

Birmingham City Council

Planning Committee

08 September 2022

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	7	2022/03585/PA The York York Road Hall Green Birmingham B28 8LE Change of use and conversion of former Public House (Sui Generis) to place of worship (Use Class F1) with ancillary out of school setting education and community facilities, installation of metal gates and creation of additional parking spaces
Approve - Conditions	8	2022/02312/PA Former Fitness First Site Pershore Road Stirchley Birmingham B30 2YN Erection of a new discount food store (Use Class E) with access, car parking, landscaping and other associated works
Approve – Conditions	9	2022/03509/PA 20 Hamlet Road Hall Green Birmingham B28 9BG Change of use from dwelling house (Use Class C3) to care home for young people (Use Class C2)

Committee Date: 08/09/2022 Application Number: 2022/03585/PA
 Accepted: 03/05/2022 Application Type: Full Planning
 Target Date: 09/09/2022
 Ward: Hall Green North

The York, York Road, Hall Green, Birmingham, B28 8LE

Change of use and conversion of former Public House (Sui Generis) to place of worship (Use Class F1) with ancillary out of school setting education and community facilities, installation of metal gates and creation of additional parking spaces

Applicant: ArRahma Foundation
 Masjid Esa Ibn Maryam, 14 Etwall Road, Hall Green, Birmingham, B28 0LE
 Agent: Claremont Planning Consultancy Ltd
 Somerset House, 37 Temple Street, Birmingham, B2 5DP

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. Planning permission is sought for the Change of use of vacant Public House (Sui Generis) to place of worship (Use Class F1) with ancillary out of school setting education and community facilities, installation of metal gates and creation of additional parking spaces at The York, York Road, Hall Green, Birmingham, B28 8LE.
- 1.2. The proposal involves conversion of The York Public House to provide a Mosque with associated education and community facilities. The building is locally listed and operated as a Pub until 30/04/2019 (as confirmed in Planning Application Form) and has stood vacant since this date.
- 1.3. The proposal would largely retain the existing internal built form/layout (total area: 757sqm) with alterations primarily associated with changing the 'function' of existing spaces to reflect the proposed Place of Worship and associated education/community uses. The changes would facilitate creation of the following internal layout:
 - Ground Floor: 3no. Prayer Halls, Ablution area, Office, Shower, Locker for cyclists, Toilets and access points (note that these will remain as existing)
 - First Floor: (floor used for education and community activities/services) 3no. 'undefined' rooms, Multi-purpose room, Kitchen, Meeting room, 3no. Storerooms, 3no. Classrooms, toilets (note that these will remain as existing)
- 1.4. In terms of development occurring externally, the most significant proposals relate to creation of car parking and alterations to boundary treatment:
 - Creation of car parking provisions to the east of the property – provision for 44no. standard car parking spaces, 2no. car parking spaces for EVs (incorporating floor

- mounted electric vehicle charging points), 1no. disabled parking space, 4no. motorbike parking spaces and secure cycle storage shelter.
 - Creation of car parking provisions to the front of the property – Provision for 2no. disabled car parking spaces.
 - Creation of car parking provisions to the west of the property – provision for 5no. standard car parking spaces.
 - Installation of 4.3m wide, 2.0m high metal gates (painted black finish) controlling access and egress to the main eastern car park.
 - Improvement to the existing boundary treatment, replacing section of existing timber board panelling with sympathetic brick wall to match the established brick wall/pillar feature presently adjoining the application property.
- 1.5. Clarification has been sought regarding the intended works to the car park where a large hardstanding area already exists. The agent has confirmed that 'the applicant will be resurfacing the car park to improve the appearance of the site overall' in addition a small extension to the car park would be undertaken at the northern boundary with York Road, replacing a small area of landscaping to create an additional 3no. spaces.
- 1.6. Application plans demonstrate that no alterations to the external elevations of the application property are proposed. However, confirmation has been sought from the agent that this is the case, given that the property was built in 1929 for the specific function as a Public House and has a distinctive 'roadhouse' character with Domestic Revival Style architecture. The agent has provided written confirmation that 'The applicant (ArRhama Foundation) seek to reuse the building without substantial modification. The works will be restricted to those necessary to repair and make-good the building'. In addition to this statement the agent has provided a 'Schedule of Works' Document which details the following external alterations:
- Fox Hollies Road Elevation (East side):
 - o Walls repainted
 - o Graffiti removed
 - o 'The York' signage and associated lighting removed
 - o Wooden cover over outdoor seating removed
 - o License signage removed
 - o Light above entrance cleaned and rehung
 - o Render alongside entrance made good by painting
 - o Broken windows to be replaced to match existing
 - York Road Elevation (North side):
 - o Pub totem sign removed
 - o 'The York' signage and associated lighting removed
 - o Red 'welcome' signage above doorway removed
 - o Bar sign above doorway removed
 - o Globe light above door refurbished and retained
 - o Hoardings and securing fencing removed upon completion of works
 - o Front hardstanding area cleared of weed vegetation and frontage grass maintained
 - Car Park Elevation (West side):
 - o CCTV and lighting to be retained on exterior
 - o External lighting cleaned and rehung
 - o Wooden panel fencing to be replaced with sympathetic wall section
 - Rear Elevation (South side):
 - o Ivy removed
 - o Render repainted and made-good
 - o Grassed area to be reseeded

- 1.7. The above schedule of works are considered to represent external alterations which are not materially significant given that they do not relate to elements of the building fabric which are fundamental to the historic significance of the property, rather temporary elements which have been added to the building at a later date such as metal signage/lettering and removal of elements contributing an 'eye-sore' such as graffiti.
- 1.8. The Planning Statement submitted as part of this application outlines the intended operating patterns for the Mosque and associated education/community facilities:
- Place of Worship open 7 days per week and would hold 5 official prayer sittings each day
 - Monthly specific opening hours as follows:
 - o September to March 0700 to 2000
 - o April to August 0400 to 0000
 - On Friday a 'congregational prayer event is held between 1200 and 1400
 - Site operational during Ramadan and Eid celebrations
 - Educational classes:
 - o Children's classes (run as 2 x classes per day): 1630 to 1930 Monday to Friday and 1000 to 1300 Saturday and Sunday
 - o Adults classes between 1000 and 1300 Monday to Friday
 - Community uses (various):
 - o Mother and Toddler groups, Ladies Islamic Teachings 0900 to 1600 Monday to Friday and 1900 to 2200 on Sunday
 - o 3 x Community seminars/meetings per day on weekdays and between 0900 to 1200 or 1300 to 1600 on Saturday and Sunday
- 1.9. The Planning Statement also confirms the expected daily visitation rates to the site which would be as follows:
- Prayer sittings: between 20 and 50 attendees
 - Friday Congregational Prayer: 150 attendees
 - Ramadan and Eid celebrations: 180 attendees (maximum)
 - Children's classes: 50 attendees
 - Adults classes: 20 to 30 attendees
 - Community uses (various): 50 attendees (maximum)
- 1.10. [Link to Documents.](#)

2. Site & Surroundings:

- 2.1. The application site relates to The York Public House and its curtilage. The York is locally listed, built in 1929 by architects Harrison & Cox for Mitchells and Butlers and began operating as a pub in 1931. The two-storey property, which presents white render elevations with yellow stone, a dominant chimney gable and some ornate stone carved detailing, is an example of a 'roadhouse' pub of Domestic and Revival architectural style.
- 2.2. The property occupies a prominent corner location where York Road meets Fox Hollies Road. The principal elevation fronts York Road and the property is set back from the respective highways sitting within a generously sized plot. There is a particularly spacious tarmacked parking area to the west elevation and area to the east elevation fronting Fox Hollies Road which currently presents unkempt vegetation and an outdoor seating area in poor condition.
- 2.3. The site is located in a predominantly residential area, with two storey properties along York Road, Brooklands Road and Fox Hollies Road. Further west from the

site, along Brooklands Road, there is a small shopping parade comprising units with ground floor business/retail/service uses with residential apartments above. The site is bound to by a number of mature trees and is covered in its entirety by Tree Preservation Order (TPO) 1056. The TPO primarily relates to two London Plane Trees to the eastern corner of the site.

2.4. [Site Location Plan](#)

3. Planning History:

- 3.1. 2006/02831/PA – Erection of rear extension, external alterations and works including the provision of two outdoor patio areas and a ramped entrance – Approve subject to conditions (05/07/2006)
- 3.2. 2006/05433/PA – Variation of planning approval S/02831/06/FUL to provide rear kitchen extension and associated extract and ventilation equipment, external alterations and works including the provision of outdoor terrace/patio area, with three parasols and a ramped entrance – Approve subject to condition (15/11/2006)
- 3.3. 2019/06453/PA – Erection of three storey extension and associated works to create a 30-bed hotel – Approve subject to conditions (19/03/2021)

4. Consultation Responses:

- 4.1. Conservation Officer- Raises no objection to the proposal, summarising that *‘whilst there will be some minor harm to this locally listed building through the loss of its historic significance as a public house. Bringing a vacant heritage asset back into use and carrying out external repairs and refurbishment are considered to offer heritage benefits which, on balance, mitigate for this level of harm. In addition, the change of use and internal alterations are reversible and therefore there are no objections to this proposal’*.
- 4.2. Transportation Development- Following assessment of the Transport Statement, Transport Plan and proposed plans the Officer raised concerns relating to:
 - Incorrect car parking standards referenced in Transport Statement
 - Transport Statement does not provide specific details of on-street parking available surrounding site and a BEAT Survey could support evidence base
 - Application plans do not show provision of EV charging points and spaces

The Transport Officer has reviewed the amended Transport Statement, amended plans and additional written statement provided by the applicant and confirms that revisions are satisfactory, and the Officer has no objections to the proposal.
- 4.3. Environmental Pollution Control- Raises no objection to the proposal subject to attachment of conditions which secure agreement of extraction and odour control details, secure provision of EV charging points and parking spaces, limit hours of operation and limit maximum number of visitors to the site.
- 4.4. Tree Officer- Raises no objection to the proposals subject to attachment of a condition which requires submission and agreement of an Arboricultural Method Statement.
- 4.5. West Midlands Police- Raise no objections to the proposal but advise that the applicant should consider relevant ‘crime prevention advice’ which is found online.
- 4.6. West Midlands Fire Service- No objection to the proposal. The development will need

to comply with Building Regulations.

5. Third Party Responses:

- 5.1. Neighbouring occupants, Residents Associations, Ward Councillors and Local MP have been consulted, a press notice has been published and a site notice has been displayed outside of the site for 21 days (between 20/05/2022 and 11/06/2022).
- 5.2. A total of 432 responses have been received from residents, 212 of these responses are in support of the proposal, 220 of these responses are in objection to the proposal. A petition in support of the application has also been submitted which contains a total of 2272 signatures split into 1074 handwritten signatures and 1198 online signatures.
- 5.3. Key issues raised in letters of objection are as follows:
- Area already has enough Mosque facilities
 - Area has enough education/community facilities similar to this proposal
 - Mosque facilities are typically only full (at maximum capacity) during Friday prayer, otherwise they largely stand empty – not a good use of the site
 - The proposal will cause car parking and traffic flow issues in an already congested area which has a history of road traffic accidents
 - The proposal will create noise issues for local residents – particular concern relates to 4am summer prayer times
 - Concern that the mosque will operate as a business under 'charity' status
 - Concern that those who have written to support the proposal are not local to the area but from Mosque communities further afield operated by the ArRahma Foundation (for example Etwall Road Mosque)
 - Concern regarding type/approach to religious teaching to be undertaken
 - Concern that the proposal could result in division in the community - possibly 'alienate' local people
 - The York is the only pub in the area and was built with the intension to be a pub and serve as a local community hub – it has always been a 'popular community facility' and should be retained as such
 - Preferable to have a development which can be used to bring all members of the community together – provision of an inclusive community space 'for all' considering the local area is diverse with a mix of cultural groups
 - The land area would be more beneficially used for services i.e. GP, dentist many of which in area are over capacity, new houses or safe/secure facility for children
 - Consideration that the previously accepted planning permission granted was a 'better option' for the site
 - Given the residential nature of the locality this is an inappropriate site for a Place of Worship
 - Concern that lots of pubs are being closed down around the city so important

that this one is not lost – The York should ‘remain vacant until a suitable buyer is found to revert The York back to a pub’

- Concern that the proposal will negatively impact the listed building/local landmark and the history/heritage value
- Concern that proposed new boundary treatment will not be in keeping with the building
- Unclear where figures stated in the Planning Statement have been concluded from, primarily the number of people attending prayer times - concern that the numbers stated represent an underestimation
- Concern that the proposal will result in significant highway safety and parking issues:
 - o 53 parking spaces marked on the plans will not be sufficient for the size of the building
 - o The proposal will increase level of on-street parking causing congestion
 - o Congestion could make access for emergency vehicles difficult and the highway environment will be dangerous for pedestrians
 - o The submitted Transport Statement relies on TRICS data with no traffic survey undertaken
 - o The transport evidence provided by the applicant appears inaccurate as information suggests most visitors will ‘walk/cycle’ to the site ‘which is unlikely to be reality’
 - o The area already has a history of ‘rat-running’ issues and road traffic accidents/collisions and this proposal will exacerbate this – especially at York Road/Fox Hollies Road junction
 - o Given the recent residential developments in the area (York Greyhound stadium and Cateswell Road) these are already putting strain on local roads so this proposal will exacerbate strain
 - o Concern that visitors to the site will park on grass verges and block driveways used by local residents
 - o Impact of more cars on air pollution levels in the local area
- Residents feel they have not been sufficiently informed of the proposal - there has been a poor level/lack of notification with the site notice and social media coverage insufficient – residents expected that a public meeting and/or ‘door knocking’ would have been undertaken
- Concern that the proposal could cause loss of privacy for residents
- Negative health implications for vulnerable local residents who will be disturbed by the noise generated by the mosque
- Concern that the proposal could devalue the area and cause issues for residents wanting to sell their homes in the future
- One request received for more time to submit concerns – to enable further research to comment

5.4. Key issues raised in letters of support are as follows:

- The proposal will meet a need in the local community - there are limited existing local Mosque facilities therefore surrounding facilities are busy/overcrowded
- Proposal will alleviate pressure from existing Mosque/education/community

facilities

- The ArRahma Foundation intend to deliver community outreach projects (e.g. education, youth services, food banks, wellbeing classes) and nothing similar exists in this area
- The proposal will renovate a currently vacant building, promoting activity in the dead/unutilised site which is becoming an 'eyesore' - attracting antisocial behaviour and graffiti
- The proposal provides an opportunity to regenerate and celebrate an attractive listed building
- Proposal provides an opportunity to respond to the green surroundings of the site (e.g. provide biodiversity net gain by introducing natural features) and to implement traffic management measures
- The proposed site is an excellent location for a Mosque, easily accessible for locals who will be able to walk/cycle – locals will not have to travel as far
- The proposed site provides excellent levels of car parking
- The proposal will accommodate religious practice, recognising the needs of the diverse local community and 'improving harmony within the community'
- The proposal will provide young people with a place to go which will tackle anti-social behaviour issues
- The ArRahma Foundation is recognised as a professional organisation with existing examples of established places of worship throughout Birmingham providing community services
- The proposal could create jobs for people in the local area and would be positive for local businesses
- The Mosque could provide collaborative services with Public Health England

6. Relevant National & Local Policy Context:

6.1. Relevant National Policy:

National Planning Policy Framework (2021) (NPPF):

- Part 8: Promoting Healthy and Safe Communities
 - o Paragraph 92 (a-c) and 93 (a to e)
- Part 9: Promoting Sustainable Transport:
 - o Paragraph 111, 112 (a to e) and 113
- Part 12: Achieving Well Designed Places
 - o Paragraph 126, 130 (a to f) and 132
- Part 15: Conserving and Enhancing the Natural Environment
 - o Paragraph 187
- Part 16: Conserving and Enhancing the Historic Environment:

- Paragraph 194 to 197 (a to c)
- Paragraph 200 to 203
- Paragraph 208

National Design Guide (2019)

Planning (Listed Building and Conservation Areas) Act 1990

6.2. Relevant Local Policy:

Birmingham Development Plan (2017) (BDP):

- PG3: Placemaking
- TP21: Network and Hierarchy of Centres
- TP24: Promotion of Diversity of Uses Within Centres
- TP25: Tourism and Cultural Facilities
- TP27: Sustainable Neighbourhoods
- TP12: Historic Environment

Development Management in Birmingham Document (2021) (DMB):

- DM2: Amenity
- DM6: Noise and Vibration
- DM8: Places of Worship and Faith Related Community Uses
- DM14: Transport Access and Safety
- DM15: Parking and Servicing

6.3. Relevant Supplementary Planning Documents:

- Birmingham Parking SPD (2021)
- Planning Guidelines for development Involving Public Houses
- Places for Living (2001)
- Places for All (2001)

7. Planning Considerations:

- 7.1. This application has been assessed against the objectives of the policies set out above.
- 7.2. The key matters for consideration in the determination of this application are the principle of the proposed change of use development, impact upon visual amenity of the locality, amenity of local residents, significance of the application property as a Locally Listed building and highway safety and parking matters.

Principle of Development

- 7.3. The NPPF seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Specifically, relevant in the case of this application for change of use from former public house (Sui Generis) to Place of Worship (Use Class F1) is Section 8, paragraph 93.e which states that *'planning decisions should...plan positively for the provision and use of shared space,*

community facilities (such as...places of worship) and other local services to enhance the sustainability of communities and residential environments’.

- 7.4. Local Policy supports this stance, with PG3 and TP27 of the BDP requiring all new development to contribute to a strong sense of place, with new development reinforcing or creating a positive sense of place and a local distinctiveness. Within the DMB, policies seek to ensure that all development is location appropriate and that development secures compatible uses with acceptable cumulative impact (policies DM2 and DM6).
- 7.5. Furthermore, policies outlined above are reinforced by ‘Places for All’ SPD which promotes development that encourages diversity within places, complementary uses, accessibility, safe and attractive spaces, development to support future-proof places, and that considers the context and character of the site and locality.
- 7.6. In this instance, the proposal to convert The York Public House (use class Sui Generis) into a Place of Worship (Mosque) (Use Class F1) is particularly unique and sensitive given the location of the proposed Place of Worship- outside of a designated local centre, the loss of the public house and the impact of this loss upon its locally listed status. These factors underpin assessment of the acceptability of the development in principle and each of these factors are addressed in separate sub-sections below.

Out of Centre Location

- 7.7. Policy DM8 of the DMB sets out that preferred locations for Places of Worship are within the defined network of Local Centres as set out in Policy TP21 of the BDP. In this instance, the application site is located outside of a defined local centre, the closest being Olton Boulevard which sits approximately 440m north and Hall Green which sits approximately 560m south west. The proposed location would technically be contrary to the primary aim of Policy DM8 of the DMB. However, DM8 does recognise that there may be circumstances when an ‘out of centre’ location is justified with consideration given to sites which:
- Are well located in relation to the population the premises are to serve by means of walking, cycling and public transport
 - Will not have an unacceptable adverse impact on local amenity, parking, public and highway safety
 - Do not conflict with any other policies in the local plan
- 7.8. Paragraph 87 and 88 of the NPPF requires that a sequential assessment is necessary for *‘planning applications for main town centre uses [this includes Places of Worship] which are neither in an existing centre nor in accordance with an up-to-date plan’*. Paragraph 88 goes on to note that *‘preference should be given to accessible sites’*.
- 7.9. Pre-application advice provided (reference: 2021/06002/PA) advised that submission of a Sequential Assessment would be required as part of the application in order to justify the principle for establishing the Place of Worship Use in the proposed location. The advice also set out the Local Centres which should form the basis of the assessment (Hall Green, Tyesley, Olton Boulevard, Springfield). In accordance with this recommendation, the agent has submitted a Sequential Assessment Document which has sought to demonstrate that there are no suitable alternative sites within the Hall Green (The Parade, Highfield Road and Robin Hood) Tyseley, Olton Boulevard and Springfield Local Centres and therefore the sustainable, out of centre location of the proposal is acceptable and accords with policy.
- 7.10. The findings of the Sequential Assessment are:

- Web-based marketing data has been analysed and this yielded results which demonstrated *'no sites or properties available for lease or purchase within any of the identified six centres or on the edge of the six identified centres'*.
- Birmingham City Councils Strategic Housing Land Availability Assessment (SHLAA) 2020 has been analysed with identified sites reviewed in terms of their appropriateness. This assessment found that:
 - o *'a large number of sites have been discounted as they are not located within a defined centre and so would not be sequentially preferable locations'*.
 - o Some sites were identified within Local Centre boundaries and adjacent to these boundaries however, these locations have been discounted for the following reasons:
 - Extant permissions on site with some submitted Discharge of Conditions Applications implying progress of development
 - Recent development commenced on site e.g. housing
 - Some sites have been recently 'removed from the market' so no longer available
 - Site too small to accommodate the desired use

7.11. The Planning Policy Officer has reviewed the Sequential Assessment and is satisfied that *'the assessment seems to be sufficiently thorough to demonstrate that there are no alternative local centre locations which are sequentially preferable'*. I concur with the view of the Officer. With regard to the scope of the assessment, I note that test has included consideration of alternative sites both for the proposed use, combining the Place of Worship and Educational/Community facility, and has tested alternative sites based upon splitting the uses across different sites. A total of 25 sites from the SHLAA have been reviewed (Appendix 2 of the Sequential Assessment document). On this basis, I consider that the assessment undertaken is a sufficiently robust analysis and demonstrates that no better alternative site exists than that proposed.

7.12. The Planning Policy Officer acknowledges that *'Policy DM8 of the DMB sets out additional criteria which can be used to demonstrate that a Place of Worship can be effectively accommodated within an out of local centre location. These criteria relate to 1) location being served by public transport, walking and cycling routes, 2) proposal not having an unacceptable impact upon local amenity, parking or safety'*. These aspects of the assessment relate specifically to amenity and highways and are central to the determination of the application and are scrutinised in the subsequent sections of this report.

7.13. Based on the above assessment I conclude that the principle of the out of centre location of the proposed Place of Worship is justified and acceptable.

Loss of a Public House 'The York'

7.14. Birmingham City Councils 'Planning Guidelines for Development Involving Public Houses' summarises the value of Public Houses as providing 'a focal point for local/community activities' and seeks to preserve such uses. The document states that 'in assessing the impact which proposals involving closure of a public house may have on local amenity, consideration will be given to:

- a) Availability of alternative public houses to serve the needs of the local community. Account will be taken of the number and degree of accessibility of any such alternative premises.

- b) The nature of the proposed new development/use, and in particular whether or not the proposal provides for retention of a leisure/community use on all or part of the site.

7.15. In addition, justification for the loss of a community use, such as a Public House, could be further strengthened by evidence which demonstrates that use of the site as a public house is no longer economically viable and as such, diversification away from this use could be justified.

7.16. In this instance, The York was built in 1929, completed in 1931 and operated as a Public House until May 2019. The York is considered to be a well-established pub having served the local community for 88 years. Crucial to considering the acceptability of the loss of this use is an evidence base to demonstrate compliance with the criteria set out in PGDIP (summarised at point 7.7 above) and evidence of any marketing/economic trends. As part of this application, the agent has provided a Planning Statement which seeks to justify the loss of the public house. The statement acknowledges that Paragraph 93 of the NPPF and the PGDIPH stress the community value of 'shared spaces/community facilities', including public houses and that the impact of their loss can be 'negative for communities'. However, evidence provided in points 8.2.1 to 8.2.4 of the Planning Statement raise the following justification:

- 2008 smoking ban resulting in general decline of trade and custom at a national level for public houses
- Attempts made by The York to diversify the public house are evident from the planning history associated with the site. This most recently and notably includes 2019/06453/PA permission granted for '*erection of three storey extension and associated works to create a 30-bed hotel*'. Despite permission being granted this development has not been implemented and has been stated as demonstrating that '*despite the grant of planning permission for an ancillary hotel offer, the application site is no longer regarded as financially viable location for a public house use.*'
- The York ceased trading as a public house in May 2019 and has stood vacant since this date.
- A spatial analysis of existing public houses near the vicinity of the application site has been provided (**Figure 1** below).

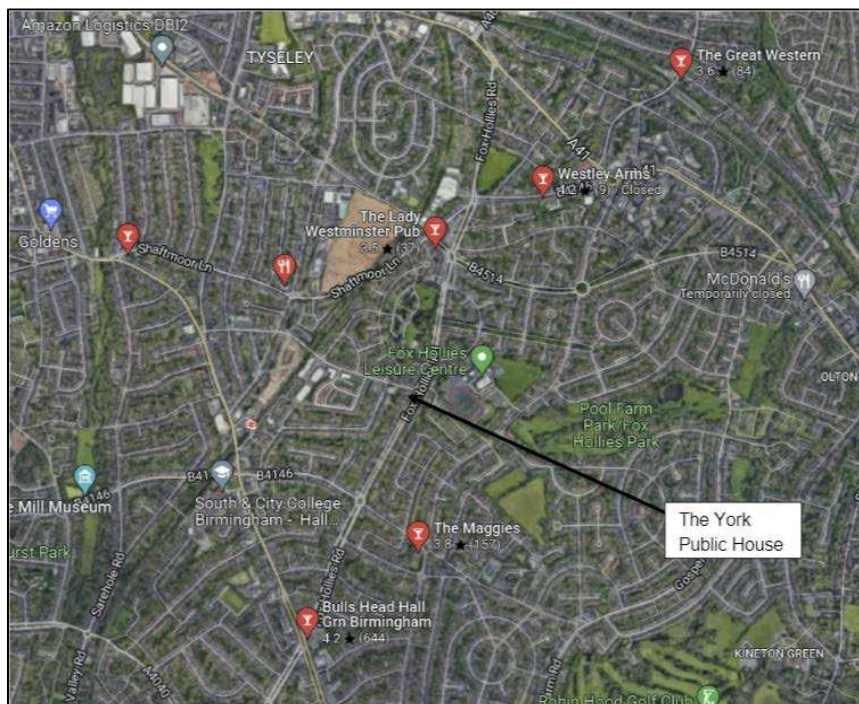


Figure 1 – Spatial Analysis of Surrounding Existing Public Houses (Extracted from Planning Statement Document – Page 26(ii))

- The application proposes the change of use of the existing public house to a Place of Worship and this *'provision for the retention of a community use on site is in accordance with the Council's guidance'*. The statement goes further to acknowledge that Paragraph 93 of the NPPF identifies Places of Worship as facilities which should be positively planned for and contribute to the sustainability of communities.

- 7.17. The Planning Policy Officer has reviewed the information provided and concludes that 'the loss of the public house is considered to be in accordance with criteria in the 'Planning Guidelines for Development Involving Public Houses' SPG' and as such raises no objections to the proposal. I concur with the view of the Policy Officer. Notwithstanding this, a request was made to the agent for submission of additional marketing details which would bolster the evidence base and further justify the loss of The York as a Public House. The agent acknowledged the request, however, was not forthcoming with additional details, given that there is no specific policy basis underpinning the request. The agent states that the BDP requires submission of marketing details for proposal seeking change of use from employment land (Policy TP20) and given that the lawful established use of the application is a public house and falls within 'Sui Generis' it would not fall within the requirement of TP20. Whilst it is regrettable that no additional marketing information has been provided, as the Policy Officer concludes, the evidence summarised above (point 7.9) does satisfy the relevant planning policies and therefore is sufficient justification. The information provided could not be considered as lacking or insufficient.
- 7.18. The evidence provided demonstrates that there are 4no. alternative Public Houses within a 15-minute walking distance of The York site. The Lady Westminster Pub is closest just a 9-minute walking distance northbound (800m). There are three other Public Houses identified within the spatial analysis submitted which are slightly further afield, approximately a 30-minute walking distance from The York.
- 7.19. The nature of the proposed use as a Place of Worship, although different to a pub, would still fall within a use serving and benefitting the community. Given this the proposal would satisfy Paragraph 2.a and 2.b of the PGDIPH and paragraph 93 of the NPPF. Furthermore, based on national trends, current vacancy and planning

history it can be reasonably argued that viability constraints have prevented successful operation of The York as a public house and that this is unlikely to be the most appropriate future use for the site. As such, conversion of the currently vacant property into a place of worship with associated education/community facilities would satisfy NPPF paragraph 8.a which identifies the 'economic objective' of sustainable development where planning decisions 'should ensure use of land is responsive to economic changes and is in the right place to support economic growth'. Finally, I note that whilst the lawful established use of The York is a Public House, it has stood vacant since May 2019 hence its role as a space serving the community has been limited for the past 3 years and 3 months (at the time of assessment). On this basis, I consider that this proposal to bring back this vacant property into a community use is a positive one.

- 7.20. Based on the above assessment I conclude that the principle of the loss of The York as a Public House is justified and acceptable.

Impact on Residential Amenity

- 7.21. Policy DM2 of the DPD states that '*all development will need to be appropriate to its location and not result in unacceptable adverse impact on the amenity of occupiers and neighbours*'. In assessing the impact of development on amenity the following will be considered: visual privacy and overlooking, sunlight, daylight and overshadowing, aspect and outlook, access to high quality and useable amenity space, noise, vibration, odour, fumes, dust air or artificial light pollution, safety considerations, crime, fear of crime and anti-social behaviour, compatibility of adjacent uses, individual cumulative impacts of development'.

Visual Privacy and Overlooking, Sunlight/Daylight and Overshadowing, Aspect and Outlook

- 7.22. In this instance, despite the surrounding dense residential nature of the location, given that the proposal would not include any changes to the built form of the application property by way of extensions, the building footprint and window arrangement would remain as existing. As such, I do not consider that the change of use would have any implications with regard to privacy, overlooking, light availability or aspect/outlook.

Access to high quality and useable amenity space

- 7.23. In this instance, the proposal involves a change of use of an existing site with no material external changes. The proposal would not involve loss of any useable amenity space and therefore would have no material impact upon current availability of such spaces within the locality.

Noise, vibration, odour, fumes, air and artificial light pollution

- 7.24. Potential noise and light pollution resulting from the proposed change of use has been a key consideration in assessing the acceptability of this proposal. The proposal would convert a currently vacant building into a Mosque with associated educational/community facilities and as such a significant level of usage is anticipated. The proposed hours of use are 0700 to 2000 between September and March and 0400 to 0000 between April and August. These hours would accommodate 5 daily prayer sittings, Friday congregational prayer event, Ramadan and Eid celebrations, daily educational classes and daily community classes/meetings. In addition to specified operating hours, the agent has also submitted details of expected visitor numbers to the site. These numbers are variable with between 20 and 50 attendees at each daily prayer sitting, educational class and community use and up to a maximum of 180 attendees during Ramadan and Eid celebrations.

- 7.25. Given the dense residential surroundings and the out of centre location, ensuring that noise/disturbance resulting from the proposal does not harm amenity of residents is critical. Mitigating such impacts must also be balanced with ensuring that any restrictions upon use of the Mosque, achieved through planning conditions, would be achievable and satisfy the intended use. It is considered that a significant amount of the noise generated by the proposal would be associated with trips to and from the site, specifically vehicular movements with people entering and exiting their vehicles. The noise/disturbance implications of the proposal would directly correlate to the number of trips generated by the site which are in turn governed by the number of attendees visiting the site and the hours across which these visits take place.
- 7.26. It is noted that the proposal incorporates provision for 53 car parking spaces which the Transportation Development Officer has confirmed complies with the Birmingham Car Parking SPD and, importantly in considering noise/disturbance, is 'sufficient to accommodate the proposed maximum capacity of the Place of Worship at 180 visitors'. Given the noise associated with vehicular trips, the requirements of Transportation Development would need to be balanced with requirements of Environmental Pollution Control, who would seek to manage noise/disturbance impacts through implementation of conditions which limit hours of use and numbers of visitors.
- 7.27. In this instance, the primary concern is with the operation of the proposed Place of Worship during those more 'sensitive' hours. Specifically, the proposed extension of operating hours during the 'summer months', April to August, which would be 0400 to 0000. These months would also incorporate Ramadan and Eid celebrations during which the number of visitors to the site would be expected to increase. The primary concern is that the extended morning opening hours (0400 to 0800) and associated trips would generate noise which would not be considered acceptable or compatible with the residential locality. In order to overcome potential harm an agreement has been reached between Environmental Pollution Control and the Agent in which the number of visitors allowed to the site is limited by way of planning conditions:
- 1) A maximum of 30 visitors between 0400 and 0800 April to August
 - 2) A maximum of 50 visitors between 0400 and 0800 during the month of Ramadan
- 7.28. Whilst I acknowledge that the summer hours of operation would be greater than the previous Public House, particularly in the morning period, given the restrictions placed upon number of worshippers at these times an acceptable balance would be achieved with extended hours counterbalanced with less people and less trips.
- 7.29. With regard to the 'every day' operation of the site, the permitted hours of operation are 0800 to 2200. I consider that the opening hour of 0800 is during the typical morning commute period and that the closing hour of 2200 would be earlier than the previous use of the site as a Public House, whose current licence allows for the pub's operation between 1000 and 0000 daily. On balance, these operating hours would be compatible with the residential setting and would not compromise residential amenity with regard to noise/disturbance. In addition, the number of visitors to the site would be limited to a maximum of 180. Consideration has been given to the fallback position of this site and its historic function as a Public House, which, if operated to full capacity would reflect a comparable level of use, with arguably greater potential for generation of noise/disturbance. Furthermore, in the Transport Statement submitted as part of the application Part 5 outlines an assessment of the trip generation associated with the site. Point 5.6 of the Statement notes that *'a high proportion of the congregation will live within walking and cycling distance of the Mosque. A high proportion will car share with an average occupancy of three. A minimum of 30% of people will travel to the site by alternative modes including walking, cycling and public transport'*. The

Transportation Development Officer raises no concerns in relation to the above assessment hence the figures can be considered as reflective of the realised trips. I note that, as a 'worst-case' scenario, the trips associated with Friday congregational prayer would be '35 cars' (point 5.10). Given that these trips would be between the hours of 1200 and 1400 any noise/disturbance would not be insensitive to the residential surroundings and the remaining 115 visitors would arrive by alternative modes.

- 7.30. Given the above assessment, comments from Transportation Development, Environmental Pollution, evidence obtained from the submitted Transport Statement and conditions agreed, I consider that the residential amenity of neighbouring occupiers in terms of noise/disturbance would not be compromised by the proposal.

Safety – fear of crime and anti-social behaviour

- 7.31. With regard to safety, the application site currently sits vacant and has done so since May 2019. A site visit demonstrated that the property has been subject to vandalism including graffiti. The proposal would bring the building back into daily use with continual activity combining prayer, celebration events, educational and community classes. Given this, I consider that footfall/trips generated by the site would be beneficial, encouraging natural surveillance and the safety benefits this would bring. In addition, the community facility and classes held at the site would benefit the community and could reduce instance of anti-social behaviour. On this basis, the proposal would have a positive impact upon local safety.

Compatibility of adjacent uses and cumulative impact of development

- 7.32. With regard to compatibility and cumulative impact, the above assessment points demonstrate that no additional building massing would result, the implications in terms of noise/disturbance have been considered and managed and the safety benefits anticipated by the proposal would be positive. In combination, I do not consider that there is any evidence on the contrary to suggest that the proposed use would be incompatible with the surrounding area. The proposed Place of Worship with associated education/community facilities, whilst different to the previous Public House, would still be a community use and as such would bring similar public benefits.

Visual impact and Heritage

- 7.33. Paragraph 126 of the NPPF states that *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*.
- 7.34. Paragraph PG3 of the National Design Guide states that *'well-designed places are based on a sound understanding of the features of the site and surrounding context; integrate into their surrounding; and are positively influenced by their context'*.
- 7.35. Policy TP27 of the BDP outlines requirements to secure 'Sustainable Neighbourhoods', one of the crucial elements to achieving this is through delivering development with high design quality. Page 29 of 'Places for All' SPD supports this, requiring that development proposals respond to their context and that *'the design should reinforce and evolve local characteristics that are considered positive'*.

- 7.36. In this instance the historic character of The York as a Locally Listed Building is particularly important. Paragraph 197 of the NPPF requires that, in determining applications, local planning authorities should take account of:
- The desirability of sustaining and enhancing the significance of a heritage asset and securing a viable use for the asset consistent with its conservation
 - The positive contribution that conservation of a heritage asset can make to sustainability of a community including economic vitality
 - The positive contribution that development could make to local character and distinctiveness
- 7.37. Policy TP12 of the BDP requires that *'the historic environment must be valued, protected and enhanced with development managed in ways that will make a positive contribution to its character'*.
- 7.38. With regard to the architectural value of The York, the Conservation Officer has considered both the proposed internal and external alterations and how any alterations may compromise the heritage value of the property.

Internal Alterations

- 7.39. The Conservation Officer outlines that in pre-application advice provided, *'The loss of any internal features through the proposed change of use was considered regrettable and it was requested that every effort be made to incorporate existing features into the proposed use'*. The Officer comments upon the Planning Statement submitted as part of this application which identifies that *'in accordance with the imperative to prevent the loss of internal features established through the pre-application advice provided, the internal works proposed are largely superficial, relating to the fit out of the building rather than being structural'*. The Officer summarises the internal alterations at ground floor level; revisions to seating area to provide a large Prayer Hall, installation of small partition wall to provide Ablution Area and separate office, provision of secondary Prayer Hall and smaller private prayer room, provision of shower facilities alongside storage lockers for cyclists. In terms of the first floor the Officer notes that *'the arrangement will largely be retained as established through the development, being repurposed to provide a variety of classrooms, and meeting rooms'*. The conclusion drawn by the Conservation Officer is that *'the level of harm to the significance of the property resulting from the internal works is minor'*. I concur with this view noting that the proposed internal floorplans are largely similar to the existing layout demonstrating that the applicant has addressed pre-application advice. Furthermore, given the modest scale of internal alterations these could be reversed or altered in the future if desired.

External Alterations

- 7.40. The Conservation Officer acknowledges that the application property has 'architectural and artistic interest by virtue of the building's distinctive external design with ornate detailing' noting the presence of 'historic values integral to the architecture of the pub through stone carved signs above doorways'. A site visit undertaken confirmed that there are a number of original features incorporated into the building fabric. Photos taken were shared with the Conservation Officer and it is considered that importance must be placed upon retaining these features in order to preserve the architectural historic value of the property.
- 7.41. The Conservation Officer has reviewed the proposed external works which *'generally relate to the removal of signage, repair to render, re-painting of the building and the installation of a metal gate to the side car-parking area'*. The Officer considers that the removal of modern 'The York' signage is acceptable given that it

is not *'of any particular significance'* and is satisfied that *'the architecturally integral sings will remain and the render repair and re-painting are beneficial and welcome'*. I concur with the view of the Conservation Officer. The proposed external works to the building fabric are modest and it is worth noting that the majority of works to *'make good'* the external façade could be achieved under Permitted Development, provided this would involve *'like for like'* replacements.

- 7.42. In addition to the external alterations to the property, consideration has been given to alterations proposed to the associated hardstanding, landscaping and boundary treatment associated with the site. The submitted Schedule of Works sets out that the existing wooden seating area with canopy to the Fox Hollies Road elevation of the site will be removed and other aesthetic improvements including removal of overgrown vegetation and maintenance of grassed area to the York Road elevation would be carried out. I consider these works would contribute a visual enhancement of the site and would be supported. Notwithstanding this, review of original plans raised concerns that a section of *'timber fencing'* was proposed along the York Road elevation and would extend from the original stone brick boundary wall. The proposed development should be seen as an opportunity to enhance all built elements of the site. As such, the agent was contacted and an amended plan requested which would see this proposed timber fencing removed, replaced by a sympathetic brick wall. Amended plans have been received in which a new section of sympathetic brick wall, matching the established brick wall/pillar feature, which presently adjoins the building, is proposed. I consider that this revision has provided an enhanced boundary treatment and would improve the visual contribution of the application site to the surrounding street scene.
- 7.43. Overall, I consider the proposed external alterations would be acceptable. The above assessment demonstrates that the scheme would retain all bespoke external features that give the building its architectural significance. As such, the proposal would accord with PGDIPH paragraph 7 which requires that *'In the case of proposals relating to buildings which are on the Local List of Buildings of Architectural, Archaeological or Historic Interest, encouragement will be given to applications for appropriate alternative uses which will enable the existing building(s), including any external or internal features of particular historic or architectural merit, to be retained'*.

Communal/Associative Heritage Value

- 7.44. Beyond the architectural value of The York, its communal associative use as a Public House also contributes to its heritage value. As such, consideration has been given to the impact that loss of its original intended use as a Public House would have upon its historic/heritage significance. The Conservation Officer notes that The York *'holds value through its communal historic interest having served the local community as a pub for over 70 years'*. Evidently The York derives a considerable amount of its historic significance from its use as a public house and associated community benefits. Therefore, the loss of the Public House use and resultant *'harm'* this could cause to its heritage value must be outweighed by the benefit of securing a viable, long term use for the premises. A planning balance has been applied with the following factors considered:
- The York currently stands vacant as no viable use has been identified
 - the building has become increasingly *'run down'* and a magnet for graffiti
 - In its current state, the significance of this heritage asset and the contribution it makes to the locality is compromised
 - The proposal would re-activate the site providing a new community use
 - The proposal would involve undertaking remedial and enhancement works to the external building fabric (summarised at point 1.6)

- 7.45. The Conservation Officer surmises that *'the heritage benefits of re-purposing this long-term vacant building into an, albeit different kind of, community use, along with refurbishment works would balance the minor harm caused to historic significance through loss of its historic use.'* I concur with the Conservation Officer. The benefits to be realised through implementation of this new, viable community use and facilitating repair and enhancement of the building fabric would outweigh the potential 'harm' resulting from the loss of The York's historical associative significance and as such would accord with local policy and NPPF paragraph 197.

Highway Safety and Car Parking

Accessibility – Walking, Cycling and Public Transport

- 7.46. As noted in Point 7.18, criteria 1 of Policy DM8 of the DMB states that in order for a Place of Worship to be considered acceptable in an 'out of centre' location it would need to be 'served by public transport, walking and cycling routes'.
- 7.47. In the Transport Statement and Travel Plan submitted, the sustainable location of the site has been discussed supported by evidence including mapping and results of desk-based assessment. Section 4 of the TS details the accessibility of the site with regard to walking and cycling:
- Large proportion of the congregation live within a 'reasonable walking and/or cycling distance from the site' based upon The Institute of Highways and Transportation (IHT) and Department for Transport (DfT) which state:
 - o 25% of all journeys occur on foot, 80% for journeys less than 1 mile
 - o A catchment area of 5 miles from the site would be accessible on bicycle within 20 minutes
 - There is a network of footways with streetlights provided in the locality with pedestrian crossing facilities available on the immediate highway network
 - There is a network of cycleways, on-road and off-road, in the locality namely a segregated cycleway along the River Cole and local roads which have 'low speed environments' favourable for cycling
- 7.48. Through review of online mapping available I have been able to verify the above statements. The Sustrans National Cycle Network map demonstrates that the River Cole provides a local/city 'bike route' to the east of the site.
- 7.49. Birmingham City Council Planning and Regeneration GIS Mapping application shows a favourable pedestrian environment surrounding the site including 20mph roads, pedestrian crossing points and public rights of way.
- 7.50. Section 4 of the TS also details the accessibility of the site with regard to Public Transport:
- Nearest bus stop located adjacent to the site on Fox Hollies Road serves the No. 11A and 11C routes (7 buses per hour)
 - Bus stop incorporates sheltered seating and timetable information
 - A further bus stop sits 500m east of the site along Shirley Road and serves the No. 32 route (one bus per hour)
 - Hall Green railway station is located 900m west of the site (3 trains per hour to wider Birmingham locations)
- 7.51. The Transportation Development Officer has reviewed the application and addresses the accessibility of the site with regard to non-car modes summarising that *'The location benefits from good public transport links with regular buses*

serving the location throughout the day'. In addition, the Officer notes and accepts the statement contained within the TS that *'the majority of those attending the use will be local, within walking/cycling distance'*. The Officer raises no concerns in relation to the sustainable location and accessibility of the site. I concur with the view of the Officer and consider that the proposal would satisfy criteria 1 of Policy DM8 of the DMB and therefore could be supported.

Highway Safety

- 7.52. With regard to highway safety, it is noted that a number of objection comments raise concern regarding the impact of the change of use upon the safety of the highway, particularly in relation to the junction where York Road meets Fox Hollies Road. However, Section 5 of the TS submitted provides Trip Generation data for the proposed use, applying a 'worst case' scenario and comparing the expected trips with those associated with the previous use of the site as a Public House and the previously approved Public House with associated restaurant and 30-bed Hotel use. The TS summarises that *'the Mosque would generate a relatively low number of vehicle trips with the majority occurring outside of peak network hours'*. The Transportation Development Officer has reviewed the information submitted and does not raise any concerns relating to Highway Safety considering that *'traffic and parking demand associated with this use would not differ notably to that of a consented public house, restaurant and 30-bed hotel'*. I concur with this view. Given that: previously approved use for Public House, restaurant and hotel would have generated more trips; not all members of the congregation will drive to the site; there are a number of prayer opportunities throughout the day, dispersing vehicle trips across a number of hours; and the most heavily attended period, Friday congregational prayer would be between 1200 and 1400, outside of peak AM and PM network hours. On this basis, I do not consider that there is any evidence to suggest the proposal would compromise highway safety and as such would be supported.
- 7.53. Notwithstanding the above, the Transportation Development Officer states that *'it is important backing up of vehicles from the car park onto the highway does not occur'*. In order to prevent this, the Officer requires that *'should the car parking meet capacity, a marshal should be at the sites access advising of this and directing drivers to alternative locations'*. In order to secure the benefits of implementing such a system, a condition is attached which requires submission of a Parking Management Strategy.

Car Parking

- 7.54. With regard to car parking, the Transportation Development Officer is satisfied that the level of parking provided is sufficient stating that: *'There are existing vehicle accesses serving the site leading to car parking for 53 cars, including 3 suitable for disabled use. Secure and sheltered cycle storage is included, along with motorcycle parking and electric vehicle charging points. Beyond the site, parking on street is unrestricted. BCC Parking SPD (November 2021) for place of worship uses is based on floor area, stating 1 space per 15sqm in this Zone B location. Therefore, with a floor area of 757sqm, this site would require provision for up to 51 spaces. The site offers 53, in excess of this maximum figure'*. Whilst the Officer acknowledges that there have been *'many objections in relation to the potential impact of parking'* the Officer balances this with the fact that *'the overall allocated parking offer is 2 spaces above BCC maximum standards, motorcycle and secure & sheltered cycle parking would be provided and the location benefits from good public and active transport links'* and as such advises support for the proposal. I note that the Transportation Officer did request submission of details of on-street car parking options available within an 800m walking distance of the site and that this could be supported by a

parking BEAT survey. This information was requested however, the agent was not forthcoming with these details stating that *'On the basis that the proposed level of off-street car parking provision accords with the parking SPD, the completion of an on-street car parking surveys is not considered justified. Furthermore, maximum capacity of the mosque will be limited to 180 people and based on the trip generation and associated car parking demand, as presented within the Transport Statement, the proposed level of off-street car parking provision will adequately accommodate demand such that on-street parking will not occur. It has also been identified that during Ramadan and Eid when a greater number of people will attend prayers, management measures will be implemented such that parking demand remains within capacity'*. I consider that the information provided is sufficiently robust to conclude that the parking provided will be sufficient to accommodate the demands of the site without causing congestion and parking issues on the surrounding highway network. As such, the proposal could be supported.

Other Issues

Trees

- 7.55. The application site is covered by TPO 1056 and relates specifically to two London Plane Trees located on the corner of York Road and Brooklands Road. It has been noted from review of application plans that the proposed car parking would involve extending the hardstanding area towards these trees, replacing a small area of landscaping to create an addition 3no. car parking spaces (confirmed in writing by the Agent). The Tree Officer has been consulted on the proposals and concludes that the proposals would be acceptable *'provided the parking is extended with care'* and seeks to secure the health of the trees by requiring attachment of a condition in which an Arboricultural Method Statement would need to be submitted prior to commencement of any works. I concur with this view and following discussion with the Agent in which they have confirmed in writing that *'the area where the car park is being extended and replacing an existing area of landscaping will be hand-dug to avoid any harm to the adjacent trees'*. I am satisfied that the proposed extension to the car park, despite the proximity to the TPO'd trees, would not compromise the visual contribution they make to the street scene.

Local Consultation Comments

- 7.56. With regard to objection comments that state there are already enough similar facilities in the area – There is no Policy requirement to demonstrate a need for a Place of Worship.
- 7.57. With regard to objection comments that state the mosque will operate as a business under 'charity' status – This is not a material planning consideration therefore has not formed part of this assessment.
- 7.58. With regard to objection comments that state those who have written to support the proposal are not local to the area but from Mosque communities further afield – Review of comments in support demonstrate that a large number of these are associated with residential addresses close to the application site.
- 7.59. With regard to objection comments that raise concern regarding type/approach to religious teaching to be undertaken and that the proposal could result in division in the community – This is not a material planning consideration and so has not formed part of this assessment.
- 7.60. With regard to objection comments that state that residents feel they have not been sufficiently informed of the proposal – The Council have sent consultation letters to

all adjoining neighbours and a site notice has been displayed for 21 days satisfying the public consultation requirements set out in the Development Management Procedure Order.

- 7.61. With regard to objection comments that state the proposal could devalue the area and cause issues for residents wanting to sell their homes in the future – This is not a material planning consideration therefore has not formed part of this assessment.

8. Conclusion

- 8.1. I conclude that the proposed change of use of vacant Public House (Sui Generis) to place of worship (Use Class F1) with ancillary out of school setting education and community facilities, installation of metal gates and creation of additional parking spaces at The York, York Road, Hall Green, Birmingham, B28 8LE would be acceptable. The evidence set out above demonstrates that whilst the proposal would result in loss of a public house and creation of a Place of Worship in an 'out of centre location', application of policy contained within Planning Guidelines for development Involving Public Houses, the NPPF (paragraph 87-88 'Sequential Tests') and DM8 of the DMB demonstrate that the proposal would satisfy the relevant tests. The benefits of the proposal including bringing a currently vacant Locally Listed Building back into a community use, capitalising upon the sustainable location of the site and making-good the existing building fabric whilst retaining architecturally significant features would outweigh the minor level of 'harm' to the Locally Listed significance of this site. The proposal would not have any adverse impact upon the heritage value of the site, visual amenity, residential amenity, highway and public safety or trees. As such, the application accords with relevant national and local planning policies and should be approved subject to conditions.

9. Recommendation:

- 9.1. Approve subject to conditions.

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- | | |
|----|--|
| 1 | Requires the submission of extraction and odour control details |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Implement within 3 years (Full) |
| 4 | Requires the scheme to be in accordance with the submitted Draft Schedule of Proposed works. |
| 5 | Requires the submission of a site specific Arboricultural method statement (AMS) and a tree protection plan (TPP) Prior to commencement of works to the car park |
| 6 | Requires the parking area to be laid out prior to use |
| 7 | Requires the submission of a parking management strategy |
| 8 | Requires the provision of electric vehicle charging points |
| 9 | Requires the provision of secure and sheltered cycle storage prior to occupation. |
| 10 | Limits Hours of Operation. |
| 11 | Limits the hours of operation and capacity. |
-

12 Limits the maximum number of worshippers.

13 Prevents the use of amplification equipment

Case Officer: Anne Kenchington

Photo(s)





Location Plan



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Committee Date:	08/09/2022	Application Number:	2022/02312/PA
Accepted:	17/03/2022	Application Type:	Full Planning
Target Date:	09/09/2022		
Ward:	Bournbrook & Selly Park		

Former Fitness First Site, Pershore Road, Stirchley, Birmingham, B30 2YN

Erection of a new discount food store (Use Class E) with access, car parking, landscaping and other associated works

Applicant:	C/O Agent
	C/O Agent
Agent:	Rapleys LLP
	York House, York Street, Manchester, M2 3BB

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. This application has been placed on the agenda for Planning Committee as more than 20 objections have been received. Planning permission is sought for the erection of a retail food store of 2,273sq.m gross internal floor area (GIA), with a 1,424sq.m net sales area.
- 1.2. The proposed store would comprise a lobby, sales area, publicly accessible toilets, bakery area along with storage/warehousing, staff room, staff toilets, cash office and delivery area at ground floor, with a plant room at first floor level.
- 1.3. The store would be positioned along the site's southern boundary, which runs parallel with the Bourn Brook at this point. The proposed store entrance would be located on the corner of the western elevation fronting Pershore Road and the northern elevation fronting the car park. Servicing would be located to the north eastern corner of the building, away from the adjacent residential properties in Bewdley Road to the north and adjacent to the site's rear boundary, beyond which is a small pumping station building.
- 1.4. The store building would measure approximately 75.8m in length, 32.7m in depth and would have a mono-pitch roof sloping from north to south which has a maximum height of 7.6m reducing to 5.3m on the south side (the Cartland Road frontage).
- 1.5. The building design would be contemporary in nature and would utilise a contemporary palette of materials. The store would have a fully glazed elevation to Pershore Road, which would provide activity onto the street/public realm area and this treatment would return round the northern corner to provide activity/interest at the main entrance to the store. Scale would be created by the use of a mono-pitch roof, with powder coated aluminium cladding proposed on the upper parts of the

north and east elevations (with the main body of the walls finished in white-finished render) and to form a frame to the glazing on the main road frontage. In contrast, high levels windows in a brick elevation would front the Bourn Brook. The building would be grounded by the proposed use of a grey rendered plinth contrasting with the main body of the walls.

- 1.6. The site would be accessed by both car borne customers and delivery vehicles via an access point off Pershore Road at the site's south-west corner. A second existing access point at the north-west corner would be closed. Pedestrian access would be provided on the Pershore Road adjacent to the vehicular entrance and further north close to the junction with Ribblesdale Road where a new toucan crossing would be installed on the Pershore Road.



Image 1: Site layout

- 1.7. 122 car parking spaces would be provided within a car park to be located to the north of the building and includes 8 accessible spaces, 7 parent and child spaces and 2 electric vehicle charging points. The proposed trolley park and cycle parking would be located close to the store entrance in the main car park area and would provide 12 cycle hoops.
- 1.8. The scheme also proposes the relocation of an electricity substation to the south west corner of the site.
- 1.9. Site Area: 0.77Ha.
- 1.10. The application submission included a Planning and Retail Statement, Transport Assessment and Travel Plan, Acoustic Report, Ecological Appraisal, Arboricultural Impact Assessment and Tree Protection Plan, Design and Access Statement, Ground Investigation Report and Flood Risk Assessment/drainage proposals.

- 1.11. The application is a resubmission of previous refusal 2021/07389/PA and in terms of its design and layout the scheme is fundamentally the same.

1.1 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The application site is located on the east side of Pershore Road, adjacent to its junction with Cartland Road, at the northern end of Stirchley District Centre (outside the Primary Shopping Area). The site lies vacant with all previous buildings demolished. The site is secured by hoardings on all sides.
- 2.2 The gardens of houses on Bewdley Road back onto the northern boundary of the site, with further residential properties beyond this (mixed with some commercial uses on the Pershore Road frontage). The Bourn Brook runs parallel to the southern boundary, largely obscured by trees and other vegetation at this point. Beyond this is a wide grassed buffer extending to the back of pavement on Cartland Road, within which is an existing pumping station. Pedestrian routes exist across this area, providing access to the Bourn and the River Rea, which runs parallel to the site's rear (eastern) boundary beyond a further pumping station building, with a footpath/cycle path extending from here northwards to Dogpool Lane.
- 2.3 There is a busy traffic-light junction where Cartland Road meets Pershore Road, which incorporates pedestrian crossing facilities. In addition, slightly to the north of this, opposite the application site, are two further junctions (on the west side of Pershore Road) with Ribblesdale Road and Warwards Lane. There are groups of commercial units located around these junctions, although the side roads themselves are predominantly residential. Beyond Cartland Road to the south, Pershore Road is predominantly residential on its east side (up to Church Drive). In contrast, the west side is commercial, with a number of units being set back from the main road behind a landscaped frontage.
- 2.4 The topography of the site gently falls to the south towards the Bourn Brook. There are no significant trees within the site, but there is substantial planting along the eastern and southern boundaries. The site is located in Flood Zones 2 and 3.

2.5 [Site Location Plan](#)

3. **Planning History:**

- 3.1. 2016/00664/PA - Demolition of existing buildings and erection of Class A1 retail foodstore with associated works. Initially approved by LPA before decision was quashed by High Court. Disposed of by LPA on 14th February 2020.
- 3.2. 2017/06449/PA - Application for prior notification of proposed demolition of former bowling alley and gym. Approved with conditions on 17th August 2017.
- 3.3 2021/07389/PA - The erection of a new discount foodstore (Use Class E) with access, car parking and landscaping and other associated works. Refused on 15th December 2021 on the grounds that the proposal failed the retail sequential test.

4. **Consultation Responses:**

- 4.1. Transportation – No objection subject to compliance with recommendations of Road Safety Audit and conditions requiring the submission of parking management strategy, submission of cycle storage details, prior installation of means of access,

completion of delivery and service area prior to occupation, parking area laid out prior to use, submission of car park management plan for disabled spaces, submission of commercial travel plan prior to occupation and submission of delivery vehicle management scheme prior to occupation.

- 4.2. Regulatory Services - no objection subject to conditions in respect of noise from plant/machinery, delivery code of conduct, lighting, construction management plan, electric vehicle charging points and contamination.
- 4.3. Lead Local Flood Authority – No objection subject to conditions requiring the submission of sustainable drainage scheme and a Sustainable Drainage Operation and Maintenance Plan
- 4.4. Environment Agency– No objection subject to condition requiring development to be in accordance with the FRA.
- 4.5. West Midlands Police – No objection subject to condition requiring CCTV scheme.
- 4.6. Severn Trent – no objection subject to conditions to require drainage details.

5. **Third Party Responses:**

- 5.1 Adjacent occupiers, residents associations, M.P, Councillors notified and site/press notices posted. 28 letters of objection have been received raising the following matters:

- Hazelwell Lane site sequentially preferable for retail development;
- Increased traffic;
- Increased highways safety concerns;
- Access would be better located at northern end of the site;
- Increased on street parking;
- Too much car parking provided;
- Inaccuracies in traffic assessment;
- Undermines Stirchley High Street;
- Community, leisure or housing uses would be preferable;
- No need for further food retail store;
- More cycle parking and EVCPs needed;
- Too close to watercourse;
- Increased risk of flooding;
- Increased noise and air pollution;
- Poor design that harms local character;
- Better soft landscaping needed;
- Increased litter;
- Damage to wildlife;
- Increased rat problems; and
- The loss of leisure facilities is unacceptable;

- 5.2 7 letters of support have been received raising the following comments:

- Excellent use of vacant land;
- Retailer would provide quality food at low cost;
- Will attract more people to the area;
- Site is an eyesore and needs redevelopment;
- Alternative community uses are unrealistic;
- Well served by public transport;

- Traffic increase would be minimal;
 - Job creation; and
 - Increased choice for local residents
- 5.3 An objection has been received by Steve McCabe MP raising the following concerns:
- Loss of sports facilities still relevant issue;
 - Already 2 large supermarkets nearby; and
 - Increased traffic and congestion.
- 5.4 An objection has been received from Councillor Locke raising the following concerns:
- Increased traffic and congestion;
 - Highway safety concerns;
 - Not enough EVCPs or bike storage; and
 - Design is poor
- 5.5 An objection has been raised by the Selly Park Property Owners Association raising the following concerns:
- Increased traffic and congestion; and
 - Too many supermarkets in local area.
- 5.6 An objection has been received from the Community Partnership for Selly Oak (CP4SO) raising the following concerns:
- Sports/leisure use needed on the site;
 - No need for further supermarket;
 - Would take shoppers away from the High Street; and
 - Increased traffic and congestion

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

6.1 **National Planning Policy Framework:**

Chapter 2 – Achieving Sustainable Development
 Chapter 7 – Ensuring the Vitality of Town Centres
 Chapter 8 – Promoting Healthy & 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

6.2 **Birmingham Development Plan 2017:**

PG3 - Placemaking
 GA9 – Selly Oak and South Edgbaston
 TP3 – Sustainable Construction
 TP4 – Low and Zero Carbon Energy Generation
 TP6 – Management of Flood Risk and Water Resources
 TP11 – Sports Facilities
 TP21- Network and Hierarchy of Centres
 TP22 – Convenience Retail Provision

6.3 **Development Management DPD:**

DM2 – Amenity
 DM4 - Landscaping and trees
 DM6 - Noise and vibration
 DM14 - Transport access and safety
 DM15 - Parking and servicing

6.4 Supplementary Planning Documents & Guidance:

Places for All SPG
Shopping and Local Centres SPG
Stirchley Framework SPD
Birmingham Parking SPD

7. Planning Considerations:

Principle of Retail Use

- 7.1 The NPPF directs new retail development to 'in centre' locations first, with a sequential approach to be applied if such development cannot be accommodated within a centre.
- 7.2 Policy TP21 of the Birmingham Development Plan states that proposals for convenience retail development in defined centres will be supported in principle, subject to proposals being at an appropriate scale for the individual centre. It states that proposals should deliver quality public realm and create linkages and connections with the rest of the centre and improve accessibility.
- 7.3 The City's Shopping and Local Centres SPD identifies this site as being within the Stirchley District boundary (although outside the Primary Shopping Area (PSA). The SPD identifies that town centre uses (including retail) will be encouraged within centres, recognising them as the most sustainable locations for such investment with optimum accessibility by a range of means of transport.
- 7.4 The Stirchley Framework SPD recognises that "at the heart of Stirchley, there will be a revitalised district centre with new retail provision in larger stores". It states that "new retail led developments are encouraged and should normally be located within the PSA. Outside the PSA and within the centre proposals for re-use or conversion/redevelopment will be encouraged for uses in keeping with a district centre".
- 7.5 The application site is within an 'edge of centre' location. The applicant has therefore undertaken a sequential test within their retail statement. The previously application was refused on the basis that it did not comply with sequential test. It will be necessary to determine whether there has been a change in circumstances since the previous refusal in December 2021 that would enable the scheme to now pass the test.
- 7.6 Key within this assessment is the centrally located Hazelwell Lane site which has an extensive retail planning history. Consent was previously granted for a large Tesco store but this was never built resulting in this town centre site remaining vacant for more than a decade. Outline consent was granted in 2020 for a mixed use development in including a discount food store. At the time of the previous refusal in December 2021 no reserved matters or full application has been submitted for the retail food store. Since this time, there has been some progress with Aldi gaining full consent for a retail store under application number 2021/10881/PA on 5th May 2022. A discharge of condition application has also been submitted by Aldi for the 2 pre-commencement conditions. It is likely that these conditions will be discharged soon. Furthermore, a recent site visit has shown that Aldi are already on site undertaking preparatory works before commencing construction. Conversations with Aldi's representatives have also highlighted that Aldi are committed to opening the store within the 2022/23 financial year.
- 7.7 The applicant has set out that this sequentially preferable site is not available to anyone but the owner Aldi. In light of the progress made by Aldi on the Hazelwell

Lane site Officers now accept that the site is no longer available to other occupiers for retail development. On this basis it is considered that proposed retail store passes the sequential test.

- 7.11 Concerns have been raised over whether there is a need for a further food store and the potential harmful impact it may have on Stirchley High Street. However, as the size of the scheme falls below the threshold of 2,500sqm there is no requirement for the applicant to provide an impact assessment.

Loss of Leisure Uses

- 7.12 The previous consent on the site (2016/00664/PA) was quashed in the High Court as the Council failed to consider Policy TP11 of the Birmingham Development Plan. This policy indicates that sports and physical activity facilities will be protected from development, unless it can be demonstrated that they are surplus to requirements in an update assessment of need by the Council.
- 7.13 Since the time of the High Court decision the gym and bowling alley have been demolished and this occurred over 3 years ago. However, this leisure use was the last use of the site. The Council does not have an up to date assessment of need and consequently the applicant has undertaken an assessment to show the availability of gyms within a 10 minute drive and the availability of bowling alleys within a 30 minute drive. Specifically, the assessment identifies 2 gyms in Stirchley, 1 in Kings Norton, 3 in Selly Oak and 3 in Kings Heath which emphasises the availability of such facilities in the areas directly surrounding Stirchley. 4 bowling alleys have been identified which are located in Rubery, Acocks Green with 2 in the City Centre. As a 'destination' leisure activity it is to be expected that there are fewer bowling alleys when compared to gymnasiums which are often used several times a week. The assessment also identifies that the gyms and bowling alleys are generally in highly sustainable locations which means that they are accessible to Stirchley residents via public transport. Whilst there is no up to date needs assessment by the Council, the applicant has shown that there is adequate availability of these sports and leisure facilities for local residents to access in the south Birmingham area and consequently the Planning Policy Officer raises no objection to the conclusions of the assessment. On this basis it is considered that the proposal accords with Policy TP11 of the BDP.

Layout and Design

- 7.14 The design of the proposal is identical to what was supported by Officers previously. The general arrangement of the building and parking in the context of the site constraints is considered acceptable. The orientation of the store with the primary glazed elevation and entrance next to Pershore Road creates an active, interesting built edge that is closer to the Pershore Road site boundary than the previous building that occupied the site. It also provides activity at ground floor level, which the previous building did not.

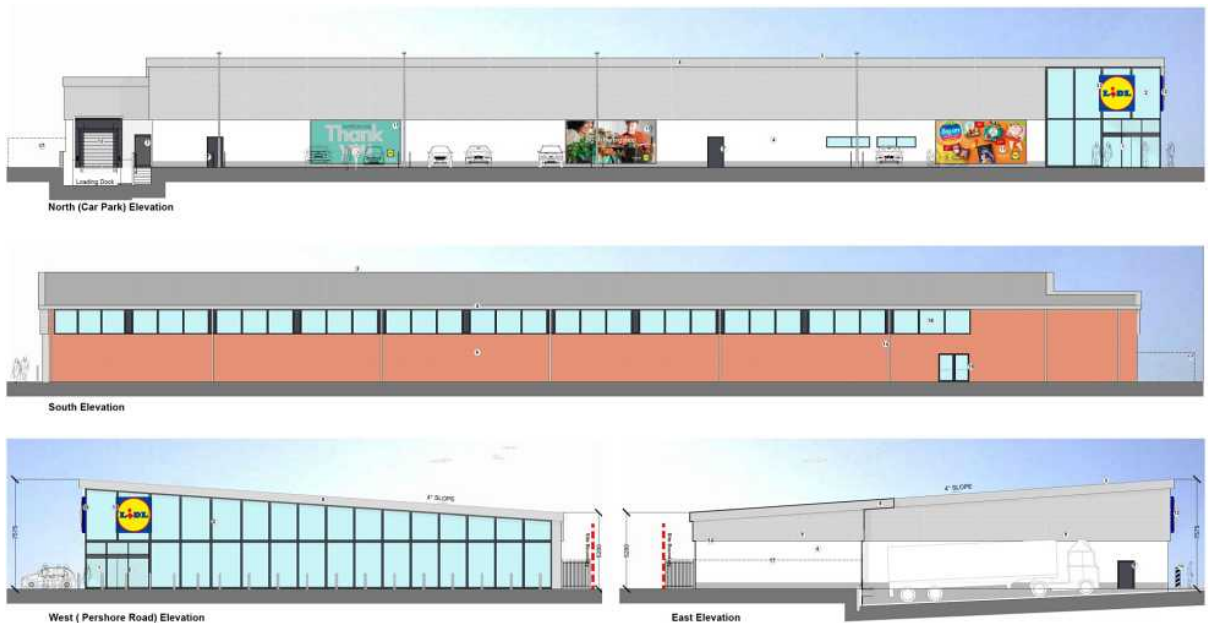


Image 2: Proposed Elevations

- 7.15 The basic architectural form is a standard approach, similar to stores elsewhere in the city, although it has been enhanced to respond to the site's context. For example, the use of brick on the Cartland Road elevation is welcomed as this will make this largely blank elevation recede behind existing tree cover on the south side of the Bourn Brook (immediately adjacent, outside the development site) and, consequently, it should not adversely impact on the character of this part of Cartland Road or the outlook of nearby houses.
- 7.16 Overall the proposed development is considered acceptable from an urban design perspective.

Landscape, Trees and Ecology

- 7.17 The application site is in close proximity to the River Rea and Bourn Brook, both of which have importance for wildlife. A Preliminary Ecological Appraisal was submitted in support of the application. The appraisal concludes that there is currently little opportunity for wildlife within the site, the greatest potential lying along the Bourn corridor to the south and the Ecologist accepts these findings. The submitted report makes a number of recommendations including the requirement for a construction ecological mitigation plan and scheme for ecological/biodiversity measures, which can appropriately be secured by conditions.
- 7.18 The proposal would result in the loss of 8 trees (1 category B, 5 category C and 2 category U). The Tree Officer raises no objection to the losses and considers that the proposed landscaping scheme including 13 trees and mix of shrubs and hedging would provide adequate replacement.

Residential Amenity

- 7.19 The only residential properties immediately abutting the site are those on Bewdley Road, whose back gardens abut the northern boundary. The access to the site and the store/servicing are all located along the southern boundary, away from these houses. There is a vehicular route and parking along this northern boundary currently and, as such, I do not consider that the proposed car park would result in any significantly increased impact. A landscaped buffer would be provided adjacent to

this boundary.

- 7.20 Regulatory Services have raised no objection to the proposals, subject to conditions in respect of delivery code of conduct, deliveries, noise from plant/machinery and contamination. The application of a condition to secure the opening hours of (0700-2200 hours Mondays to Saturdays and 1000-1700 hours on Sundays and Bank Holidays will further protect residential amenity.
- 7.21 Subject to these details, I am satisfied that the proposals would have no unacceptable impact on residential amenity.

Transportation

- 7.22 It is proposed to retain and upgrade the existing southern access, as per the previous application. The access comprises an all-movement priority junction from Pershore Road, approximately 40m north of the Cartland Road/Pershore Road signal-controlled junction, and 45m south of the Pershore Road Ribblesdale/Warwards Lane priority junction. It is considered that consolidating the existing two points of access into one provides a betterment and reduces the number of potential conflict points on the network.
- 7.33 The existing pedestrian crossing on Pershore Road, adjacent to the proposed site access location, will be moved approximately 15m north of its existing position, with 28m between the crossing and the access. Following a request from Transportation the applicant has undertaken a Stage 1 Road Safety Audit which resulted in the provision of amended plans to widen the access point and the incorporation of tactile paving at the new pedestrian crossing. Consequently, there are no objections to the changes to the highway network and these changes would be secured through a S278 agreement.
- 7.34 The Council's former Car Parking Guidelines SPD recommended a maximum of 1 space per 14sqm in this location. The new Birmingham Parking SPD decreases the maximum level of parking to 1 space per 18sqm. With a total floor area of 2,273sqm proposed a maximum of 126 spaces could be provided. The scheme proposes 122 spaces thereby falling just below the maximum permitted. The site is in a sustainable location with regular bus services available on the Pershore Road and once open Hazelwell train station will be within walking distance of the site. This is therefore considered to be an acceptable level of parking for the site.
- 7.35 The new parking standards requires 6% of spaces to be larger disabled bays, which in this case is a requirement of 7.32 spaces. 8 disabled bays are proposed which complies with this standard.
- 7.36 The Birmingham Parking SPD introduces a requirement for electric vehicle charging points (EVCP). It states that a minimum of 1 EVCP will be required for car parks that have 10 or more spaces. It also suggests further provision at a rate of 1 EVCP per 5 spaces which can include passive EVCP provision. Two EVCP's are proposed with a further 24 spaces with passive EVCP provision. The provision of 26 spaces therefore fully accords with the policy requirement.
- 7.37 The new parking standards sets out that cycle storage should be provided at rate of 1 space per 250sqm of floor area plus 1 per 10 employees. This results in a requirement for 11 cycle spaces on this scheme. With 12 spaces provided the level of provision is considered to be acceptable.
- 7.38 At the request of the Transportation Officer the applicant has undertaken updated traffic survey work ensuring that update to traffic flow data is being relied upon rather

than estimations undertaken during the pandemic. Notably baseline weekday and weekend peak flows have decreased by up to 15% between 2015 and 2022. Furthermore, the applicants evidence indicates that with the proposed junction improvements outside the site there would be no increase in levels of queueing post development above what is already experienced. Consequently, Transportation Officers raise no objection to the scheme subject to a number of conditions. There are therefore no highways matters on which the scheme could be resisted.

Drainage/Flooding

- 7.39 The Storchley Framework identifies that Flood Risk Assessments (FRAs) in areas of mapped flood plain, susceptible to surface water flooding. Specific reference is made to area around the confluence of the Bourn and the Rea. These will include mitigation measures to address any issues and reductions in surface water discharge. The Framework states that opportunities for flood risk management/improvement will be encouraged including flood alleviation works, easements to facilitate maintenance access at appropriate locations and reductions in surface water discharge through sustainable drainage systems.
- 7.40 The site is located within the flood zones 2 and 3 where development would usually be resisted. However, the Environment Agency (EA) have worked closely with the applicant prior to the submission of this application and consequently they consider that the flood modelling undertaken, and mitigation measures proposed will ensure that the development is safe with no increased risk to third parties. They have however requested that a condition is attached to ensure that the development is undertaken in accordance with the submitted Flood Risk Assessment.

Sustainability

- 7.41 A BREEAM pre-assessment and Energy Statement have been submitted with the application. The submitted documents demonstrate that a range of renewable technologies have been considered and the proposal would incorporate air source heat pumps and photovoltaic panels. The statement also sets out how the building can meet the BREEAM 'very good' standard. Justification for not achieving 'excellent' is based on the fact the proposed scheme is unable to take account of 'easy win' credits meaning that achieving 'excellent' would not be financially viable. This reasoning has been accepted by the Planning Policy Officer. To ensure that BREEAM 'very good' is achieved a condition could be attached. The requirements of TP3 and TP4 have therefore been met.

Other Matters

- 7.42 Concerns have been raised over the potential for increased litter and greater issues with rodents however there is no evidence that an additional retail unit would lead to an increase in these problems.
- 7.43 Concerns have also been raised over increased levels of pollution arising from the development. However, the application has been reviewed by Regulatory Services and they raise no objection to the scheme.

8. Conclusion

- 8.1 The scheme raises no concerns in terms of design, residential amenity, transportation, drainage, ecology or landscape considerations. In light of the progress on the Hazelwell Lane site it is now considered that the site passes the sequential test. Consequently, it is considered that the proposal accords with

relevant national and policy and amounts to a sustainable form of development that is recommended for approval.

9. **Recommendation:**

9.1 Approval subject to the following conditions.

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Implement within 3 years (Full)
 - 3 Requires the submission of sample materials
 - 4 Requires the prior submission of a contamination remediation scheme
 - 5 Requires the submission of a contaminated land verification report
 - 6 Limits the hours of use to 08:00-22:00 Monday to Saturday & 10:00 - 17:00 on Sundays and Bank Holidays
 - 7 Requires the prior submission of a goods delivery strategy
 - 8 Limits the noise levels for Plant and Machinery
 - 9 Requires the prior submission of a construction method statement/management plan
 - 10 Requires the implementation of the Flood Risk Assessment
 - 11 Requires the prior submission of a sustainable drainage scheme
 - 12 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 13 Requires the prior submission of a construction ecological mitigation plan
 - 14 Requires the prior submission of details of bird and bat boxes
 - 15 Arboricultural Method Statement - Submission Required
 - 16 Requires the implementation of landscaping scheme
 - 17 Requires the submission of hard surfacing materials
 - 18 Requires the submission of boundary treatment details
 - 19 Requires the implementation of the lighting scheme
 - 20 Requires the submission of a CCTV scheme
 - 21 Prevents occupation until the turning and parking area has been constructed
 - 22 Requires the provision of cycle parking prior to occupation
 - 23 Requires the provision of EVCP prior to occupation
 - 24 To ensure energy and sustainability measures are delivered in accordance with

statement

25 To ensure that the development achieves BREEAM rating level

Case Officer: Andrew Fulford

Photo(s)



Photo 1: View from Pershore Road looking north east towards the site



Photo 2: View from Pershore Road looking south east across the site

Location Plan



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Committee Date: 08/09/2022 Application Number: 2022/03509/PA
 Accepted: 18/05/2022 Application Type: Full Planning
 Target Date: 03/08/2022
 Ward: Hall Green North

20 Hamlet Road, Hall Green, Birmingham, B28 9BG

Change of use from dwelling house (Use Class C3) to care home for young people (Use Class C2)

Applicant: Mr Adam Bostan
 C/O ACP Architects, Roma Parva, Level 2, 9 Waterloo Road, Wolverhampton, WV1 4DJ
 Agent: ACP Architects
 Roma Parva, Level Two, 9 Waterloo Road, Wolverhampton, WV1 4DJ

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. This application seeks consent for change of use from dwelling house (use class C3) to care home for 3no. young people (use class C2) at 20 Hamlet Road, Hall Green, Birmingham, B28 9BG.
- 1.2. The change of use would involve a minor external change to the property limited to replacement of an existing doorway serving a 'store' space to the side with a full-length, openable window.
- 1.3. The change of use would involve minor changes to the internal layout of the property. The existing ground floor 'store' room would be converted into an 'office' space. All other rooms including function and size would remain the same. The floor plan, set over two floors would be as follows:

Ground Floor:

- Utility and WC (19sqm)
- Kitchen (12sqm)
- Lounge (17sqm)
- Dining Room (15sqm)
- Hall/Porch (11sqm)
- Garage (12sqm)
- Office (9sqm)
- Store (2sqm)

First Floor:

- Bedroom 1 (8.5sqm)
- Bedroom 2(12sqm)
- Bedroom 3 (10qm)

- Staff bedroom (14.5qm)
 - WC (1.5qm)
 - Landing (8sqm)
 - Bathroom (4sqm)
- 1.4. Private amenity space would also be provided in the form of a rear garden which measures approximately 315sqm and would comprise a patio area with grass lawn beyond.
 - 1.5. The proposed care home for young people would be occupied by up to 3no. residents aged between 8 and 18 years old.
 - 1.6. The care home would employ 6 full time members of staff who would work on a 24-hour rota basis with only 2 members of staff on site at any one time. Staff change overs would occur between 0945 and 1000 daily. Visitors (including other staff members such as registered managers, deputy managers, social works and/or family members of the young people living at the home) could attend the care home however, visits would be limited to a maximum of 2 visiting people on site at any one time. In addition, visits would require pre-arrangement and would only take place between 0900 and 1700.
 - 1.7. No alterations to parking or access arrangements have been proposed as part of this application.
 - 1.8. The facility would be operated by Nest Children's Home Limited, a company who specialize in care of children with emotional and behavioural difficulties. The Design and Access statement provided as part of this application states that *'the home would provide short-, medium- and long-term care for children/young people aged between 8 and 18 years of age of mixed gender who have experienced behavioural, emotional and social difficulties'*. It is also noted that *'Nest do not provide a service for emergency placements'*. The home would operate in a way *'not dissimilar to a large household associated with a 4-bedroom dwelling'* and the children would attend school during the day.
 - 1.9. [Link to Documents](#)

2. Site & Surroundings:

- 2.1. The application site relates to a two-storey semi-detached 4-bedroom family dwelling with a hipped roof design. To the front there is a forward bay window column with gable end and a wraparound single storey front/side extension with single pitch to flat roof. To the rear there is a modest single storey extension. To the side there is a shared access road running between the site and neighbouring No. 18. The property is set back from the road and accessed by a paved driveway. The rear garden is generous in size with a close-board boundary treatment and dense vegetation to the rear.
- 2.2. The property is located within a predominately residential area. There are no HMO or 'supported accommodation' establishments within a 100m radius of the site. The closest 'supported accommodation' is at No. 1262 Stratford Road which sits 160m north west of the site.
- 2.3. [Site Location Plan](#)

3. Planning History:

- 3.1. There is no relevant planning history at this site.

4. Consultation Responses:

- 4.1. Environmental Pollution Control have been consulted – Raise no objections to the proposal.
- 4.2. Children's Commissioning Services have been consulted – Raise no objections and note that they 'have no knowledge of that provider'.
- 4.3. Tree Officer has been consulted – Raises no objections to the proposal.
- 4.4. Transportation Development have been consulted – Raise no objections to the proposal subject to attachment of a condition which requires provision of an electric vehicle charging point prior to first occupation of the development.
- 4.5. West Midlands Police have been consulted – Raise no objections to the proposal. WMP do provide some advice for the applicant which has been attached to this permission as an informative.

5. Third Party Responses:

- 5.1. A site notice has been displayed for 21 days, local ward councillors, MP, residents associations and surrounding occupiers have been notified of the proposal.
- 5.2. Ten individual objection responses have been received from local residents and an objection petition has been submitted, signed by 19 residents. It should be noted that some residents have submitted letters of objection and signed the petition and similarly, in some cases multiple letters of objection have been received from a single household. In these cases, this has been counted as one objection. On this basis, the total number of objections 21. These responses raise the following concerns:
- Impact of change of use on residential character of Hamlet Road and homes losing value
 - Increased traffic and strain on parking availability where traffic/highway safety is already an issue
 - Number of parking spaces available is 2, not 3 and no evidence of disabled parking or access arrangements
 - Vulnerable children living at the home may cause an increase in anti-social behaviour
 - Creation of noise and movement associated with the care home may compromise the quiet and peaceful environment - contrary to Article 1, Protocol 1 of the Human rights act
 - Concern that family dwelling is being converted to a 'business use'
 - Negative impact of proposals upon mental health of existing residents
 - A 50ft tree has been omitted from photographs and not mentioned in the application
 - Notification of the application was not sent out to the entire street (Hamlet Road)
 - Concern regarding the extent to which the operator, Nest can be considered a 'well established' operator - unable to find registration of operator with CQC or Ofsted
 - Nest have other operations within the area which pertain to letting, not the provision of care and utilise third parties to run services out of those

properties. Given this there is concern that similar third-party operation could be the case at no. 20 Hamlet Road and that if *'third party were to change how would residents be assured requirements of application permission would be fulfilled'*

6. Relevant National & Local Policy Context:

- 6.1. The following local policies are applicable:
- Birmingham Development Plan (BDP)
 - Development Management in Birmingham DPD
 - Places for Living SPG
 - Birmingham Parking SPD
- 6.2. The following national policies are applicable:
- National Planning Policy Framework (NPPF)

7. Planning Considerations:

- 7.1. The key planning issues are; the principle of a care home; character impact; living conditions for prospective occupiers; impact on parking and highway safety; impact on neighbouring residential amenity; impact on trees and landscape; and drainage.

Principle of Development:

- 7.2. The National Planning Policy Framework (NPPF) seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The NPPF also seeks to boost housing supply and supports the delivery of a variety of housing including tenure which meets the needs of groups with specific housing requirements in order to create sustainable, inclusive and mixed communities.
- 7.3. Policy TP27 of the BDP supports requirements of the NPPF stating that 'all residential development will need to demonstrate that it is meeting the requirements of creating sustainable neighbourhoods which are characterised by providing a wide choice of housing sizes, types and tenures catering for all, good access to facilities and public transport and creating strong sense of place.
- 7.4. Policy DM12 of the Development Management in Birmingham DPD applies to the development of specialist accommodation and states that such accommodation will be supported where the following 5 criteria are met:
- It will not lead to an unacceptable adverse impact on the amenity, character, appearance, parking, public and highway safety of the area, taking into account the cumulative effects of similar uses in the area.
 - The accommodation and facilities, including outdoor amenity space and provision for safety and security, is suitable for the intended occupiers.
 - It is accessible to local shops, services, public transport and facilities appropriate to meet the needs of its intended occupiers.
 - The scale and intensity of the proposed use is appropriate to the size of the building.
 - It will not result in the loss of an existing use that makes an important contribution to the Council's objectives, strategies and policies.

- 7.5. Additional text supporting this policy highlights a preference for the use of large detached properties set within their own grounds.
- 7.6. The proposal would provide a specialist residential accommodation for up to 3 vulnerable children, satisfying the requirement for delivery of a mixture of accommodation types within the city. Whilst the property to be converted is semi-detached and therefore not 'preferable' with regard to policy, the property is generous in size with 4 large bedrooms, significant external amenity space (312sqm) and would comfortably accommodate the proposed maximum 3no. children. Furthermore, there are no examples of other specialist accommodation within a 100m radius of the site.
- 7.7. The site is in close proximity to local facilities being just 160m from Highfield Local Centre and 320m from Highfield Primary Shopping Area. There is public transport available along Stratford Road, namely bus services X50, 6 and 846 which stop 125m west of the site. This is therefore considered to be a sustainable location.
- 7.8. Based on the above review, the application site appears to be an appropriate location in principle for a care home. Notwithstanding this, detailed consideration of amenity, character and transportation matters will be considered below.

Visual Amenity

- 7.9. Paragraph 126 of the NPPF states that *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*
- 7.10. In this instance, only a minor internal change is proposed which would see an existing 'store' room on the western side of the ground floor converted into an 'office' room. The only external change proposed is the replacement of an existing doorway to the principal elevation which would be replaced with a 'full height' openable window. This change is considered modest and the residential appearance of the dwelling would be retained hence the character and appearance of the property and locality would not be impacted.

Residential Amenity

- 7.11. Policy DM2 of the DPD states that *'all development will need to be appropriate to its location and not result in unacceptable adverse impact on the amenity of occupiers and neighbours. In assessing the impact of development on amenity the following will be considered: visual privacy and overlooking, sunlight, daylight and overshadowing, aspect and outlook, access to high quality and useable amenity space, noise, vibration, odour, fumes, dust air or artificial light pollution, safety considerations, crime, fear of crime and anti-social behaviour, compatibility of adjacent uses, individual cumulative impacts of development'*.
- 7.12. With regard to the cumulative impact of the proposed change of use to a care home for young people and its compatibility with the locality, consideration is given to the impact of the loss of a 4-bed residential family dwelling and the impact upon the residential character of the area. Policy TP30 of the BDP and the DMB seeks delivery of housing of a range of types to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. However, conversions to create specialist accommodation may be resisted where it would result in an 'over concentration of similar uses in the immediate area, would cause harm to the character and function of an area or amenity'. In assessing 'need' consideration is

given to the recently published Housing and Economic Development Needs Assessment (HEDNA), which now superseded the Councils Strategic Housing Market Assessment (SHMA) 2013. The HEDNA 2022 finds that there is greatest need for 2- and 3-bedroom homes with less requirement for 4+ bed properties. Given that this application would technically result in the loss of a 4-bed property it can be considered acceptable given that this is not where the greatest housing demand has been identified. It is also important to note that the use as a small home for just 3 children would still have the character of a family dwelling and could easily be used in the future for such a use. It would not remove the dwelling from our stock of houses and would satisfy a clear demand for more specialist living accommodation for children in need.

- 7.13. An assessment of the area using GIS mapping technology shows that there are 47 residential addresses within 100m of the site. There are no HMO or 'supported accommodation' establishments within a 100m radius of the site. The closest 'supported accommodation' is at No. 1262 Stratford Road which sits 160m north west of the site. Given these existing conditions, the proposed 1no. care home would result in a 2% supported/specialist living accommodation within a 100m area. As such, the proposal would not significantly alter the nature of the locality which would retain its predominantly residential status. In addition, application supporting documentation confirms that the children's home would operate in a way similar to a 4-bed family dwelling and the built form would remain as existing both internally and externally (minus the minor changes identified at point 7.10 above) therefore the residential character and function of No. 20 Hamlet Road would not be lost. On balance, the proposal would retain the residential nature of the dwelling and complement the wider residential surroundings therefore the location and compatibility of this proposal is acceptable.
- 7.14. With regard to impact of this proposal upon visual privacy, overlooking, sunlight, daylight and overshadowing of neighbouring occupiers, this is assessed based on application of the 45-Degree Code and Separation Distances outlined in Places for Living SPD. Given that the proposal does not involve any extensions or additional massing, there would be no residual impact in terms of the 45-degree code and therefore no impact upon light (sun/day) availability or overshadowing for neighbours. The internal alterations are minor, converting a ground floor storage room into an office. All habitable rooms will remain as existing and therefore there would be no need to apply separation distances. Overall, I do not consider that the proposal would have a detrimentally harmful impact upon neighbouring occupiers with regard to privacy, overlooking and outlook.
- 7.15. With regard to noise and light pollution, whilst the application property is semi-detached, the level of occupation for up to 3no. children and 2no. staff member would be no greater than would be reasonably expected from the existing 4-bed family home. Whilst it is acknowledged that there would be more comings and goings considering staff change overs and visits from resident's family members and support workers, the written supporting statements confirm that trips generated by the care home would not be excessive:
- Staff change overs would occur between 0945 and 1000 daily
 - Visitors (including other staff members such as registered managers, deputy managers, social works and/or family members of the young people living at the home) could attend the care home however, visits would be limited to a maximum of 2 visiting people on site at any one time and would require pre-arrangement and would only take place between 0900 and 1700.

- 7.16. With regard to safety, West Midlands Police have been consulted and are satisfied that the scheme will not lead to increased instances of crime or anti-social behaviour. Notwithstanding this WM Police have stated that the applicant may wish to view safety and crime prevention advice for new homes, details of which are included as an informative.
- 7.17. Consideration has been given to the acceptability of the property as providing satisfactory living conditions for future occupiers. This has been assessed by reviewing the internal arrangements and the external amenity space provided. Whilst Policy DM12 of the DMB states that 'specialist accommodation is most appropriately located in large detached properties rather than smaller detached or semi-detached properties', the policy goes on to recognise that *'in instances where smaller properties are proposed for conversion, this could be acceptable provided amenity of adjoining occupiers is safeguarded and adequate outdoor amenity space (16sqm per resident) can be provided on site'*. Given the above assessment at points 7.11 to 7.16 demonstrating that the proposal would not compromise amenity of adjoining occupiers and that the outdoor amenity space would total 312sqm, significantly above the minimum 16sqm per resident threshold (104sqm per resident). In addition, the bedrooms proposed all accord with Nationally Described Space Standards.
- 7.18. In summary, the above assessment demonstrates that the proposal would not compromise amenity of neighbouring residents nor the amenity of future occupiers and could be supported.

Highway Safety and Parking

- 7.19. The Transportation Development Officer raises no objections to the proposal given that the *'existing driveway has parking availability for 2 cars along with garage provision which can be used for storage of bicycles, and these aspects will remain unchanged. Furthermore, unrestricted parking is available on street and regular buses serve this location throughout the day'*. On this basis and given that the *'traffic and parking demand associated with the proposed use, being a 3-bed property for 1-3 children with emotional and behavioural difficulties, would not differ notably to that of a 4 bed family dwelling'*. I concur with this view and consider it reasonable to conclude that the proposal would not incur any adverse impacts in terms of highway safety or parking and as such would be acceptable.
- 7.20. Notwithstanding the above the Officer requires attachment of a condition which requires the provision of an electric vehicle charging point prior to first occupation of the development. This is a appropriate and proportionate condition which will secure the facility for employees and visitors attending the site.

Other Matters

Local Consultation Comments

- 7.21. Regarding resident concerns around impact of change of use on residential character of Hamlet Road causing neighbouring homes to lose value – issues of character are addressed in the above assessment. Furthermore, property value is not a material planning consideration therefore does not form part of this assessment.
- 7.22. Regarding resident concerns around increased traffic, strain on parking availability, provision of 2 parking spaces (not 3 as specified on application form) and absence of disabled parking bay – Points 7.19 to 7.20 of the above assessment addresses

highway safety and parking and finds that the proposal would be acceptable in this regard.

- 7.23. Regarding resident concerns around increase in anti-social behaviour –West Midlands Police have not raised any objection to the proposal and given the small number of children living at the property (max 3no.) there is no evidence to suggest any disturbance would result. As such this issue is not considered to comprise a sufficient reason for refusal.
- 7.24. Regarding resident concerns around noise and movement associated with the care home (contrary to Article 1, Protocol 1 of the Human rights act) – issues of residential amenity have been addressed in points 7.11 to 7.18 of the assessment above and has found no detrimental impact resulting from the proposal.
- 7.25. Regarding resident concerns around negative impact of proposals upon mental health of existing residents – this issue is not considered to be a material planning consideration however points 7.11 to 7.18 of the above assessment address residential amenity and concludes there would be no adverse impact upon neighbouring/local residents.
- 7.26. Regarding resident concerns around a 50ft tree omitted from photographs and not mentioned in the application – tree issues have been addressed at point 7.21 above with no negative implications found resulting from the proposal.
- 7.27. Regarding concerns that not all residents along Hamlet Road had been notified of the application - letters were sent to adjoining neighbours and a site notice was displayed for 21 days therefore the duty of the Council to inform local residents has been satisfied.
- 7.28. Regarding resident concerns around operator registration and assessment – The registration and assessment of the operator (i.e. in relation to Ofsted) is a legislative framework beyond the remit of the planning system. Permission could not be withheld on the basis of absence of such an assessment. Notwithstanding this, an informative attached to this permission notifies the applicant of their duties.
- 7.29. Regarding resident concerns around future operators – This assessment simply considers whether the proposed development and nature of use is suitable at the application site, who is applying for the permission is not a planning consideration. The permission is attached to the site, not the applicant. As such, if the application were to be approved and the owner of the site changed then the site would still need to operate within scope of the approved permission. Notwithstanding this, should future users require use of the premises for something beyond this permission, this would require a further planning application for change of use (unless permissible under Permitted Development).

8. Conclusion

The siting, scale and appearance of the proposed development would be in keeping with the character and appearance of the existing building and surrounding locality. The compatibility of the proposal within the surrounding locality is acceptable and residential amenity would not be impacted. Considering the above assessment against local and national policies, the proposed Change of use from dwelling house (Use Class C3) to care home for young people (Use Class C2) constitutes sustainable development and is recommended for approval subject to conditions.

9. Recommendation:

Approve subject to conditions

-
- 1 Implement within 3 years
 - 2 Requires the scheme to be in accordance with the listed approved plans
 - 3 Requires the provision of a vehicle charging point
 - 4 Occupation limited to 3 children
-

Case Officer: Anne Kenchington

Photo(s)





Location Plan



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