-bed 2-storey dwellings, 8no. four-bed 2-storey dwellings, and 12no. two-bed 3-storey apartments. Of the 70no. dwellings, a total of 43no. dwellings (61.4%) would be provided as affordable units (social rent) with a mix of 12no. two-bed apartments, 11no. two-bed houses, 5no. two-bed bungalows, 10no. three-bed houses and 5no. four-bed houses. The remaining 27no. dwellings, with a mix of 14no. two-bed houses, 10no. three-bed houses and 3no. four-bed houses would be provided at market value assisting with

the finance of the scheme.

- 1.4. There would be a mix of different house types with the two-bed apartments ranging in size from 70 to 79 sqm, the two-bed houses and bungalows ranging in size from 80.4sqm to 91.4sqm, three-bed units ranging in size from 93.8 to 104 sqm and the four-bed units ranging in size from 123 to 130sqm. The proposed houses and bungalows would all have a private rear garden space, whilst the proposed apartment building would have a shared external amenity space to the rear and side. In addition, the apartments would also each have their own balcony, ranging in size from 9-11 sqm.
- 1.5. The proposed scheme would provide a total of 98no. vehicular parking spaces, with the two-bedroom units each provided with 1no. allocated parking space, whilst the three-and four bedroom units would each have 2no. allocated parking spaces. In addition, each dwelling would have a shed within their garden to allow for cycle storage, whilst the apartments would have a communal shed and bin area along the eastern boundary of the site and within their rear amenity space. A new sub-station would be situated within the south-western corner of the site.
- 1.6. There would be a new public open space provided within the northern corner of the site, with the retained oak tree as the central focus point. The open space would also provide for a new children's play area and seating. In addition, new soft landscaping, would be provided along the boundaries of and within the site. The landscaping towards the existing dwellings along Dorset Close to the south, as well as towards the open countryside to the north, would be retained and further enhanced with new landscaping provision.

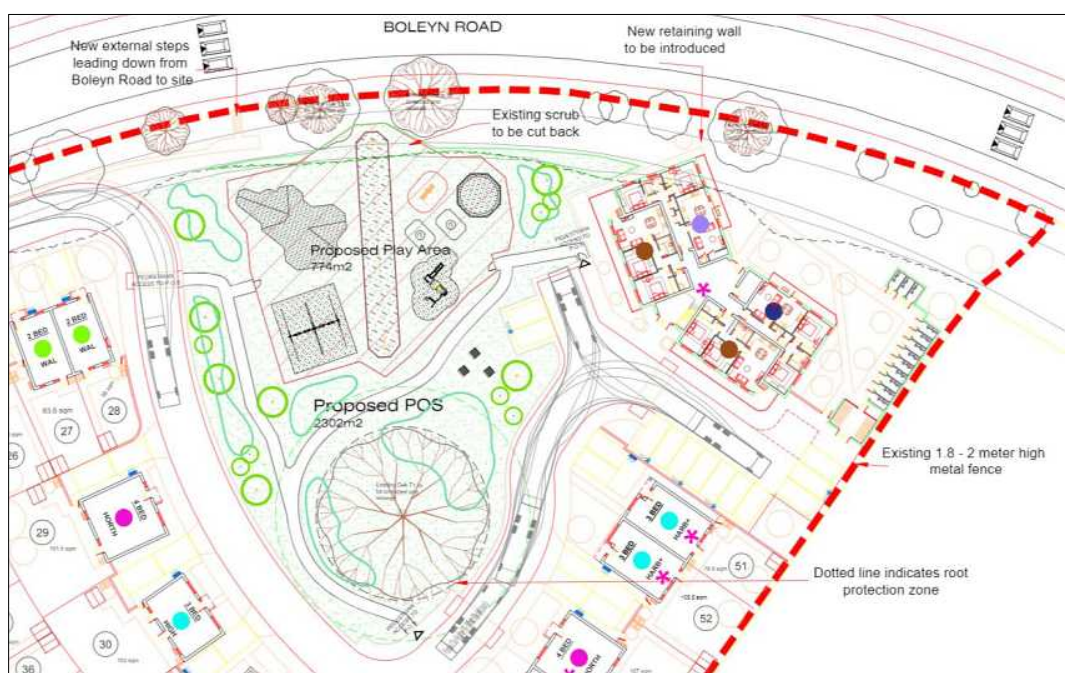


Figure 3: Proposed Public Open Space and Children's Play Area

- 1.7. There would be a new footpath connection from the public open space towards the open countryside to the north, as well as a new connection from the new access road to the existing footpath adjacent to Dorset Close in the south.
- 1.8. The application is supported by the following documents:
 - Flood Risk Assessment and Drainage Strategy
 - Biodiversity Impact Assessment
 - Phase II Site Investigation Report

- Affordable Housing Statement
- Open Space Assessment
- Landscape and Visual Impact Assessment
- Transport Statement
- Planning Statement
- Preliminary Ecological Appraisal
- Noise Assessment
- Arboricultural Assessment
- Design and Access Statement including Sustainable Construction and Energy Statement

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises an approximately 2.3ha large parcel of land, located on the northern edge of Rubery, beyond the build-up area boundary and on the fringe of the open countryside. The site is currently an informal green space and adjoined to the east/ south-east by playing fields of Holly Mill Methodist School and King Edward VI Balaam Wood Academy which it previously formed part of.
- 2.2. To the north and west the site is adjoined by Boleyn Road beyond which are further areas of publicly accessible open countryside. To the south-west lies a disused railway line, now used as a pedestrian and cycle route, which is identified as a wildlife corridor. Beyond this, to the south-west, lies the existing settlement with residential development constructed around the 1970/80's. The existing dwellings have a consistent architectural and material vernacular, employing brick as the primary material, tiled roofs, timber clad first floors, front porches and a horizontal emphasis to the block facades.
- 2.3. The site is largely flat, with an embankment edge to the north as well as to the south, adjacent to the former railway line and houses beyond. At its eastern corner, levels largely align with Boleyn Road. Beyond its tree and shrub lined north, west and south boundaries, the site is largely grassland, except for large mature oak tree. At its eastern boundary is a steel railing.
- 2.4. The site is situated within Flood Zone 1 and the nearest Local Centre and Primary Shopping Area (Frankley) is situated approximately 400m walking distance from the site. The land to the north, north-west and north-east, on the opposite side of Boleyn Road is Green Belt land, situated within Bromsgrove District Council. There are no public rights of ways along the boundary or crossing the application site.

[Site Location](#)

3. Planning History

- 3.1. 04.08.2008: 2008/02920/PA – Installation of two, 25 metre high wind turbines. Approved, subject to conditions.
- 3.2. 22.07.1999: 1999/01463/PA – Erection of 2.4 metre high security (green powder coated) fencing around school playing grounds. Approved, subject to conditions.

4. Consultation Responses

- 4.1. Transportation – No objections subject to conditions for pedestrian visibility splays, construction management plan and informative involving works within the adjoining highway (S278 Highway Works).
- 4.2. LLFA – No objections subject to conditions for a surface water drainage scheme and sustainable drainage operation and maintenance plan as well as relevant informatives.
- 4.3. City Design – No objections subject to conditions for hard and/or soft landscape details, hard surfacing materials, earthwork/level details, boundary treatment details, and sample materials/ architectural details.
- 4.4. Ecology – No objections subject to conditions for the landscape enhancements to be implemented as submitted and the provision of a landscape management plan. In addition, request for financial agreement to fund off-site habitat creation / enhancements in line with proposed works and fund for the administration and monitoring of biodiversity net gain delivery (£76,200.00).
- 4.5. Leisure Services – No objections subject to compensation payment for loss of playing field for £580,000.00 and off-site POS contribution for £68,770.00. In addition, request for commuted sum to cover maintenance of on-site POS and play area. If these are to be handed to BCC parks for future management and maintenance, the revenue costs would be £10,000 per annum and a down payment of £222,000 would be required in order to release a revenue stream of this amount per annum for future grounds maintenance operations by the Parks Service.
- 4.6. Public Rights of Way – No objections as development would not directly impact on nearby PROW. Site is adjoined by highways on two side and any closure or diversion of areas of HMPE would need to be subject to stopping up order under Section 247 or 257 of Town and Country Planning Act 1990.
- 4.7. Regulatory Services – No objections subject to conditions for contamination remediation scheme, contaminated land verification report, noise mitigation scheme, construction method statement/ management plan, lighting scheme, provision of EV charging points.
- 4.8. Severn Trent – No objections subject to conditions for drainage plans for disposal of foul and surface water flows.
- 4.9. Employment Access Team – No objections.
- 4.10. Trees – No objections subject to conditions for tree protection plan and arboricultural method statement including pre-commencement site meeting to discuss working procedures and tree protection.
- 4.11. West Midlands Fire Services – No objections. Comments in relation to building control matters.
- 4.12. West Midlands Police – No objections. Comments in relation to building control matters, including secured by design.
- 4.13. Environment Agency – No comments.
- 4.14. Gas Cadent – No objections.

- 4.15. Highways Agency – No comments.
- 4.16. Sport England – No objections.

5. Third Party Responses:

- 5.1. MP, Ward Councillors, Residents Associations and local residents were consulted on the original scheme. The application was also publicised for 21 days by way of a Site Notice and Press Notice.
- 5.2. Bromsgrove District Council raised the following matters:
- Little evidence on the plans to show on site children's play area which is disappointing given the proposal would result in loss of open space.
 - Ecological Appraisal indicates loss of some biodiversity and further information should be provided in relation to biodiversity net gain.
 - Proposed level of affordable housing is welcome.
 - The Transport Statement outlines accessibility from a walking and cycling perspective but the potential to provide a cycleway leading to National Cycle Route 5 to improve cycle accessibility and perhaps the improvement of highway infrastructure to provide a connection to Route 5 has not been considered
 - Provision of planting of trees to front of dwellings, in rear gardens and within open space is welcome. Proposed native species mix for proposed hedge is also considered acceptable. A landscape management plan condition would be important.
 - In terms of the layout, the proposed dwellings could form a stronger frontage for Boleyn Road which is currently disjointed.
 - Positioning of proposed apartments is unfortunate, leaving the position highly prominent.
- 5.3. Gary Sambrook MP raised an objection on the following grounds:
- The current site provides local residents with somewhere to spend leisure time
 - Green fields provide biodiversity and act as green lungs helping to clear air we breathe in our local community. While the pandemic showed the benefits having green space nearby has on both our physical and mental health
 - Loss of green space/ public open space in an area with insufficient open space
 - The development is over intensive for the site
 - The site would lead to an increase in traffic and parking on existing residential roads
 - Increase of pressure on local schools and doctors surgeries
 - Will increase threat to nearby green belt sites
 - The application breaches policy TP9 of the BDP which is in place to protect green spaces from inappropriate development
- 5.4. New Frankley Parish Council raised an objection on the following grounds:
- There is a protection / preservation order of the Secretary of State on the proposed land
 - There is a public right of way that would cross the proposed development land which under the last head was illegally stopping in contravention of the Highways Act 1980. A Gating Order allows for temporary stopping of the highway or the Highways Act 1989 which allows a special division for certain highways which cross the land occupied for the purposes of as school. Neither can be applied unilaterally or without public consultation. Therefore, this illegal action has meant that people have had to follow the green fence to walk near

as possible to the line of the Right of Way thus creating an alternative Right of Way.

- The education owned land that is outside of the green fence that is the rest of the playing fields, which has not been maintained to a level that makes it usual for community use as of condition 8 of the above planning consent (S/01463/99/BCC) which is the proposed land for development

5.5. In addition, two petitions, with 104 signatures (New Frankley Development Petition) and 169 signatures (submitted by Gary Sambrook MP and Councillor Adrian Delaney) respectively as well as 38 individual letters of objections have been received, raising the following concerns:

- Proposal would remove valuable green space and will provide poor outlook for existing residents including onto a three-storey block of flats
- Do not agree to loss of public open space in an area with already insufficient provision.
- Understood that site is Green Belt and scheme would be an increased threat to nearby Green Belt sites.
- Development breaches policy TP9 of the Birmingham Development Plan.
- Secretary of State letter from 1971 acknowledges the land as open space and playing fields
- No appropriate consultation and residents were only notified by a letter on a lamppost.
- Manner in which the site notice was displayed is rather duplicitous as the sign was posting away from the road and was left blank.
- The notification of the application is sloppy, with the list of consultees on the website not providing contact details.
- Consultation with local residents should have taken place who know the area well. Council has failed to consult with local residents.
- There will be issues with noise and light pollution from street lights which currently do not exist.
- Flats would overshadow adjacent parkland and public space would be blotted by tower block
- Proposal has given no consideration to local environment, as houses would not be fitted with solar panels
- Green space is important in the context of global warming and climate change.
- This is one of the greenest areas in Birmingham and the Council wants to turn it into a concrete jungle.
- Area is currently open and provides space for people to walk dogs separate from the park which is used by children.
- Currently no telephone network exists and ducts and cables would need to be laid from the middle of the estate to the site. Last time this was done for another site, the footpath wasn't reinstated correctly and has been left as a mess for residents.
- Raised multiple complaints with the overgrown trees, landscaping and road issues but none have been addressed. Building in the proposed location will bring problems closer to home, continuing to de-value properties. Interested to understand compensation agreements based on the pre-reported issues.
- Traffic concerns an issue within the area and proposed development would likely bring around 140 additional cars to the area which is unacceptable.
- Accesses from Boleyn Road area dangerous.
- High possibility of severe accidents as it is a blind bend and no amount of road calming will slow traffic down.
- Transport links to the city are constantly being depleted.
- Proposed speed bumps probably cause damage to car suspensions.
- There would only be one access and exit to the site which causes problems with existing roads.

- There will be a lot of noise and pollution during construction. How will this be dealt with? Where do construction workers park their cars? I would like reassurance that parking restrictions are put in place so that people do not park in surrounding roads. There should also be cleaning taking place everyday to remove mud from surfaces.
- Application does not mention flooding issues with the site, which residents are aware of.
- Ground is a known flood plain and would be unsuitable for buildings. There will be flooding along the river Rea and down the lower part of Northfield. The adjoining path regularly floods. Residents have to find another way and this is not ideal for the elderly and with mobility issues.
- Proposal will increase the risk of flooding to surrounding properties. Surrounding dwellings would then be classed as flood area and would not get appropriate insurance and houses would be down valued.
- Rainwater from field will go onto adjoining footpath and people who use the path will have to make alternative arrangements or walk on main road.
- Application is made by Council, but none of the dwellings is earmarked for Council housing tenants.
- The proposal will result in an increase in the population within the area with no thought of the impact this will have on existing residents.
- Area already had 900 new homes built just off Frogmore Road and another 850 built on Frankley Beeches Road as well as at the Longbridge development. This is an established Parish with green space which has already been reduced in the last ten years.
- Should build new homes on former factory sites.
- No additional schools, dentists or GP surgery would be provided and there is struggle to get appointments. Location not sustainable to cope with increase in properties.
- The local police is depleting in their numbers. More homes and less police is a bad combination.
- Network of local shops will not cope with extra homes.
- No capacity or infrastructure for more homes. Frankley already has at least 1000 homes and we cannot cope with anymore.
- Crime in the area is rising rapidly. Development will cause more unsociable things to happen.
- Biodiversity, wildlife and ecology will be affected due to further pollution and traffic and no ecological enhancement has been proposed.
- There would be further roads, street lighting and street furniture
- New development provides opportunity for swift bricks.
- An open space is proposed, however, this would not counteract the destruction that would be caused.
- Site is used regularly by children as a safe place to play and this will remove one of the very few available recreation spaces.
- Walk my dog here on a daily basis.
- Design is not in keeping with local area and will be an eyesore.
- The development is over-intensive for the site.
- Affordable homes within area have very small gardens and this space is invaluable.
- There is no need for more affordable homes to be filled with problem families and to be pushed out of the city centre.
- It would seem that the Council has a policy on shoving all under privileged residents into areas on the outskirts with the intention to turn it into a slum.
- No reference within ecological appraisal about peregrine falcon that nests within the area. Have also seen several kestrels and a buzzard. It is also a hunting ground for raptors. Duty of the Council to protect the birds and their

habitat.

- Houses should be built on brownfield land and there are many left which can be used for affordable housing. There is industrial land in Ormand Road and a derelict model car racing site which could be used instead.
- Council should work to improve the area, not destroy it.
- Issues with the outline plans for Frankley from 1971 and understand they still apply.
- Study found increased risk of premature death from living near to a major highway and long term exposure to traffic pollution increased risk of poor cognition.
- Can see no exceptional circumstances to allow the development of this land.
- Where would the contractors and workers park during construction? Parked vehicles on Boleyn Road would cause major disruption.
- The land is the community's countryside and not everyone can get to nearby open space, which also charges for parking.
- If planning permission is given to build on the field north of the disused railway line in contravention of the order PE1/1961/223/4, it is considered that Bromsgrove would take the opportunity to apply to develop the other land within their boundary. As Birmingham is the Authority that has broken the status quo, they would be hard pressed to object.
- Of the four parcels of land involved, the one under Birmingham's control is the smallest and the one with the most construction problems.
- There is a public right of way through the land which was there before the school was built. Any movement of the gate or path would need formal consultation.

6. Relevant National & Local Policy Context:

6.1. National Planning Policy Framework (2021)

Chapter 2: Achieving sustainable development
Chapter 5: Delivering a sufficient supply of homes
Chapter 8: Promoting sustainable transport
Chapter 11: Making effective use of land
Chapter 12: Achieving well-designed places

6.2. Birmingham Development Plan 2017:

PG 3 Place Making
TP3 Sustainable Construction
TP4 Low and zero carbon energy
TP9 Open space, playing fields and allotments
TP27 Sustainable Neighbourhoods
TP28 The location of new housing
TP30 The type, size and density of new housing
TP31 Affordable Housing
TP44 Traffic and Congestion Management

6.3. Development Management in Birmingham DPD 2021

DM1 Air Quality
DM2 Amenity
DM4 Landscaping and Trees
DM6 Noise and Vibration
DM10 Standards for Residential Development
DM14 Highways safety and access
DM15 Parking and servicing

- 6.4. Supplementary Planning Documents & Guidance:
Birmingham Design Guide 2022
Birmingham Car Parking Standards SPD 2021
National Design Guide
Technical Housing Standards – nationally described space standards (2015)

7. Planning Considerations

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

Five Year Housing Land Supply

- 7.2. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.3. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.

Background and Principle of Development

- 7.4. The site was previously used as a playing field within the grounds of King Edward VI Balham Wood Academy School. At some point between 1999 and 2001 the site was fenced off from the school grounds and ceased to be used as playing fields.
- 7.5. Considering the previous use as playing fields, Sport England was consulted, and they raised no objections to the loss of the former playing field. They confirmed that it would meet with exception 1 of Sport England's playing fields policy and paragraph 99a) of the NPPF, which requires the playing field to be surplus within the catchment area and that this would remain the case after the development of the site, in order for it to be released to other development. In addition, the site would not have any special significance to the interests of sport.
- 7.6. The site is not classified as Green Belt land. In addition, whilst residents claim that the land is used for dog walking and for children to play, the site does not provide formal public access. However, within the meaning of policy TP9 of the Birmingham Development Plan 2017, the site is classed as open space and would be assessed on that basis.
- 7.7. The policy outlines that planning permission would not normally be granted for development on open space except where it can be shown by an up to date assessment of need that the open space is surplus taking account of a minimum standard of 2 ha per 1,000 population and the accessibility criteria listed within the policy. As per the most recent figures, the level of public open space within the Frankley Great Park Ward, in which the application site lies, was 4.35 ha. Therefore,

in excess of the minimum required 2 ha and the proposed development would not reduce the provision to below 2ha.

- 7.8. In addition, the accessibility and quality standards require:
- All residents should have access within 400m, (5 to 10 minutes walk) to an area of publically accessible open space which should have grass and trees and be at least 0.2 ha in size. Similarly, there should be children's play facilities within 400m of all residents
 - Within 1km (15 to 20 minutes walk) of all residents there should be an area of publically accessible open space of at least 2 ha in size. This should have paths, seating, bins, trees and landscape features. It should be capable of accommodating differing and potentially conflicting recreational activities without problem e.g. space for football and for those who want to sit and relax
 - Within 3km of all residents there should be access to a publically accessible park which has a wide range of facilities and features which may include water features, children's play facilities, cafés and formal landscaping. These spaces should be capable of holding local, or in some instances national events. These sites should be more than 2 ha in size and should also have good access for public transport and for walkers and cyclists. Some of these parks will have additional facilities and will be of a size which allows them to be used for major events and celebrations. It will be a priority to ensure that these parks have good access by public transport and adequate car parking.
- 7.9. As there are currently no play facilities within the site, the proposed development would have no impact on the access to play standard. Similarly, the site is not a park and therefore, its development would not impact on the standard for access to a publically accessible park. In addition, the submitted Open Space Assessment has mapped existing open spaces which show that the standards would continue to be satisfied post-development and there is appropriate access to publically accessible open space and parks within the distance requirements. It is noted that the nearest children's play area is situated outside the required 400m accessibility and therefore, following further discussions, it is now proposed as part of the development to provide a children's play area within the new open space. Therefore, subject to the provision of the play area, the scheme would comply with policy TP9 of the BDP 2017 and the principle of the loss of the open space would be acceptable.
- 7.10. Leisure Services has been consulted on the scheme and raised no objections. They have requested a compensation payment for the loss of the playing field (£580,000,00) However, considering the scheme is fully compliant with policy TP9 of the BDP 2017 in terms of the loss of the open space, it would not be reasonable or appropriate to request a further compensation payment in this instance.
- 7.11. In terms of the proposed use of the site for housing, the application site is not allocated for any specific future uses and the scheme would comply with the principles of policies TP27 and TP28 of the BDP 2017 in terms of the provision of new housing, subject to consideration of detailed technical matters, as discussed below.

Design and Impact on Visual Amenity

- 7.12. The scheme seeks to redevelop the informal open space to the north of the existing settlement at Rubery with residential uses. The site is situated on the edge of the settlement, with open countryside to the north. A Landscape and Visual Impact Assessment (LVIA) was undertaken by the applicant which concluded that there would be no significant adverse impact on the immediate visual environment. The development would be visible within the wider context, however, the proposal would not be uncharacteristic of the typical views experienced by users of the neighbouring Country Park and public rights of ways. Development proposals would not cause significant harm to the local visual environment. The assessment further

acknowledges the importance of the natural edge along Princess Diana Way, and suggests that the edge of the settlement would extend to Boleyn Road which would be enhanced by the establishment of a new hedgerow and retention of existing vegetation, thus moving the perceived green edge of Rubery further towards the north.

- 7.13. The findings and conclusions of the assessment are considered to be appropriate and it is accepted that the site and locality is capable of some development with mitigation and landscape enhancement respecting the existing landscape area and existing features within and adjacent to the site.
- 7.14. In terms of the proposed layout, the scheme seeks to provide the residential dwellings along the new access road off Boleyn Road to the west with an apartment building and new public open space within the north-eastern corner. Perimeter blocks have generally been used within the site in order to create well defined streets with private rear gardens and parking within the curtilage of each dwelling to reduce the dominance of the car on the street scene.
- 7.15. The proposal would provide overlooking and active frontages along Boleyn Road and along the southern boundary as well as dual aspect corner units. The proposed public open space would prioritise the retention of the mature oak tree which would add to the character of the development and would provide a central focal space which could help to foster a sense of community which is supported. In addition, the proposed public open space within the site has been amended during the application process to provide children's play facilities and the outline proposals are shown on the submitted plans. Further details of the provision would need to be provided to ensure they are suitable for the site and visually attractive, and such details would be conditioned.
- 7.16. Furthermore, existing desire lines have been responded to, with stepped access to Dorset Close to the south and additional pedestrian connection points have been also been included from Boleyn Road to the north and north-west to ensure permeability of the site.
- 7.17. The proposed three-storey apartment block, with its slightly angled position, would be located within the north-eastern corner of the site and has been sited to address both the frontage along Boleyn Road as well as the new open space, providing overlooking and an appropriate containment of the space, whilst also providing an appropriate separation to the adjoining road with improved landscaping and setback, which overall is considered to be acceptable.



Figure 4: CGI of proposed apartment building



Figure 5: CGI of proposed dwelling

- 7.18. The proposed residential dwellings would be largely two-storeys in height with a small number of bungalows (one and a half-storey in height) which is characteristic of existing residential development within the area. Gables have been introduced to frontages facing the street in order to punctuate the streetscenes to provide interest along runs of houses. Whilst the apartment block would be three-storeys in height, it is sited approximately one storey lower than the adjoining Boleyn Road which would help to reduce its overall bulk. Therefore, the overall scale and massing of the proposal, in relation to surrounding uses is considered acceptable.



Figure 6: Street Scene along new apartment building



Figure 7: Street Scene Internal Road Example 1



Figure 8: Street Scene Internal Road Example 2 (bungalows)

- 7.19. In terms of the proposed architecture and materiality, the proposed design and access statement references the local character in relation to the material reference, introducing a contemporary design with the proposed use of a warm varied palette, with red brick and a mix of red and grey/black roof tiles which is supported. It is further proposed to add projecting frames and corner windows and corner brick tiles to accentuate the corners. Matching wall and roof tile colours have been specified to read as a continuation of wall and roof ceramic materiality, whilst the use of fenestration with large picture windows and form of the porches would add to the contemporary appearance of the scheme. It is considered that the proposed architecture and material choice has the potential to create an interesting and varied residential scheme and the strategy, subject to conditions for materials and architectural details, would be supported.
- 7.20. Whilst concerns have been raised by local residents that the scheme would provide poor outlook for existing dwellings, it should be highlighted that the existing landscaping strip to the south would be retained and therefore, there would be minimal change to the future outlook of those dwellings.
- 7.21. In summary it is considered that the scheme positively responds to the site's surrounding by creating an active frontage with appropriate overlooking and surveillance. In addition, there would be an appropriate transition to the adjoining countryside to the north, north-west and north-east as well as adjoining existing residential uses to the south. The contemporary architectural approach is supported and City Design has also confirmed they raise no objections. The scheme is therefore considered to be acceptable in terms of its design and impact on visual amenity, subject to conditions.

Density and Proposed Dwelling Mix

- 7.22. Policy TP30 of the BDP 2017 states that housing should be provided at a target density responding to the site and its context with a density of at least 40 dwelling per hectare 'elsewhere' (i.e. outside of the city centre and not situated on transport routes). Whilst local residents raise concerns that the scheme would be over-intensive for the site, the scheme proposes a density of approximately 32.7 dwellings per hectare, which is below the requirements set out in policy. However, it is considered that the proposed lower density would be appropriate in this instance as it would assist with preserving the character of the locality in this suburb location and on the edge of the settlement and countryside, with the provision of public open space and a children's play area within the site.
- 7.23. The policy further states that new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable communities. The scheme would provide a wide mix of dwellings, including two-bedroom apartments (12no.), two-bedroom bungalows (5no.), two-bedroom houses (25no.), three-bedroom houses (20no.) and four-bedroom houses (8no.). In addition, 61.4% of the dwellings would be provided as affordable (social rent) and therefore, it is considered that the proposed mix of housing would be acceptable and supported.

Affordable Housing

- 7.24. Policy TP31 of the BDP 2017 states that the Council will usually seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The scheme proposes 43 of the 70no. residential units (61.4%) to be provided as affordable housing (social rent) on this site which is significantly in excess of the requirements of the adopted policy and would be supported. The provision of affordable homes would be delivered by the Birmingham Municipal Housing Trust (BMHT) and provide rented accommodation for tenants currently on the Council's

waiting list for affordable housing provision. The market units would be sold off separately by the chosen developer.

Impact on residential amenity

- 7.25. The scheme is located to the north-east of the existing settlement of Rubery and adjoined by Boleyn Road to the north, west and north-west with the grounds of the school adjoining the site to the east. Nearest residential dwellings are situated to the south and south-west, along Dorset Close.
- 7.26. The minimum separation distance between nearest existing dwellings and the proposed new dwellings would be a minimum of 36m and therefore in excess of the minimum separation distance guidelines as set out in the Birmingham Design Guide. In addition, there is existing vegetation in between those existing and proposed residential units. Therefore, the scheme would not have an unacceptable impact on the residential amenity of surrounding, existing occupiers, subsequently not resulting in any loss of light or privacy, poor outlook or overlooking and would be acceptable in this regard.
- 7.27. In terms of future occupiers, all residential units proposed within the site would comply with the minimum spacing standards as set out within the Technical Housing Standards – nationally described spacing standards (2015). In addition, all bedrooms are appropriately sized and all habitable rooms would achieve appropriate outlook and day light provision.
- 7.28. The scheme would provide external amenity space to all residents, comprising of private rear gardens for the proposed houses as well as shared communal amenity space for the residential apartments. In addition, all apartments would also have their own individual balcony, exceeding the standards for external amenity space as set out in the Birmingham Design Guide. The scheme would therefore provide future residents with an appropriate living environment and would be supported.
- 7.29. Regulatory Services has been consulted on the application and they accept the conclusions and recommendations from the submitted Noise Assessment and Phase I and II Site Appraisals. This would form the basis for the further required works in relation to a contamination remediation scheme and noise mitigation scheme and such details would be conditioned. In addition, the appropriate management of the site and surrounding highways during construction, including measures to prevent mud on the highway and suitable operational hours would be important and a further condition in this regard has also been imposed. Whilst a separate condition for site delivery hours was recommended by Regulatory Services, it is considered that this element can be suitably covered by the proposed condition for a construction management plan.
- 7.30. Local Residents raised concerns with regard to proposed street lights and potential light pollution from the development and a condition for the provision of a lighting scheme, to ensure there would be no unacceptable impact on surrounding residents or any wildlife has been imposed accordingly.

Impact on highway safety

- 7.31. The application site is situated within a sustainable location on the northern edge of Rubery and within walking distance to the nearest Local Centre at Frankley (approximately 400m to the east) as well as public transport facilities, with the bus stop of the regular no.61 bus service situated approximately 200m to the south-west of the site.
- 7.32. The application site would provide 70no. residential dwellings and would be reached via a new vehicular access from Boleyn Road at the western end of the site. In

addition, a 2m wide footpath is proposed on the northern side of the road as well as dropped kerbs and tactile paving to assist pedestrians with crossing the access to the road. The scheme would provide all residential dwellings with off-street parking with 100% (1 space) provision for the proposed two-bed units (including the apartments) and 200% (2 spaces) provision for the proposed three- and four-bed units. They would also be provided with electric vehicle charging points in line with the recently adopted Parking Standards SPD (2021). The proposed apartment block would have access to a secured and sheltered cycle storage facility and the proposed dwellings would be provided with garden sheds to store their bicycles.

- 7.33. Whilst concerns from local residents with regard to the proposed access, additional traffic, parking and speeding along Boleyn Road are noted, the application is supported by a detailed Transport Assessment which has assessed such matters. In addition, Transportation Development has reviewed the application and supporting information and raises no objections. It is accepted that parking within the site is in line with relevant adopted policy guidance and that overspill parking beyond the site would be minimal, as would the level of additional traffic, and it would not be anticipated to result in a material intensification of the local highway network. The scheme would require works to the adjoining public highway, including the installation of traffic calming measures in order to reduce traffic speed on Boleyn Road and a relevant informative for works to the public highway (S278 Highways Agreement) has been imposed accordingly to address this matter. In addition, a construction management plan would be attached to ensure there would be no impact on adjoining residents or the surrounding highway network during construction.
- 7.34. In addition, the proposed development would not directly impact any Public Rights of Way. However, the proposed development area is bounded on three sides by public highway, to the north and west by all-purpose highway (Boleyn Road and to the south by a footpath also classified as HMPE (Highway Maintainable at the Public Expense). There is no public right of way crossing the site and the PROW Officer raised no objections but has highlighted that any proposed closure or diversion of areas of the adjoining HMPE must be subject to a stopping up order under section 247 or 257 of the Town and Country Planning Act 1990 before works commence. An informative in this regard has been imposed.
- 7.35. In summary, it is considered that the proposed layout of the scheme, in terms of its parking provision, access and impact on surrounding highway network would be acceptable and would not negatively impact on pedestrian or highway safety.

Ecology, Landscaping and Public Open Space

- 7.36. The proposed site was originally managed as a close mown playing field, with little biodiversity value at the time. Following the end of the use as playing fields, the site developed to a more naturalistic habitat which is classed as semi-improved grassland which is in a relatively poor to moderate condition and floristically not diverse. The boundaries of the site are covered by bramble and scattered scrubs with a mature oak being situated within the main field. The development would result in the loss of the grassland with some sections, including along the boundaries and around the mature oak tree, being retained and enhanced. Non-residential verges would be enhanced with grassland species and boundaries planted with a more diverse woodland edge and scrub mix. In addition, planting of trees, shrubs and herbaceous plants within landscaped gardens would further increase the diversity within the site.
- 7.37. The Council's Ecologist has reviewed the scheme including the submitted Preliminary Ecological Appraisal and Biodiversity Impact Assessment. Given the site layout, the proposed habitat loss and gain through the proposal would result in a net loss on site and further works are proposed on an off-site location. The site, approximately 150m to the east, is within Birmingham City Council ownership and management and

currently has little direct management. The proposed works to this nearby site would include the cutting back of existing bramble around the scrub woodland and sown of species rich varieties to bring the site into a more favourable state. It is considered that the proposed enhancement would be in close proximity to the area of loss and therefore, the immediate vicinity would not be detrimentally impacted on. The proposed enhancement would mitigate for the net loss and would add habitat units overall to provide 8.63% biodiversity net gain. On that basis, the Council's Ecologist raises no objections to the proposed development. As agreed with the applicant, a financial sum has been secured for £76,200.00 for the proposed site works and management as well as monitoring in the future, and a condition in this regard has been imposed accordingly.

- 7.38. Concerns from local residents with regard to the loss of the green space and that various different species of wildlife were spotted on this site has been noted. However, it is considered that suitable measures to protect wildlife and further enhancement measures within the site and nearby site are proposed to ensure there would be no unacceptable impact on the ecological features. A condition that the scheme would need to adhere to the recommendations set out in the Ecological Appraisal has been imposed accordingly.
- 7.39. The application is for over 20 dwellings, and whilst the scheme would provide an area of open space within the site as well as a children's play area, this would be below the general requirements of policy TP9 of the BDP 2017 and therefore, an off-site Public Open Space contribution (£68,770.00) has been requested by Leisure Services. The application is supported by detailed viability information of the scheme and BMHT works, which confirm that the scheme, with the provision of 61.4% affordable housing as well as required off-site biodiversity net gain compensation payment for works and monitoring, would not be viable and therefore, no further contribution could be sought from the development without impacting on viability and deliverability. Therefore, it is considered that it would not be appropriate to seek the public open space contribution in this instance.
- 7.40. However, the applicant has confirmed that a formal written agreement with the Council's Leisure Team and Finance Team is in place in order to cover the costs of the future ground maintenance and management of the Public Open Space and children's play area within the site. In addition, a Landscape Management Plan would be attached to ensure any other landscaped areas would also be suitably managed in the future.
- 7.41. In addition, the Council's Tree Officer was consulted on the scheme. It was highlighted that the key feature of the site would be the retained oak tree and appropriate tree protection measures would be required prior to any works commencing. In addition, the proposed additional tree planting is supported, however an arboricultural method statement would be required to ensure the existing tree and proposed trees would be suitably protected and cared for. Relevant conditions would be imposed in this regard.

Other matters

- 7.42. Flood Risk and Drainage - The application site is located within Flood Zone 1 and the applicant has submitted a detailed Flood Risk Assessment and Drainage Strategy. The LLFA and Severn Trent have reviewed the relevant documents and raised no objections. Concerns from local residents that the site may be located within a flood plain and that surrounding areas would be prone to flooding are noted, however, it is considered that relevant conditions for a sustainable drainage scheme, drainage operation and maintenance plan as well as appropriate connections to the existing sewer system would be acceptable, addressing potential concerns and would not increase the flooding to surrounding areas any further.

- 7.43. Energy and Sustainability – It is acknowledged that the proposed specification of the scheme, with the inclusion of triple glazing, goes beyond the building regulations uplift on building fabric first targets. In addition, the scheme would provide air source heat pumps instead of gas and windows throughout the scheme have been designed to maximise daylight, reduce overshadowing and open manually, which would allow natural ventilation through the internal rooms, where appropriate. The supporting Energy and Sustainable Construction Statement has considered a range of different energy generation options, with the proposed provision of air source heat pumps. The use of solar PV panels, considering the provision of 61.4% affordable housing, would however, not be viable in this instance. The scheme has been assessed against the relevant policies and it is considered to comply with policy TP3 and TP4 of the BDP 2017. A condition would be appropriate to ensure the scheme is delivered in line with the submitted Statement.
- 7.44. Community Infrastructure Levy (CIL) – The proposed development would not be liable to the provision of CIL.
- 7.45. Safety/Security – Local concerns were raised that crime within the area was rising rapidly. However, wider anti-social behaviour issues would not be directly related to this application. In addition, West Midlands Police raised no objections and the scheme has been designed to ensure surveillance and overlooking of roads as well as the open space.
- 7.46. Other matters: Comments have been received that there would be a 'Protection/ Preservation Order of the Secretary of State' on the land, with a letter submitted with the response from the Secretary of State, dated 1971 (relating to Birmingham overspill and an outline application for residential development in various areas), referring to the land as open space and therefore, it is argued that the land could not be developed. The letter and information are noted, however, the Authority, is not aware of any previous stipulations or agreements that this land would not or could not be built on. Relevant title records have been reviewed and legal advice has been sought in this regard and there is no evidence of any statutory trust or any other matter that would prevent development on the site. In detail, the Council's Legal Department considers that the statement within the letter was a view expressed at the time of the planning application and more than 50 years have passed since then. The Secretary of State's view would not be binding on the Authority in considering this current planning application. Highlighting the significant changes in planning policy and housing requirements within the Local Authority area, and the public benefits of the scheme, including the provision of 61.4% of affordable housing, the development of the site is considered to be acceptable.
- 7.47. Concerns were raised by local residents that insufficient consultation was undertaken as part of the development. However, a site notice was displayed on the site for 21 days with evidence of the displayed notice being available. In addition, a press notice was published and all adjoining residents as well as Local Councillors and the MP were separately consulted accordingly as well. In terms of questions raised about internal consultees, it should be highlighted that they are listed for information only on the website, however, no further contact details are provided as it would not be appropriate if they were to be contacted directly by the public.
- 7.48. Further concerns were raised that there is already too much development happening within the local area, with other recent developments having been granted permission. Consequently, the local infrastructure, including GP practices, dentists and shops not being able to cope. However, the provision of a further 70 dwellings would unlikely significantly increase the pressure on such services.

- 7.49. Local residents also raised the potential devaluing of homes as a concern arising from the development. However, such matters would not be considered as part of an assessment of a planning application.
- 7.50. Finally, concerns were raised that the proposal would result in and act as a catalyst for further development towards the north and north-west, threatening the adjoining countryside. However, it should be highlighted that the adjacent land is classed as Green Belt (whilst the application site is not) with strong policy protection. However, it should also be highlighted that the adjoining land is situated within Bromsgrove District Council and therefore, any future proposals for this land would be outside the remit of consideration of Birmingham City Council.

8. Conclusion

- 8.1. The application seeks planning permission for the proposed erection of 58no. dwellings and 12no. apartments (a total of 70no. units of which 43no. would be affordable) with associated public open space and children's play area, landscaping, access, parking and associated works at land off Boleyn Road in Rubery. The application has been submitted by Birmingham Municipal Housing Trust (BMHT). The scheme is considered to be acceptable in principle and complies with relevant policy TP9 of the BDP 2017. In addition, the scheme would be acceptable in terms of its design and impact on the visual amenity of the surrounding area, highway safety and residential amenity. Furthermore, the scheme is acceptable in terms its impact on ecology, drainage and sustainability and is therefore recommended for approval subject to conditions.

9. Recommendation

- 9.1. Approve, 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 prior to occupation of hard and soft landscape details |
| 4 | Requires the submission of hard surfacing materials |
| 5 | Requires the prior submission of earthworks/levels details |
| 6 | Requires the submission of boundary treatment details |
| 7 | Requires the submission of sample materials and architectural details |
| 8 | Requires the implementation of the recommendations and landscape enhancement measures in accordance with submitted ecological statement. |
| 9 | Requires the submission of a landscape management plan |
| 10 | Requires the submission of a lighting scheme |
| 11 | Requires the prior submission of drainage plans for disposal of foul and surface water flows |
| 12 | Requires the prior submission of a sustainable surface water drainage scheme |
-

-
- | | |
|----|--|
| 13 | Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan |
| 14 | Requires the prior submission of details of the proposed children's play area |
| 15 | Requires the prior submission of a contamination remediation scheme |
| 16 | Requires the prior submission of a construction method statement/management plan |
| 17 | Requires the prior submission of a noise mitigation scheme |
| 18 | Requires the prior submission of a construction method statement/management plan |
| 19 | Requires the provision of a vehicle charging point |
| 20 | Requires pedestrian visibility splays to be provided |
| 21 | Prevents occupation until the access/service road, turning and parking area has been constructed |
| 22 | Removes PD rights for extensions |
| 23 | Requires the prior submission of a financial contribution of £76,200.00 towards works, management and monitoring of off-site biodiversity net gain proposals |
| 24 | Requires prior submission of arboricultural method statement and tree protection plan |
| 25 | Requires pre-commencement meeting to discuss tree protection |
| 26 | Energy and Sustainability measures in accordance with submitted statement |
| 27 | Requires implementation of affordable housing provision in accordance with submitted details |
-

Case Officer: Laura Shorney

Photo(s)



Photograph 1: Aerial View of Site (@Google Maps)



Photograph 2: View of site from Boleyn Road looking north-east

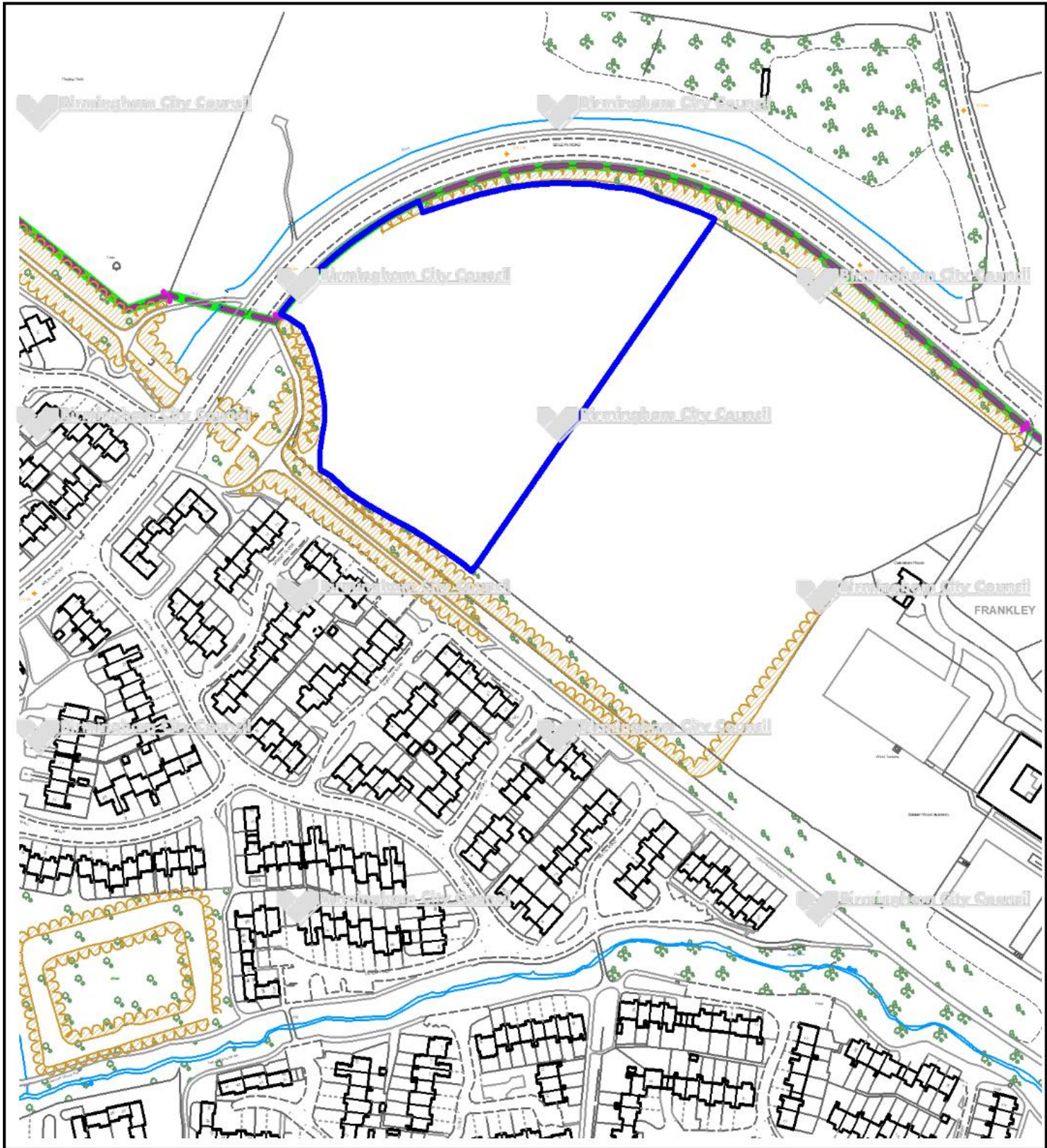


Photograph 3: View of site from Boleyn Road looking west



Photograph 4: View from within the site

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Birmingham City Council

Planning Committee

27 April 2023

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	11	<p>2022/00690/PA</p> <p>Land at Icknield Port Loop (IPL) bounded by Ladywood Middleway, Icknield Port Road and Wiggins Street Ladywood Birmingham B16</p> <p>Section 73 application to vary condition numbers: 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 17, 18, 19, 20, 21, 22, 23, 24, 26, 28, 29, 30, 34, 39, 44, 45, 47, 49, 50, 51, 56, 61, 62, 67, 69, 70, 77 and 78 of Planning Application Reference 2017/04850/PA (Section 73 application to vary conditions 4 (approved plans), 5 (approved access details), 10 (design code), 11 (landscape strategy), 19 (renewable energy statement) and 61 (highway works) of planning approval 2011/07399/PA (which grants outline planning permission for demolition of buildings and a mixed use redevelopment of up to 1150 dwellings, retail, service, employment, leisure, and non-residential institutions uses (Use Classes C3, A1, A2, A3, A4, A5, B1, D1 and D2) of up to 6960 square metres (gross internal area) (including up to 2500 square metres of retail) (gross internal area), together with hotel and community facilities, open space, landscaping and associated works including roads, cycleways, footpaths, car parking and canal crossings, and which grants full planning permission for change of use of industrial buildings fronting Rotton Park Street to leisure, retail and non-residential institutions (Use Class A1, A2, A3, A4, A5, B1, D1 and D2) including amendments to the indicative masterplan and associated parameter plans in relation to the proposed first phase of the development and the relocation of the proposed swimming pool to the south-east part of the site), in order to allow for a number of changes to the formally approved plans and attached conditions</p>

Approve – Conditions
106 Legal Agreement

12

2022/09519/PA

Land at Lindridge Road
Sutton Coldfield
Birmingham

Development of 178 dwellings, including access, drainage and associated infrastructure (Please note that this is a cross-boundary application with the site access and Lindridge Road lying within BCC and all dwellings lying within NWBC (Ref: PAP/2022/0371)).

Committee Date:	27/04/2023	Application Number:	2022/00690/pa
Accepted:	31/01/2022	Application Type:	Variation of Condition
Target Date:	01/05/2023		
Ward:	Ladywood		

Land at Icknield Port Loop (IPL) bounded by Ladywood Middleway, Icknield Port Road and Wiggin Street, Ladywood, Birmingham, B16

Section 73 application to vary condition numbers: 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 17, 18, 19, 20, 21, 22, 23, 24, 26, 28, 29, 30, 34, 39, 44, 45, 47, 49, 50, 51, 56, 61, 62, 67, 69, 70, 77 and 78 of Planning

Application Reference 2017/04850/PA (Section 73 application to vary conditions 4 (approved plans), 5 (approved access details), 10 (design code), 11 (landscape strategy), 19 (renewable energy statement) and 61 (highway works) of planning approval 2011/07399/PA (which grants outline planning permission for demolition of buildings and a mixed use redevelopment of up to 1150 dwellings, retail, service, employment, leisure, and non-residential institutions uses (Use Classes C3, A1, A2, A3, A4, A5, B1, D1 and D2) of up to 6960 square metres (gross internal area) (including up to 2500 square metres of retail) (gross internal area), together with hotel and community facilities, open space, landscaping and associated works including roads, cycleways, footpaths, car parking and canal crossings, and which grants full planning permission for change of use of industrial buildings fronting Rotton Park Street to leisure, retail and non-residential institutions (Use Class A1, A2, A3, A4, A5, B1, D1 and D2) including amendments to the indicative masterplan and associated parameter plans in relation to the proposed first phase of the development and the relocation of the proposed swimming pool to the south-east part of the site), in order to allow for a number of changes to the formally approved plans and attached conditions

Applicant:	Urban Splash House Ltd
	C/o Agent
Agent:	Turley
	9 Colmore Row, Birmingham, B3 2BJ

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

Background

- 1.1. In 2013, outline planning permission ref: 2011/07399/PA (*Outline planning application for demolition of buildings and a mixed use redevelopment of up to 1,150 dwellings, retail, service and employment, leisure and non-residential institutions uses (Use Class C3, B1, A1, A2, A3, A4, A5, D1 and D2) of up to 6,960 square metres (gross internal area) (including up to 2,500 square metres of retail) (gross internal area) together with hotel and community facilities, open space, landscaping and associated works including roads, cycleways, footpaths, car parking and canal crossings. Change of use of industrial buildings fronting Rotton Park Street to leisure, retail and non-residential institutions (Use Class A1, A2, A3, A4, A5, B1, D1 and D2)*) was granted for the application site, for up to 1,150 new homes and up to 12,900 sqm of non-residential floorspace, including commercial uses and community facilities. The application site however lay dormant for many years and in 2017, the current applicant, took on the site and subsequently amended the approved consent via a Section 73 application (ref: 2017/04850/PA). This allowed for various changes to the original approval and following this development commenced on site and has continued since, with the first two phases of the scheme now complete/occupied or under construction.
- 1.2. The current S73 application seeks to vary the above consent further. The applicant within their supporting statement argues these changes are required to allow for the remaining phases of Port Loop to be delivered, bearing in mind changes within housing needs of the city, the housing market, and other external factors which have taken place over the last 6 years.
- 1.3. The application seeks to amend the approved outline parameter plans and various associated conditions, in accordance with a revised masterplan for the site. The new amended masterplan has been designed in consultation with Birmingham City Council, the Canal and Rivers Trust and other stakeholders. An updated Phasing Plan has also been submitted in support of this application, alongside a number of updated and revised parameter plans, supporting statements and other related reports.
- 1.4. Variations are proposed to condition numbers: 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 17, 18, 19, 20, 21, 22, 23, 24, 26, 28, 29, 30, 34, 39, 44, 45, 47, 49, 50, 51, 56, 61, 62, 67, 69, 70, 77, 78 of planning permission reference 2017/04850/PA. These conditions relate to the previously approved plans or require amendments to their wording in order to tie in with the development as proposed, or are being varied, in order to amend their subsequent trigger points for when their associated information needs to be submitted to the LPA for approval. A small number are also being removed or streamlined for ease moving forward. The application would see amendments to the following parameter plans:
- Site location plan;
 - Public Realm Parameter Plan;
 - Access Parameter Plan;
 - Siting and Massing Parameter Plan;
 - Ground Floor Uses Parameter Plan;
 - Illustrative masterplan;
 - Site wide phasing plan.
 - Upper Floor Uses Parameter Plan; and
 - Vehicle Access Plan.

Each of these changes are discussed further below.

Site location plan

- 1.5. The red line boundary would be extended to allow a small area of land to the northwest of Ladywood Fire Station to be incorporated within the site. A further amendment is proposed by way straightening the red line boundary along Wiggin Street.

Public Realm Parameter Plan

- 1.6. The original proposals for Port Loop included a centralised park, including a Neighbourhood Equipped Area of Play (NEAP) and Multi Use Games Area (MUGA), located on the main Island. The applicant now proposes to see the public open space distributed more evenly across the development, by creating a linear park running northwest to southeast through the site. The NEAP will remain on the Island, and the MUGA will be relocated to sit alongside the newly erected Ladywood Leisure Centre, located to the south of the development. In addition, new planting would be added along the various canal corridors and a new formal public space and canal/reservoir public access route for pedestrians and cyclists will be added around the canal basin. The proposed changes will increase the public open space across the development, from 6.14 ha as approved to 6.26 ha as now proposed.

Access Parameter Plan

- 1.7. The proposed changes include altering the location of vehicular access points into the site from the adopted highway off Rotton Park Street, Wiggin Street, Icknield Port Road, and Freeth Street to suit the new development plot layouts, as revised. The proposed pedestrian bridge links between the Island and Bankside have been removed, while the proposed bridge linking the island to the south-east of the site is retained. The existing outline proposed a pedestrian toucan crossing across Icknield Port Road, adjacent to the junction with Rotton Park Street, which is now proposed to be relocated to cross Icknield Port Road and connect the two canal towpaths on either side. A small number of other changes, as a result of the changes to the public landscape strategy and site building layout changes are also proposed.

Siting and Massing Parameter Plan

- 1.8. The maximum building heights are proposed to be increased in certain phases of the development. While the overall number of units that the site can accommodate will not be increased, certain phases will see significant increases, in terms of the maximum level of storeys that development may reach. Storey heights will also be reduced in certain phases. The storey increases would mainly be along Icknield Port Road, the Birmingham Canal and Ladywood Middleway. In contrast the phases focusing on family housing, will be reduced to 2-3 storeys maximum, in order to tie in with the rhythm of development within their context. No changes are proposed within the Canal Basin area, fronting the reservoir which is to remain as previously approved.

Ground Floor Uses/Upper Floor Uses Parameter Plan

- 1.9. The maximum amount of non-residential floorspace approved for delivery at Port Loop was 12,900 sqm, while the applicant is not proposing to amend this figure. They are seeking more flexibility as to how this may be delivered at the site. As a result, the applicants seek alterations to the ground and upper floor uses plans in order to centre the non-residential floor space centrally within the site, and also allow for more flexibility for the upper floor uses, to potentially have residential above.

Remaining plans

- 1.10. As a result of the above proposed changes, alterations to reflect the above are also proposed to the Illustrative Masterplan, Site Wide Phasing Plan and Vehicle Access Plan.

Changes to the Design Code and Landscape Framework conditions

- 1.11. The former outline approval secured a Design Code Strategy through condition 10. This required a 'Framework Design Code' setting out the overarching design principles for the site and was required to be submitted and approved by the LPA prior to the submission of the first reserved matters submission. This was then supported by the submission of a detailed Design Code for each phase of development, prior to each reserved matters application being submitted for approval. Alongside this, a Landscape Strategy Framework was also required by condition 11, which required an overarching Landscape Strategy Framework for the whole site, which was then also supported by subsequent detailed landscape strategies for each phase prior to each reserved matters application. The current S73 application now seeks to amend this former approach by submitting a detailed Design Code and a detailed Landscape Strategy, thereby negating the need to submit subsequent documents at each reserved matters stage.

Tubeworks

- 1.12. During the development of the new masterplan, detailed consideration has been given to the existing buildings within the Tubeworks. The existing outline consent identified only two of the existing buildings for retention, with the remainder proposed for demolition. Flexibility is now sought for the existing buildings that were previously identified for demolition to potentially be retained and reused.

Changes to Section 106 Agreement

- 1.13. To reflect the proposed changes set out above, the applicants also seek changes to the previously agreed Section 106 agreement through a Deed of Variation. This is to ensure that the agreement fully aligns with the revised proposals. Additional changes are also sought, including:
- Updated references to reflect the updated Approved Plans;
 - Amendments to Clause 4.4.3 (NEAP) to allow flexibility within the delivery of the NEAP, so that the applicant has the option to deliver this on site themselves, as opposed to this being delivered by the Council; and
 - Updated definitions of Affordable Housing to align with Annex 2 of the NPPF (2021) allowing for Affordable Private Rent to be delivered as part of any future Build to Rent schemes in appropriate phases.
- 1.14. It should however be noted that the Port Loop development will continue to deliver:
- 10% affordable housing on site across a range of unit types;
 - A mix of dwelling types and tenures, included much needed larger family housing;
 - Over 6 hectares of new public realm and open space, including a Neighbourhood Equipped Area of Play (NEAP) and a Multi-Use Games Area (MUGA); and
 - Financial contributions towards education.
- 1.15. The above contributions will thereby remain unchanged from the original approval and carried forward as part of any subsequent consent.
- 1.16. The application has been submitted with an addendum to the Environmental Statement to that previously submitted within the 2017 application, as well as other supporting documentation including:

- Planning statement;
- Design and access statement;
- Design code;
- Landscape strategy;
- Parameter plans;
- Biodiversity survey and report;
- Energy statement;
- Sustainable construction statement;
- Transport statement;
- Travel plan;
- Flood risk and drainage strategy;
- Tree survey; and
- Heritage assessment.

1.17. [Link to Documents](#)



Image 1 – proposed Illustrative Masterplan for the development site.

1.18. Site & Surroundings

- 1.19. The Site comprises 22.5 ha of brownfield land within the Greater Icknield growth area, located approximately 1.5km to the west of Birmingham City Centre. The Site is bound by Birmingham Canal Main Line to the northeast, Ladywood Middleway (A4540) to the southeast, Icknield Port Road to the south-west, and Wiggin Street to the northwest.
- 1.20. The application site is a former industrial site, with a long history of manufacturing and industry. Only a small number of industrial and business premises remain on site, namely a collection of vacant buildings on the corner of Rotton Park Street and Icknield Port Road, referred to as the “Tubeworks”, the former Frank Dudley Warehouse accessed off Wiggin Street, and 50 and 60 Icknield Port Road, which are currently occupied. Some of the buildings within Tubeworks are ‘non-designated’ heritage assets, recorded on the Historic Environment Record (HER).
- 1.21. The application site also features occupied and non-occupied residential dwellings, alongside a number of dwellings under construction, within Phases 1 and 2 of the Development. A small urban park, designated as public open space (Phase 1 park) has also been delivered, as has the Ladywood Leisure Centre, located in the south-eastern corner of the site.
- 1.22. The remainder of the site comprises vacant development land, some of which has been cleared and some of which comprises unmanaged grassland, including scattered trees and other vegetation. The application site also includes three Grade II Listed canal roving bridges that form part of the historic canal infrastructure, and parts of the Edgbaston Reservoir dam (and Sluice Valve House). Edgbaston Reservoir and its associated structures are locally listed.

1.23. Planning History

- 1.24. 2011/07399/PA - Outline planning application for demolition of buildings and a mixed use redevelopment of up to 1150 dwellings, retail, service, employment, leisure and non-residential institutions uses (Use Class C3, B1, A1, A2, A3, A4, A5, D1 & D2) of up to 6960 square metres (gross internal area) (including up to 2500 square metres of retail) (gross internal area) together with hotel and community facilities, open space, landscaping and associated works including roads, cycleways, footpaths, car parking and canal crossings. Change of use of industrial buildings fronting Rotton Park Street to leisure, retail and non-residential institutions (Use Class A1, A2, A3, A4, A5, B1, D1 & D2) – approved with conditions – 20/09/2013.
- 1.25. 2017/04850/pa - Section 73 application to vary conditions 4 (approved plans), 5 (approved access details), 10 (design code), 11 (landscape strategy), 19 (renewable energy statement) and 61 (highway works) of planning approval 2011/07399/PA (which grants outline planning permission for demolition of buildings and a mixed use redevelopment of up to 1150 dwellings, retail, service, employment, leisure, and non-residential institutions uses (Use Classes C3, A1, A2, A3, A4, A5, B1, D1 and D2) of up to 6960 square metres (gross internal area) (including up to 2500 square metres of retail) (gross internal area), together with hotel and community facilities, open space, landscaping and associated works including roads, cycleways, footpaths, car parking and canal crossings, and which grants full planning permission for change of use of industrial buildings fronting Rotton Park Street to leisure, retail and non-residential institutions (Use Class A1, A2, A3, A4, A5, B1, D1 and D2) including amendments to the indicative masterplan and associated parameter plans in relation to the proposed first phase of the development and the relocation of the proposed swimming pool to the south-east part of the site – approved with conditions – 22/11/2017.

- 1.26. 2017/07024/PA - Reserved matters application for appearance, landscaping, layout and scale following outline planning permission 2017/04850/PA for the erection of 207 dwellings and 300sqm of Use Class A1-A5, B1a and D1 floor space together with associated internal roads, parking, landscaping and open space (Phase 1) – 22/11/2017.
- 1.27. 2017/04849/PA - Erection of new leisure centre, including 8 lane, 25 metre main swimming pool and learner pools, fitness and dance studios, car parking with associated new access onto Ladywood Middleway and associated works – approved with conditions - 31/08/2017.
- 1.28. 2019/06091/PA - Reserved matters application for Phase 2A in respect to: appearance, landscaping, layout and scale following outline planning permission 2017/04850/PA – approved with conditions – 07/11/2019.
- 1.29. 2020/03360/PA- Reserved matters application for Phases 2B and 2C in respect to: appearance, landscaping, layout and scale following outline planning permission 2017/04850/PA; comprising of up to 98 No. dwellings, within 7 residential blocks and associated car parking and landscaping works – approved with conditions – 13/08/2020.
- 1.30. 2020/09983/PA - Reserved Matters application for Phases 3A and 3B in respect to: appearance, landscaping, layout and scale following Outline planning permission (2017/04850/PA) comprising of up to 98 no. dwellings at 2 and 3 storey level, alongside their associated car parking and landscaping works – approved with conditions – 01/04/2021.

2. Consultation/PP Responses

- 2.1. Environment Agency: Raise no objection
- 2.2. West Midlands Police: Raise no objection and make security related recommendations which have been passed onto the applicant for reference.
- 2.3. Natural England: Raise no objection.
- 2.4. Employment Access Team: Raise no objection.
- 2.5. Highways England: Raise no objection.
- 2.6. Historic England: Raise no objection.
- 2.7. Canal and Rivers Trust: Raise concerns with regard to the Landscape strategy submitted, as this appears different to the one shared with the trust.
- 2.8. Birmingham Civic Society: Raise no objections.
- 2.9. Network Rail: Raise no objections.
- 2.10. Lead Local Floor Authority: Raise no objections.
- 2.11. Leisure services: object to application on the grounds of the applicant providing inadequate amenity space for future residents of the site.
- 2.12. Regulatory services: raise no objections to the proposals, however advise, trigger points should be carefully assessed as it best to deal with noise related issues at the

earliest stage possible within a development, for the most effective measures to take place.

2.13. Transport: Raise no objections.

2.14. Sport England: Raise no objections.

2.15. Former Councillor Carl rice made the following representation:

- No public towpath around the whole of the site and the wider canal network.
- Full public towpath is needed for the whole of the site and future developments should not hinder this from coming forward.

2.11 10no. objections have been received, setting out the following areas of concern:

- Phase 3 has commenced on site without POS, cycle storage and a recycling centre being erected for phase 2a.
- Site is not accessible without a car in winter, due to unlit towpath and the unsafe environment.
- Impact of development to reduce car usage is required.
- 7 storey apartments on Ickneild Port Road would reduce light and outlook and cause an unacceptable impact on amenity.
- Overlooking as a result of tall nature.
- Plans now cram more housing into the site.
- Not enough car parking for these additional dwellings.
- Impact of development upon local infrastructure.
- No input from local residents.
- Adverse impact upon Listed Buildings within Canal Basin Area.
- View of dam from skyline would be blocked.
- Some of the submitted documents do not tie up with submitted plans.
- Unacceptable design.
- Development doesn't cater to have enough car parking spaces.
- Development needs a balance between houses and apartments.
- Development has a negative impact dam wall and views of the city skyline.
- Development has a negative impact upon the setting of the reservoir and its views.
- Value of green spaces around reservoir not taken on board.
- Lack of public consultation.
- Documents are hard to understand from a non-technical background.
- Edgbaston Reservoir has not been identified as a heritage asset.
- The proposals don't value the views of the city skyline from the dam.
- The development is too high and breaches the dam wall.
- Increase in noise.
- Increase in pollution.
- Impact upon local nature reserve.
- Sustainable building practices need to be implemented on site.
- Does the development have affordable units?
- Raised traffic and pollution levels.
- Increase in light pollution and impact upon bats.
- Unable to access certain documents from the submission.
- Object to the tall buildings overshadowing listed buildings.

3. Policy Context

3.1. National Planning Policy Framework:

- Section 8: Promoting healthy and safe communities - Paragraph 91-92
- Section 9: Promoting sustainable transport - Paragraph 102
- Section 11: Making effective use of land - Paragraph 118
- Section 12: Achieving well-designed places - Paragraph 124-132
- Section 16: Conserving and enhancing the historic environment - Paragraph 189-202

3.2. National Design Guide (2019)

3.3. Birmingham Development Plan:

- Policy PG3: Place making
- Policy TP2: Adapting to climate change
- Policy TP3: Sustainable construction
- Policy TP27: Sustainable neighbourhoods
- Policy TP30: The type, size, and density of new housing
- Policy TP39: Walking
- Policy TP40: Cycling

3.4. Supplementary Planning Documents:

- Places for Living SPD
- Places for All SPD

3.5. Other Guidance:

- Greater Icknield Framework;
- Edgbaston Reservoir Masterplan SPD.

4. Planning Considerations

Principle

- 4.1. The principle for the residential led redevelopment of the application site has long been established since 2013, with the later varied outline planning consent, under planning reference: 2017/04850/pa, having since been implemented on site, with the initial phases having been built out. The site further falls within the Icknield Growth Area and is earmarked for a residential led scheme at a medium to high density. Given the long established and since implemented planning history of the site, and the fact that the current application for the variation of the above referenced consent would not alter the sites proposed use, maximum residential unit numbers or non-residential floor space limits, the proposals are considered acceptable in this regard, subject to the proposed variations complying with the wider development plan.

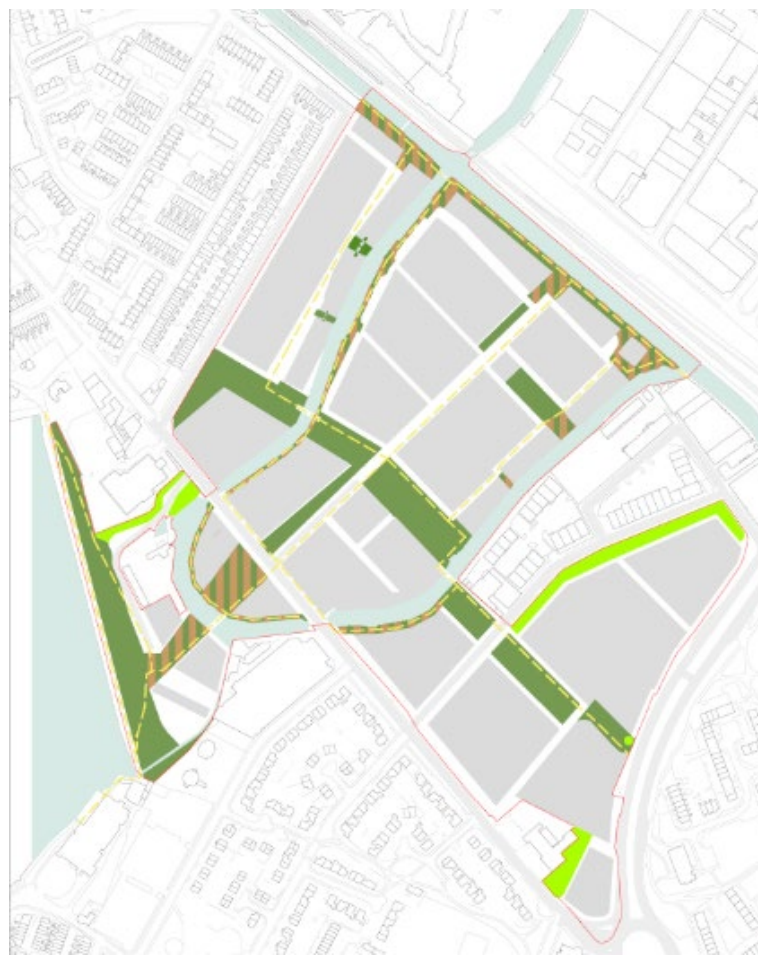
Proposed changes to the site's red edge boundary and site location plan

- 4.2. The proposed increase to the site boundary would include a parcel of land which forms part of the 'Greater Icknield' allocation, and the area of land northwest of the fire station has been earmarked by BCC for inclusion within the Port Loop development for a number of years. This land previously housed a number of dwellings, which have since been demolished, through planning reference: 2014/06128/PA. At the time of approval, the case officer noted that: *"The acquisition and demolition of these houses is proposed so that this land can also be included within the Icknield Port Loop development to deliver a more comprehensive scheme"*. These dwellings have since

been demolished and the site now lies vacant, and it is considered that through this small increase in area for the application site, alongside the straightening of the boundary along Wiggin Street, will allow for a more comprehensive redevelopment of the site, and as such this change is considered acceptable.



As approved Public Realm Parameter Plan



As Proposed Public Realm Parameter Plan

Proposed changes to the Public Realm/Public Open Space

- 4.3. The original proposals for Port Loop included a centralised park, including Neighbourhood Equipped Area of Play (NEAP) and Multi Use Games Area (MUGA), located on the central island. The new masterplan proposes the public realm to be distributed evenly across the development, by creating a new green linear park running northwest to south-east through the Site. The NEAP will remain on the Island, and the MUGA has been relocated to sit alongside Ladywood Leisure Centre to the south of the development. The Landscape Strategy submitted in support of the application states that the intension is to create a strong green ribbon of open spaces linking from Ladywood Middleway and the relocated Multi-Use Games Area (MUGA) in the south-east of the site, through to Wiggin Street and beyond to Edgbaston Reservoir and Summerfield Park to the north-west.
- 4.4. The new green ribbon park would see the creation of a sequence of different public spaces with varying sizes and styles, catering to different recreational needs and age groups. In addition to the new green ribbon park, the landscape strategy also provides opportunities for new planting along the canal corridors, as well as creates links between Edgbaston Reservoir and the Birmingham Canal network and along Ickneild Port Road. A new formal public space and canal / reservoir public access route for

pedestrians and cyclists has been added around the canal basin, which is considered to enhance this area for future users and increase permeability. The proposed changes to the landscape strategy will result in an overall increase in public open space across the development, from 6.14 ha to 6.26 ha. Policy TP9 of the BPD requires in the region of 2ha per 1,000 population. Assuming an average of 2.5 people per household, the proposed development would result in a need of approximately 5.75 hectares of open space, which is exceeded by the 6.26 hectares proposed. The proposed changes have been reviewed by the Councils City Design/Landscape Officers who support the proposals and raises no objection subject to the original conditions remaining in situ, which have been recommended as such.

Access Parameter Plan

- 4.5. The location of vehicular access points into the site from the adopted highway off Rotton Park Street, Wiggin Street, Icknield Port Road, and Freeth Street will be amended to suit the new development plot layouts, as revised within this application. The proposed pedestrian bridge links between the Island and Bankside have been removed, while the proposed bridge linking the island to the south-east of the site is retained. Pedestrians will still be able to access the site along the existing canal towpath to the north-east of Wiggin Street, crossing the site at the canal junction over the existing Listed Bridge and then continue along the improved towpath to the north-east of the site, again crossing the second Listed Bridge and continue in an easterly fashion towards the city centre. There will also be the option for pedestrians to walk along the northern loop of the central island, looping around the canal yard and then back along the southern loop of the island. A towpath is not proposed to the southern boundary of the island due to there being residential dwellings within phases 1 and 2 backing onto the canal. The same is the case for the dwellings proposed as part of phases 6 and 7, which would also back onto the canal to their south. It will also be possible for pedestrians/cyclists to access the site from Icknield Port Road, within phase 7, linking through the liner park, across the two new proposed bridges and continue to phase 8 and 9 and then onto the Middleway. So, although a canal towpath is not proposed the full way around the site, at every possible location, the manner of connections and volume of towpath being brought back into use is considered acceptable and would help make the site become much more accessible, permeable, and sustainable in the longer term. This approach is further supported by City Design Officers.
- 4.6. The existing outline further proposed a pedestrian toucan crossing across Icknield Port Road, adjacent to the junction with Rotton Park Street, this is now proposed to be relocated to cross Icknield Port Road and connect the two canal towpaths on either side, considered acceptable. A small number of other changes, as a result of the changes to the public landscape strategy and site building layout changes are also proposed, and these have been assessed by transport development officers and city design who raise no objections and are thus supported.

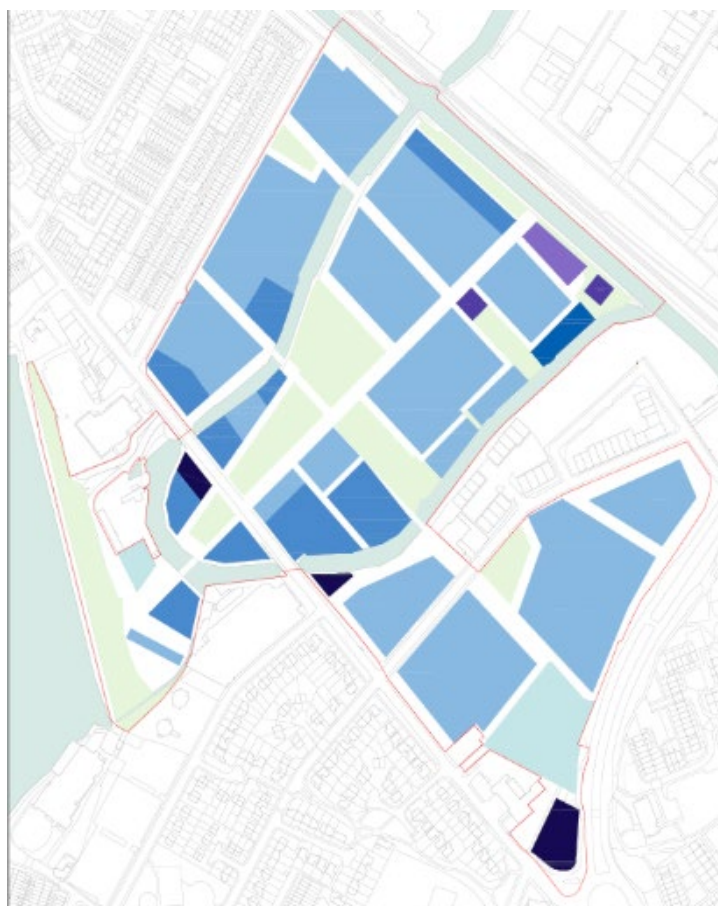
Proposed changes to the Maximum storey height for individual phases

- 4.7. Under the former outline approval, the majority of the site had a maximum storey height of 4 storeys, with taller buildings proposed to the south-eastern corner of the site, to the south-east of the Leisure Centre, fronting the Middleway and at two points, fronting Icknield Port Road. These were proposed to go up to 7-10 storeys, with 6.5 storeys approved to the far east of the site, fronting the canal. The current proposals seek to amend this, with the entire north-eastern section of the site boundary by the canal to the north-east and north-west detailed to now be no higher than 3 storeys, which is considered to be much more appropriate given the two storey residential units sited opposite on Wiggin Street, as well as the scale of the dwellings already erected as part of phases 1 and 2 of the development to the south of Rotton Park Street.

- 4.8. In terms of increases in storeys, the main changes can be summarised in two areas, the first being along the Middleway to the south-east of the site. Here the tall 10 storey building to the south-east of the leisure centre has been retained, and taller buildings are also proposed to the north of the centre, at a scale of 6.5-7 storeys. Given the changing environment of the site within this area, and the location of these blocks, fronting the Middleway, this increase is considered acceptable, and City Design raise no concerns in this regard. It should be noted the buildings immediately to the north of the leisure centre, which would front the site would all remain as 3 storeys.
- 4.9. The second key area for the increase would be along Ickneild Port Road, which the applicant sees as undergoing transformation. 4 storeys are now proposed directly opposite the two-storey housing on Osler Street, where this was previously approved at 3 storey level, increasing to 6.5 storeys further towards the island centrally within the site. This is proposed giving regard to other approved developments within the area, such as Rubber Factory Site on Osler Street and given the width of the road and separation distances between the existing housing. It is thereby considered although an increase in storeys, this change on balance would be acceptable and any increase here would be subject to future reserved matters applications, where design would come into play. Further these increases are only proposed at a maximum level and thereby there is no guarantee that any future development would indeed reach this height, albeit, if such heights were proposed, the LPA would retain the right to refuse a scheme based on the design and other factors, which are considered at reserved matters stage. City Design Officers have further detailed that, subject to appropriate design and façade treatments the proposed storey heights could be supported and higher density development, along key transport corridors such as the Middleway and Ickneild Port Road should be encouraged and supported, in line with NPPF policy; and as such these proposals are considered acceptable.
- 4.10. To the far north-west of the application site, within the Port Loop Island the storey heights are also proposed to be increased as part of an apartment development ranging between 6.5-7 storeys, considered acceptable, given the scale of development as previously approved to their immediate west and the land around the proposed blocks, which allows for this increase.
- 4.11. No change is proposed opposite on the canal basin side of the development, and it is considered given what is approved in this area, and the changing context of this section of the site, the proposed development would be acceptable.

Existing as approved Massing Plan:

Massing Plan as Proposed:



Key:

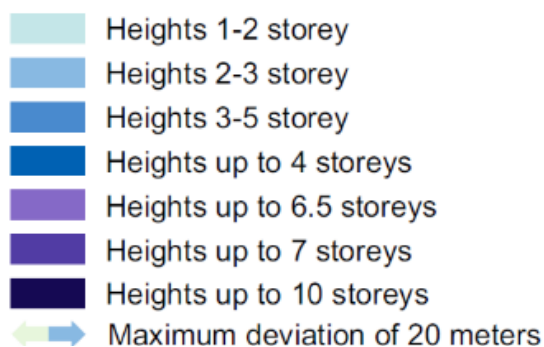


Image 2: Maximum building storey plans, proposed and existing.

Proposes changes to the Use Classes within the site

- 4.12. The overall floor space levels and the use classes approved within the original outline consent are not being altered as part of this application. However, the applicant seeks amendments to the parameters as previously approved, in order to allow greater flexibility for higher density residential development in certain locations (reflecting the increased storey heights as detailed above), and flexibility for a mix of residential and non-residential uses on the ground floor of apartment buildings fronting Icknield Port Road (Phase 4A) and Birmingham Mainline Canal (Phase 6). In addition, the applicant also seeks greater flexibility for more 'non-residential' floorspace within Phase 5 of the development (Tubeworks), as the applicant is now seeking to retain more of the

existing historic workshops building present on site, allowing them to be converted and create non-residential uses. It is therefore considered that as the overall number of non-residential floor space would not be increased, with this now simply concentrated in order to create a central 'hub' of activity within Phases 4A, 5 and 6, 13 and 14 fronting onto Icknield Port Road, with opportunities for additional ground floor activity along the Main Line Canal frontage, these proposed changes are considered acceptable.

- 4.13. The proposed increases to residential density align with the proposed increases in height across the development. Furthermore, the densities proposed align with the requirements of Policy TP30 'The type, size and density of new housing', which requires densities of at least 50 dph in areas well-served by public transport, and at least 40 dph elsewhere. The Port Loop development will deliver an average of 51 dwellings per hectare across the site, with higher densities where appropriate in response to the surrounding context. It is therefore considered that the proposals accord with Policy TP30 of the BDP with regard to density and are accepted.

Proposed changes to the access points within the site

- 4.14. The applicant seeks to amend the site accesses to coincide with the revised siting and layout of development blocks as well as the revised open space strategy and layout. The primary changes to the access parameter plan include amendments to access points for individual development plots, the removal of the pedestrian bridge link between Phase 6 and Phase 3B, and the slight relocation of the proposed toucan crossing on Icknield Port Road. It is considered that on balance, that the changes proposed are minor and would still ensure appropriate access for all land and road users across and within the site. Although the loss of the previously approved bridge links is regrettable, as there are bridge links proposed as part of the new landscape strategy, connecting the various parks and areas of open space across the site, from a northwest to southeast fashion, this loss is considered acceptable. It should be noted that there are also two existing historic bridges within the site, which will be retained. It is therefore considered that the proposals will continue to meet the requirements of policies within the BDP and as such are supported.

Tube Works

- 4.15. Condition 77 previously detailed 2no. of the original buildings to be retained at the Tube works site. The applicants now seek to potentially retain a greater number of these buildings, should their structural integrity allow them to do so, and these would then be converted to form part of the central commercial core within the development. This approach is supported, as these are locally historic and important buildings and showcase the history of the site. The city conservation officer has further reviewed this element of the scheme and lends his support, subject to a condition requiring the full details for the elevational treatment for any retained building at the site on an individual basis. Existing conditions 81 relates to the parking for these buildings and condition 82 relates to the refuse storage. Condition 83 looks at extractor and odour control for these buildings and condition 84 is for structural recording. The applicant wishes to vary these conditions also to allow for the parking to be delivered on a phased basis, per building being retained, as well as the wider submissions, this approach is considered sensible and is accepted. An additional condition, in line with the conservation areas comments is also added below.

Conditions from the original outline consent which are sought to be removed:

- 4.16. Conditions 6 (indicative housing typologies), 7 (swept paths are not approved on indicative plans) and 78 (indicative plans) are sought for removal. As this is an outline consent, none of the indicative plans form part of the approval, these conditions are thus not considered necessary and as such their removal is considered acceptable.

Condition 56 required the implementation of an on-site recycling centre, however, as local recycling centres have become redundant given household recycling bins, this condition is no longer required, and its removal is accepted.

Trigger points within original outline consent being sought for amendments:

- 4.17. Previously the applicant was to provide 1200sqm of non-residential floorspace, once 500 homes were occupied on site. Increasing to 5000 sqm for 700 dwellings and 12,900 sqm for 900 dwellings, as part of condition 17. The applicant however states that given the current climate around the delivery of retail and other similar uses, they would like to decrease the trigger amounts to 1200 sqm of non-residential floor space for the delivery of 500 dwellings on site, 2,500 sqm for 700 dwellings and 4,000 sqm for the delivery of 950 dwellings. It is considered that these floor space figures are much more deliverable and reasonable and will help create a central core within the development, within the areas as described above. As such these trigger point changes are accepted.
- 4.18. Condition 70 relates the submission of a demolition method statement prior to any works taking place on site. The applicant now seeks to amend this for phases of the development which actually require demolition, allowing other phases where demolition is not required to be able to commence works without any details required for submission, considered acceptable. Regulatory services have further reviewed this change and raise no objection.
- 4.19. The following conditions all require their respective information to be submitted at reserved matters stage. The applicant however wishes for this to be amended to pre-commencement stage, in order to lessen the amount of information required upon the reserved matters submission. These include: Condition 69 (CCTV details), condition 19 (carbon reduction statement) Condition 20 (digital infrastructure), Condition 21 (sustainable waste management), Condition 22 (public open space details), Condition 24 (canal towpaths design details), Condition 26 (landscaping details), Condition 28 (hard surfacing details), Condition 29 (boundary treatment details) and Condition 34 (sample materials). It is considered that on any full planning application these details would normally be conditioned at the requested trigger point, as part of the consent and as such, this approach being much more practical and reasonable is supported. Further, City Design Officers and the West Midlands Police were consulted on the proposed trigger point changes who confirmed their acceptance.

Other changes to conditions from the original outline consent

- 4.20. Condition numbers 2, 4, 5 and 8 are simply seeking updates, in order to tie in with the latest revised set of parameter plans and as such their change is considered acceptable.
- 4.21. Condition 62 is looking to amend the trigger point for the information related to the submission of details of canal bridges etc. and looks to remove the reference to canal towpaths as this is covered by condition 24 as referenced above, this change is also supported.
- 4.22. Conditions 9, 10, 11, 12 and 18 look to be updated, whereby they previously required the submission of a design code strategy/landscape strategy and phasing plan, prior to future reserved matters applications coming in, the current wording will look to secure the design code document proposed as part of this submission for the whole of the site. City Design have reviewed the design code and feel this is acceptable and as such this condition is felt to be onerous and its rewording is supported. Condition 12 would also substitute the former site wide phasing for that now proposed, considered acceptable. Condition 9 requires general accordance illustrative masterplan submitted

as part of this application, with the option for this to be revised as agreed by the LPA, confirmed acceptable by City Design Officers. Condition 18 required the submission of a sustainable energy plan, however as this has been submitted as part of the application, the applicants want to amend this to a compliance condition, similar to the above, considered acceptable.

- 4.23. Condition 39 looks to update the previously approved flood risk assessment to that submitted as part of this application, considered acceptable by the LLFA who have raised no objection in this regard. Condition 67 looks to revise the conditions reference for travel-wise to Mode-shift stars to amend the name of the travel company referred to within the respective travel plans. And condition 61 also looks to update itself with regards to the information already been submitted in reference to highway measures. Condition 23 requires details for the design of the walkway across the reservoir dam, however, as the phasing plan for the site has changed the applicant now seeks to vary this condition to give reference to the correct phase, considered acceptable. Lastly, condition 30 is being varied to capture the trees which are now going to be removed, as part of this current application; considered acceptable and the city tree officer has raised no objection in this regard.

Heritage

- 4.24. A heritage assessment has been submitted in support of this application. This confirms there are three Grade II listed bridges within the site boundary, and further listed buildings within the vicinity of the site, including five listed buildings and structures sited within the Rotton Park Canal Maintenance Yard. The assessment includes 7 locally listed buildings which have the potential to be affected by the proposed development, including Edgbaston Reservoir. A number of other non-designated heritage assets also lie within the Site Boundary and adjacent to the site, which have been assessed as part of the submission.
- 4.25. The City Conservation Officer notes that no actual physical changes are proposed to the canal roving bridges over the Birmingham canal and the entrances to the loop. There will of course be changes to their setting, due to the development, as the residential uses replace industrial buildings and vacant land. The Conservation Officer however considered that whilst the loss of their long held industrial surrounding can be seen as somewhat harmful, the canal-side context and historic function will remain. The City's Conservation Officer therefore does not feel that the development can be considered harmful to their significance. Further the Conservation Officer notes that the proposed improvements to the canal towpaths and landscaping have the potential to enhance their setting and better reveal their significance. Conditions to this respect are attached to the original outline and will remain in situ.
- 4.26. The submitted Heritage Assessment concludes that no harm would arise as a consequence of the proposed development to the majority of Heritage assets, which the Conservation Officer agrees with, with the exception of the following, where some harm to the significance is identified:
- The Anglican Church of St John and St Peter (Grade II);
 - The Covered Dock, Superintendent's Office, Workshops and Stores, the Crane,
 - and the Stables at Rotton Park Loop Canal Maintenance Yard (all individually Grade II);
 - Edgbaston Reservoir, dam and ancillary structures (Locally Listed Grade B); and
 - The Weldless Steel Tube Co. (MBM2513) and the Corporation Refuse Collection and Destruction Plant (MBM2512).

- 4.27. The Heritage Assessment identifies the level of harm identified is 'less than substantial' and therefore paragraph 202 of the NPPF would apply, where the harm identified should be weighed against the public benefits of the scheme. However, it should be noted that the harm caused to the Anglican Church of St John and St Peter is primarily as a consequence of the introduction of a 10 storey building within Phase 10B of the development. The maximum height and extent of the development parameters in Phase 10B are however no different to those previously approved as part of the original outline consent and as such it is considered that as a result of this application, no additional harm would be caused to this heritage asset.
- 4.28. The same is the case for the listed buildings and structures within the Rotton Park Loop Canal Maintenance Yard. The maximum height and extent of the parameters in Phase 13 and 14 which lie closest to this area and would have an impact upon their setting are again not subject to amendments through this S73 application, therefore the proposed changes to the parameter plans do not result in any greater harm to these assets over and above the harm identified by the original outline planning consent. The Conservation Officer again raises concerns about the heights of these buildings, however as noted, the applicants propose no changes within this area, to what has previously been approved. In any case, as part of the consideration of this application it is considered that as the development would deliver significant public benefits which are set out within the background section of this report, alongside the fact that there remains a live planning consent for an identical development which the applicants are able to implement on site, on balance, the proposals would be acceptable and a refusal upon these grounds could not be substantiated given the planning history of the site.

Views from non-designated heritage asset

- 4.29. A number of objections have been received referring to the potential of the development to impact upon existing open views from the reservoir dam wall, across the site, when looking across at the city skyline. Although it is noted that the development, will of course have an impact here, given that this area at present, remains largely open, with no built form, or of a very low scale of built form. As stated within the above section, this area, which lies adjacent to the reservoir is not being amended as part of this application and the development remains as previously approved. NPPF policy states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage. In this case, the level of harm is considered to be less than substantial as this would only affect existing views from the dam wall, it has further already been established that the development offers significant benefits for the city and that when this is further considered against the fact there lies a live consent for implementation for an identical scheme, it is considered that the proposals would be considered acceptable on balance and couldn't be refused on these grounds alone.
- 4.30. It is further noted that the submitted indicative plans show the maximum storey heights, with the storey heights of this area actually remaining open for discussion as part of any future reserved matters application, where design and other factors would come into play. Allowing the LPA full control over what future development within this area could actually look like and in any such application, impact upon the listed and locally listed heritage assets would come into consideration.

Residential amenity

Overlooking/loss of light/outlook

- 4.31. There are a number of existing residential occupiers in around the application site, with the closest existing residential occupiers, residing along Ickneild Port Road, to the

site's south-east and Wiggin Street to the site's north-west. There also remain existing residential occupiers within phases 1 and 2 of the development on the south-east side of Rotton Park Street. Whilst it is considered that existing residents within Wiggin Street and Rotton Park Street would remain largely unaffected by the proposed changes, given that the scale and massing of the proposed phases closest to these developments remains unchanged or would be lower, than what was previously approved.

- 4.32. The exception remains for residents who live along Ickneild Port Road, where an increase in scale is now proposed, previously the phases to be erected opposite these existing dwellings would have been at 3 storey's, this is now proposed as a maximum of 4 storey's; and then would increase to 6 storey's further to the west of the road. However, at this juncture, it is not considered that these existing dwellings would be impacted, above and beyond the formal approval on site, given the separation distance being in excess of 40m and the angle at which they would relate to one another. Further, while an increase in height at one storey level is proposed, the separation distance between these proposed blocks and the existing housing sits far in excess of 27m, which is considered a sufficient distance to overcome any undue overlooking, loss of light or outlook concerns. As such, the development is not considered to result in any new undue amenity concerns above and beyond the existing situation on site, in respect of the former approval.
- 4.33. It should further be noted, the remaining areas where an increase in building scale is proposed, would be along the Middleway, and given the distance between these and existing housing on the opposite end of the Middleway, the proposals are considered acceptable.
- 4.34. Regulatory services have further reviewed the proposals and have raised no objection in this regard. Adequate safeguarding measures are attached to the original outline consent and would remain in situ, with respect of noise and nuisance and other such measures in order to preserve the amenity of future occupiers of the site. With these conditions in mind, the proposals are considered to offer a suitable level of amenity for existing and future occupiers of the site and surrounding neighbouring dwellings and the proposals are thus supported in this regard.

Noise and nuisance

- 4.35. Conditions 44 (noise levels within habitable rooms) and 47 (noise levels from all sources) require the submission of noise assessments, and the applicant wishes to amend the trigger points for these condition from pre-development as existing to commencement. This change is considered acceptable by regulatory services and are thus supported and will help streamline future submissions.
- 4.36. Condition 45 (noise levels within outdoor amenity space) relates to established noise levels within outdoor amenity spaces. The applicant wishes to amend the wording of this condition, as recommended by more recent guidance, also considered acceptable by regulatory services and this change is thus also accepted.
- 4.37. Condition 49 (noise mitigation) relates to potential noise mitigation from future restaurants and drinking establishments at the site. The applicant again seeks to amend the trigger point related to this condition to prior to construction of works, allowing greater flexibility in designing out such noise, considered acceptable by Officers.
- 4.38. Condition 50 (noise insulation) looks to secure details of noise insulation between future commercial and residential uses, regulatory services have recommended this be conditioned to ensure that such information be submitted prior to occupation as opposed to the current wording, which is pre-development.

- 4.39. 51 (plant and machinery details) this condition is being amended to remove reference to industrial within the original wording of the condition, as the site is not intended to have an industrial use. The above changes are thus considered acceptable and would still ensure that the site retains a good level of amenity for both existing and future residents in terms of noise and nuisance and would allow the Council to retain full control of the development in this regard.

Transport

- 4.40. A Transport Statement has submitted in support of this application. This confirms that overall trip generation, distribution of vehicle use, and assignment will not change. This also notes that the site's sustainable location, and further notes the level of car parking being offered on site, which is unchanged from the former approval. It should be noted that as this is an outline application, formal details of car parking specifics and details will be considered on a phase by phase basis, as part of any future reserved matters application. Transportation development officers have reviewed the proposals and agree with these findings and have raised no objection in this regard.

Flood risk and drainage

- 4.41. A Flood Risk Assessment (FRA) and Surface Water Drainage Strategy has been submitted in support of this application. The FRA details that there have been no changes to flood risk affecting the site and demonstrates that the development is safe from flooding, and will not increase the risk of flooding, nor will it affect third parties in terms of flood risk outside of the site. Further, the Surface Water Drainage Strategy includes a 40% climate change allowance which has been applied, as recommended by the Lead Local Flood Authority (LLFA) in support of guidance issued by the Environment Agency. It should be noted that this is an outline application, all detailed drainage design will be undertaken at the Reserved Matters stage, in respect of relevant phases of the scheme, in accordance with condition 39 of the outline planning permission. The proposals are thereby considered acceptable in this regard.

Trees

- 4.42. An arboricultural survey has been submitted in support of this application and provides an up-to-date summary of the Arboricultural constraints within the site. As the permission is for outline consent only, the report provides a summary of trees that could potentially be retained within the development based on the latest parameter plans. These further detail that although a number of trees will likely be lost, the applicant will however seek to retain trees wherever possible through the implementation of tree protection measures and, where appropriate, incorporating them into the landscaping layout at reserved matters stage. Where trees are detailed for removal, these are considered necessary to facilitate the delivery of the development. Furthermore, new trees and planting will be delivered as part of the development to mitigate these losses as part of future reserved matters application. The council's tree officer has reviewed the proposals and raises no objections in this regard and as such the proposals are considered acceptable.

Ecology

- 4.43. A Preliminary Ecological Appraisal (PEA) report has been submitted in support of this application, this details that the habitats within the site, although predominantly non-native and of recent establishment, were noted as collectively having ecological value in a local context. The report identifies the potential for the site to support invertebrates, birds, bats, otter and hedgehog, as well as recommending that further surveys should

be undertaken to ascertain the presence or absence of roosting bats. Condition 58 (Construction Ecological Mitigation Plan) is required to be discharged prior to the commencement of each Reserved Matters and allows for any additional survey work to be undertaken on a phase-by-phase basis. Mitigation measures including implementation of standard best-practice during construction, and provision of habitats and green infrastructure such as green links, brown roofs/ and or species rich-lawns and incorporation of a variety of native tree and shrub species to increase biodiversity value as part of the development. This mitigation is reflected in the Landscape Strategy submitted for approval as part of this application. Specific mitigation for each phase of development will be explored at the Reserved Matters stage, which could include a range of additional measures dependent on habitat value / requirements of each individual phase. The Councils ecology officer remains in agreement with the above report and raises no objection based upon the conditions already attached to the original consent which are being retained as part of this application.

Contaminated land

- 4.44. A verification report for each phase (currently required under condition 38 of planning approval 2017/04850/PA) is still to be received prior to any works within that phase commencing on site, so subject to this condition being retained the application is considered acceptable in this regard.

Air quality

- 4.45. An Air Quality assessment was submitted as part of the submitted Environmental Statement. This details that in terms of both construction traffic and operational traffic that air quality for future occupants will be to acceptable levels. These findings have been reviewed by the Councils Regulatory Services department who raise no objection in this regard.

Sustainability

- 4.46. A Sustainable Design and Construction Statement has been submitted further to the approved 'Strategic Sustainable Energy Plan' for Port Loop approved under the discharge of condition 18 (ref: 2020/10030/PA) approved in February 2021 (resubmitted for information as part of this application). These demonstrate that the proposed development complies with BCC's latest local planning policy guidance, which includes the Guidance Note on Sustainable Construction and Low and Zero Energy Generation, published in August 2021. The submitted documents have been considered acceptable by colleagues within Planning Policy and as such the proposals are supported on this basis.

Planning contributions

- 4.47. The S106 legal agreement attached to the existing outline consent secures, amongst other commitments: 10% affordable housing within each phase, a financial contribution of £1.2million towards Primary and Secondary Education, provision of public open space, financial contributions of £180,000, £270,000 and £200,000, towards a Neighbourhood Equipped Area of Play (NEAP) / Multi Use Games Area (MUGA), a floodlit artificial grass playing pitch (AGP) at George Dixon School and existing community and sports facilities at Ladywood Health and Community Centre respectively, as well as the provision of land for a new sports/community facility (i.e. the new IPL Leisure Centre). The agreement also includes overage clauses towards, if applicable, education and affordable housing. Sport England have further requested that the agreement be made flexible to include a potential alternative project identified through the playing pitch strategy, should it transpire that the AGP at George Dixon School no longer be required.

- 4.48. Deed of Variations will be required to link the existing S106 and S111 agreements, the latter relating to land within the ownership of the Council, with this new consent. The application is only seeking amendments to conditions attached to the existing outline planning permission and none of these alter the planning obligations contained within these legal agreements.
- 4.49. An option to allow the developer to now develop the NEAP, will also be added into the agreement, subject to written approval from the Council and the approval of any subsequent details; secured by way of condition.

Other issues:

- 4.50. Leisure services object to application on the grounds of the applicant providing inadequate amenity space for future residents of the site. However, as part of this application the amount of amenity space is being increased, while the upper limit on residential numbers is remaining the same. As such, the application is considered acceptable in this regard.
- 4.51. It is confirmed that adequate publicity for this application was carried out, in line with the Council's statutory duty. And that all documents remain/have remained on the web portal to be viewed by residents at all times.
- 4.52. The lack of movement on the ground at the site, and wider issues in relation to this which have been raised are not a planning consideration and cannot be considered when determining the current planning application.

Conclusion

- 4.31 This S73 application seeks to vary an existing Outline Planning Permission to allow for the continued delivery of the Port Loop development. The proposed variations to the respective conditions and S106 obligations attached to original Outline Planning Permission would not alter the fundamental principles of the proposed development for which outline planning permission was granted, with the overall number of residential units and non-residential floor space remaining unchanged, and the amount of public open space being increased as part of the proposals. The Council would still hold control over the design, building densities and overall quality of the scheme's respective phases, as a result of the various conditions attached to the original outline which would remain in situ.
- 4.32. The scheme would continue to deliver much needed family housing, as well as apartments and non-residential floor space, at a high density, within a large brownfield derelict site, with excellent transport links into the city centre. The scheme further seeks to improve the site's connections by bringing into use the various canal towpaths within the site, improving its permeability and making this more sustainable for the longer term. 10% affordable housing would continue to be delivered within the development, with this ranging in its form to meet the housing needs of the city. As such the development is considered to be sustainable and offers the optimum viable use for the site's long-term future, whilst helping the Council deliver a large number of residential units on a scale, which is required, whilst not impacting upon place making or design. As such, subject to the recommended conditions, as outlined above and below, the scheme is recommended for approval, as the proposed changes have been assessed and are all in accordance with relevant policy and guidance and therefore planning permission should be granted. Deed of Variations would be required to link the existing Section 106 and 111 Agreements with the new consent.

5. Recommendation

5.1. That application 2022/00690/pa be deferred pending the completion of a suitable Deed of Variation to secure the following in respect of the land within the application site that is not owned by Birmingham City Council: -

1. 10% affordable housing within each phase of the development (location, mix and tenure to be agreed) and a further 10% potential overage (after the Education overage contribution) to be used as a commuted sum for additional affordable housing provision,
2. A financial contribution of £1.2 million, of which £400,000 on reaching occupation of 500 dwellings, a further £400,000 on reaching 700 dwellings and the final £400,000 on reaching occupation of 900 dwellings (index linked to construction costs from the 11/10/12 to the date on which payment is made) towards provision of Primary and Secondary school places within the area. An overage clause to ensure that the required levels of education contribution/affordable housing commuted sum is achieved to be 50% of the first additional £4 million of overage, 30% of the next £3.83 million of overage and 10% thereafter. A Development Viability Appraisal will be prepared at the time of each Reserved Matters Application to be reviewed by the Local Planning Authority to capture any overage payments.
3. Provision of public open space within the application site in accordance with the illustrative masterplan and the regulatory plans, subject to further details of location, phasing and specification of such works within each development phase, and where such public open space is to be put forward for adoption by the City Council for suitable maintenance contributions to be agreed for a minimum period of 15 years,
4. A financial contribution of £180,000 to be paid upon service of the implementation notice (index linked to construction costs from the 11/10/12 to the date on which payment is made) towards the provision of a Neighbourhood Equipped Area of Play (NEAP) with Multi Use Games Area (MUGA) to be situated within the proposed public open space on the site, with the option of the developer delivering the NEAP themselves, subject to approval by the Council,
5. A financial contribution of £270,000 to be paid upon the serving of the implementation notice (index linked to construction costs from the 11/10/12 to the date on which payment is made) towards the provision of a floodlit artificial grass playing pitch (AGP) at George Dixon School, or alternative project identified through the playing pitch strategy.
6. A financial contribution of £200,000 to be paid upon the serving of the implementation notice (index linked to construction costs from the 11/10/12 to the date on which payment is made) towards provision of and improvements to existing community and sports facilities at Ladywood Health and Community Centre at St Vincent Street West,
7. The provision of an area of (development ready) land within the application site for a new sports/community facility and associated parking and servicing area, in accordance with the illustrative masterplan and regulatory plans, such land to be offered to the Council by the third phase of development and/or before occupation of 500 dwellings (whichever is the sooner), such development to be procured and implemented by the City Council,

8. The development and operation of a Travel Plan for all phases of development to include the appointment of a Green Travel Plan co-ordinator.
- 5.2. A commitment to engage with the City Council and other agencies to enter into a local training and employment scheme for construction of the.

-
- 1 Limits the approval to 20/09/23
 - 2 Requires confirmatory deed in respect of BCC owned land
 - 3 Requires the submission of reserved matter details following an outline approval
 - 4 Requires the scheme to be in accordance with the listed approved plans
 - 5 Approved access details
 - 6 Role of the illustrative masterplan and regulatory plans
 - 7 Reserved matters and other details to be in accordance with the illustrative masterplan
 - 8 Requires approval of Design Code Strategy
 - 9 Requires the approval of a Landscape Strategy framework
 - 10 Requires approval of phasing details
 - 11 No more than 1150 dwellings within the application site
 - 12 No more than 12900 square metres of gross internal floorspace of non-residential development within the application site
 - 13 Maximum floorspace of a single retail store of 1300 square metres (gross internal floorspace)
 - 14 Maximum building heights of 10 storeys.
 - 15 Timing of the implementation of the non-residential floorspace.
 - 16 Requires details of proposed sustainable energy centre
 - 17 Requires details of a carbon reduction statement for each phase.
 - 18 Requires details of Digital Infrastructure
 - 19 Requires details of a sustainable waste management plan
 - 20 Requires details of public open space
 - 21 Requires details of design of the walkway across the reservoir dam.
 - 22 Requires details of design of canal towpaths
 - 23 Requires the prior submission of level details
-

-
- | | |
|----|---|
| 24 | Requires the prior submission of hard and/or soft landscape details |
| 25 | Requires the prior submission of a landscape management plan |
| 26 | Requires the prior submission of hard surfacing materials |
| 27 | Requires the prior submission of boundary treatment details |
| 28 | Requires the prior submission of a tree survey |
| 29 | Protects retained trees from removal |
| 30 | Requires the implementation of tree protection |
| 31 | Requires the prior submission of an arboricultural method statement |
| 32 | Requires the prior submission of sample materials |
| 33 | Requires the prior submission of a lighting scheme |
| 34 | Requires the prior submission of details of refuse storage |
| 35 | Requires the prior submission of a contamination remediation scheme |
| 36 | Requires the prior submission of a contaminated land verification report |
| 37 | Requires the implementation of the Flood Risk Assessment |
| 38 | Requires the prior submission of details of foul sewerage system |
| 39 | No infiltration of surface water drainage without prior approval. |
| 40 | Requires the prior submission of piling/boreholes details |
| 41 | Requires the prior submission of a construction method statement/management plan |
| 42 | Noise levels within habitable rooms |
| 43 | Noise levels within outdoor living areas |
| 44 | Requires the prior submission of a vibration protection scheme |
| 45 | Noise levels from all sources |
| 46 | Prevents the use of amplification equipment |
| 47 | Requires details of mitigation of amplified noise from Bars, Pubs and Restaurants |
| 48 | Requires the prior submission of noise insulation between residential and commercial uses |
| 49 | Requires approval of details of plant and machinery |
| 50 | Requires the prior submission of a goods delivery strategy |
-

51	Limits the hours of use of retail uses within Use Classes A1-A5 to between 07:00 - 23:30 hours Mondays to Sundays
52	Limits delivery time of goods to or from the site to between 07:00-22:00 hours Mondays to Sundays
53	Requires the prior submission of extraction and odour control details in a phased manner
54	Requires details of Biomass boilers, fuels and maintenance
55	Requires the prior submission of a construction ecological mitigation plan on a phased basis
56	Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis
57	Requires the prior submission of a method statement for the removal of invasive weeds
58	Requires the prior submission and completion of works for the S278/TRO Agreement
59	Requires details of design of bridges, roads, footways, cycleways, towpaths, parking areas, shared surfaces and associated works
60	Requires the prior submission of a parking management strategy
61	Requires the prior submission of details of turning, loading and parking
62	Requires the prior submission of cycle storage details in a phased manner
63	Requires pedestrian visibility splays to be provided
64	Requires the applicants to join 'Modeshift Stars' in a phased manner
65	Requires details of Access for the Disabled
66	Requires the prior submission of a CCTV scheme
67	Requires the prior submission of a demolition method statement
68	Requires the prior submission of Structural Recording
69	Requires the prior submission of details of public art/interpretation
70	Requires a wind shadowing study for any tall buildings
71	Removes PD rights for telecom equipment
72	Prevents storage except in authorised area
73	Limits the approval of the change of use of existing buildings to 10 years (Full)
74	Requires the scheme to be in accordance with the listed approved plans for proposed change of use application

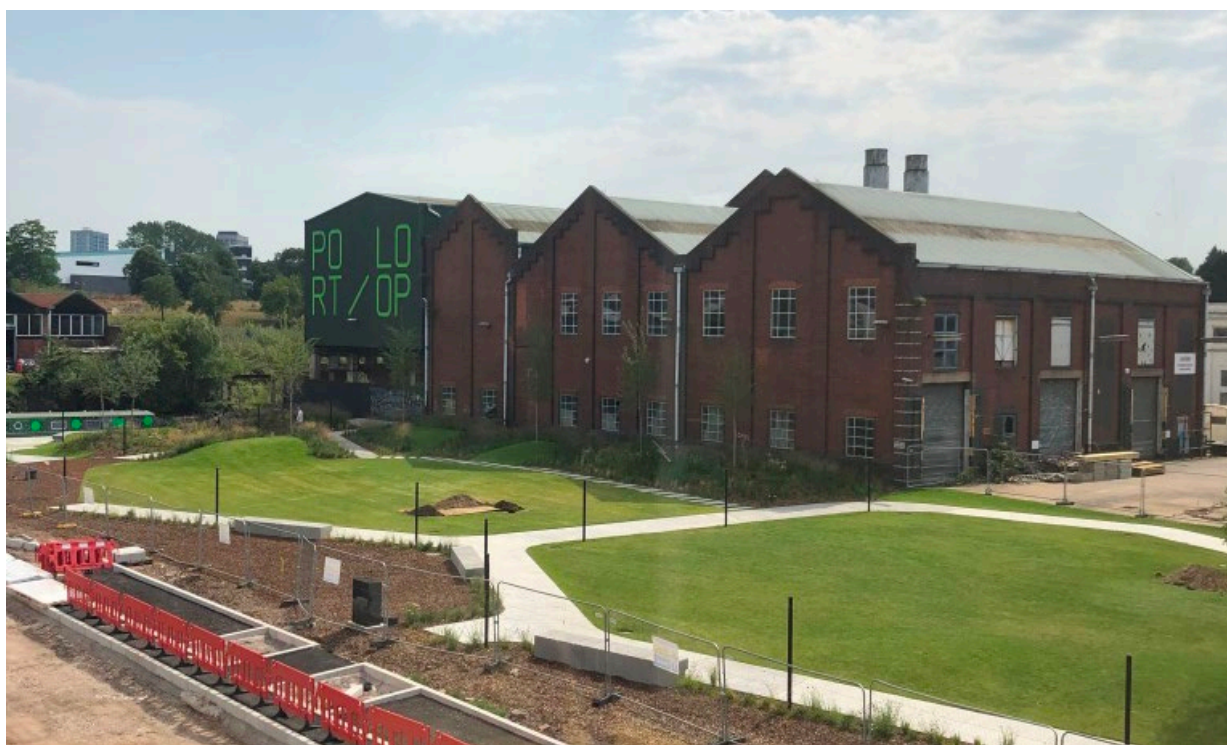
-
- | | |
|----|---|
| 75 | Limits the hours of use of retail uses within Use Classes A1-A5 (change of use application) to between 07:00-23:30 hours Mondays - Sundays. |
| 76 | Limits delivery time of goods to or from the site to between 07:00 - 22:00 hours Mondays to Sundays (change of use application) |
| 77 | Requires parking details (change of use application) |
| 78 | Requires details of refuse facilities (change of use application) |
| 79 | Requires the prior submission of extraction and odour control details (change of use application) |
| 80 | Requires the prior submission of Structural Recording (change of use application) |
| 81 | Requires the prior submission of external design details (change of use application) |
-

Case Officer: Idris Gulfraz

Photo(s)

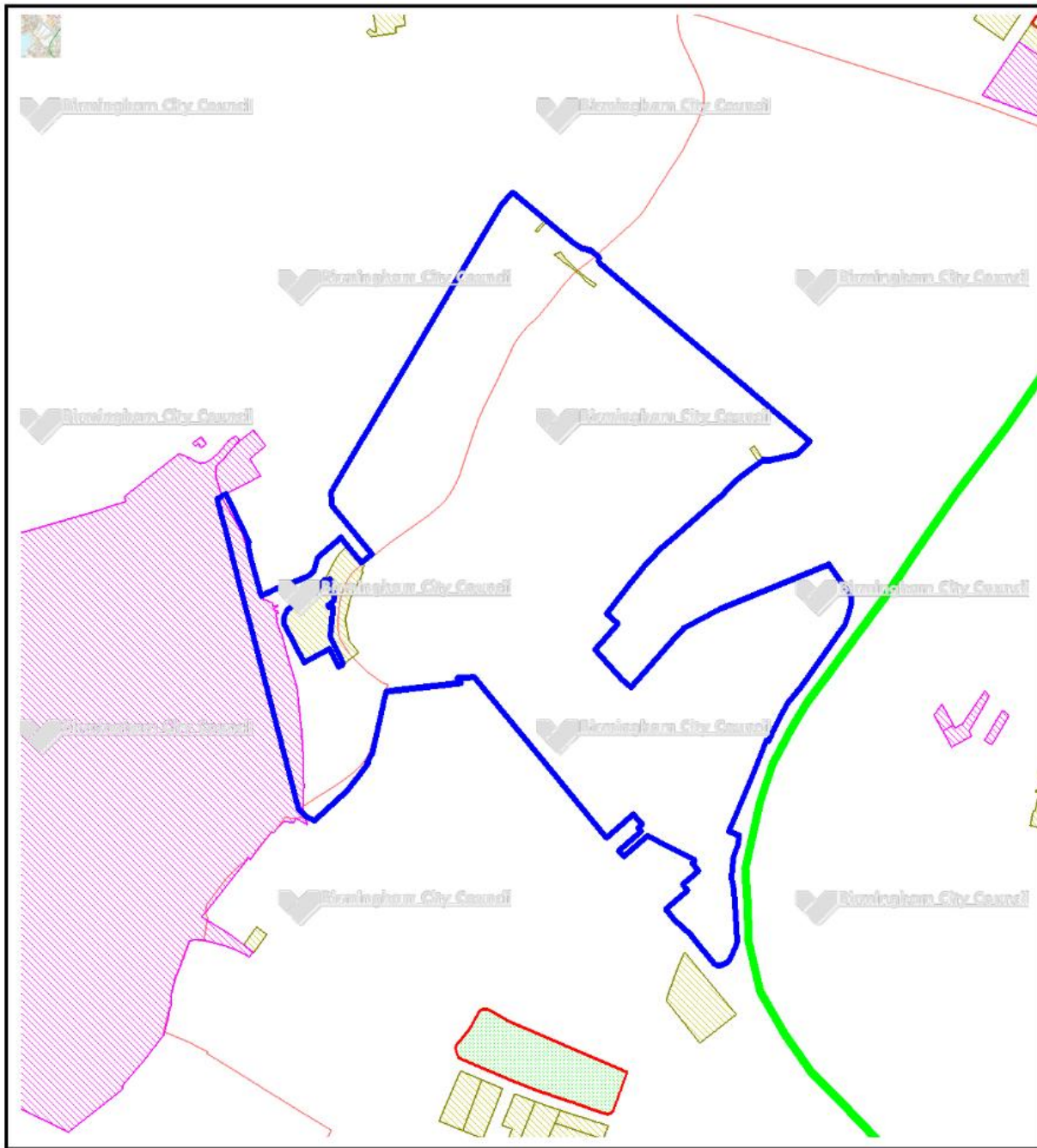


Site photo 1 – Showing houses within Phase 1A and public Park within Phase 1C.



Site photo 2 – Showing Tubeworks buildings to potentially be retained and converted, sat adjacent to park at Phase 1C.

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date: 27/04/2023 Application Number: 2022/09519/PA
 Accepted: 21/12/2022 Application Type: Full Planning
 Target Date: 22/03/2023
 Ward: Sutton Reddicap

Land at Lindridge Road, Sutton Coldfield, Birmingham

Development of 178 dwellings, including access, drainage and associated infrastructure (Please note that this is a cross-boundary application with the site access and Lindridge Road lying within BCC and all dwellings lying within NWBC (Ref: PAP/2022/0371).

Applicant: Taylor Wimpey UK Limited
 C/O Agent
 Agent: RCA Regeneration Limited
 Unit 6 De Salis Court, Hampton Lovett Industrial Estate, Droitwich
 Spa, Worcestershire, WR9 0QE

Recommendation

Approve subject to Conditions

1. Proposal:

1.1 This proposal seeks the construction of 178 dwellings, including new access, landscaping, drainage and associated infrastructure. The main access would be located at a new position along Lindridge Road, though the new with the intention of retaining and improving the existing field access as a 4m wide emergency link. There would also be one further access point onto Lindridge Road, serving six dwellings from a private drive. A balancing pond is proposed to the northern end of the development, which is the lowest point of the site. 71 affordable dwellings are proposed, totalling 40% of the total dwelling provision. The tenures would be made up of 51% Affordable Rent and 49% Shared Ownership. The overall housing mix is as follows:

- 16 x 2-bed open market
- 37 x 3-bed open market
- 54 x 4+-bed open market
- 14 x 1-bed affordable
- 36 x 2-bed affordable
- 21 x 3-bed affordable

1.2 The application has been submitted to both Birmingham City Council (BCC) and North Warwickshire Borough Council (NWBC) as the application site lies within the administrative areas of both local authorities. In this regard, BCC and NWBC have authority to approve or refuse planning permission only in respect of those parts of the application site within their respective administrative areas. Therefore, in order for the development proposals to progress, the Planning Committees of both authorities would need to resolve that they were minded to grant planning permission for that part of the development in their administrative area.

- 1.3 The majority of the site falls within the administrative control of NWBC with only the site frontage, accesses and road network along Lindridge Road located within BCC's administrative boundary. This is shown in Figure 1 below. As a result, NWBC are the lead authority for determining the application.
- 1.4 By virtue of it only being the road network that falls into BCC's administrative boundary, this report focuses on the principle of the development, highway infrastructure, road safety and the environmental impact of the development. In addressing these issues this report seeks to assess the application in its entirety whilst also advising Members clearly regarding those parts of the application site and proposal over which they have jurisdiction. Advice is also provided on which planning policies apply and are, therefore, to be considered by Members in determining that part of the scheme in their local authority administrative area. Other issues will be lead on and assessed by NWBC.
- 1.5 If either of the Planning Committees resolved to refuse planning permission in respect of that part of the scheme in their respective administrative area, then the applicant would have a right of appeal to the Planning Inspectorate against such refusal.



Figure 1: Application Site (red) and local authority boundary (blue)

- 1.6 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 This site is located on the northern side of Lindridge Road, approximately 250m east of Sutton Coldfield. It is currently in agricultural use and is triangular in shape, narrowing to a point at its northern extent. It measures 4.35ha in size and is bounded by the A38/M6 Toll to the east, Lindridge Road to the south and Langley Brook to the west. The boundaries are largely defined by hedgerow and vegetation, providing a

reasonably wide buffer to the A38/M6 Toll, which varies between 9-19m in width. Junction 9 of the M42 is located approximately 3.3 miles to the south-east of the site.

- 2.2 Within the site, the southeast corner is broadly level though levels do then fall away significantly to the north and east towards Langley Brook. Beyond the site boundary, Lindridge Road is relatively steep, with an incline from east to west, associated with Langley Brook. The A38 is significantly lower than the site itself beyond the east and southeast corners, although when this becomes the M6 towards the northeast corner, the levels are broadly equivalent.



Existing Site Access

- 2.3 There is no public access to or across the site, with an existing field access at the southern end of the site. There is also currently no footpath along Lindridge Road into Sutton Coldfield.
- 2.4 The site is predominantly within Flood Zone 1, although there is a small section of the west and north-west boundaries within Flood Zone 2 and 3, associated with Langley Brook. As a regularly ploughed agricultural field, the potential for high quality habitats is limited, except for the more mature southern and western boundaries of the site and along the Langley Brook. There are also no designated or non-designated heritage assets within or in close proximity to the site.



Aerial Site View, North-West (source: Google Earth)

3. **Planning History:**

3.1 No planning history.

4. **Consultation Responses:**

4.1 Responses have been summarised by the Case Officer. Full responses are available on the application file.

4.2 Cllr Richard Parkin (Ward Member for Sutton Reddicap) – Objection based on the design of the development, its isolated rural location, and its impact on local infrastructure and services within Sutton Reddicap.

4.3 Sutton Coldfield Town Council – Objection. Contrary to Policy H6 of the adopted North Warwickshire Local Plan which states that delivery, access and development of the site is to be directly linked to the development and delivery of the Langley Sustainable Urban Extension immediately to the south. No reference is made to the Langley SUE allocation within the submitted transport documentation and there is limited reference to how the town sites would be linked in terms access or delivery. Vehicular access is proposed to be provided from Lindridge Road, but limited information is provided on how this junction will interact with Langley SUE accesses also onto Lindridge Road. Isolated location of the development. No off-site improvements or dedicated infrastructure for cyclists has been proposed. Design and layout of the proposed development lacks imagination and local distinctiveness resulting in an overall appearance of a bland suburban development.

4.4 BCC Archaeology – No objection.

4.5 BCC Transportation – No objections subject to conditions for a Construction Method Statement, site access, services roads, turning area, access design, pavement boundary details, and a package of highway measures.

4.6 National Highways - No objection.

4.7 Environment Agency – No objection.

4.8 BCC Environmental Pollution Control - No comment.

4.9 Network Rail – No comment.

4.10 Staffordshire County Council Planning – No comment.

4.11 BCC Employment & Skills – No objection.

4.12 BCC Childcare & Early Education – Based on the current childcare sufficiency places available, local childcare providers have the capacity to absorb any increased demand from the proposed development.

4.13 BCC City Design – The overall design is poor and would not be accepted at Langley SUE. Greenspace is limited to the edges of the site and does not permeate into the housing area, where there is no public greenspace and little in the way of green infrastructure. Streets lack hierarchy and variety and are mostly dominated by car parking. The houses are very much standard housebuilder styles of little architectural merit that could be found anywhere, with a seemingly random mix of types across the site, contributing to the development having no identifiable character or sense of place.

- 4.14 Severn Trent Water – No Objection subject to a condition for drainage plans for the disposal of foul and surface water flows.

Note: The majority of the site lies within NWBC and, as the lead authority, the identified condition would need to be considered and attached, as necessary, by them.

- 4.15 West Midlands Police – No objection.

- 4.16 West Midlands Fire Service – Objection due to length of cul-de-sac (excess of 180m).

Note: The cul-de-sac in question lies within NWBC and, therefore, is not for consideration by BCC.

- 4.17 Birmingham Airport – No objection.

- 4.18 Canal & River Trust – No comment.

- 4.19 BCC Education – The proximity of the development to Sutton Coldfield would mean that the majority of new residents would utilise education facilities within the Birmingham area rather than North Warwickshire. Given this, a contribution of £1,412,984.54 is required to fund additional places at Nursery, Primary and Secondary schools in the area.

- 4.20 BCC Ecology – No objection subject to conditions for a lighting design strategy for biodiversity and details of the boundary treatment, both along the southern boundary of the site. Other conditions are highlighted for consideration by NWBC.

- 4.21 BCC Leisure Services – No comments or objections to the proposed access onto Lindridge Road which is within BCC's ownership. This is on the basis that any potential POS provision / off site POS contribution liability falls under the auspices of NWBC as all the dwellings lie within their planning area.

5. **Third Party Responses:**

- 5.1 The application has been publicised through a press notice, site notices and neighbour letters.
- 5.2 A letter from Sutton Coldfield Civic Society has been received which makes the following comments which have been summarised by the Case Officer:
- Further loss of Green Belt.
 - Pressure on existing infrastructure.

6. **Relevant National & Local Policy Context:**

National Planning Policy Framework

- 6.1 Chapter 2: Achieving Sustainable Development
Chapter 4: Decision-making
Chapter 5: Delivering a sufficient supply of homes
Chapter 8: Promoting healthy and safe communities
Chapter 9: Promoting sustainable transport
Chapter 11: Making effective use of land
Chapter 12: Achieving well-designed places
Chapter 14: Meeting the challenge of climate change, flooding and coastal change
Chapter 15: Conserving and enhancing the natural environment

Birmingham Development Plan 2017

- 6.2 PG1 Overall levels of growth
- PG3 Place making
- TP1 Reducing the City's carbon footprint
- TP2 Adapting to climate change
- TP3 Sustainable construction
- TP6 Management of flood risk and water resources
- TP7 Green infrastructure network
- TP8 Biodiversity and Geodiversity
- TP27 Sustainable neighbourhoods
- TP37 Heath
- TP38 A sustainable transport network
- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development
- TP47 Developer contributions

Development Management in Birmingham DPD

- 6.3 DM1 Air quality
- DM2 Amenity
- DM3 Land affected by contamination, instability and hazardous substances
- DM4 Landscaping and trees
- DM5 Light pollution
- DM6 Noise and vibration
- DM14 Transport access and safety
- DM15 Parking and servicing

Supplementary Planning Documents & Guidance

- 6.4 Places for All SPG (2001)
- Places for Living SPG (2001)
- Birmingham Parking SPD (2021)

7. Planning Considerations:

- 7.1 The main material planning considerations for this application are the principle of the development, highway infrastructure, road safety, ecology and planning obligations.

Principle of Development

North Warwickshire Borough Council (NWBC)

- 7.2 The majority of the site lies within NWBC and, therefore, the principle of residential development in this location falls under their adopted policies and is for them to ultimately determine. Notwithstanding this, BCC's interpretation of the relevant NWBC policies is detailed below and has formed part of the representations towards their application (ref: PAP/2022/0371).
- 7.3 The application site at Lindridge Road is allocated for residential development under Site H6 of the North Warwickshire Local Plan 2021. The allocation removes the site from the Green Belt and identifies two considerations that the site is subject to, namely:
 - Delivery, access and development of the site to be directly linked to the development and delivery of the Langley Sustainable Urban Extension immediately to the south within Birmingham City Council administrative area

and allocated in the Birmingham Local Plan.

- The location of residential development and open space to take account of the proximity of the Langley Mill Sewage Treatment Works off Lindridge Road to the north-west of the site and M6 (Toll) to the east and north.

- 7.4 It is clear from the wording of the allocation that the site was identified primarily due to its proximity to the Langley SUE to the south and the presence of the motorway to the east, which would physically enclose the site. In addition, during consultation on the North Warwickshire Local Plan, NWBC proposed that the timing of the development of the site at Lindridge Road should be linked to the development of the adjacent part of the Langley SUE. This was so that the Lindridge Road site was not developed in isolation as it was reliant on the infrastructure, facilities and design principles which were to be brought forward as part of the larger scale Langley proposal. On this basis, BCC made representations to NWBC to confirm their agreement to the policy wording which appeared in the adopted version of the Local Plan.
- 7.5 Given the current progress of the Langley SUE, which is yet to begin detailed design, the timing of the proposed development at Lindridge Road is considered to be premature and would prejudice the integration of any design issues and infrastructure provision to be provided as part of the wider Langley SUE development. The development, at this time, is therefore considered to be contrary to the requirements under Site H6 of the North Warwickshire Local Plan.

Birmingham City Council (BCC)

- 7.6 The access and frontage of the proposed development falls within the jurisdiction of BCC and, therefore, the principle of development for this application regards these aspects only. In this respect, Policy DM14 'Transport Access and Safety' of the Development Management in Birmingham DPD 2021 is the relevant consideration. DM14 requires that, amongst other things, developments must ensure that the safety of highway users is properly taken into consideration and that safe, convenient and appropriate access arrangements are in place onto the highway network during the construction and operation stages of the development.
- 7.7 The proposed development includes three accesses onto Lindridge Road, a main access approximately centrally located along the southern boundary, a private drive serving six dwellings to the west of this, and a 4m wide emergency link to the east. As well as these, measures along the existing carriageway, including a reduction in the speed limit, traffic calming measures and a new footway and crossing, have been identified. These have been assessed by the Council's Transport and Local Engineering Officers and, subject to conditions, are considered acceptable.

Conclusion on the Principle of Development

- 7.8 Whilst the Council has raised objection through representations to NWBC with regards to the principle of the residential development of the site at this time, the consideration of the proposed accesses and highways safety required by BCC is considered acceptable in principle, subject to an assessment of all other material planning considerations that affect land within the authority.

Character of the Area, Visual Amenity and Design

- 7.9 Further to BCC's representations to NWBC on the principle of residential development, given the link within site allocation H6 of the North Warwickshire Local Plan 2021 to the development of the Langley SUE, it is considered prudent to also provide an assessment of the character and design of the proposed development and how it could

impact on Langley SUE. Notwithstanding this, the determination of the acceptability of the development in this regard will ultimately be by NWBC.

- 7.10 The proposed layout is of a very standard housing estate, that pays scant regard to the semi-rural location. There is a missed opportunity to make greenery a defining feature of the development, similar to the proposals for the Langley SUE. Greenspace is limited to the edges of the site, particularly alongside Langley Brook, and does not permeate into the housing area, where there is no public greenspace and little in the way of green infrastructure within limited front gardens or highway. Streets themselves lack hierarchy and variety that could aid legibility and character, instead being dominated by car parking and hard surfacing.
- 7.11 The houses are very much standard housebuilder styles of little architectural merit that offer no sense of place or local distinctiveness, with a seemingly random mix of types across the site. The use of different colour bricks and roof tiles does not address these more fundamental design failings.
- 7.12 Overall, the design and layout are considered to be poor, and a similar scheme would not be accepted as part of future submission for the Langley SUE, which seeks to attain an exemplar level of design and sustainability that raises standards within the wider area. Given this, it is deemed that the proposals would undermine the future development of the Langley SUE due to its detrimental impact on local character and place quality, particularly due to its position at the northern gateway from the A38.

Ecology

- 7.13 The site comprises an arable field with semi-natural woodland, hedges and scattered trees around its peripheries. The wooded Langley Brook corridor is adjacent to the western boundary. Upstream (south) of Lindridge Road, Langley Brook corridor forms part of Brockhurst Farm Hedge SLINC. Downstream of Lindridge Road, sections of the brook corridor within the Birmingham boundary are identified as Langley Brook Valley Potential Site of Importance (PSI) and, to the north-east of the A38, Collets Brook Valley SLINC. The hedgerows/tree lines on both sides of Lindridge Road are identified as Lindridge Road Hedges PSI; the area of grassland and scrub on the northern side of Lindridge Road extending from the A38 embankment is identified as part of A38 Corridor PSI. They potentially contain areas of important semi-natural habitat but currently fall outside of the Local Site (SINC and SLINC) system. Notwithstanding this, they contribute to the overall cohesion and resilience of the wider ecological network by providing a buffer to, or 'stepping-stone' between, other existing important areas.
- 7.14 Along the eastern side of Langley Brook, the existing arable field is intensively managed to the edge of the woodland which borders the brook. The proposals would reduce such intensive land management practices in close proximity to the brook, with tree planting and wildflower grassland creation along the site's western boundary allowing for the establishment of a slightly wider, and more naturalised, brook corridor. Whilst this is an improvement, it is still considered to be a missed opportunity to deliver a significantly expanded and enhanced brook corridor along the entirety of the western boundary. This is reflected in the BNG Design Stage Report, which advises the proposals would result in an overall net gain of 0.4% for area-based habitats. Amending the proposed layout to increase the width of the habitat corridor along the western boundary would enable the scheme to achieve a more meaningful biodiversity gain and enhance the ecological function of the brook corridor.
- 7.15 The proposed development would introduce a new outfall to Langley Brook from the created balancing pond to the northern tip of the triangular site. This is anticipated to be the only direct impact to Langley Brook Valley PSI and Collets Brook Valley SLINC. It is considered that the construction-phase impacts associated with this element of

the scheme can be avoided or adequately mitigated through the adoption of safeguarding measures as set out in the Applicant's Construction Environmental Management Plan (CEMP) and an ecological precautionary working method statement (PWMS). As the main authority for the development, these would need be conditioned by NWBC.

- 7.16 The proposed development includes the removal of circa 128m of hedgerow from the southern boundary within BCC. Overall, however, the scheme would achieve a net gain in hedgerow units of 282.98% through new native species-rich hedgerow and ornamental non-native hedgerow planting along the site's southern, western and eastern edges. Over time, with effective establishment and long-term management, the new Lindridge Road hedge should provide similar, if not enhanced, habitat resources and ecological function, although in the short and medium term there would be a negative impact from the loss of this important ecological feature.
- 7.17 A sensitive lighting strategy is proposed to protect both the current and replacement Lindridge Road hedges to maintain these features' use as bat foraging/commuting routes and this would be secured by condition if permission is forthcoming.
- 7.18 In respect to the land within the Birmingham Authority, the proposed works are considered acceptable in terms of Policy TP8 of the BDP, subject to suitable conditions.

Planning Obligations

- 7.19 Whilst the proposal within BCC's jurisdiction is not subject to any S106 planning obligations, a request by BCC Education for £1,412,984.54 to fund the additional requirements for nursery, primary and secondary education places within Sutton Coldfield has been forwarded to NWBC for their consideration as part of their legal agreement with the Applicant.

8. Conclusion

- 8.1 Whilst BCC has raised objections with regards elements of the main residential part of the development which falls within NWBC authority, the parts of the development that lie within Birmingham's jurisdiction, namely the access, highway and frontage of the site are considered acceptable in principle and, therefore, it is recommended that planning permission be granted subject to planning conditions.

9. Recommendation:

- 9.1 Officers have made a recommendation on the basis of the Development Plan and other material considerations. It is for the Committee to weigh and balance these in coming to a decision, based on their judgement of the available evidence.
- 9.2 It is therefore recommended that the application be GRANTED subject to the following conditions, the detailed wording and numbering of which is delegated to officers:

-
- | | |
|---|--|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the submission of boundary treatment details |
| 4 | Requires the submission of a lighting scheme |
-

-
- 5 Requires the prior submission of a construction method statement/management plan
 - 6 Requires the submission of details to prevent mud on the highway
 - 7 Requires the prior installation of means of access
 - 8 Prevents occupation until the turning and parking area has been constructed
 - 9 Requires the submission of the siting/design of the access
 - 10 Requires the submission of details of pavement boundary
 - 11 Requires the submission and completion of works for the S278/TRO Agreement
-

Case Officer: Eddie Wrench

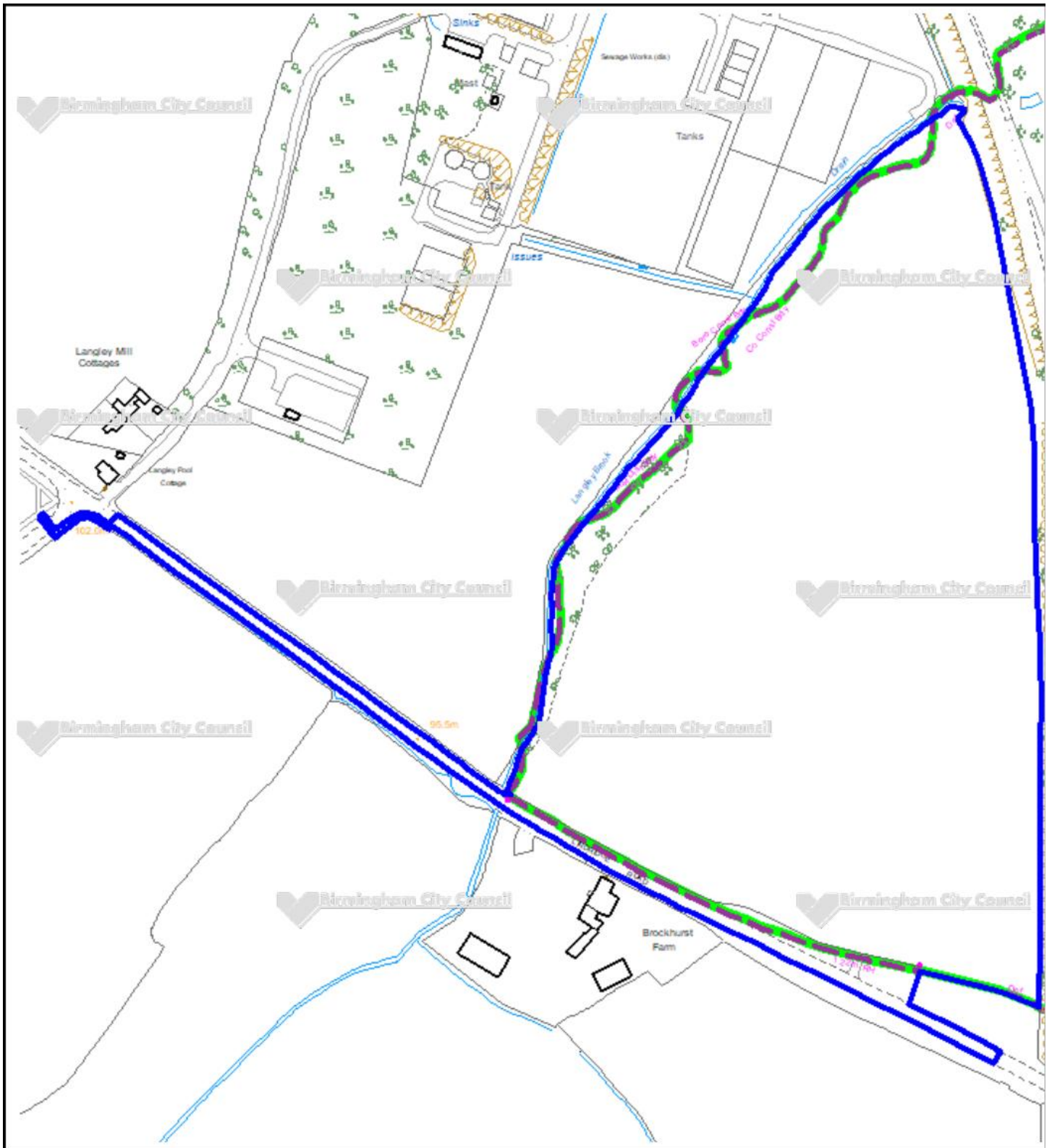
Photo(s)







Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010