

Birmingham City Council

Planning Committee

01 February 2024

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	6	2022/08496/PA The Ringway Centre Smallbrook Queensway 1-4 Smallbrook Queensway Birmingham Hybrid planning application comprising: Full element for site clearance and phased demolition of all existing buildings (SBQ 1, 2 and 3) and the erection of a 48-storey residential building (SBQ 3) and associated amenity floor space (Use Class C3), lower and ground floor commercial spaces (Use Class E (a-d) and F2), public realm works, hard and soft landscaping, access, drainage, and all other associated works. Outline element (with all matters reserved) for the erection of two residential buildings (SBQ 1 and 2) (Use Class C3), with associated amenity floorspace (Use Class C3), lower and ground floor commercial uses (Class E (a-d), F2 and Sui Generis (drinking establishments, hot food takeaway and nightclub)), associated public realm works and landscaping, access, drainage, and all other associated works
Approve – Subject to 106 Legal Agreement	7	2023/04130/PA Land south of Garrison Circus Watery Lane Middleway/Great Barr Street Digbeth Birmingham B9 4HF Part retention and conversion of Myona Building, demolition of existing buildings and redevelopment for mixed use across four buildings of between 5, 7, 9, 10, 11, 12, 16 and 37 storeys in height comprising 546 apartments (Use Class C3), 710 units of Purpose-Built Student Accommodation (Sui Generis), 851sqm of flexible commercial floorspace (Use Class E) with ancillary amenity spaces, external amenity spaces, bicycle storage, landscaping, car parking, alterations to pedestrian and vehicular access and associated works

Approve – Subject to
106 Legal Agreement

8

2023/04261/PA

100 Broad Street
City Centre
Birmingham
B15 1AU

Site clearance and demolition of all existing buildings and the erection of a 33-storey building (Ground + 32 storeys) for residential use and associated amenity floor space (Use Class C3), ground floor commercial spaces (Use Class E (a-g(i))), public realm works, hard and soft landscaping, access, drainage, and all other associated works

Approve – Subject to
106 Legal Agreement

9

2023/02925/PA

Land at Queens Hospital Close
Bath Row
Edgbaston
Birmingham
B15 1NH

Full planning for site clearance and demolition of existing student accommodation buildings, the refurbishment and conversion of two Grade II listed buildings, the mixed-use redevelopment of the site comprising: purpose-built student accommodation (sui generis), residential apartments (Class C3), ancillary internal and external amenity areas, commercial floorspace (E(b), E(d) and/or sui generis (drinking establishment)), along with landscaping, servicing, parking and other associated works

Approve – Conditions

10

2023/02926/PA

Land at Queens Hospital Close
Bath Row
Edgbaston
Birmingham
B15 1NH

Listed Building consent for site clearance and demolition of existing student accommodation buildings, the refurbishment and conversion of two Grade II listed buildings, the mixed-use redevelopment of the site comprising: purpose-built student accommodation (sui generis), residential apartments (Class C3), ancillary internal and external amenity areas, commercial floorspace (E(b), E(d) and/or sui generis (drinking establishment)), along with landscaping, servicing, parking and other associated works

Committee Date:	01/02/2024	Application Number:	2022/08496/PA
Accepted:	15/11/2022	Application Type:	Full Planning
Target Date:	02/02/2024		
Ward:	Bordesley & Highgate		

The Ringway Centre, Smallbrook Queensway 1-4, Smallbrook Queensway, Birmingham

Hybrid planning application comprising: Full element for site clearance and phased demolition of all existing buildings (SBQ 1, 2 and 3) and the erection of a 48-storey residential building (SBQ 3) and associated amenity floor space (Use Class C3), lower and ground floor commercial spaces (Use Class E (a-d) and F2), public realm works, hard and soft landscaping, access, drainage, and all other associated works. Outline element (with all matters reserved) for the erection of two residential buildings (SBQ 1 and 2) (Use Class C3), with associated amenity floorspace (Use Class C3), lower and ground floor commercial uses (Class E (a-d), F2 and Sui Generis (drinking establishments, hot food takeaway and nightclub)), associated public realm works and landscaping, access, drainage, and all other associated works

Applicant: Commercial Estates Group (CEG)
C/o Agent
Agent: Turley
9 Colmore Row, Birmingham, B3 2BJ

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Report Back

- 1.1. Members will recall that this application was brought before members at your meeting of 28th September 2023 where it was resolved that the application be approved, in accordance with the recommendation, subject to the signing of a s.106 agreement.
- 1.2. Since then, the Council has received a 'legal letter', which this report back seeks to address. The Council is of the view that the matters raised within the letter, do not amount to a legal error in the decision made. Nevertheless, the matters are set out for members to consider along with the remainder of the report, before considering the application again, for completeness.
- 1.3. The matters which are raised in the letter are described as follows;
 - Mistake of fact by at least once Councillor as to Historic England having "no objection" (and that error not having been corrected); and
 - Members were materially misled by the officer's report on the correct approach to the climate impact of the proposed demolition, including the correct approach under national policy in light of a recent decision from the Secretary of State

concerning a proposal involving the M&S store of Oxford Street in Westminster, London.

2. Verbal updates (of 28th September 2023 Committee)

2.1. There were several verbal updates made to the Committee, that need to be considered along with the main body of the report, below.

- An amended floor plan was submitted for floors 1-8 of SBQ3, this amended the layout of units to accurately reflect the proposed housing mix.
- Two additional third-party objections have been received. The first makes points in relation to the existing building being an iconic building, there being no need for another multi storey building in the city, that there is scope to refurbish and renew the façade, any proposed extension should be the same height as the Rotunda and that refurbishment would align with the City's 'green' agenda. The second is from a developer with interest in some adjoining land at Thorp Street, expressing concern over some of the outline elements of SBQ1 stating that SBQ 1 in their view "would compromise the comprehensive and positive redevelopment of the wider city block" due to the scale of the proposal close to adjoining boundaries and land ownerships.
- At Section 6 of the report, Relevant Policy – under National Planning Policy, Section 14 - Meeting the challenge of climate change, flooding and coastal change should be listed.
- Paragraph 7.169 – incorrectly quotes the climate emergency commitments of the Council stating that the city will aim to "become a carbon neutral city by 2025" it should state that "the aspiration for the city is to become net zero carbon by 2030, or as soon as possible thereafter as a just transition allow".
- The bullet points at paragraph 7.102 and again at 7.236 incorrectly describe St Martins Church as Grade II, this should say Grade II* as is describe elsewhere in the report.
- Paragraph 7.245 incorrectly states that the adverse impacts mentioned "do not outweigh the harm" this should state that the adverse impacts do not outweigh the benefits of the proposal.
- Condition 42 should read Outline: Reserved Matters Submission of Details of Public Realm for Relevant phase.
- Condition 64 should read Hybrid: Applications for Superseding Development

3. Additional 3rd party consultation responses

3.1. Since the last report to Planning Committee in September 2023, there have been five additional letters of objection received raising the following points:

- This building is a brutalist icon and an important part of the city's post-war heritage.
- With such a close vote to demolish it, it is obvious there is not a definitive reason why this building needs to be sacrificed.
- If housing is an issue, then there is no reason why the Ringway Centre cannot be refurbished into flats and community spaces.
- The application does not address the acute housing needs the city faces. The current application largely proposes 1 or 2 bedroom flats, whereas the need is overwhelmingly for family housing It only offers affordable housing rather than social housing required by those on the housing register.
- The plans come nowhere near the city's own policy which requires that large new developments provide 35%affordable housing.
- It is not at all clear where or how the key services particularly required by

families, such as childcare, health and schools, will be provided.

- With the city's goal of being carbon-zero by 2030, it seems rather odd to demolish a building and start from scratch when there have been numerous examples of how demolishing a building and starting anew poorly impacts the environment in comparison to refurbishing already existing buildings.
- will release thousands of tonnes of greenhouse gases into the earth's atmosphere. Retrofitting, would be a fraction of the carbon emitted.
- The Twentieth Century Society (C20) have been developing proposals with local campaigners that demonstrate how the building could be effectively expanded and retrofitted, while retaining its striking presence on the streetscape. I think these proposals should be considered by the council.
- If you approve the plans this will set a precedent which will lead to the destruction of further historical buildings of importance that make up Birmingham's identity with Brutalist Architecture.
- A relatively small investment in these historical buildings could reignite interest in our city's architecture without leaving us open to criticism that, at the very time the Council was struggling with its finances, it wanted to splurge money on an unwanted, unfit-for-purpose vanity project.

4. Policy Update

- 4.1. Since the application was last reported to Planning Committee a revised National Planning Policy Framework (NPPF) has been published.
- 4.2. The updated NPPF does not materially alter any of the considerations within the main report and update below. However, it does make changes to some of the referenced paragraph numbers.

2021 Paragraph number	2023 Paragraph number	Paragraph content	Changes
81	85	Significant weight placed on economic growth	No change
93	97	Meeting social and recreational needs of the community	No change
152	157	Encourage the use of existing resources including existing buildings	No change
199	205	Considering impact upon significance of designated heritage assets	No change
202	208	Less than substantial harm to designated assets weighed against public benefits	No change
203	209	Effect on non-designated heritage assets, requires a balanced judgement.	No change

5. Historic England – Consultation response

- 5.1. The legal letter states that a member of the Planning Committee “noted in his short contribution that “Historic England have no objection” it goes on to say, “In fact, Historic England had indicated concern about the scheme” the letter suggests that the “uncorrected misapprehension could therefore have played a crucial part in the

outcome”.

- 5.2. However, it is Officer’s view, supported by Counsel advice, that what the Councillor said was factually correct. Historic England have not objected. As members of the committee know, objection from a statutory consultee should always be clearly stated as an objection. As a matter of fact, Historic England did not lodge an objection to the proposal. Historic England raised concerns, which is quite common. But that falls a long way short of an actual objection. The Committee Report correctly set out that Historic England raised concern with the application.
- 5.3. Therefore, the Council do not share the view that an error has been made and are of the view the Committee were not misled.

6. Presumption in favour of retaining the existing building.

- 6.1. The legal letter considers that the *“verbal updated on the NPPF and the Report materially misled the Committee”*. This statement is made on the basis of the Secretary of State’s decision in the called-in application of Marks and Spencer (M&S decision). The legal letter says that the Secretary of State *“stated in the clearest possible terms that a strong presumption in favour of repurposing and re-using buildings is reflected in paragraph 152 of the NPPF”* and that *“the Officers Report wrongly asserted (at 7.188) that the M&S decision is fact-specific when in fact the words used by the Secretary of State and the Inspector are “there should generally be a strong presumption in favour of repurposing and re-using buildings””*.
- 6.2. We have carefully considered this letter and taken advice from Counsel. It is the Council’s view that one should start with the words of the NPPF itself. With regard to the reuse of buildings, paragraph 157 of the NPPF states that the planning system should “encourage the reuse of existing resources, including the conversion of existing buildings” (SoS refers to Para.152 NPPF has been updated since then). Offering encouragement does not amount to a presumption. The concept of a presumption is well used and well understood in planning and expressly used in other parts of the NPPF, most notably the presumption in favour of sustainable development at paragraph 11.
- 6.3. The M&S decision is not national policy but because it is a decision of the Secretary of State it is a material consideration. Paragraph 24 of the decision reads “The Secretary of State agrees with the Inspector at IR13.43 that there should generally be a strong presumption in favour of repurposing and reusing buildings, as a reflected in paragraph 152 of the Framework” (note now paragraph 157).
- 6.4. The Secretary of State in the M&S decision relies on the inspector’s conclusions at paragraph 13.43 of the inspector’s report to assert this strong presumption in favour of re-purposing and reusing buildings. But the inspector himself put it slightly differently: he wrote “While there should generally be a strong presumption in favour of repurposing and reusing buildings, much must depend on the circumstances of how important it is that the use of the site is optimised, and what alternatives are realistically available.”
- 6.5. There are three key points to note about what the inspector in the M&S decision did:
 - (i) The inspector did not actually mention paragraph 152 of the NPPF (now 157)
 - (ii) He recognised that it is the circumstances in each case which are important
 - (iii) The context is he was actually considering local policies in the London Plan and policies in the City of Westminster.
- 6.6. The inspector actually recommended the appeal be allowed and that planning permission for the demolition of the M&S store and redevelopment be granted. The Secretary of State, Mr Gove, took a different view.
- 6.7. It follows that in our view, paragraph 157 of the NPPF (previous 152) itself does not create a strong presumption in favour of re-using the existing building at Smallbrook

Queensway. Furthermore, there are no local development policies which create such a presumption and that is why the report to members was written as it was.

- 6.8. Moreover, the M&S decision is in fact the subject of a legal challenge on this very point. It is being argued by the developer that there is no strong presumption in favour of the repurposing and reuse of buildings. The High Court has already allowed the challenge to proceed to full hearing on this point. In other words, the court recognises that it is arguable that the Secretary of State may have got it wrong in suggesting there is a strong presumption on favour of repurposing and reuse of existing buildings.
- 6.9. However, on legal advice, it has been suggested that because we have had advance notice of a potential legal challenge based on what the Secretary of State has written in paragraph 24 of M&S decision, it would be prudent to ask members to consider the proposal based on the assumption the M&S decision is correct. And that this approach should be taken until the conclusion of the High Court case over the M&S decision.
- 6.10. For that reason, members are being asked to consider that if there is a strong presumption in favour of re-purposing or reusing the existing buildings, should permission for this scheme still be granted?
- 6.11. It is important to say that in reaching that decision it is vital that members appreciate that it is the particular circumstances in each case that must be considered, including the ability to better optimise the use of this highly sustainable site through the redevelopment, the ability to best address the Council's unmet housing need, and the various identified difficulties in re-using the building as already set out in paragraph 7.183 – 7.187 of the Committee report. Further, the Committee report was informed by a Supplementary Planning Statement, submitted by the applicant, which considered whether it was viable to reuse and repurpose the existing building. This document was available to inform both the Officers' considerations in recommending approval and to the Members, when taking their decision.
- 6.12. It is the firm view of officers that the application should be granted, even if there is a strong presumption in favour of the repurposing and reuse of the existing buildings.

7. Conclusion

- 7.1. The Council did not falter in its decision making on 28th September 2023. Nevertheless, if a presumption in favour of re-using the building is established in the High Court the application should still be recommended for approval for the reasons set out above and contained in the previous report to Committee.
- 7.2. Therefore, planning permission should be granted in accordance with the recommendation below, subject to conditions and a s.106 legal agreement.

8. Recommendation

- 8.1. That application 2022/08496/PA be APPROVED subject to the prior completion of a Legal Agreement (Section 111 and/or Section 106) to secure the following:
 - Equivalent of 20% affordable rental units at a mix of 1- 2- and 3-bedroom apartments provided on site.
 - A requirement of the building owner to manage noise of affected units through the closure of amenity vents between the hours of 11pm and 7am.
 - Minimum public realm spend of £6 million, within the red line boundary of the application site.
 - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.

- 8.2. In the event that additional grant funding is not secured to deliver the equivalent of 20% affordable housing, then the equivalent of a minimum 15% affordable housing units, of a mix and tenure to be agreed, shall be provided on site.
- 8.3. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 29th February 2024 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reasons:
 - In the absence of any suitable legal agreement to secure the provision of onsite affordable housing, the development does not deliver the significant benefits considered in weighing the benefits of the proposal against identified adverse impacts. Therefore, the proposal conflicts with Policies DM10, TP31 TP47 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 8.4. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 8.5. That no objection be raised to the stopping-up of any public highway required to make the development acceptable and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.
- 8.6. That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 29th February 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2022/08496/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

[End of report back]

1. **Proposal:**

- 1.1 This is a hybrid application comprised of a full element for demolition of all existing buildings and the erection of a 48-storey residential building (SBQ 3) with lower and ground floor commercial spaces (Use Class E (a-d) and F2) along with public realm works and an Outline element (with all matters reserved for subsequent approval) for the erection of two residential buildings (SBQ 1 and 2) (Use Class C3) along with lower and ground floor commercial uses (Class E (a-d), F2 and Sui Generis (drinking establishments, hot food takeaway and nightclub)), associated public realm works and landscaping.
- 1.2 The full element (SBQ3) provides 44.79% (245 units) 1 beds, 49.36% (270 units) 2 beds, and 5.85% (32 units) 3 beds (547 total) served by 434 cycle parking spaces, 48 folding bike lockers and 60 scooter spaces. SBQ3 is inclusive of 701 sqm of lower ground and ground floor commercial spaces (shown as 5 individual smaller units).
- 1.3 The outline element (SBQ1 and 2) indicatively proposes up to 1085 residential units (C3) as well as 6,399 sqm of commercial floor space. The parameter plans set maximum building heights of up to 44 storeys (+253m AOD) for SBQ 1; up to 56 storeys (+292m AOD) for SBQ 2.
- 1.4 The overall hybrid planning application however seeks planning permission, for a total of up to 1,750 units (greater than shown indicatively by the outline proposals at 1,635 units). All buildings are intended to be operated as 'Build to Rent' (BtR) along with up to 7,100 sq. m. commercial floorspace.
- 1.5 The development is proposed to be delivered in three phases, with the demolition of the existing Ringway Centre proposed in two phases. Phase 1 (demolition and full

element) would involve the partial demolition of the Ringway Centre (existing SBQ buildings 2-4 including the link bridge), and construction of SBQ 3 as submitted in full. The following phases could come in a flexible manner in that both SBQ 1 and SBQ 2 could come forward in the second phase or in two independent phases. Development of SBQ 1, would necessitate the demolition of the remaining SBQ building 1.



Demolition Phasing – Phase 1 in blue, Phase 2 in green.



Phases of development – SBQ 3 (pink), 2 (blue) and 1(green)

- 1.6 Should there be a delay between phase 1 demolition, delivery of SBQ 3 (full element) and the delivery of SBQ 2, a meanwhile use is proposed for this site, set out in a meanwhile use strategy.
- 1.7 The application also includes public realm improvements through the delivery of 'Hurst Plaza', 'Wrottesley Steps', 'Smithfield Steps' and enhancements to Smallbrook Queensway to the front of the application site.



Illustrative Masterplan – SBQ1 - 3

- 1.8 This application is supported by an Archaeology Assessment, Aviation Assessment, Daylight, Sunlight and Overshadowing Assessment, Design and Access Statement, Design Code, Preliminary Ecology Survey, Bat Emergence Survey, Black Redstart Survey, Economic Benefits Statement, Energy Statement, Financial Viability Assessment, Fire Statement, Flue and Extraction Statement, Flood Risk Assessment and Drainage Strategy, Greenway Report, Ground Investigation, Health Impact Assessment, Heritage Townscape and Visual Impact Assessment, Lighting Assessment, Noise Impact Assessment, Planning Statement, Parameter Plans, Residential Standards Statement, Statement of Community Engagement, Sustainable Construction Statement, Telecommunications Impact Assessment, Television and Radio Report, Transport Assessment and Travel Plan, Tree Survey, Utilities Statement and Wind Microclimate Assessment.
- 1.9 This application is EIA development and is also therefore supported by an Environmental Statement pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Environmental Statement (ES) has been produced to assess the likely significant effects of the proposed redevelopment of the application site. The quantum of residential units within the ES differs from the quantum sought as part of the planning application. This is because the ES assesses an assumed maximum number of residential units giving a suitable level of flexibility within the assessments undertaken.
- 1.10 Birmingham City Council currently own the freehold of the application site.
- 1.11 [Link to Documents](#)
2. **Site & Surroundings:**
 - 2.1. The Site covers approximately 1.06 ha and is located within the northern part of the 'Southside' area of Birmingham City Centre. The application site is on the southern periphery of the city core where the commercial and retail centre along with the regional rail hub of New Street Station (to the north), meet the Bull Ring shopping centre and future Smithfield Markets regeneration area (to the east) and converge with the entertainment district, including China Town and the Gay Village (to the south).
 - 2.2. The Ringway Centre comprises four built elements SBQ 1-4. SBQ 1 is located between Scala House and the Smallbrook Queensway and Hurst Street junction. SBQ 2 comprises of a bridge link above Hurst Street and connects to the remainder of the building (SBQ 3 and 4) which abuts Dudley Street. The existing Ringway Centre building is relatively uniform in height, ranging between 5 and 6 storeys as

ground levels rise from west to east. The application site also incorporates the neighbouring building to the south along Hurst Street which currently accommodates a restaurant.



Images of Existing Building

- 2.3. The Ringway Centre is a sweeping concrete structure stretching to 230m, this large linear structure dominates the length of the southern side of Smallbrook Queensway, between the junction with Holloway Head (to the west) and Dudley Street (to the east) where it meets the modern Bullring shopping centre). In its mid-section it creates a gateway to the Southside district, bridging over Hurst Street, carrying its principal form on splayed 'Y' framed pilloti, and has a different architectural expression.
- 2.4. The building is cantilevered over a part single, part double height base, which absorbs the dip in topography along Smallbrook Queensway, centring on Hurst Street. The existing building consists of a basement level providing nightclub accommodation; at ground and mezzanine level there are retail and nightclub uses with four floors of office accommodation above.
- 2.5. The facades of this concrete framed building incorporate decorative concrete panels, large metal framed glazed windows and projecting concrete uplighters positioned across the frontage. Unlike the upper levels at street level there is little harmony to the treatment of shop fronts, with varying designs evidenced along the building's frontage with Smallbrook Queensway.
- 2.6. On the plot it part shares to the western side of Hurst Street there is a former barracks/drill hall along Thorp Street and the listed former public house and associated buildings between 34-36 Horse Fair. To the rear of the block it shares to the east side of Hurst Street is a collection of low rise 20th century buildings accessed along Ladywell Walk, with a service road (Wrottesley Street) extending up towards the site.
- 2.7. Beyond these immediate city blocks to the west, crossing the major intersection of the Bristol Street/Suffolk Street Queensway, the topography rises up the Holloway Head district of the city centre, marked by the 1970's Sentinel Towers. Towers also feature in both a southerly and northerly direction, with two under construction on the eastern side of Bristol Street (to the south), and the Beetham Tower, Orion Tower, Aston Place Towers and Alpha Tower flanking Suffolk Street Queensway heading north towards the Paradise development that bridges the street.
- 2.8. The wider area accommodates a range of uses with the Ringway Centre situated at the junction with one of the city's key night time economies centring on the

Hippodrome / the Arcadian. Beetham Tower a residential / hotel building, at 39 storeys. The Holiday Inn also provides hotel accommodation on the northern side of the Queensway between Beetham Tower and Hill Street, with retail units at ground floor. Centre City, a tower with a lower level podium marks the opposite corner of Hill Street with ground floor retail with offices above (the Grade B Locally Listed Norfolk House) forming the remainder of this northern edge to the Queensway.

- 2.9. The Bullring Shopping Centre is situated to the east beyond Dudley Street, with a cylindrical tower providing pedestrian access to the lower street level of Dudley Street. In addition to being situated at a lower level the areas to the rear of the site have a different character. A multi-storey car park and route towards the markets (Edgbaston Street) are relatively modern developments to the east. Birmingham's China Town is situated to the south with a vibrant mix of restaurants, entertainment venues including a casino fronting Hurst Street and a multi-storey car park all back onto the wider Ringway Centre (SBQ3/4). The Arcadian with its mix of lively entertainment venues, a hotel and serviced apartments are situated beyond. In addition to ground floor retail, food and entertainment uses Albany House is a large office development that has been recently refurbished. The Hippodrome theatre is situated beyond Albany House fronting pedestrianized section of Hurst Street.
- 2.10. There are no existing residential properties or amenity spaces within the Site. The nearest residential properties are over 75 metres away, located on John Bright Street, Station Street, Holloway Head, Holloway Circus, Horse Fair, Suffolk Street, Hurst Street and Inge Street. In addition, there is also student accommodation (True Student) on Upper Dean Street approximately 150 metres south-east.
- 2.11. The nearest designated heritage asset to the Site is located approximately 75 metres to the south-west – the Grade II listed Former White Lion Public House. The Old Rep, Station Street (Grade II) and Back to Back houses, Inge Street (Grade II) are beyond that. The Site is located within the vicinity of several non-designated heritage assets, such as Norfolk House (Category B Locally Listed Building), situated to the north of the Site fronting the northern side of Smallbrook Queensway.
- 2.12. The whole of the Ringway Centre is Locally Listed Grade B, and the site benefits from a Certificate of Immunity from Listing until 2027.
- 2.13. Vehicular access is afforded off Hurst Street to a small surface level parking area at the rear. There is a large basement carpark beneath part of the building extending below Smallbrook Queensway, accessed from Dudley Street.

3. **Planning History:**

- 3.1. Various applications relating to alterations and changes of use within the existing building.
- 3.2. 2009/06358/PA - Change of use of 1st and 2nd floor from B1 offices to D1 educational college - Approve subject to Conditions 02.2010
- 3.3. 2010/00379/PA - Change of use of 4th, 3rd, part 2nd and part 1st floors from B1(a) (offices) to either D1 (non-residential education and training centres or medical uses) or B1(a) (office) uses 31/3/2010
- 3.4. 2016/06618/PA –Demolition of building SBQ2; and recladding, refurbishment and extension of building SBQ3&4 to include an increase in height by two storeys, rooftop plant enclosures and rear extension at first floor level. Development to provide Class B1(a) offices on the upper floors, with ground floor entrances; retail/leisure (A1-A5) uses on parts of the ground floor, mezzanine and basement levels; basement car park; and retention of existing nightclub (Sui Generis). Approve subject to Conditions 05.2017

- 3.5. 2016/06617/PA –Demolition of existing buildings SBQ1 and SBQ2; construction of part 9 part 26 storey building, plus rooftop enclosures and basement level; containing 309 residential units on the upper floors with ground floor entrances, retail/leisure uses on ground floor, and basement car parking. Approve subject to Conditions 05.2017
- 3.6. 09.08.2016 – Certificate of Immunity from Listing granted (valid for five years).
- 3.7. 03.2022- Certificate of Immunity from Listing granted (valid for five years).

4. **Consultation Responses:**

- 4.1. Network Rail – No objection subject to conditions requiring the submission of a Vibro Impact Assessment, Tower Crane Assessment, Telecoms Review on railway telecoms.

- 4.2. Birmingham Civic Society – Objection

We would suggest the ideal outcome for the Ringway Centre would be a sensitive refurbishment and extension, of the quality of that employed at The Rotunda, with similarly sensitive improvements to landscaping, with reactivation of the retail / commercial units at ground floor.

We thank the applicants for briefing the BCS Planning Committee on the proposals before they were submitted, but feel that amenity societies and stakeholders should be involved much earlier in the formulation of proposals, rather than a month or so before submission of the planning application, as was the case here.

The Ringway is a Grade B locally listed building. Historic England have issued a Certificate of immunity from Statutory listing, but the local listing remains. The Ringway Centre will be included on the Twentieth Century Society's Buildings at Risk List 2022/23. Demolition would be in conflict with policy TP12 'Historic environment' – "The historic environment... includes locally significant assets and their settings in addition to designated and statutorily protected features. It will be values, protected, enhanced and managed for its contribution to character, local distinctiveness and sustainability and the Council will seek to manage new developments in ways which will make a positive contribution to its character."

The Birmingham Civic Society believes that the proposed demolition of the Ringway Centre is shortsighted, will result in the loss of one of the most important buildings of the era in the City. Following the loss of similarly important buildings such as Central Library, little remains of this chapter in the city's life, and with the loss of The Ringway, Birmingham will have almost obliterated memory of this time for future generations.

Developments such as the Rotunda, designed by the same architect, demonstrate how with imagination and sensitivity, buildings of this era can be successfully rehabilitated and remain as much loved icons.

The comments below are given on the basis that the existing buildings are to be demolished and the comments are on the proposed development.

It should be questioned why the applicant does not intend to develop the entire site immediately, and for what period the site will be left cleared. This may be many years, in a prime location in the city, providing an embarrassing arrival to New Street Station. It would clearly be of strategic benefit to the applicant to demolish the Ringway Centre, to prevent any future opportunity of its listing, and then to allow the site to lie fallow until such time as they can develop it.

Heritage: Setting aside the value of the existing building, the application site is not in a Conservation Area but is within one kilometre of eight Conservation Areas; Colmore Row and Environs, Digbeth Deritend and Bordesley High Streets, Warwick

Bar, Steelhouse, Edgbaston, Lee Crescent, Ryland Road and Jewellery Quarter. There are numerous listed buildings within 1 kilometre of the proposal. The proposed development will have a dramatic impact on the city skyline.

The applicants have submitted a detailed HTVIA (Built Heritage Visual Impact Assessment) with illustrations showing the impact of the development and its impact cumulatively with other proposals planned across the City. In some cases the impact of the development does not appear detrimental. However, in our view the proposals appear to be very dominant in views from the Hippodrome and to a lesser extent from St Martin's Church (Park Street) and the views are surprisingly noticeable from Victoria Square. The applicants consider the view from St Martin's Church to be Minor-adverse, but we cannot agree with this conclusion.

The application site is in a highly sustainable location adjacent to the Core Area of Birmingham City Centre and near to the Bull Ring Shopping Centre and New Street Station, and is in the rapidly changing Southside area and close to the proposed Smithfield development area. This will ensure that development of the site will be viable – including repair and sensitive extension of the existing building.

Policy: The main relevant policies in the adopted Birmingham Development Plan (2017) are PG1 Overall levels of growth and the need for 51,000 additional homes (2011-31), PG3 Place Making – new development should contribute to sense of place and policy GA1 for the City Centre where the City Centre is the focus for development. The Ringway proposal is in the Southside Area adjacent to the City Centre Core. New residential development is encouraged in the Southside area. We would encourage residential use, reusing or sensitively extending the existing building.

Like many City Centre residential developments there doesn't appear to be any affordable housing and the amount of three bedroomed housing is very low 16 units representing 3% of the total units in phase one (the detailed application). Given the scale of the development, we would expect a significant proportion of affordable houses to provide some public benefit to weigh against its impacts.

In relation to the three public realm improvements which are proposed Smithfield Steps, Wrottesley Steps and Hurst Plaza would reinstate the north-south links between New Street and Southside - the manner in which the existing building crosses Hurst Street demonstrates a successful strategy for its adaption to reopen these links. However it has hardly been a subject of public outcry that permeability is lacking in these areas, and improvements to permeability provide very limited public benefit to weigh against the loss of the historic building.

The Podium to the three towers attempts to replicate the sweep of the existing building along Smallbrook Queensway, but this in itself demonstrates the urban value of the existing building.

Use of the Ringway Centre has been chilled in recent years by the prospect of its demolition, and some tenants such as Fairdeal Music have relocated and remain solvent nearby. It has been suggested that the area attracts crime and is unsafe, but this lack of activation is a product of the uncertainty of the building's future. Tenants such as Snobs nightclub are extremely successful in this location. The suggestion that redevelopment would provide the activation and informal surveillance that is currently lacking is weak, since this could similarly be achieved by commitment to the existing building.

Loss of a building of this scale, which can be readily repurposed if considered thoughtfully, should not be considered in a time where as a city, Birmingham is moving towards Zero Carbon. We refer to the attached documents for thorough exploration of the impacts of redevelopment and associated policies.

- 4.3. Birmingham Airport – No objection subject to conditions requiring an aviation warning lighting scheme and an instrument flight procedure assessment.

4.4. Historic England – Concern

We are concerned that the scheme results in the wholesale clearance of the site, and the loss of the locally listed Ringway Centre which, despite alterations, holds some architectural and historic interest. In terms of the City Council's own information on locally listed buildings, it is not clear exactly what 'positive efforts' have been undertaken in order to ensure the Centre's preservation.

In respect of the proposed development, at 48 and, potentially, 56 and 44 storeys high, the proposed tower elements of the overall development would form some of the tallest buildings in the city.

It is essential, therefore, that the Council ensure a thorough understanding of the proposed development's potential visibility and impact on the historic environment in relation to any public benefits resulting from the development.

- 4.5. BCC Transportation – No objection subject to conditions requiring a s.278 agreement, stopping up agreement, demolition and construction management plan, cycle parking prior to occupation, servicing management plans and adoption of travel plan

- 4.6. BCC Conservation – Harm identified from demolition of heritage asset and impact of proposed development on the setting of other assets.

- 4.7. BCC Employment Access Team – No objection subject to conditions requiring the submission of a construction employment plan

- 4.8. BCC City Design and Landscaping – No Objection

In conclusion, if fully implemented, this scheme could bring about regeneration benefits to the immediate site and these could be seen to outweigh the loss of a good post war building. If only part implemented, the scheme would cause the destruction of an iconic building, prejudice neighbouring regeneration and leave a nodal point leading into the city core dismantled. This is an either/or project and a part delivered scheme in this fashion would be harmful and a hybrid application structured this way does little to provide comfort that the city will not be prejudiced.

- 4.9. BCC Ecology – No objection subject to the development in accordance with the submitted construction ecology management plan

- 4.10. BCC Trees – No objection subject to compliance with the arboriculture report

- 4.11. BCC Environmental Protection –

Air Quality – No objection subject to conditions requiring further surveying at Reserved Matters

Contaminated Land – No objection subject to conditions requiring a remediation scheme and verification report

Noise and Odour – Further assessment and mitigation design required via condition.

- 4.12. BCC Archaeology – No objection, no further archaeology work required

- 4.13. BCC Education – Nursery Provision. No planning obligation required.

- 4.14. BCC Employment Access Team – No objection subject to a condition requiring an employment access plan

- 4.15. Lead Local Flood Authority – No objection subject to conditions requiring detailed surface water drainage strategy and an operation and maintenance plan.

- 4.16. Environment Agency – No objection subject to conditions requiring the submission of a preliminary risk assessment, contamination remediation strategy, remediation strategy if contamination found not previously found, Piling method statement

- 4.17. Severn Trent Water – No objection subject to conditions requiring the submission of foul and surface water drainage details.

4.18. 20th Century Society – Objection

- (1) *In the Society's opinion, the Ringway Centre is of high heritage significance. The site's overall heritage significance has been undersold and the level of harm that would be caused through the building's total loss downplayed. In our view, the complete redevelopment of the site would cause serious, substantial harm. This harm would result from the total demolition of an NDHA, but also through the loss of the post-war context to Roberts's Grade II listed Rotunda.*

It is the Society's view that the loss of the Ringway Centre would harm the setting of the Grade II Rotunda. Historic England's guidance on 'The Setting of Heritage Assets' (Good Practice Advice in Planning Note 3, 2nd Edition 2017) states that 'The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors [...] and by our understanding of the historic relationship between places' (our emphasis). We maintain that the loss of Roberts's post-war Ringway Centre would seriously harm the setting of the architect's contemporary Rotunda, which is a designated heritage asset.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority [...] shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.' Paragraphs 199 and 200 of the NPPF relate to the impact of new development on designated heritage assets and should also be considered here.

The Ringway Centre is capable of being adapted for reuse and, if required, extended upwards. It would be possible to convert the existing building to residential and the lower levels could be adapted to activate the frontages and improve connectivity between the streets, and the public realm revitalised to improve the pedestrian experience. The building's fabric could also be sensitively upgraded to improve the building's environmental credentials. Overall, we maintain that there would be clear heritage benefits afforded by the preservation and adaption of this important asset. To illustrate this, we have supported a counterproposal by local organisations Birmingham Modernist Society, Brutiful Birmingham and Zero House Carbon which envisages the reuse of the Ringway and tying in of 3 20-storey towers to provide 450 mixed-sized homes (see full report, 'Re-Imagining Smallbrook Ringway: A Counter-Proposal for Adaptive Re-use' 2022). This scheme would deliver many of the public benefits which are claimed to be provided by the application scheme whilst retaining this important heritage asset.

We are seriously concerned about the potential loss of the Ringway and will feature it as one of our 10 Buildings at Risk for 2023. This is an important building in Birmingham and should be conserved for the benefit of current and future generations.

- (2) *The applicant has submitted a supplementary planning statement (March '23) which includes section 7, 'Assessing Heritage Significance when Considering Retention'. The applicant claims here that "...the building is significant at a local scale, not national. This is reaffirmed by the Certificate of Immunity of Listing (COIL) and the identification by Birmingham City Council of the building as a non-designated heritage asset. Accordingly, whilst the building is of some heritage merit, the overall effect arising from the impact to the asset is affected by consideration of its significance which is much less than is suggested by some groups." (7.8). The applicant refers to paragraph 203 of the NPPF which asks that "In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset." This paragraph relates specifically to*

applications affecting NDHAs so any assessment of the building's significance should be made in regard to its status as a Non-Designated Heritage Asset. It is our view that the Ringway Centre is an NDHA of high significance – it has major importance locally. It is locally listed and part of a group of buildings characterised by the council as "...important in the city wide architectural context or the local street scene" and which "warrant positive efforts to ensure their preservation". The application would result in the total loss of a locally listed building, which we find unacceptable. The applicant proposes that a Historic Building Record is made prior to demolition "to reflect its level of heritage significance" (7.9). While recording work is important and a helpful tool in the conservation process, it is no substitute for the actual conservation of the building itself, which contributes to the architectural and historic interest of the local streetscape and has integral evidential value. Paragraphs 189 and 197 of the NPPF note the desirability of conserving heritage assets and policy TP12 of the Birmingham Development Plan states that the historic environment, which includes "locally significant assets" will be "protected" as well as "valued". The applicant points out that the "substantial demolition of the existing building" was permitted by Birmingham City Council in 2016 (7.10). It is our view that appreciation for, and interest in, the Ringway Centre has grown since 2016. As highlighted in our December letter, the Ringway has received considerable attention in academia and in the architectural press in recent years, featuring in new books, as well as journal and newspaper articles. We are of the opinion that the significance of the Ringway has increased in the last seven years or so and will only continue to do so with more time. The Ringway Centre is an important locally listed building in Birmingham which should be conserved to benefit existing and future generations.

The applicant claims that the Ringway Centre "was constructed for commercial office occupation and with an intended design life of around 60 years" (9.3). We challenge this claim which, as far as we are aware, has no evidence to back it up. The applicant then makes the point that the building would require significant and costly interventions for it to accommodate new uses and occupiers. We believe that it would not only be possible to repair, retrofit and adapt the building in a way that preserves its significance but that this would be seriously worthwhile as it would ensure the conservation of an important local heritage asset with knock-on social, cultural and other benefits.

- 4.19. West Midlands Police- No objection subject to conditions requiring the submission of CCTV strategy, Lighting details, Balustrade and fixed furniture details on terrace areas, scheme of HVM.
- 4.20. HSE Fire – No objection
- 4.21. West Midlands Fire Service – No objection subject to compliance with Building Regulations
- 4.22. Natural England – No objection

5. **Third Party Responses:**

- 5.1. The application has been publicised by sending out letters to neighbours, posting site notices within the vicinity of the site and a press notice.
- 5.2. Residents' Associations; Ward Members; the MP and local occupiers consulted with the following representations received.
- 5.3. 138 objections making the following points
 - Sustainability and Climate Change
 - The proposal to demolish buildings over refurbishment does not align with the City's aim to be net zero by 2030.
 - If Birmingham City Council approves this application, it is proof that the 2030

net zero target is all greenwash and won't be achieved.

- No assessment of the excess carbon associated with this project has been supplied.
- Glass towers have significantly higher heating and cooling requirements when compared to lower level buildings, showing that sustainability and the fight against climate are not important to the council.
- Developers should propose an alternative scheme that utilises the buildings already there.
- Environmentally unsound due to embedded carbon in the old building and the carbon cost of a new building
- Up to 75% of the whole life carbon impact of a building can be the embodied carbon in the building/construction itself. The proposed demolition and extensive new construction would both cause large and immediate spikes in carbon emissions. Far from reducing carbon, the proposals would likely result in a significant increase in emissions.
- The proposed demolition is inconsistent with national and local policies. Birmingham Development Plan targets 60% carbon reduction by 2027 - ahead of Government plans. The Plan supports initiatives and opportunities to mitigate the effects of climate change by seeking the reuse of historic buildings, to reduce carbon emissions and secure sustainable development. National Planning Policy (NPPF) also requires radical reductions in greenhouse gas emissions through the reuse of existing resources, including the conversion of existing buildings. Best practice recommendations align with and reinforce these policies. Examples include the LETI Climate Emergency Design Guide's first primary action, to build less, asking "is a new building necessary" LETI's Embodied Carbon Primer prioritises making use of the site and retrofitting existing buildings rather than building anew.
- The proposal represents business as usual: a wholly inadequate response to climate targets and policy
- Demolition should only be a last resort.
- with Marks & Spencer in London and Fosters 'Tupli' being refused over Carbon Footprint, why is this being proposed for demolition?
- an energy-efficient retrofit of Ringway would be inherently much lower carbon than demolition and new building
- Repurposing the building would be a significant model for the great change in planning policy which Birmingham requires.
- The 'anticipated decarbonisation of the UK electricity grid' is not guaranteed and it is disingenuous to take it as a given in the calculations of the WLCA
- The all-electric building services strategy can also be applied to refurbishment.
- The refurbishment option still represents the least embodied carbon emissions, retains a significant historic building and potentially signals a better way forward for development by retaining and re-using. If the developers put as much effort in to the refurbishment option the embodied carbon emissions could doubtless be reduced even further.
- The application should be refused on grounds that the applicants WLC report strengthens the case for retrofit of the existing building at a more appropriate density to the location, protecting this important and unique heritage asset for future generations.

Architecture and Heritage

- The Ringway Centre is one of a handful of Brutalist buildings left in the city – we have already lost too many.
- This building should be preserved. The architecture is unique and is a huge part of our city's identity
- It really should be a listed building and treasured
- This city has so much to offer and should be proud of retaining unique architectural features.
- locally listed at Grade B. Buildings in this category are defined as 'Structures or features that are important in the city-wide architectural context or the local street scene, and warrant positive efforts to ensure their preservation'
- The proposed podium is a weak gesture towards the existing building and any reference to either the Ringway Centre or surrounding heritage context is made at a very simplistic level
- The dynamic, sculptural form of the Ringway Centre and the refined nature of its façade is lost to clumsy and over scaled extrusions of the available site and a generic façade systems
- The Pevsner guide to Birmingham and the West Midlands describes it as 'the best piece of mid C20 design in the city, and James Roberts' Ringway Centre is the definitive element of it: shaped by the highway, and responding in scale with it'
- Many good buildings from the 1960s in Birmingham have been thoughtlessly demolished. This is one of the best. Roberts was one of the best architects working in the city in the mid C20 and was also the architect of the Grade II listed Rotunda.
- Too much of Birmingham's architectural heritage has already been lost
- The counter-plan made by Brutiful Birmingham, the 20th Century Society, Birmingham Modernists, and Zero Carbon House, widely publicised recently, demonstrates what could and should be done. It retains the locally listed building, and it converts it to a commercially viable new use.
- In the 60/70s, how many examples of Victorian, Georgian, etc Architecture were torn down because they were no longer fit for purpose and yet it is these buildings we now covet. The existing building has a unique Architectural style and character, one that warrants preservation. If we allow these enormously boring towers to replace it, I believe we'll be ripping them down to be replaced with something else in another 60 years time.

Urban Design and Landscaping

- Whilst there is clearly a need for investment in the Ringway Centre, the site does not need to be 'redefined' to achieve the 'residential-led, mixed use development proposed'
- The Ringway Centre does not form a physical barrier between parts of the city, rather it frames and announces a gateway which celebrates the surrounding context.
- The reinforcement of existing routes and the opening up of previously lost passages does not require the demolition of the existing buildings, but the intelligent redesign of the public realm and lower levels of the building.

- The proposed towers at 44, 48 and 54 storeys would overwhelm the immediate context, cutting off available daylight.
- the lining of the street in such a way would create an unrelenting canyon, and sets a poor precedent for any future consideration of tall buildings in the centre.
- little provision for amenity space short of a small plaza and steps, and privately accessed roof terraces
- The design of the proposed replacement is inept. One would expect the three towers to have a composition as a coherent group, with intelligent relationships between the three. Instead, what we have is three towers that appear to have been designed independently by three different people.

Traffic

- This will cause further traffic chaos in the area. it is a main route for buses, taxis, pedestrians and a carpark entrance. No doubt the road will be closed, lanes taken out of action and pedestrians having to take major detours so that a private company can profit. Too many private projects are taking over the public realm and making simply walking around a complicated maze of no-go areas. They need to work within their own footprint.
- If the intention is to allow for a complete redevelopment then this will have massive implications for the road network, cycling and bus infrastructure as well as public transport links within the city.

Other

- Insufficient soundproofing & therefore the potential for noise complaints.
- The proposal for 1680 homes would also place undue pressure on the existing social infrastructure of the city.
- The city centre is fast becoming more of a residential area rather than a business district area, far too many locations are now being prioritised to offer residential housing rather than business space.
- Hi-rise commercially driven build-to-let towers do not represent a long term, sustainable or desirable solution to housing need. This is not building for life, it is building for short term financial gain and the adverse impacts will likely be long term and deep.
- Lack of affordable housing
- Why does the city centre need so many apartments

5.4. Letter from Brutiful Birmingham with a Counter proposal document attachment, in summary;

- Birmingham has made a pledge to be carbon neutral by 2030, this cannot be achieved by the demolition of perfectly useable buildings which are only sixty years old, the embodied carbon is enormous.
- The counter proposal document 'Reimagining of Smallbrook Ringway'. Includes a chart giving indicative carbon emissions over 60 years comparing demolition against repurposing the existing building and retrofitting. These figures must be taken seriously and a comprehensive analysis undertaken before proceeding further.
- Birmingham, through its home-grown architects, developed its own inimitable

style and the Ringway Centre is one of our few major buildings that are left from this period that demonstrate this.

- The Ringway Centre is included in Birmingham's local list at Grade B (2013). It is therefore city policy for it to be "valued, protected and enhanced".
- The overbearing size and density of the proposed development in this very restricted space will impact the surrounding buildings. The grade 11 listed Rotunda will be crowded out by these three tall towers and St Martins in the Bullring is increasingly confined by taller and taller towers.
- The social disruption of the continual reinventing of the city cannot be underestimated. A stable physical environment is necessary for us all but particularly those living and working nearby.
- We are very concerned that the consultation appears to be a carefully managed PR exercise rather than meaningful discussion with the local community and the residents of Birmingham.
- The local disruption inherent in this application is estimated to continue for at least seven years. So much of the physical rebuilding of the city after the war fell to the immigrant populations from Ireland, India and Pakistan. The Ringway Centre is part of the heritage and legacy for the wider and more diverse population of Birmingham today. It anchors them in the city. The alternative proposal attached is an example of what can be achieved. It retains the iconic heritage features of the building, avoids the huge carbon cost of demolition and ensures that the physical environment is not destabilised for Birmingham residents.
- In conclusion we strongly object to this application.

5.5. 3 letters of support making the following points

- Will open up the streetscape and in particular improve the connections between Smallbrook Queensway and the Southside area of the city.
- The current proposals offer a huge improvement on the historical mistakes of the mid 20th century period which developed the current built form of the Ringway centre in response to roads for cars - a dystopia Birmingham found itself dominated by the 1980s that has since required considerable efforts to undo.
- While I recognise others take a view on its claimed representation of historical relevance to the 20th century my overriding impression is it's a domineering and oppressive structure that severs many links between Southside and the city centre. The current proposals -despite their scale actually appear to be less dominate -largely thanks to the loss of the Hurst St overbridge and opening up of Wrotesley Street which are both overriding positive interventions to restore the street structure of the city.
- The current buildings are an eyesore and the surrounding area is scruffy, please don't allow watered down versions, get the buildings up.

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

6.1. **National Planning Policy Framework**

- Section 2: Achieving sustainable development – para. 8
- Section 4: Decision-making – paras. 56, 57
- Section 5 Delivering a sufficient supply of homes
- Section 11 Making effective use of land
- Section 12 Achieving Well-Designed Places
- Section 16 Conserving and enhancing the historic environment

6.2. Birmingham Development Plan (2017)

- G1 Overall levels of growth
- PG3 Place making
- TP1 Reducing the City's carbon footprint
- TP2 Adapting to climate change
- TP3 Sustainable construction
- TP4 Low and zero carbon energy generation
- TP5 Low carbon economy
- TP6 Management of flood risk and water resources
- TP7 Green infrastructure network
- TP8 Biodiversity and geodiversity
- TP9 Open space, playing fields and allotments
- TP12 Historic environment
- TP26 Local employment
- TP27 Sustainable neighbourhoods
- TP28 The location of new housing
- TP29 The housing trajectory
- TP30 The type, size and density of new housing
- TP31 Affordable Housing
- TP37 Heath
- TP38 A sustainable transport network
- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development
- TP46 Digital communications
- TP47: Developer contributions

6.3. Development Management DPD (2021)

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

6.4. Supplementary Planning Documents & Guidance:

Birmingham Design Guide (2022); Birmingham Parking Supplementary Planning Document (2021); Guidance Note on Sustainable Construction and Low and Zero Carbon Energy Generation (2021); Public Open Space in New Residential Development SPD (2007) National Planning Practice Guidance; Community Infrastructure Levy (CIL);

7. Planning Considerations:

7.1. The main material considerations are

- The principle of development
- Environmental Statement
- Impact upon Heritage Assets
- Design

- Microclimate
- Sustainable Construction
- Transportation
- Ecology
- Trees
- Flood Risk and Drainage
- Noise, Air Quality and Contamination
- Fire
- CIL and S.106
- Equalities Act
- Other Matters

Principle of Development

- 7.2. Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development would be continued to be supported where it provides well-designed high-quality environments with the majority of new housing expected to be delivered on brownfield sites within the existing urban area. Policies GA1.1 City Centre, Role and Function, GA1.2 City Centre -Growth and Wider Areas of Change, and GA1.3 City Centre -The Quarters are relevant, they all support the creation of vibrant mixed-use areas, combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area.
- 7.3. Policy GA1.3 'The Quarters' states: - 'New development must support and strengthen the distinctive character of the areas surrounding the City Centre Core raising their overall quality offer and accessibility. The City Centre is formed by seven Quarters with the Core at its heart. The application site is located within the defined city centre, within the 'Southside and Highgate quarter' the ambitions for which are described as *'Supporting the growth of the area's cultural, entertainment and residential activities and its economic role complemented by high quality public spaces and pedestrian routes'*.
- 7.4. The site sits on the edge of the city core, between the 'New Street Southside' and 'Southside Gateway' wider areas of change. GA1.2 'Growth and Wider Areas of Change' identifies the 'Southside Gateway' as an area that will be the focus for the southern expansion of the city core through mixed-use developments and improved public realm. With 'New Street Southside' acting as a catalyst for wider regeneration of the city centre.
- 7.5. Overall, the site is within the City Centre growth area sits outside the Retail Core and would see the use of brownfield land to deliver mixed use residential led development. The principal of which accords with the above policies.

Provision of Housing

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

authority cannot demonstrate a five-year supply of deliverable housing sites. Footnote 7 of the NPPF notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets, this is discussed later.

- 7.8. Policy TP27 of the Birmingham Development Plan highlights the significance of housing and its importance in the creation of sustainable neighbourhoods; and how this is underpinned by the provision of a wide choice of housing sizes, types, and tenures to ensure balanced communities are created to cater for all incomes and ages. Policy TP28 'The location of new housing' requires new residential development to be well located listing several requirements a residential development site should meet. The application site is an appropriate location for housing, in accordance with this policy.
- 7.9. TP30 requires proposals for new housing to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods in accordance with the most recent housing market assessments.
- 7.10. The Full application (SBQ3) provides 547 units in a mix of 44.79% (245 units) 1 beds, 49.36% (270 units) 2 beds, and 5.85% (32 units) 3 beds, all compliant with Nationally Described Space Standards (NDSS).
- 7.11. The Outline application (SBQ 2 and 3) indicatively provides a further 1,085 residential units, with a suggested mix of 46.18% (755 units) 1 beds, 48.81% (798 units) 2 beds, and 5.02% (82 units) 3 beds.. The mix of these units would be secured via a condition which requires the proposed mix to be submitted with any Reserved Matters application for residential development.
- 7.12. The Council's Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and replaces the existing SHMA referred to in Policy. The proposal would not replace existing housing and would therefore add to housing choice within the area. Figure 2 'Tenure of housing' as set out in the BDP (2017) required as a percentage, a mix of housing. This has been updated by the HEDNA which suggests the following mix for the central area. 1 beds: 17% 2 beds: 37% 3 beds: 31% 4 beds 15%.
- 7.13. The 'Central Area' defined in the HEDNA covers more than just land within the ring road it analyses sub-areas within the Central Area which it defines as Inner and Outer Central Sub-Areas – broadly the Inner area corresponds with land within the ring road and the Outer area covers those areas within the Central Area wards which are outside of the ring road. The HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, which the site would be located within, it does however acknowledge its different characteristics compared to the Outer Central Sub-Area.
- 7.14. Whilst the mix of housing within SBQ 3 fails to provide a significant number of larger units of accommodation (2 and 3+ bedrooms), the mix is weighted relatively evenly, and is favoured towards 2 bed units. Whilst it is not expected that every proposal would provide the exact mix suggested, it would be preferable to see more 3 bed units incorporated into the housing mix. This would contribute to the aim of creating a more varied supply of family homes in the central area, suggested in the HEDNA and Policy GA1.
- 7.15. Nonetheless, this mix can be supported in a City Centre location, on a site of this character given that the proposal adds to the mix available housing across the City as a whole. Further, the HEDNA (2022) considers that it is appropriate that "the Council recognise the role of Build to Rent (BTR) development and develop a policy supporting it, which specifies the types of locations where such development is encouraged". It goes on to suggest that "BTR is expected to be in the Central sub-area based on the demographics of those areas. These areas are also well connected to local services and transport, this would also support the night-time economy" the HEDNA also recognises that brownfield sites within the central area are likely to be suited to flatted development such as that being proposed.

Affordable Housing

- 7.16. In developments where more than 15 residential units are proposed, the Council seeks 35% affordable homes, in accordance with BDP policy TP31. BDP para. 8.21 states the Council is committed to providing high quality affordable housing for people who are unable to access or afford market housing and that this is an important commitment to ensure a choice of housing for all. The HEDNA concludes that there is a “notable need” and “it is clear that provision of new affordable housing is an important and pressing issue in the area.” Where meeting the 35% target would make the development unviable, the application must be supported by a financial viability appraisal (FVA) to demonstrate this. The FVA is independently assessed on behalf of the LPA, and it may be the case that a lower amount of affordable housing can be offered instead.
- 7.17. The NPPF sets out the definition of affordable housing (in planning terms), specifically defining affordable housing for rent. The proposed scheme is a build to rent development and therefore the NPPF requires the affordable provision on site to be at least 20% below local market rents (including service charges where applicable) in perpetuity.
- 7.18. In this instance the FVA has been assessed by independent consultants (Lambert Smith Hampton) and a position of 7% affordable housing was reached. This was inclusive of 59, 1 bed and 59, 2 bed units (118 units total, to be split across all phases) at a 20% Discount Market Rent. This equates to a monetary value of circa £6,9000,000. This would meet the above definition.
- 7.19. Through discussions with BCC Affordable Housing Delivery Team, the need for more family housing was identified and at a greater discount, to make the units truly affordable and helping to address the City’s greatest needs. Therefore, the affordable housing offer was updated to provide all of the proposed affordable housing units, as 3 bed units across all three proposed buildings. Furthermore, a greater discount on market rates of 30% was agreed.
- 7.20. This therefore had an impact upon the overall percentage of units being provided. Across the scheme this results in 71 affordable units (down from 118), equating to 4.4% affordable housing. However, this would be delivered over the same net internal area as the previous 7% agreement. 24 x 3 bed units are proposed within SBQ3 (full) at a 30% discount rent. The financial value of this, is equivalent in viability terms, to providing 10.5% 1 and 2 bed affordable homes at 20% discount on market. Both LSH and the Affordable Housing Delivery Team have confirmed that this is an improved position, that is welcomed.
- 7.21. However, it is recognised that this still falls below the policy position of 35% affordable housing. Therefore, the applicant has worked with the Council to find potential alternative routes to increasing the affordable housing offer. Therefore, through discussions with the West Midlands Combined Authority, the scheme has been identified as potentially being suitable for Deeper Devolution Deal funding. Through these discussions, the WMCA may support a further equivalent provision of 9.5%.. Over the whole scheme, this would be an additional 100 x 1, 2 and 3 bed units, Within SBQ 3 this is made up of 31 x 3 bed units at a 30% discount. The final mix would be agreed via the s.106. Therefore, the total equivalent 20% offer would equate to 171, 1, 2 and 3 bed units at 30% discount.
- 7.22. The s.106 agreement would require the developer to demonstrate how they have engaged with the WMCA, to maximise the level of affordable housing on site. However, should the grant funding not be secured, then the developer has agreed to provide the equivalent of 15% affordable housing, as a minimum fallback provision, with the developer accepting a less than typical profit level. This has been shown as 119 units across all three developments, with 38 units within SBQ3.
- 7.23. Overall, the proposal delivers a total of up to 1,750 units of residential accommodation

on a brownfield site, within a very sustainable location, helping to deliver housing in accordance with the government's commitment to significantly boosting the delivery of housing and would assist in meeting the shortfall in the five-year housing land supply. This weighs in favour of the application. Whilst the mix of housing does not provide a greater number of larger units of accommodation (2 and 3+ bedrooms), the proposed mix is weighted towards 2 and 3 bed units, this can be supported in the City Centre location, on a site of this character and is therefore afforded significant weight. Further to this, the scheme can support a minimum of 15% affordable housing, helping to deliver affordable housing in line with the Council's acute need for affordable housing. The scheme may also support additional affordable units through WMCA funding, potentially resulting in the equivalent of 20% affordable housing, this has significant weight in the planning balance. Should the WMCA grant not be successful, the application has the minimum of 15% affordable housing, still weights significantly in the planning balance. The mechanisms for providing these affordable homes will be secured via a s.106.

Commercial uses

- 7.24. Policy TP21 'The network and hierarchy of centres' supports proposals for main town centre uses within allocated centres, to ensure the vitality and viability of these centres. The site falls within the City Centre Boundary for main town centre uses but falls outside the retail core. The city centre boundary is however the focus for such uses, according with Policy TP21. Policy TP24 states that a mix of uses as defined by TP21 will be encouraged where they are consistent with the scale and function of the centre.
- 7.25. SBQ3 (full) is inclusive of 701 sqm of lower ground and ground floor commercial spaces (shown as 5 individual smaller units). Whilst outside of the retail core it forms part of a mixed-use development supported by GA1 and is not proposed to be entirely E(a) retail.
- 7.26. The outline application (SBQ1 and 2) proposes up to 6,399 sqm of commercial floor space. Retail impact assessments are required where 2,500sqm (gross) of retail space is provided outside of the retail core. However, the proposal is clear that a Flexible E use class is proposed, along with Sui Generis uses (drinking establishments, night club) and F Class uses. Therefore, a suitable condition can control the amount of retail floorspace as not to conflict with the aims of this policy in protecting the viability and vitality of the retail core offer.
- 7.27. Snobs nightclub is a leaseholder within the building, the lease of which is coming to an end. Paragraph 93 of the NPPF states that decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. In this instance, whilst Snobs may be a valued asset to the community, its loss would not prevent the community being able to meet its day-to-day needs. There is no specific BDP policy that would prevent the closure of the nightclub as a result of development.
- 7.28. Overall, Policy PG1 and GA1.3 support development proposals in identified sustainable growth areas such as this. The site is sustainably located with access to facilities and service by sustainable modes of transport and the proposal provides a satisfactory mix of housing and affordable housing, adding to the types of accommodation available across the city, in accordance with TP27, TP28, TP30 and TP31. The proposal also introduces ground floor commercial uses, outside of the retail core in accordance with TP21 and T24, resulting in a mixed-use scheme on brownfield land. Therefore overall, the principle of the redevelopment for mixed use residential led purposes, with the proposed mix and level of affordable housing, can be supported.

Environmental Impact Assessment

- 7.29. Environmental Impact Assessment (EIA) is the process undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI 2017/571) the 'EIA Regulations'. The EIA process is where

development proposals deemed likely to have significant environmental effects are appraised. EIA establishes the nature of a development and the environment in which it is likely to take place, during both the construction and operational phases. The Environmental Statement (ES) is the document that reports the assessment process and is submitted with the planning application. It has the status of a material consideration during the determination of the application.

- 7.30. An ES should focus on the likely significant effects of the proposed development so that they can be taken into account when determining the application.
- 7.31. The subject areas (of likely significant effects) are identified via a scoping opinion, in this case they are:
 - Air Quality;
 - Noise and Vibration;
 - Socio-Economics;
 - Built Heritage ;
 - Townscape and Visual;
 - Daylight, Sunlight and Solar Glare; and
 - Wind
- 7.32. Topics scoped out as being unlikely to give rise to significant effects on the environment were: Transport and Accessibility; Ground Conditions and Contamination; Flood Risk, Water Quality and Resources; Archaeology; Biodiversity; Climate Change; Light Pollution; Waste; and Major Accidents and/or Disasters.
- 7.33. During the assessment of likely significant effects, the EIA (in line with requirements of the EIA Regulations) has considered measures to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects 'mitigation'. Finally, each chapter determines whether the level of effect reported is 'significant' or not. This determination is based on professional judgment.
- 7.34. The EIA Regulations require "a description of the reasonable alternatives studied by the developer". The ES considers and evaluates alternative design, largely focused on the options considered during the design evolution of the proposed scheme, including massing and choice of uses. However, no consideration to an alternative scheme was given in the ES (for example retrofitting of the existing building). Objections to the scheme have been made to the lack of alternative schemes being considered by the ES. However, there are no set 'rules' as to what should be included and is based on professional judgement of the author. The ES has been prepared by a suitably qualified person, and therefore this is not a reason that would warrant refusal. Nonetheless, the applicant provided a Supplementary Planning Statement which sets out a number of technical constraints to retaining the existing building and commentary on the barriers to reoccupation of the existing building, this is further supported by a statement from Savills, giving context to the commercial viability of the building, for alternative uses.
- 7.35. For the purpose of the ES, two operational scenarios were tested where relevant:
 - 1st Operation (2028): This has considered effects associated with the completion of SBQ 3 and has been driven by the need to understand the effects of this in isolation, to account for any scenario in which development after SBQ 3 is delayed; and
 - Full Operation (2036): This will consider effects associated with the entirety of the proposed scheme being operational (i.e. SBQ 1, 2 and 3).
- 7.36. Taking the chapters separately a summary of the predicted significant effects, these issues are then considered separately as part of the planning application submission.

ES - Air Quality;

- 7.37. The effects assessed were the changes to the pollutant concentrations as a result of operational traffic exhaust emissions and exposure to pollutant concentrations in excess of Air Quality Objectives.
- 7.38. For both scenarios the assessment concluded that there would be no exceedances of air quality assessment levels at any of the sensitive receptors identified and the maximum change in concentration for each pollutant was less than 1% of the air quality assessment level. Emissions generated by operational traffic were not considered significant for existing residents and users of the local area. The exposure to pollutant concentrations in excess of the relevant Air Quality Objective is not considered to be significant for all future residents and users of the local area.

ES - Noise and Vibration;

- 7.39. The effects assessed were; noise and vibration generated from construction stage activities; transfer of noise and vibration from the demolition of attached structures; noise emissions from operational traffic and new late night entertainment premises; introduction of new residents on operational noise practices of existing late night entertainment premises (including music venues); and existing road, commercial and late-night premises noise impacting on the proposed scheme.
- 7.40. Through implementation of appropriate Construction Environment Management Plan (CEMP) measures to control noise and vibration on the Site, effects associated with noise emissions and vibration from the demolition of attached structures are considered not to be significant. However, significant effects from construction stage activities in relation to noise and vibration were identified for some existing and future receptors.
- 7.41. Both Thorp Street and Hurst Street were assessed for noise effects in relation to additional operational traffic during the Full Operation (worst-case) scenario as these were identified to experience the most noteworthy increases in traffic flows. Although adverse noise effects were predicted for some receptors, these were not considered to be significant.
- 7.42. The proposed scheme includes provision of new nightclubs, late night bars and local community facilities. Provisions and detailed design development procedures are outlined in the ES and includes appropriate façade design and setting noise limits for tenants. The assessment concluded that future receptors and many existing receptors would not experience an adverse noise effect from new late night entertainment premises. However, some existing receptors situated along Smallbrook Queensway Holloway Circus, Thorp Street and Hurst Street would experience an adverse noise effect, but again not one considered to be significant.
- 7.43. Likewise, impact on the new late-night premises (within the outline scheme) as a result of complaints from potential future occupiers has been considered. With the implementation of the acoustic designs, the internal noise conditions are expected to be suitable for residential occupation of new homes. This implies that it is very unlikely that the internal noise conditions would invoke a cause for complaint.
- 7.44. Overall, no significant noise effects were identified from existing traffic or commercial uses (including late-night entertainment premises).

ES - Socio-Economics;

- 7.45. The effects assessed to Socio-Economics were construction and operation employment generation and the provision of new housing.
- 7.46. During construction it is estimated that a total of 190 additional full time equivalent jobs would be generated across the area assessed, of which 100 jobs are likely to be taken by those living in that area. This was considered to be a beneficial effect but not significant.
- 7.47. Although the majority of the existing building is vacant, the Site was identified to

currently support 30 jobs from existing businesses (food & beverage, nightclub and retail). It is estimated that the proposed scheme would generate 135 additional jobs in the wider assessment area, including 70 in the local area. This was considered to be a beneficial effect but not significant.

ES - Built Heritage;

- 7.48. The effects assessed in relation to built heritage were the loss of The Ringway Centre from the Site and the change to the setting and significance of existing designated and non-designated assets during the construction and operational stages.
- 7.49. The proposed construction stage works would include the total removal of the existing Ringway Centre building located within the Site, which is a Locally Listed Building.
- 7.50. It is concluded in the ES that The Ringway Centre has a low heritage value, its significance arising from the building being designed by a locally significant architect and is historically associated with the Post-War reconstruction of Birmingham and the construction of the Birmingham Inner Ring Road. The loss of The Ringway Centre would be a significant adverse effect. Mitigation, in the form of a historic building recording, is required prior to the demolition of the building.
- 7.51. Of the seven designated heritage assets assessed within the ES, none are identified as experiencing a significant change in setting or significance as a result of the construction stage, although there would be an adverse effect in relation to Parish Church of St. Martin (Grade II*), Former White Lion Public House (Grade II) and General Post Office (Grade II), albeit not one that is considered to be significant. Neither of the two non-designated heritage assets assessed in the ES (Norfolk House and The Crown Public House) are considered to experience a significant change in setting or significance as a result of the construction stage, although Norfolk House would experience an adverse effect, albeit not one that is considered to be significant by the ES.
- 7.52. Upon completion of the proposed scheme, it was concluded that the Parish Church of St. Martin (Grade II*), Council House, City Museum and Art Gallery and Council House Extension (Grade II*), Former White Lion Public House (Grade II) and General Post Office (Grade II) would experience adverse changes in setting or significance. However, these were not considered to be significant. The other designated and non-designated heritage assets assessed would not experience a significant change in setting or significance.

ES - Townscape and Visual

- 7.53. The effects assessed in relation to Townscape and Visual impacts, were the temporary visibility of the demolition and construction works on local Townscape Character Areas (TCAs) and views alongside the change in the local townscape quality/appearance and experience of the completed and operational proposed scheme.
- 7.54. During the construction stage all the existing buildings would be demolished, and a number of new buildings constructed. This work would involve the use of tower cranes and other related plant necessary for the construction process. A higher proportion of heavy goods vehicles along the local road network is also anticipated. The proposed construction stage works are concluded to have a temporary significant adverse effect on TCAs and visual on pedestrians and road users, at three representative viewpoints.
- 7.55. The operational townscape assessment concluded that two of the character areas identified TCA 2 (The Bullring/New Street Station) and TCA 4 (Chinese Quarter) would experience significant beneficial changes in local townscape quality by virtue of appearance, spatial character and function of the completed proposed scheme.
- 7.56. The operational visual assessment concluded that all visual receptors (i.e. pedestrians, road users, residents, users of amenity space and residents) situated at representative views would have significant beneficial effects as a result of the appearance and experience of the completed proposed scheme. However, View 27 (Park Street looking

west) would result in a significant neutral effect which, is considered to be both beneficial and adverse.

ES - Daylight, Sunlight and Solar Glare;

- 7.57. The effects assessed as were changes in daylight and sunlight and solar glare.
- 7.58. The assessment concluded that once fully built and operational, the proposed scheme would lead to a reduction in daylight for 34, 39, 40, 41 Horse Fair, 59 to 61 Station Street and Apartments, The Arcadian; and in sunlight for 55 Station Street. These were not considered to be significant.
- 7.59. The assessment concluded that there would be adverse solar glare experienced at all viewpoints which would be significant and mitigation would need to be developed further to resolve these.

ES - Wind

- 7.60. The effects assessed were in relation to exceedances of the industry standard Lawson criteria for safety and comfort of future receptors (i.e. pedestrians and cyclists) during both 1st or Full Operational scenarios.
- 7.61. The assessment concluded that once additional mitigation measures are implemented, there would be no significant exceedances of pedestrian comfort or safety for the proposed scheme in either the 1st or Full Operational scenarios.

Cumulative effects

- 7.62. Cumulative effects have been broken down into two types of effect, 'Effect Interactions' (Different effects within the project itself affecting the same receptor) and 'In-Combination Effects' (effects with other project(s) in the wider area).
- 7.63. The effects interactions experienced during construction on population and human health receptor groups (people), are considered to be significant. The effect interaction on cultural heritage receptors (heritage assets) during construction, as a result of the loss of the Ringway Centre and the change in setting to Norfolk House are not considered to be significant for the Purposes of the ES. During operation a number of adverse effects (noise, glare and loss of daylight) would interact with beneficial effects (visual amenity, employment provision and housing provision) of which visual amenity and housing provision are considered to be significant. However, the degree to which overall this is adverse or beneficial would be down to the subjectivity of the individual receptor. In relation to operational effect interactions of Cultural Receptors (heritage assets) would be no greater than those reported in the individual assessments (i.e. adverse but not significant).
- 7.64. 33 Approved Projects were considered in the in-combination assessment, 19 of these are located within 500 metres of the Site, and the remaining 14 are over 500 metres from the Site. Each of the topics as set out above was considered in combination with these approved schemes.
- 7.65. It is considered that in combination effects upon socio-economics would be significant beneficial due to construction employment and additional housing, significant adverse impacts upon townscape and visual impacts during construction and significant beneficial during operation,
- 7.66. In combination effects of the other topics were not considered significant.
- 7.67. A supplementary Cumulative Appraisal was submitted (March 2023) – This document was submitted to update the in-combination effects section of the ES to take account for the subsequent submission of the Smithfield application (ref: 2022/09643/PA;) and withdrawal of the Act One, Thorp Street (ref: 2022/02803/PA) application. The document considers each of the ES topics in combination with the Smithfield application (and withdrawn Thorp Street). It determines that the conclusions of the ES remain valid and no new mitigation is required.

- 7.68. Some, previously identified in combination effects, in relation to Act One, are no longer relevant (sun light and overshadowing and wind). There are additional in combination townscape and visual effects, when considering SBQ and Smithfield together, with regards to Townscape Character Areas, the in combination effect of the Southside and Chinese Quarter character areas is considered minor-moderate adverse during construction and moderate to major beneficial during operation but not significant. Two views were also identified (view 27 and 28 of the HTVIA) where the in-combination effect is major beneficial during operation.

Summary of Significant Environmental Effects

- 7.69. The significant environmental effects identified by the ES process are as follows, these should be considered in the determination of the application along with any proposed mitigation.
- Significant adverse effects from construction stage activities in relation to noise and vibration
 - Significant beneficial socio-economic effect from the provision of new housing
 - Significant adverse effect on built heritage in relation to the loss of the Ringway Centre, a Locally Listed Building.
 - Significant temporary adverse effect on Townscape and Visual receptors (at three representative viewpoints), during construction.
 - Significant beneficial changes in local townscape quality by virtue of appearance, spatial character and function of the completed proposed scheme.
 - Significant beneficial visual effects as a result of the appearance and experience of the completed proposed scheme.
 - Significant neutral effect which (considered to be both beneficial and adverse) from view 27 of the operational visual assessment.
 - Significant adverse solar glare experienced at all assessed viewpoints.
 - Significant adverse cumulative effect interactions, experienced by people, during construction.
 - Significant beneficial in combination effects arising from construction employment and additional housing.
 - Significant adverse in combination impacts upon townscape and visual impacts during construction.
 - Significant beneficial in combination impacts upon townscape and visual impacts during operation.

Environmental Management Plan

- 7.70. An environmental Management Plan was submitted as part of the ES. The Plan contains all the mitigation identified and committed to, to manage the environmental effect of the proposed development.
- 7.71. The plan identifies the primary mitigation – these are measures delivered through the design/layout of the development and are inherent to the proposal they would therefore be secured via approval of the proposed plans, development specifications and documents such as the design code. This includes mitigation such as façade design to deal with; noise and vibration, overheating, energy consumption and the layout, scale and density of the development to deal with; daylight and sunlight. Landscaping addresses climate resilience and biodiversity, along with sustainable drainage strategies.
- 7.72. Tertiary mitigation is also highlighted, which is mitigation that is delivered as a result of other legislation and requirements such as a Construction Environmental Management

Plan (CEMP) which would deliver a number of tertiary measures during the construction stage including: controlling working hours, health and safety, site security, staff welfare, matters of air quality (from dust and machinery use, construction traffic), noise and vibration controls, construction flood risk, construction waste control, and a construction ecological mitigation.

- 7.73. Secondary mitigation – is mitigation that would require further action and the mitigation that is most likely to require planning conditions of any consent to secure further information. The secondary mitigation is separated out into the topic contained with the ES as follows;

Noise and Vibration

- Demolition noise and vibration – Addition to or modification of methodology/protocols/procedure within a CEMP; standalone method statement of working
- Noise from new late-night entertainment – submission of the final design scheme of sound insulation and noise control reports
- Existing road and commercial noise of proposed scheme - submission of a scheme of sound insulation design report.
- Existing night entertainment noise on the Proposed Scheme - condition submission of a scheme of sound insulation design

Built Heritage

- Historic Building Recording would be required

Solar Glare

- There is a requirement to reduce the potential reflectance values of the building, the final glazing solution would require further assessment to confirm the reflectance values.

Wind

- Submission of full detail to secure mitigation measures including planting of deciduous, coniferous and box-head trees, other forms of soft landscaping (such as hedging and planters), and wind reducing features (such as screens and baffles).

- 7.74. The ES has identified the likely significant effects and the appropriate mitigation required to address these. This is carried forward into the below assessment of the application to conclude whether permission should be granted or not.

Impact upon Heritage Assets

- 7.75. Policy TP12 establishes that the historic environment will be valued, protected, enhanced and managed for its contribution to character, local distinctiveness and sustainability and the Council will seek to manage new development in way which will make a positive contribution to its character.
- 7.76. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA in considering applications for planning permission has a statutory duty to pay special regard to the desirability of preserving listed buildings, their setting or any features of special architectural or historical interest which they may possess (section 66 (1)).
- 7.77. In instances where paragraph 11d of the NPPF is engaged, such as this, it is also important to note that footnote 7 states that development should be approved unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, assets of particular importance are defined as designated heritage assets (amongst other things such as AOANBs).

- 7.78. The application was reported to the Conservation Heritage Panel (March 2023).
- 7.79. In summary the Panel considered that; *“over recent years in Birmingham 20th century (post war architecture in particular) has become more prominent in the public consciousness. English Heritage’s decision not to list the building does not change views of loss of this locally listed building and is an entirely different exercise to that of considering the future of such a positive building in this prominent townscape. The charm of this structure is in its master-planning and the enclosure of this post war boulevard which is recognised by Pevsner. It is emblematic of Birmingham and tied to other significant buildings including the grade II listed Rotunda. Its merit as part of a wider vision of town planning must be recognised and this townscape function, along with its architectural quality, found in its handling and expression of cast concrete has led Panel Members to recommend that the local listing grading of the building be raised from B to A”*
- 7.80. Further to the above the Panel considered that *“Buildings much more directly associated with the structure will be harmed by its loss. In particular, Norfolk House which is the sister building of the Ringway Centre on the northern side of the road, which features the counter sweep of its form thus together defining this urban boulevard, will be left in isolation. For this reason, Panel Members recommend that Norfolk House should also have its local listing grading raised from B to A. In terms of the potential impact of the proposed development, Panel Members felt that the visualisations of the new buildings illustrate a conflict with the finer grain of the Bristol Street townscape and long distance views of the scheme from Victoria Square were concerning in terms of their impact on the Colmore Row and Environs Conservation Area. It is felt these towers no not read well as a grouped cluster”*.
- 7.81. The Panel also raised concern with the carbon impact of the proposal and the affordable housing provision pointing out that key issues would be important in a planning exercise in understanding what the public benefits of the proposal would be.
- 7.82. The Panel members also noted that whilst demolition would be highly regrettable they *“recognise that the removal of the building could aid improvements in pedestrian connections including the introduction of new and improved links including Wrotesley Steps and Smithfield Steps”*.
- 7.83. The application is accompanied by a Built Heritage, Townscape and Visual Impact Assessment (HTVIA). The Conservation Officer accepts that the methodology criteria applied in the HTVIA is recognised and an acceptable means of assessing the significance, sensitivity and impact on heritage assets. In accordance with the requirements of the NPPF.
- 7.84. The Conservation Officer considered the assessments of significance and contribution of setting to significance within the HTVIA, to be generally fair. The majority of the heritage assets assessed were not considered to be negatively impacted by the proposed development, the Conservation Officer is generally in agreement with these conclusions. However, the Conservation Officer also considers there to be some harmful impacts and effects to the Town Hall and to the Rotunda which the HTVIA does not. In addition, the Conservation Officer considers that some of the impacts and effects attached to several heritage assets are greater than those concluded in the HTVIA. This is discussed in more detail below.

Direct Impact - Demolition of the Ringway Centre (Locally Listed)

- 7.85. The Ringway Centre is constructed in a Brutalist style, with a pre-cast concrete frame and strong horizontal emphasis created by a curved, sweeping façade of long alternating bands of metal-framed window aprons, decorative expressed concrete relief panelling and distinctive curved uplighters. The external appearance of the building in its entirety and urban boulevard character is emblematic of the mid-20th century master planning of Birmingham. Noted in Pevsner’s Architectural Guide as ‘The best piece of C20 urban design in the city’ the Ringway Centre is given particular

credit for its 'grand urban scale' following the sweep of Smallbrook Queensway and typifying the urban boulevard plan.

- 7.86. Prior to the submission of the application the applicant applied to Historic England for a Certificate of Immunity from listing the building. The process is the same as if the applicant had applied for the building to be listed, with the same detailed historic analysis of the building's architectural and cultural value explored. Historic England concluded that whilst the building is of local interest it did not meet the criteria for listing. The Department for Culture, Media and Sport concurred with this recommendation and a certificate preventing the building being listed for a period of 5 years has been issued (until 2028).
- 7.87. The decisive factors preventing the building from being listed were the lack of architectural quality and the degree of alteration. The designation decision acknowledged the presence of the building in the cityscape of central Birmingham which is "*dependent upon its outline and relationship to the road and other surrounding buildings. The degree of architectural quality required of a building of this type and date is considerable and the detailing of the building is repetitious and, in some instances, is poorly realised*". The report added that "*although the upper floors of the exterior maintain much of their original appearance, the street frontages of a large number of the shops have been altered, as have their interiors. The exterior and interior of the former dance hall have also been altered, as have the reception areas and interiors of the office floors. Therefore, whilst the building has undoubted local presence the building lacks the consistently high degree of architectural interest necessary for listing and on balance should not be listed*".
- 7.88. The building is a locally listed building, Grade B which acknowledges the contribution that the building makes to the city-wide architectural context and the impact on the local street scene and warrants positive efforts to ensure its preservation.
- 7.89. The conclusion of the above is that the existing building is a non-designated heritage asset and its historic significance has been thoroughly assessed very recently. In such instances the National Planning Policy Framework requires that firstly the significance of the heritage asset be described and that where there is harm to that significance a balanced judgement considering the benefits of the development, must be made.
- 7.90. The assessment of significance in the HTVIA attaches architectural and historic significance to the Ringway Centre but considers this in the context of its local importance and limits its heritage significance to low. However, the heritage values of the Ringway Centre are considered higher by the Conservation Officer, who attaches medium to high heritage value to the building.
- 7.91. The magnitude of impact, or harm, arising from comprehensive demolition is identified in the HTVIA as high. However, it concludes that whilst the building is of heritage merit, the overall effect arising from the impact to the asset is moderate adverse. However, the professional judgement of the conservation officer is that the effect is major adverse. The difference arising in the level of significance being placed on the asset, the HTVIA places low level of significance on the building where as the Conservation Officer gives high local significance and moderate national significance.

Indirect Impacts - Impact upon the setting of other built heritage assets

- 7.92. Norfolk House- locally listed - The first building to be completed as part of the inner ring road, Norfolk House is located on the opposite side of the road to the Ringway Centre, where it counters the curve of the Ringway Centre along Smallbrook Queensway. The HTVIA sets out the significance of Norfolk House and based on its locally listed status attaches a low level of heritage significance to the building. The document notes that the application site forms part of the immediate setting of Norfolk House and that its heritage significance is linked to the development of the Queensway and the Ringway Centre, acknowledging the group value of both. The Conservation Officer considers the building to have a good level of local significance and therefore

attributes a medium level of significance to the building. The Conservation Officer agrees with the HTVIA that the susceptibility to change to Norfolk House is high but considering the building to be of medium (and not low) significance, advises that its overall heritage sensitivity would be medium/high. The Conservation officer also concludes that the Ringway Centre makes a high contribution to the setting of Norfolk House. Therefore, the magnitude of impact to Norfolk House though the permanent removal of the Ringway Centre is considered high. The Conservation Officer concludes that the overall level of effect to Norfolk House would be moderate to major adverse.



Proposed development (left) and Norfolk House (right)

- 7.93. Birmingham Town Hall- grade I Listed – The Town Hall has a very high level of significance. Based on its current surroundings, the Town Hall is considered in the HTVIA to have a low susceptibility to change giving it an overall heritage sensitivity of medium. The magnitude of impact to the Town Hall through the proposed development is considered very low in the HTVIA resulting in an overall effect of negligible neutral. However, the Conservation Officer advises that when assessing Viewpoint 12 within the HTVIA, taken looking south from Chamberlain Square, the Town Hall forms a key landmark building in the view and its architectural form and heritage interest can be appreciated and experienced. The Conservation Officer considers the building to have high heritage sensitivity. View 1 (see below image) , identifies that although not viewed directly above the silhouette of the Town Hall the proposed development would be visible in close proximity to the side of the Town Hall, within background views of the Town Hall encroaching upon the space around the building, distracting from the appreciation of its architectural form and landmark qualities. Therefore, the Conservation Officer concludes this is moderate adverse harm.



Proposed Development and the Town Hall

- 7.94. Parish Church of St. Martin- grade II* Listed – The building has very high heritage value, owing to this setting the HTVIA considers that St. Martin’s has a low susceptibility to the type of change proposed and an overall medium heritage sensitivity. The HTVIA identifies that from the north-east along Park Street the proposed towers would be visible within the immediate setting and context of the Church, and this is evidenced in Viewpoint 27 (see below image). In terms of magnitude of impact, the HTVIA considers that the impact on the church would be very low which gives an overall minor adverse effect on the church. However, the Conservation Officer states that at present no tall development of this type forms part of this experience and therefore considers the church to only have a moderate ability to accommodate this type of change to its setting and place its heritage sensitivity as high and advises that in their opinion the magnitude of impact, would be greater than very low (as in the HTVIA) and advises that the likely effect on St. Martin’s Church is moderate to major adverse.



St Martins Church, from Park Street

- 7.95. General Post Office, Victoria Square- grade II Listed – has a high heritage value. One of the elements of the architectural interest of the post office is its distinctive roof form and this is recognised in the assessment of significance in the HTVIA and in Historic England's list description. The proposed development would be visible from Victoria Square in distant views over the building as seen in viewpoint 11 and 12 (see below image). The HTVIA concludes that the effect of the proposal would be very low to low adverse, however the Conservation Officer sets out that the proposed towers would be visible above and behind the asset's ridge lines and roof features, distracting from its architectural interest and disrupting its distinctive silhouette and therefore placing the overall effect at the moderate adverse level.



General Post Office from Victoria Square

- 7.96. Former White Lion Public House- grade II Listed - The magnitude of impact to the building through the proposed development is placed at low in the document, giving

an overall effect of minor adverse. For a building of medium sensitivity and a low impact, the overall effect can be minor or moderate but the position of the HTVIA is to have gone for the lower effect. The Conservation Officer advises they believe the effect to be greater. This is based on the presence of Centre City Tower and the Radisson Blu tower, currently experienced in background views of the pub from some slightly more distant views of the asset from Bristol Street where it is agreed that the impact would be low. However, in close up views, and from where the architectural interest of the building is best experienced, the impact of the towers would be greater and considered to have a more moderate impact (than low) on the building, which would give rise to moderate to major effects on the building. The Conservation Officer concludes that this is moderate adverse.



Former White Lion Public House from Horsefair

- 7.97. The Rotunda, including the shops in the podium below the tower- grade II Listed – The Conservation Officer concurs with the assessment of impact upon the Rotunda from the proposed development, which is no overall affect of heritage value. However, the HTVIA does not assess the impact that demolition of the Ringway Centre would have upon the heritage significance of the Rotunda. The Conservation Officer considers that the demolition of the Ringway Centre would have detrimental impact upon the setting of the asset arising from the group value of the buildings and historic associations through the links between the architect. The Conservation Officer advises that the loss of the Ringway Centre would permanently damage an element of the setting of the Rotunda which is considered to contribute to its significance and that the impact would be less than that to the setting of Norfolk House, but would still be at a moderate level.
- 7.98. The Conservation Officer agrees with the findings of the HTVIA with regards to all other assessed heritage assets. This can be summarised as;
- Council House, City Museum and Art Gallery and Council House Extension- grade II* - the impact would be very low and the effect minor neutral.
 - Caretakers' House for Birmingham Athletic Institute and Former British School- grade II listed – negligible neutral
 - The Crown Public House- locally listed - negligible-neutral effect
 - The (Former) Futurist Cinema - locally listed negligible-neutral effect

Archaeology

- 7.99. The application is supported by a phase 1 desk based archaeology assessment, which

concludes no further archaeological work is necessary. BCC Archaeology concurs with the findings of the report.

Heritage Harm

- 7.100. The concerns raised by Historic England and Birmingham Civic Society are noted regarding the impact of these towers and the resulting harm caused to the significance of designated heritage assets, through development in their setting.
- 7.101. Paragraph 199 of the NPPF states that “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”
- 7.102. In accordance with para. 202 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The more important the asset the greater the weight should be. This balancing exercise is undertaken towards the end of this report. The identified level of less than substantial harm to designated assets are listed below;
- Moderate adverse harm to Birmingham Town Hall – Grade I Listed
 - Moderate to major adverse harm to St Martin’s Church – Grade II Listed
 - Moderate adverse harm to General Post Office – Grade II Listed
 - Moderate adverse harm to Former White Lion PH – Grade II Listed
 - Moderate adverse harm to the Rotunda – Grade II Listed
- 7.103. In accordance with para. 203, the effect of an application on the significance of a non-designated heritage, a balanced judgement will be required having regard to the loss of the asset and the significance of the asset. The identified levels of harm to non-designated assets is as follows;
- Major adverse harm to Ringway Centre - Locally Listed
 - Moderate to major harm to Norfolk House – Locally Listed
- 7.104. The above identified harm is weighed against the benefits of the proposal later in this report.

Design

- 7.105. Policy PG3 of the BDP (2017) advises that all new development must ensure high quality design. It states that development should create a positive sense of place and local distinctiveness; design out crime and make provision for people with disabilities; encourage people to cycle and walk; ensure spaces are attractive and functional in the long term; integrate sustainable design; and make the best use of existing buildings and efficient use of land
- 7.106. Design Principle 19 (Creating tall buildings) is relevant to the application proposals and states that tall buildings must deliver 360-degree innovative architecture that responds positively to their surroundings; engaging and activating street environments, whilst introducing a silhouette, body and crown that enhances the citywide skyline and respects key views, existing landmarks and the city's historic environment.
- 7.107. City Note LW-45 Siting of Tall Buildings requires a number of factors to be considered when assessing the acceptability of a proposed site for a tall building, including the character of the surrounding area and potential impact to the area; the role and potential of the Site within its surrounding context; the location and hierarchical position of the Site within the street scene and urban block; the relationship with existing landmark buildings and presence within existing views/street scene and impact on the skyline; impact on surrounding heritage assets and impact surrounding environment and adjacent uses.

- 7.108. The City Design Manager notes that consideration of impact upon heritage, does not affect an assessment of whether the proposed replacement townscape is or isn't acceptable, as a standalone matter. Therefore, the City Design Manager considers the merits of the application's design only.
- 7.109. The City Design Manager notes that the methodology used in the townscape and visual sections of the ES, is sound, and that he generally concurs with the conclusions, that views closer to the proposal have a greater beneficial effect than those further away that diminish. They also note that the Built Heritage, Townscape and Visual Impact Assessment is submitted with the application as a standalone technical report and that they do not disagree with any of the likely effects (including cumulative) identified for any of the views.

Demolition, phasing and meanwhile use

- 7.110. As the application is Hybrid and therefore phased, The City Design Manager raises concerns from a townscape perspective of how a phased approach would be handled. Given the existing building is one linear form filling the plot, its demolition and then phased re-development could result in vacant land on a prominent strategic route into the City Centre. However, there are elements of unknowns with all outline applications, which is unavoidable and the very nature of the application type. This is not a conservation area or adjacent to a conservation area, and therefore an outline application is a legitimate and acceptable form of application. Even if the scheme were submitted in Full, it would not guarantee delivery, and it would still be a phased development. The use of conditions would be employed to control demolition, phasing and meanwhile uses, to the extent to which is necessary and proportionate to the development.
- 7.111. The phasing plan accompanying the application shows that the bridge link and buildings to the east would be demolished first, to facilitate the development of SBQ3 (full). Therefore, the remaining building (on SBQ1), to the west of Hurst Street would need repair to its flank, whilst it remains in-situ. This can be controlled via condition which would ensure this is completed within a timely manner, post demolition. This would however leave vacant land on the plot of SBQ2. The applicant has prepared a meanwhile use strategy which shows the proposed short- and long-term strategy for dealing with this land post demolition; a pocket park is the preferred approach. The document sets out varying trigger points and short- and long-term options which would be influenced by the varying phasing scenarios. The below image is the long term 'green pocket park' to be employed in a long-term scenario, there would be a less intensive 'grey' option in a short term scenario.



Indicative Pocket Park – long term meanwhile use of SBQ 2

- 7.112. The meanwhile strategy also deals with potential materials pallet, temporary steps arrangement to SBQ 3 down to Wrotesley Street, tree planting, security, and the gable wall treatment to retained buildings. The City Design Manger raises concerns with the boundary treatment and enclosure of such a space, it is considered that this space should remain open and publicly accessible, not fenced. This can however be dealt with via a condition requiring the design of this space to be submitted and agreed.

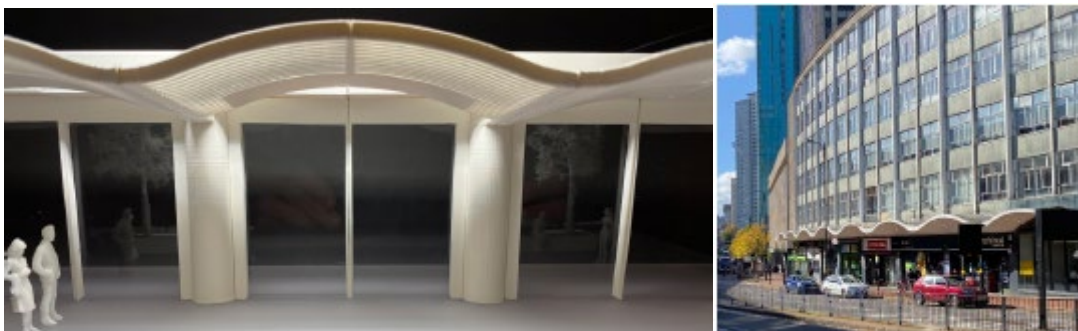
Layout

- 7.113. The proposals for SBQ 3 at the lower ground, ground, and upper ground floors provide commercial and residential amenity space helping to create an active frontage along three sides of the building. The southern side of the building provides service access and residential amenity access via Bath Passage. The upper floors accommodate the residential units, alongside internal and external amenity space across the building and podium roof level at level 9, and the amenity space at roof level.



Proposed Hybrid Development

- 7.114. A canopy is also proposed at ground level which would help to animate the street-scene through its distinctive design which responds to the canopies along the opposite frontage along the Queensway (on Norfolk House).



Canopy Design and existing on Norfolk House

- 7.115. A new public route is proposed via a partially enclosed stairway, 'Smithfield Steps', at the eastern site boundary which offers direct access from Smallbrook Queensway down to Dudley Street, then along Pershore Street and beyond to the Smithfield regeneration site and 'Southside' District. This is an alternative to the existing spiral staircase within the bullring development.



CGI - Smithfield Steps at SBQ 3

7.116. The City Design Manager considers the proposed layout of three discreet buildings with new connections at Smithfield Steps and Wrottesley Street, to be acceptable and the arrangement of SBQ3, successful in animating the street.

7.117. The City Design Manger does not see any reason why the development of SBQ 1-2 could not achieve the same acceptable ground floor layouts, animated frontages and level access as shown in the indicative drawings.

Scale, Form and Massing

7.118. The City Design Manger describes the design philosophy as “*in part, to emulate the lost building through the reinstatement of a horizontal podium, albeit nine-storeys in height rather than five and broken where Wrottersley Street and Hurst Street express themselves*”. SBQ3 has a podium across the full length of the Smallbrook Queensway frontage (reinstating the curve) and places a correspondingly curved tower on top of it at its eastern end (over Smithfield Steps), terminating at 44-storeys. The City Design Manger does not object to this form.

7.119. The outline phases (SBQ1 and 2) are illustratively shown, with SBQ1 to have a corresponding podium from Scala House through to Hurst Street with a tower up to 48-storeys sat with its longest elevation running down Hurst Street and its slender elevation facing up Hill Street. SBQ2 is shown as a point block between Hurst Street and Wrottersley Street and extending up to 54-storeys. The City Design Manger agrees with the concept of SBQ2 being the tallest of the three buildings.

7.120. The City Design Manger raises no objections to the scale, form and massing of the proposal.



Scale form and mass of buildings - SBQ 3 in detail SBQ1-2 indicative

Architecture and Materiality

7.121. It is intended that SBQ 3 sets the architectural tone of the site, and implements the sitewide design principles, including through its appearance and materiality. The podium and tower share the same architectural appearance, with horizontal framing fins and full height picture windows which emphasises the horizontal expression of the building. The material palette across the building includes silver framing fins which sit over a dark grey façade, helping to provide a contrast in the grid expression. The City Design Manager considers this to be acceptable subject to conditions for architectural details, securing quality in the delivery, by exploring quality in the fixing of elements, junctions and finishes.



SBQ 3 Façade design

- 7.122. The Design Code provides a number of mandatory requirements that future reserved matters would be required to conform with. These would align with the design principles set out within the full element of this application for SBQ 3. The indicative proposals for SBQ 1 and 2 are set out within the Design and Access Statement to identify how the outline planning permission could come forward in line with the defined parameters. SBQ 1 – Up to 44 storeys and SBQ 2 – Up to 56 storeys.
- 7.123. The Design Code looks to ensure that the three buildings provide a variation in height whilst working together to provide a cluster of buildings that provide a strong and successful visual and townscape composition. It also sets out that SBQ 2 is to be the tallest of the three buildings, so that this principle is respected through the submission of future reserved matters.
- 7.124. It is envisaged, and established with the Design Code, that SBQ 1 would be of a similar architectural style to the SBQ 3 in respect of the façade detail, materials, and colour. With SBQ 2 maintaining consistent architectural features to SBQ 1 and SBQ 3 whilst ensuring it has its own distinctive appearance. The Design Code also sets a number of other design principles and requirements that SBQ 1 and 2 should accord with to provide consistency with the detailed design of SBQ3. These include, ensuring the podium height of SBQ 1 and interstitial levels for SBQ 1 and 2 align with the podium and interstitial level (Level 9) of SBQ 3; the curvature of Smallbrook Queensway is maintained and followed by the building lines; any canopies follow a similar design to that proposed on SBQ 3; and external amenity spaces to be provided at podium and roof levels.
- 7.125. The City Design Manager is content that the amended design code is a sensible structure that sets a clear design intent for the three buildings as a comprehensive development.



Indicative façade designs SBQ 1-2 (SBQ3 to left, in detail)

- 7.126. However, the detail of SBQ 1 and 2 would be subject to future reserved matters applications and would need to be considered fully as part of the determination of future reserved matters applications.

Landscaping, public realm and tress

- 7.127. An illustrative landscape masterplan has been prepared to demonstrate how public realm and landscaping improvements could be accommodated across the whole site. This includes improvements to the immediate footpath along Smallbrook Queensway, as well as 'pockets' or 'zones' of public spaces including Smithfield Steps (east of SBQ

3), Wrotesley Steps (west of SBQ 3) and Hurst Street Plaza (between SBQ 2 and SBQ 1).

- 7.128. The Design Code and Parameter Plans seeks to ensure that connections within and around the proposed development are introduced and enhanced. The Design Code places a requirement for the public realm along Smallbrook Queensway adjacent to SBQ 1 and 2 to tie into the detailed proposed of the Smallbrook Queensway public realm along the SBQ 3 frontage.
- 7.129. Whilst approximately 11 trees would be lost as a result of the development, it is anticipated that they would be replaced by approximately 29 new trees and other landscaping and public realm enhancements which would be included within future reserved matters. BCC Tree Officer has commented on the supporting arboriculturally assessment and does not object to the proposal subject to the inclusion of a condition requiring accordance with that assessment.
- 7.130. During consideration of the application, the applicant has asked to consider whether two marble Chinese Foo Dogs could be accommodated within proposed public realm. This was at the request of members of the community, who own these marble statues but do not yet have a location for them. The applicant submitted information to show indicatively how could be incorporated within the proposed public realm, within the application site. While this would need to be subject to full feasibility assessment, at a later stage in the phased delivery of redevelopment of the site, the applicant has confirmed they intend to seek to accommodate the statues in the location shown (either side of Hurst Street), by the indicative information submitted.



Illustrative image of Foo Dogs on Hurst Street

- 7.131. Notwithstanding the City Design Mangers concerns centring around the hybrid nature of the application and the phasing of development in this prominent location, he concludes that in townscape terms the site is entirely appropriate for tall buildings, which it could accommodate, and contribute positively towards a new high rise city scape and would deliver better connectivity through this part of Birmingham. He considers that the architecture is much like other towers in the city and planning conditions could be attached to secure quality in the delivery.
- 7.132. The proposed development has been designed considering designing out crime principles.
- Gateway One – Fire and Accessibility*
- 7.133. The Birmingham Design Guide SPD confirms that tall building proposals should seek to meet all regulatory requirements with regard to safety and the needs of disabled users.
- 7.134. The Health and Safety Executive were consulted and did not object to the application. Their substantive response raises no objection and confirms the applicant will have to

demonstrate suitable fire safety design standards at subsequent regulatory stages.

- 7.135. 86% of units within SBQ3 are accessible and adaptable, to accord with part M4(2) building regulations criteria and exceeding the 30% requirements of Policy DM10 of the DMBDPD (2021).

Tall Building Assessments – Microclimate, Aviation Safeguarding, Television / Radio and Communications

- 7.136. City Note LW-44 sets out relevant assessments and methods to 'minimise and mitigate impacts of tall buildings on the local environment and microclimate. The Design Guide also identifies the key technical considerations which need to be considered in the design of tall buildings.

Wind

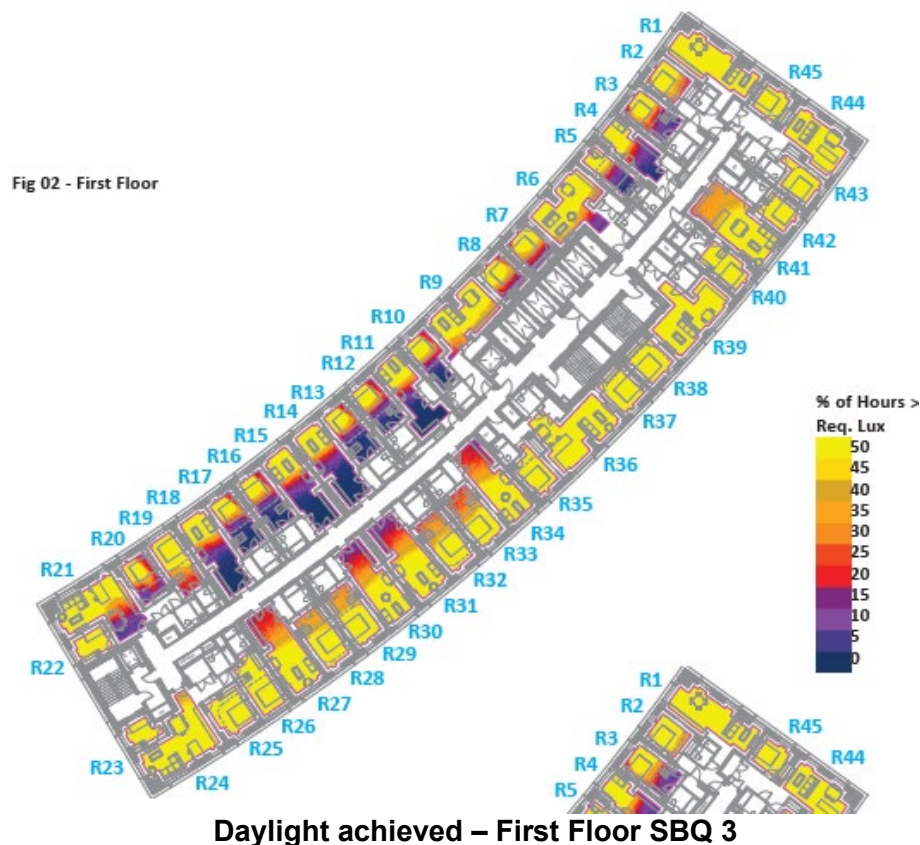
- 7.137. The application is supported by a wind microclimate study for the proposed development and focuses on the existing surrounding context and detailed mitigation for SBQ 3. The study has adopted CFD and wind tunnel testing to predict the strength of winds, this accords with the Birmingham Design Guide.
- 7.138. Primary mitigation exists principally via the successive sheltering of SBQ 2 by SBQ 1, and SBQ 3 by SBQ 1 and SBQ 2 for primary prevailing winds. Additionally, the position of SBQ 2 has been optimised, in order to alleviate wind accelerations in the space between SBQ 2 and SBQ 3.
- 7.139. Secondary mitigation is required to alleviate the impacts of the proposed tall buildings on the wind environment around the base of the proposed buildings. Assessment found that after the construction of SBQ 3 (Full) safety criteria is not met around the base of SBQ north facing facade.
- 7.140. The submitted SBQ3 wind study identifies a number of mitigations measures and includes a mixture of soft landscaping (trees, planters and planting) and baffles. For SBQ 3 this also includes a 3.5-metre-deep, 50% solid wrap-around canopy, at Level 1 (First Floor). These measures were tested and found to alleviate safety issues which can be resolved through full design. Therefore, whilst adverse impacts were identified including the exceedance of the industry standard Lawson criteria for pedestrian safety and comfort, following secondary mitigation the effect was considered to be negligible.
- 7.141. The supporting ES considers the microclimate for all three towers if delivered in accordance with the parameter plans and considers cumulative surroundings (considering other committed developments). As no significant adverse impacts were identified, as above, there are no cumulative impacts from wind when mitigation is in place.

Overshadowing and loss of light

- 7.142. The application is supported by internal daylight, sunlight and overshadowing assessment, which has been produced in accordance with BRE Guidelines. The report highlights that the BRE Guidelines states: *"...The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design."*
- 7.143. Paragraph 2.250 of the Birmingham Design Guide Healthy Living and Working Places City Manual (2022) states *"the City Council recognises the levels reflected within the BRE guidance relate to a suburban environment, whereas tall buildings are largely located in dense urban environments where levels of daylight and sunlight can typically be below these targets. Therefore, the weight attributed to the conclusion of these studies will be balanced against the scale of the impact, character and nature of the surroundings, site constraints, policy aspirations and other material planning*

considerations.”

- 7.144. The submitted report also highlights that Building Regulations Part L and O came into force in June 2022. *“Part O seeks to limit excessive solar gain (overheating) in the room and Building Regulations Part L covers energy efficiency and the reduction of carbon emissions. To meet the Part O and L regulations, the façade thickness of the proposed development needed to increase and triple glazing with coatings is now required which substantially decreases the glazing transmission. In turn, all these factors combined have influenced the daylight potential within the proposed rooms”*
- 7.145. For internal light, within SBQ 3 up to floor 15 was assessed, above that is not necessary and criteria is met for these rooms, all rooms from the ninth floor and above meet the target criteria. 478 out of 558 (86%) rooms assessed would be fully compliant with BRE Guidelines/target values. Of the 80 rooms that fall short of the target criteria, 54 rooms are bedrooms, which are not occupied in the same way as other living spaces. Most rooms that fall short of the target criteria are located on the northern elevation, which due to the inner-city context, face larger surrounding buildings that hinder daylight potential.



- 7.146. For SBQ 1 and 2 a Vertical Sky Component (VCS) façade assessment has been undertaken to understand the potential daylight levels. The VSC test calculates the potential for daylight to a building and measures the amount of light available at the centre of the outside plane of a window. The results of the VSC assessment show that most of the facades on both blocks would meet the target criteria of between 15% and 27%. Where the % is lower design considerations at RM could address any impact, for example the layout could incorporate dual aspect rooms on facades receiving lower levels of sunlight.
- 7.147. Overshadowing (sun hours on ground) has also been considered. The results of the sun hours on ground assessment are provided below. The percentages represent the total area that receive 2 hours of direct sunlight on March 21st, during summer months sunlight levels would be greater.

SBQ 1

Level 1 Terrace – 91%

Level 9 Terrace – 90%

SQB 2

Level 1 Terrace – 48%

SBQ 3

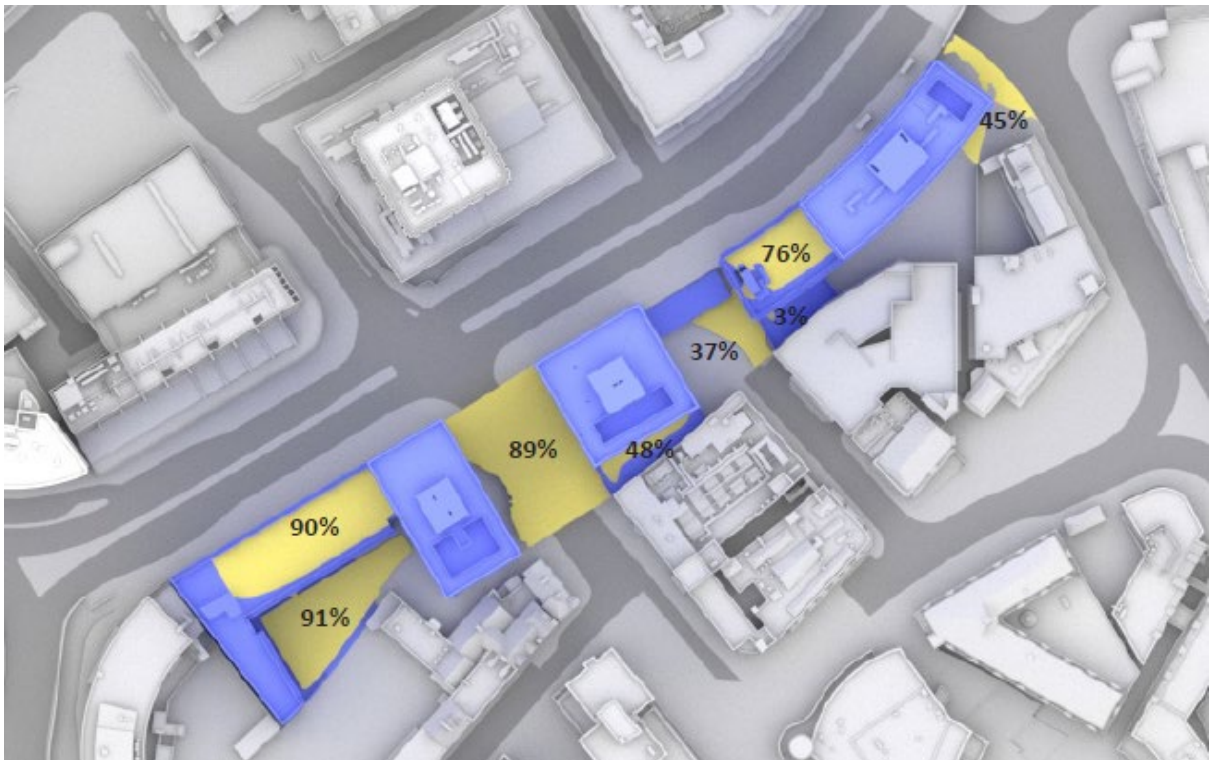
Level 1 Terrace – 3%

Level 9 Terrace – 76%

Hurst Plaza – 89%

Wrotesley Steps – 37%

Smithfield Steps – 45%



Areas receiving 2 hours of sun (yellow) 21st March

- 7.148. Overall, it is considered that the assessments demonstrate that there would be sufficient daylight for the future occupants of SBQ 3 and the overall amenity of the proposed development is consistent with other high-density developments in the city centre. It is also shown that this is likely also achievable for SBQ 1-2.
- 7.149. Commercial properties and other non-residential buildings have been scoped out of the assessment within the ES, this is accepted. This includes student accommodation and hotel uses. Internal daylight effects for future occupiers of the development have been found to not have significant adverse effects and is therefore not considered within the ES.
- 7.150. The ES identifies existing residential properties that could be impacted by loss of light as a result of the proposed development. This includes properties at Horse Fair, Cleveland Tower, Clysedale Tower, Beetham Tower (residential part only), Station Street, Arcadian apartments and Southside apartments.
- 7.151. For Daylight - the baseline assessment of existing conditions shows that some of the neighbouring properties do not currently fully achieve the BRE Guidelines target levels

for daylight and sunlight availability. In contrast, some of the neighbouring properties achieve high levels of daylight and sunlight availability. However, the results of the assessment shows that all of the assessed properties show full compliance against the baseline (existing) scenario. Therefore, no secondary mitigation is proposed. Some properties do experience minor adverse change in daylight (34-41 Horse Fair, 59-61 Station Street and apartments within the arcadian). However, the overall light to these properties is acceptable.

- 7.152. For Sunlight – all of the identified properties show full annual and winter sunlight compliance against the baseline and therefore meet the BRE Guidelines. Save for 55 Station Street, however, this property would experience a minor adverse loss of sunlight and the annual probability of sunlight hours is still considered to be good for an inner city location. No secondary mitigation is proposed.

Solar Glare

- 7.153. 16 Solar Glare viewpoints are identified within the ES. It sets out that at present, there is no common methodology for the assessment of solar glare from a reflective material, or any measurable criteria within the BRE Guidelines regarding acceptable levels of solar glare.
- 7.154. For SBQ3 using best practice guidance of the viewpoints identified, viewpoints 9 and 10 require mitigation. Potential glass coating options have been explored that could be applied to the glass for the proposed scheme. There is a requirement to reduce the potential reflectance values. The final glazing solution would require further assessment to confirm the reflectance values, this should be secured via condition.

Aviation Safeguarding

- 7.155. The proposed development is within the extent of the Outer Horizontal Surface (OHS) for Birmingham Airport, cranes would further breach the Obstacle Limitation Surfaces (OLS). Developments that breach this surface can in principle be accommodated; however, this would require coordination with the airport and an update of their safety case and a crane operation scheme would need to be agreed.
- 7.156. The Applicant has engaged directly with Birmingham Airport and a study has been specifically commissioned to consider the impact of a crane on Birmingham Airport's Instrument Flight Procedures (IFP). This has shown that the proposed development can come forward without impacting upon the airport's radar system or requiring it to be altered. The aerodrome Safeguarding Officer confirms no objections subject to conditions around crane equipment and an aviation warning light system.

Television and Radio Communications

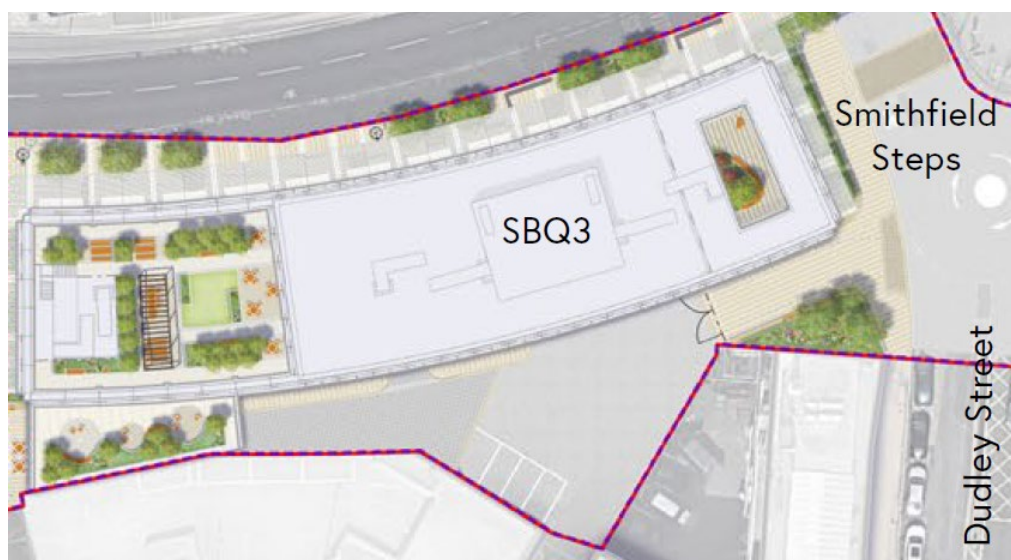
- 7.157. Television and Radio Baseline Survey have been submitted in support of the application.
- 7.158. The proposed development is within the coverage area for the Sutton Coldfield television transmitter. The area surrounding the proposed development receives radio services from numerous transmitters, including Sutton Coldfield.
- 7.159. In the event that effects are reported, it is recommended that a reception measurement is undertaken (post-construction) to investigate the likely cause of the interference. Mitigation measures should be installed if reported effects are found to be attributable to the proposed development. Solutions are likely to be readily available if required. This should therefore be conditioned. The post construction assessment should also include consideration of Network Rails telecommunications Network.

Residential Amenity

- 7.160. Policy DM10 and DM12 of the DMB (2021) requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site. This policy

also requires the proposed development to meet nationally described space standards.

- 7.161. Approximately 1,098 sq. m. of internal residential amenity floor space is proposed to be accommodated within SBQ3 across the ground floors, level 09 and level 45. The internal amenity space would offer residents a range of facilities, including 24 hour concierge, sky lounge, co-working space, gym and yoga rooms, games rooms, pet spa and kitchen dining room.
- 7.162. Approximately 686 sq. m. of outdoor residential amenity is also proposed for SBQ 3 on the podium and tower roof top terraces at Levels 09 and 45.



Level 1, 9 and roof outdoor amenity spaces – SBQ 3

- 7.163. The SPD states the following requirements must be provided:
- 5sq.m (1 bed flat),
 - 7sq.m (2 bed flat) and
 - 9sq.m (3 bed flat).
- 7.164. This would therefore equate to a requirement of 3,364sq.m for SBQ 3.
- 7.165. Outdoor amenity provision would clearly fall below the standards set in the BDP. However, there is a greater provision of shared internal amenity space, allowing residents private social space outside of their apartment. The total internal and external amenity space equates to 3.1sqm of space per residential unit. This is comparable with other city centre developments, where the dense urban environment.
- 7.166. All of the units proposed in SBQ 3 meet minimum nationally described space standards.
- 7.167. There is further external amenity space shown in outline on SBQ1 and 2 and it is expected that internal amenity space would also be provided within these buildings, the details of which would be dealt with at Reserved Matters. This is indicatively shown within the DAS as internal amenity space: 2099 sqm and external amenity space: 2238 sqm total of 4337 sqm across both buildings.
- 7.168. For these reasons the level of amenity space proposed is considered acceptable in this case, and thereby limited weight is attached to the shortfall.

Sustainable Construction

- 7.169. In June 2019 the Council declared a climate emergency with the aim of becoming a carbon neutral city by 2025. A Call to Action was issued in January 2021 setting out a Route to Zero setting out actions to meet the Council's zero carbon ambition, this includes delivering low and zero carbon housing.

- 7.170. Policy TP1 sets out that the Council is committed to 60% reduction in total CO2 emissions by 2027 from 1990 levels. This requires new development to be located in sustainable locations, reduced CO2 and water consumption, and to promote the use of LDC technologies.
- 7.171. Policy TP2, Adapting to Climate Change - Requires new development to demonstrate how it has considered the impacts of the future climate and extreme weather through the integration of adaptation and resilience measures.
- 7.172. The submission documents consider the impact of climate change of the development, including the Drainage Strategy which sets out an allowance for 40% future climate change, demonstrating the strategy could adapt to future rainfall patterns. Further considerations for Climate Change are given in the construction management with targets to reduce construction emissions (undertaken as part of the BREEAM assessment). The Environmental Management Plan, submitted with the application also sets out different mitigation strategies with regards to Climate Change, which address Policy TP2. This includes primary mitigation strategies such as the use of climate resilient landscaping, water efficiency measures and compliance with part O building regulations (Overheating).
- 7.173. The EIA scoping documentation considered the release of Green House Gas (GHG) emissions during construction and operation. This concluded that the development would not significantly contribute to Birmingham's annual emissions or total carbon budget (less than 1% in both instances), likely significant environmental effects are not anticipated by the ES, Climate Change was therefore scoped out of the ES.
- 7.174. The Guidance note on Sustainable Construction and Low and Zero Carbon Energy Generation (2022) provides guidance to developers on how to achieve the requirement of Policies TP3 and TP4. This sets out that new residential development building regulations came into effect in 2022. From 15th June 2022 all domestic development must achieve at least a 31% reduction in carbon dioxide emissions compared to the 2013 Building Regulation (Approved Document Part L) standards. For non-domestic buildings this figure is 27%. Policy TP3 of the adopted Birmingham Development Plan requires that development should seek to maximise energy efficiency and carbon reductions. Development proposals should therefore seek to achieve a betterment over the baseline national requirements against the Target Emission Rate (TER) of the 2021 Edition of the 2010 Building Regulation (Part L), where possible and where viable.
- 7.175. For non-domestic development the policy requires development to aim to meet BREEAM standard Excellent (on developments over 1000sqm). Where this is not achieved, the applicant should provide justification and support this with a financial viability appraisal.
- 7.176. The application is supported by an Energy Statement and Sustainable Construction Statement. Both documents show the proposal to comply with Policies TP1, TP3 and TP4. Insofar as the scheme is designed in compliance with Approved Document Part L (in excess of the 2013 regulations), LDC technologies are used in SBQ3 in the form of roof mounted solar PVs and Air Source Heat Pumps and other fabric first principles are used to minimise energy and water consumption. Notwithstanding the Commercial space falls below 1000sqm with SBQ3, The submission document shows that the development is working towards BREEAM Excellent standard, the results of the pre-assessment demonstrate a route to the achievement of 'Excellent'.
- 7.177. The proposed development would target an overall reduction of carbon emissions of 56%. This exceeds the current 31% reduction on 2021 standards, set out in the Council's Guidance, and a greater than 80% improvement beyond Part L (2013).
- 7.178. SBQ 3 is designed with an all-electric energy strategy, through 'grid decarbonisation' the building would become 'net zero' over time, through operation. The building has therefore been designed as 'Net Zero ready'. The same principles can be secured via condition and required for the outline element of the proposal (SBQ 1 and 2).

Re-use of the existing building and embodied carbon

- 7.179. The embodied carbon of new development can be a significant proportion of a development's lifetime carbon emissions, therefore the recycling and reuse of materials from the existing building should be considered to reduce carbon impact. The Sustainable Construction Statement states that a pre-demolition audit would be carried out to help identify materials which could be reused on site or recycled, with a target of 85% of non-hazardous waste diverted from landfill through recycling and reuse.
- 7.180. As referred to in the Sustainable Construction Statement, a Whole Life Cycle Assessment (WLCA) has been completed for SBQ3 to review the likely embodied carbon impact and options available to reduce this impact. The WLCA output would be taken into account by the developer as the design develops (SBQ 1-2) in order to reduce carbon impacts of materials.
- 7.181. Despite not being a Policy requirement the WLCA was formally submitted and the has been reviewed by an independent third party, as to its compliance with industry best practice. The technical review of the methodology by the third-party, confirms that the WLCA has been completed with a best practice approach and verifies the assumptions made within the assessment, with some recommended amendments made. The review does not comment on the output of the WLCA, with regards to embodied carbon impact or whole life carbon impact, given that there is no Council Policy to base this.
- 7.182. A large proportion of the third part commentary relates to embodied carbon impacts of the development, and that the re-purposing of the existing building should be the first approach to significantly reduce the carbon impact of the proposed development. Counter proposal was also submitted, considering the repurposing and retrofitting of the existing building. However, this application deals with the merits of the proposal formally submitted, against existing Policy.
- 7.183. In a Supplementary Planning Statement, the applicant states that several options were assessed, including repurposing the existing building. However, these options were not pursued. The applicant sets out technical challenges in repurposing the building, including condition of the existing building fabric which are unsustainable in their energy requirements and therefore would need substantial retrofit to make them suitable for reoccupation, making re-development of the site more viable. The applicant notes that significant alteration to the fabric of the building would be required to meet modern standards. There are also structural challenges with the existing frame, that would make conversion (particularly to residential) structurally challenging.
- 7.184. The applicant also makes a case that the buildings do not match with market expectations, particularly for office space, and fail to provide modern requirements in respect of key considerations for tenants such as floorplate sizes, energy performance, lighting, sustainability. The building has been predominantly vacant, for several years and there have been previous change of use consents as well as consents for partial demolition and extension.
- 7.185. The existing buildings on the site creates operational difficulties and the argument advanced by the applicant is that the accommodation is poor and outdated, this is accepted. It is recognised that refurbishment options have the lowest embodied carbon impact. However, there is no local policy basis to specifically consider embodied carbon. However, the NPPF recognises the development should be transitioning to a low carbon economy. The existing policy with regards to sustainable construction are met, and the new building has been designed with good sustainability measures.
- 7.186. Given the challenges that a retrofit scheme would face, conversion of the existing building to residential would likely deliver significantly fewer homes on the site.
- 7.187. In July 2023 the Secretary of State (SoS) issued a decision to refuse planning permission for demolition and redevelopment of an existing M&S store at Oxford Street, London. There has been third party objection to this application for consideration, with commentary on this SoS decision, drawing parallels with the

proposed scheme and the decision made by the SoS. Specifically, the comments made by the SoS in relation to the proposal failing to support the transition to a low carbon future, reuse of existing resources and the conversion of the existing building along with the substantial heritage harm identified, as a result of the loss of a non-designated heritage asset (the M&S building).

- 7.188. However, it is important to note the SoS decision is very clear that the decision is based on the circumstances of that case, in the context of the relevant development plan.
- 7.189. As set out above the proposal complies with the relevant BDP policies, in relation to sustainable construction and use of LZCT and the proposed buildings have been designed to good, current environmental standards.

Flood Risk and Drainage

- 7.190. BDP Policy TP6 'Management of flood risk and water resources' requires a sustainable drainage assessment and maintenance plan for all major developments. The scale of the proposal also requires a Flood Risk Assessment. BDP Policy TP2 'Adapting to climate change' and TP3 'Sustainable construction' states that new development should be designed and constructed in ways to conserve water and reduce flood risk, promoting sustainable drainage systems.
- 7.191. The site lies within Flood Zone 1 and is therefore appropriate for residential development. The existing site is extensively developed with impermeable areas (buildings and hard surfacing). The proposals would result in no net increase in the impermeable area, and no additional demand for surface water to be drained to sewers.
- 7.192. An amended drainage strategy and flood risk assessment were submitted, which conformed that the site would discharge at a restricted rate of 2 l/s per discharge location. Due to the divide between the two parts of the site (SBQ 2 and 3 to the east and SBQ 1 to the west) there would be two discharge points. The overall discharge is therefore 4 l/s which is a significant betterment on the existing scenario. The greenfield run off rate for a site of 1.07ha is 5.2 l/s.
- 7.193. The restricted run-off is managed using geo-cellular tanks, within the rear of the servicing area in SBQ3. The runoff rate has been accepted by STW as being acceptable into the combined sewer network.
- 7.194. The LLFA do not object to the proposed application subject to conditions requiring a details of the proposed drainage strategy, along with an operation and management strategy.

Noise, Air Quality and Contamination

- 7.195. *Air Quality* –The application is supported by an air quality assessment and is addressed by chapter 6 of the ES. The assessment includes consideration of construction and demolition air quality impacts, operational phase impacts on existing receptors and operational phase impacts on the proposed new receptors. In respect of the construction phase the assessment concludes that mitigation would be required to address impacts during the construction and demolition phase and the mitigation measures would be addressed through a construction environmental management plan. The Environmental Health Officer (EHO) confirms that this is acceptable and that it would be necessary for the Construction Environmental Management Plan to reflect the mitigation measures detailed in ES. During the Operational phase - In respect of the first phase development for SBQ3 the model indicates that pollution levels would not exceed any of the equality objectives, which the EHO agrees with. However in respect of phase two (SBQ1 &2) there are a number of receptors where levels are projected to exceed the value where air quality mitigation measures should be

incorporated. Therefore, the outline scheme would need to be further considered, the EHO confirms this can be secured via a condition requiring a further air quality assessment.

- 7.196. *Contaminated Land* – the application is supported by a Phase 1 contaminated land study and concludes that the site is likely to be underlain by made ground, basements and there has previously been issues with underground storage tanks and remediation of a contaminant plume. The document refers to the need for detailed unexploded explosives Ordnance UXO assessment which is accepted and proposes an intrusive site investigation to assess ground gas, vapour intrusion and chemical contaminants. Conditions are required for the submission of an intrusive investigation and a remediation strategy. Demolition to slab level without further assessment is acceptable but further assessment would be required before ground disturbance, which the EHO confirms can be conditioned.
- 7.197. *Noise* – There are a number of accepted conclusions in respect of the noise impacts, largely relating to traffic noise and construction traffic impacts. However, the EHO has concerns for the noise assessment methodology and conclusions drawn in respect to commercial noise (plant) and night time entertainment noise. However, it was agreed through discussion that the internal noise environment could be acceptable if sealed windows were utilised on the affected units. However, this should be subject to further façade design and glazing details via condition. The greatest impact is to the southern elevation, facing southside. All of the proposed units are served by connectivity vents, these are not necessary for the apartments to obtain clean air or address overheating, they are for amenity purposes only. In this respect, the apartments have been designed to achieve suitable levels of residential amenity based on mechanical ventilation, regardless of whether the connectivity vents are open or closed. However, the apartments have been designed so that the vents within the living areas are openable, there are no openable vents in any of the bedrooms, which are permanently sealed.
- 7.198. The EHO raises concerns that with vents open, noise complaints could be made, which would result in a notice being served on existing premises. However, it has been proposed to deal with this via a covenant within the S.106 Agreement to require that all occupiers of affected units are required to keep amenity vents closed between 11pm – 7am. BCC Legal Team were consulted on this approach and advised that such a proposal could be acceptable and this would place onus on the owner to enforce the clause, rather than the onus be on BCC to pursue noise complaints.
- 7.199. Currently, it is considered around 16% of the units within SBQ3 would have to have sealed living spaces, all of the time, the remainder of affected units would be closed after 11pm until 7am. Conditions and the s.106 requirements would identify which units would need to close vents and set out how this would need to be controlled.
- 7.200. Should further noise assessment required by condition, allow for noise in the vicinity of the proposed scheme to reduce (thorough off-site mitigation) operation of the connectivity vents in living spaces, could be allowed.
- 7.201. The applicant is prepared to accept a S106 obligation (supported by legal advice) that would protect the Local Authority from complaints relating to noise by placing the onus on the developer/operator to enforce the provisions of the obligation and management of complaints, relating to noise nuisance/disturbance from residents.
- 7.202. This would mean that if any resident has not closed their connectivity vent between the hours of 11pm-7am they would remove their basis for complaint in respect of night-time entertainment noise and therefore the subject of suitable enforcement action from the developer/operator. Noise complaint management, including control over the closure of the vents, would become a landlord and tenant matter to be controlled by the developer/operator with their tenants, including in terms of managing the behaviour and actions of residents, and through suitable methods of communication and available information (e.g. briefings to new residents).

- 7.203. *Odour* - there are a number of commercial operations in close proximity to the proposed development. The EHO highlights that many of these have kitchen extraction. The agent of change approach would expect the developer of this scheme to address any mitigation required at nearby premises with kitchen extraction. The mitigation put forward by the applicant deals with odour at the façade and results in the lower floors of SBQ having sealed windows. This is not ideal and weighs against the scheme. However, the applicant has accepted the imposition of a condition, requiring further assessment following agent of change principles and should additional mitigation be achievable off-site that would result in windows not having to be sealed, this would be possible.
- 7.204. *Proposed commercial uses* – the application does not include specific information about the details of proposed commercial uses, as the occupiers are unknown. In the absence of any detailed uses the EHO raises some concerns with potential unknown noise and odour impacts. However, the EHO states that operational hours and the requirement for further detailed noise mitigation and insulation measures once final uses are determined could be conditioned. The application is supported by a flues and extract statement the general commercial ventilation and the proposed MVHR for residential, this approach in principle is accepted by the EHO. However, in respect of cooking extraction from commercial units the report proposes that a concealed high-level louvre band situated within the unit or on flat roofs where available to the shell of the unit would be provided. This would not be accepted as it would need to be discharged vertically upwards with minimum velocity. Therefore, this would not be accepted for kitchen extraction. However, should uses that require extraction be proposed in these units, a condition could be applied requiring the details of extraction to be agreed before first use. The EHO, also has concerns for the potential impacts of hot food takeaways, drinking establishments and nightclubs within a residential block as proposed in the outline element. This would require a detailed noise impact assessment and noise mitigation scheme as part of any full or reserved matters application, this can be conditioned.

Ecology

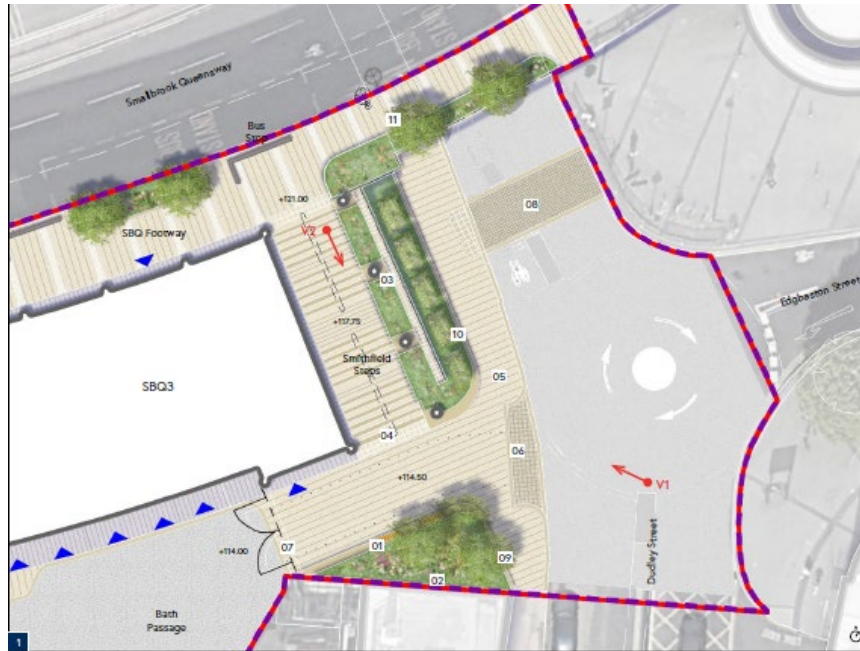
- 7.205. Policy TP8 'Biodiversity and Geodiversity' requires all development, to result in an enhancement of the natural environment.
- 7.206. A Preliminary Ecological Appraisal has been undertaken, which assesses the potential impact of the proposed development on site habitats and species, and surveys have been undertaken to assess the potential value of the site to bats and black redstarts.
- 7.207. The site was found to offer no suitable habitat for protected species. The bat survey concluded that there are no bat roosts present due to heavy illumination and the highly urbanised location. The black redstart survey found the site does not support black redstarts due to the highly urban nature of the site with negligible green space and a lack of suitable foraging areas.
- 7.208. The proposal includes a number of mitigation and enhancement features, including;
- Planting incorporating native or wildlife-friendly species and features which would benefit breeding bird species
 - Include an appropriate nestbox scheme to provide potential nesting locations for passerine bird species
- 7.209. Whilst not a Policy requirement the application has submitted an Urban Greening Factor (UGF) assessment, this is used to improve green infrastructure provision in urban areas. It is a tool used to help contribute to Biodiversity Net Gain on sites such as this where a Biodiversity Net Gain assessments would not be appropriate, given the very urban context of the site. BCC Ecology suggested the development should aim for a score of 0.3, the submitted assessment reached a score of 0.14 for SBQ 3. Given the dense urban environment and overall increase of landscaping (and subsequent improved biodiversity and habitats) from the existing very poor baseline and noting that

the UGF method is not required to be met in policy terms, this is accepted.

- 7.210. BCC Ecology do not object to the application, given that there is limited potential within the existing site for protected species and a construction ecological management plan has been submitted to which BCC Ecology confirmed was satisfactory. This should be complied with during construction, required by condition.

Transportation

- 7.211. A Transport Statement has been prepared in support of the development proposals, summarising the existing conditions in the vicinity of the site, the accessibility of the site relative to local facilities and services, and outlining the plans to encourage sustainable transport use.
- 7.212. The site is located in the heart of Birmingham city centre and is accessible by pedestrian facilities. There are dedicated cycle lanes on Hill Street and Hurst Street which form part of National Cycle Route 5, providing access from the city centre to both the south and north of Birmingham.
- 7.213. There are a number of bus stops near the site along the northern side of Smallbrook Queensway (bus stop NS5) and along the southern side (bus stops NS8 and NS9). In addition to these, there are three bus stops are on Station Street (bus stops NS11, NS12 and NS13) which are within four-minute walk of the site. The site is situated approximately 200m from the Birmingham New Street rail station.
- 7.214. The application is also supported by a Travel Plan, which sets a strategy to inform future residents of the range of travel options available to them and implements measures to encourage the use of sustainable modes. A Travel Plan Co-ordinator would be appointed to support the delivery of the plan.
- 7.215. SBQ3 has 434 cycle spaces (including some for folding bikes, e-bikes and commercial) and has servicing continue from Smallbrook Queensway and a new area created from an existing access on Dudley Street. SBQ1 and 2 are outline in nature for 1179 residential units and also ground floor commercial units. This has servicing indicated from Smallbrook Queensway and Hurst Street both of which are existing. SBQ 3 does not propose any car parking spaces as per BCC's adopted parking guidance (2021) which encourages new development in Zone A (city centre) to adopt sustainable travel principles and no car parking facilities unless clear need can be demonstrated. Given the site's sustainable location and access to multiple sustainable transport methods, a zero-parking approach has been adopted and is accepted.
- 7.216. The detailed application provides a new pedestrian route from Smallbrook Queensway and Dudley Street, via steps that are part accessed from the private site access on Dudley Street. The development also allows for changes in the levels on Smallbrook Queensway, which has two separated levels which is historic from the pedestrian subway that used to exist at the Hurst Street junction. It alters the Smallbrook Queensway on-street parking bays, by switching the position of the motorcycle spaces and taxi/servicing bay, and modifies the mini roundabout on Dudley Street to improve the means of access to the internal servicing yard. This would need a Highway agreement (s278 and TRO) to deliver before any development is occupied.



Layout of proposed highway works – SBQ 3

- 7.217. BCC Transportation have no objection to the application subject to conditions preventing occupation of SBQ3 until the required highway works are completed by a s.278 agreement, Demolition and construction management plans are provided, Cycle parking provided before the development is occupied, Servicing management plan required for the commercial and residential units, Travel plan is adopted and development management affiliate to Mode shift stars organisation.

Planning Obligations and Financial Viability

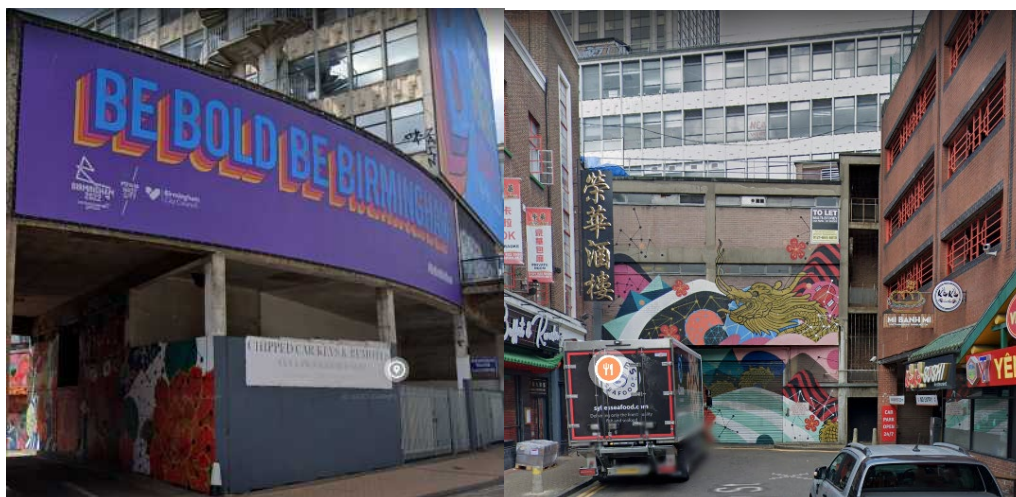
- 7.218. The site falls within the Low Value Residential Area and therefore there is no CIL payment.
- 7.219. In addition to affordable housing, discussed earlier in the report, either on site public open space or contributions towards off site provision for developments of 20 or more dwellings is also required by the Open Space in New Development SPD. Given the nature of the site, this contribution would be directed off site and would be spent on the provision, improvement and/or biodiversity enhancement of public open space and associated structures, including the maintenance thereof within. BCC Leisure Services made no objections, however, note the POS requirements in accordance with BDP Policy. They state that given the nature of the development this would most likely need to be provided off site. The scheme should provide a POS contribution of £3,346,675 to be spent on the provision, improvement and/or biodiversity enhancement of public open space and associated structures, including the maintenance thereof at POS/Play priority sites within the Bordesley and Highgate Ward.
- 7.220. However, the applicant has submitted a viability report with the application which has been independently assessed by the Council's independent viability consultant. The independent consultant concludes that the development can provide 7% affordable housing, with a financial equivalent of £6,9000,000.
- 7.221. Given the above viability assessment which demonstrates that the scheme is not able to support a policy compliant position, in this instance the money has been directed to Affordable Housing, which is the greatest priority at this time.

Other Matters

- 7.222. Submitted alongside the hybrid planning application is an illustrative vision document 'Smallbrook Greenway Vision Report', showing how the extensive 'greening' of Smallbrook Queensway could come forward in the future. The proposals included in

this vision document are not submitted for approval. The illustrative 'Greenway' proposals reflect BCC's aspirations as set out in the 'Our Future City Framework' particularly those relating to the potential for Birmingham to become a 'City of Nature' including through the introduction of 'City Greenways'. This holds no weight in the determination of the planning application. The applicant instructed a highways consultant to undertake appropriate traffic modelling and technical assessment of the relevant stretch of highway, including Holloway Head roundabout to demonstrate that the visioning report was sufficiently evidence by technical assessment.

- 7.223. There is existing public art on the building that would be lost as a result of development. Therefore, a condition would be added to require replacement public art at the scheme.



Public Art at Wrottesley Street

- 7.224. The Employment Access Team have requested that the development provide an employment access plan that would accord with Policy TP26.
- 7.225. The site is <5ha and therefore does not require a waste strategy as mentioned in Policy TP13.

Pre-application Public Engagement

- 7.226. Prior to the application's formal submission the applicant carried out a programme of pre-application consultation with the local community, the programme of which is set out in the supporting Statement of Community Engagement. This engagement took the form of a public webinar event, project website with contact details (email and phone), letter drop (to 750 addresses), and meetings with key stakeholders including BCC, Southside BID and neighbouring landowners. The feedback from the exhibition is also included with the submitted Statement of Community Engagement.
- 7.227. A total of 28 forms of feedback were received, including 24 digital feedback forms, 1 email and 3 webinar questions. Of the 24 digital feedback responses received, 15 responses were strongly unsupportive or unsupportive of the redevelopment of SBQ buildings, with 9 responses strongly supportive or supportive.
- 7.228. During the consultation process, the consultation webpage received 1,545 unique users. 33 people registered to attend the live webinar event, and 4 zoom accounts joined, 47 people viewed the recording after the event.
- 7.229. Pre-application public consultation is encouraged by the NPPF but is not mandatory.

Planning Balance

- 7.230. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that 'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise'.

- 7.231. Paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.232. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites, currently demonstrating a 3.99-year supply. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. This means that planning permission should be granted, unless adverse impacts of doing so, would significantly and demonstrably outweigh the benefits.
- 7.233. However, Footnote 7 notes the specific policies which protect important areas or assets, these include policies relating to designated heritage assets. Footnote 7 therefore establishes that where there is a clear reason for refusal (because of harm to designated assets) the tilted balance described above, is not engaged.
- 7.234. The harm identified to the significance of designated heritage assets needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in section 66, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.
- 7.235. A balanced judgment is also required with regards to the high level of harm (complete loss) of a locally listed, non-designated heritage asset (the Ringway Centre) and the setting of a non-designated heritage asset (Norfolk House).
- 7.236. The identified harm was as follows;
- Moderate adverse harm to Birmingham Town Hall – Grade I Listed
 - Moderate to major adverse harm to St Martin's Church – Grade II Listed
 - Moderate adverse harm to General Post Office – Grade II Listed
 - Moderate adverse harm to Former White Lion PH – Grade II Listed
 - Moderate adverse harm to the Rotunda – Grade II Listed
 - Major adverse harm to Ringway Centre - Locally Listed
 - Moderate to major harm to Norfolk House – Locally Listed
- 7.237. Using the three strands of sustainable development the public benefits of the scheme are identified as
- Economic*
- temporary construction jobs over the construction period
 - Creation of skilled and training opportunities during construction
 - The capacity to support 135 full-time equivalent jobs
 - net additional £100.5 million GVA to the economic output of the WM during construction (and £86 million concentrated in Birmingham) and;
 - an uplift of £7.4 million GVA (£5.1 million concentrated in Birmingham) once the development is completed.
- 7.238. Para. 81 of the NPPF states that "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business

needs and wider opportunities for development” However, I also note that many of the new jobs would only be for a temporary period, and that whilst some permanent jobs would be created, the figure is not significant. However, given the scale of development, moderate weight is attached to these economic benefits.

Social

- The provision of housing
- The provision of the equivalent of 20% affordable housing. Should grant funding not be achieved, the equivalent of 15% affordable housing.
- Creation of new open space for the community meanwhile use for SBQ 2, albeit temporary, this carried limited weight.

7.239. Taking account of the extent of the 5YHLS shortfall and the acute need for affordable housing, substantial weight is given to these social benefits.

Environmental

- The scheme would bring sustainability benefits over and above those normally secured through the BDP's sustainability policies (particularly TP3 and TP4).
- The site would enhance the ecological and biodiversity offer at the site and contribute to the greening and biodiversification of the city centre.
- £6million public realm improvements
- Using suitable brownfield land within settlements for homes.
- Smithfield Steps and Wrottesley Street Steps creating better connectivity to southside and the Chinese Quarter

7.240. Moderate weight is afforded to the sustainability credentials of the built development, I note the carbon impact of demolition, however given the existing BDP Policies, this carries limited weight in this context. The site has very limited ecological value and the proposal does provide ecological gains, however, noting the results of the Urban Greening Factor this is afforded moderate weight. The NPPF is clear that substantial weight should be given to the value of using brownfield land in sustainable locations to deliver homes. The public realm improvements, including new connections are afforded significant weight.

7.241. Set against these benefits is the less than substantial harm identified to designated heritage assets ranging in scale from neutral to moderate-major. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance. In addition, a balanced judgement is required with the high degree of harm resulting from the complete loss of and adverse impact to the setting of non-designated heritage assets.

7.242. With specific regard to the impact of harm caused to the significance of heritage assets, both the BDP and NPPF place great weight on their conservation. Paragraph 199 of NPPF states that the more important the asset the greater the weight should be, additionally paragraph 202 calls for this harm to be weighed against the public benefits of the proposal.

7.243. The designated heritage assets buildings hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation colleagues to reach a moderate-major level. However, in my view, and very much on balance, I consider there are enough benefits associated with this proposal to outweigh the heritage harm, with particular reference to the delivery of homes and affordable homes. The paragraph 202 test of the NPPF is therefore favourable to the proposal. In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies, as referenced by NPPF para.11(d)i and Footnote 7.

- 7.244. The Ringway Centre is of high local significance and there is a high degree of harm as a result of its complete loss, through demolition. There is also harm identified to the setting of Norfolk House, as result of loss of the Ringway Centre. However, taking a balanced judgement I do not consider the high level of harm to a building of local significance, and the setting of a non-designated heritage asset, to outweigh the identified significant public benefits of the proposal.
- 7.245. The need to seal 16% of units with SBQ3 to mitigate effects of noise and odour weighs against the development. The limited private outdoor space also weighs against the development, however given the city centre context these adverse impacts do not significantly and demonstrably outweigh the harm.
- 7.246. Given there are no adverse impacts identified that would significantly and demonstrably outweigh the benefits, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

8. Conclusion

- 8.1. The proposed development would see the delivery of a high-quality residential led development, in a sustainable gateway location on brownfield land. The proposed 1,632 residential units would make a meaningful contribution towards Birmingham's housing shortfall and contribute towards the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver a minimum of 15% affordable housing, in accordance with local and national policies. The scheme would also provide economic, social and environmental benefits.
- 8.2. A number of significant adverse environmental effects were identified by the submitted ES, however, it is considered that with the mitigation set out through design and proposed via conditions, these identified significant adverse effects do not warrant refusal of the application.
- 8.3. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the application would accord with the development plan taken as a whole and is therefore acceptable subject to completion of a legal agreement and conditions.

9. Recommendation:

- 9.1. That application 2022/08496/PA be APPROVED subject to the prior completion of a Legal Agreement (Section 111 and/or Section 106) to secure the following:
- Equivalent of 20% affordable rental units at a mix of 1- 2- and 3-bedroom apartments provided on site.
 - A requirement of the building owner to manage noise of affected units through the closure of amenity vents between the hours of 11pm and 7am.
 - Minimum public realm spend of £6 million, within the red line boundary of the application site.
 - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.
- 9.2. In the event that additional grant funding is not secured to deliver the equivalent of 20% affordable housing, then the equivalent of a minimum 15% affordable housing units, of a mix and tenure to be agreed, shall be provided on site.
- 9.3. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 28th December 2023 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason:

- In the absence of any suitable legal agreement to secure the provision of onsite affordable housing the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 9.4. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
 - 9.5. That no objection be raised to the stopping-up of any public highway required to make the development acceptable and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.
 - 9.6. That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 28th December 2023, or such later date as may be authorised by officers under delegated powers, planning permission for application 2022/08496/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

1	Detailed: Implement within 3 years (Full)
2	Detailed: Implemented in accordance with Approved Plans
3	Detailed: Prevents demolition prior to a redevelopment contract for SBQ 3 being entered into
4	Detailed: Requires details of temporary making good following phase 1 demolition
5	Detailed: Requires compliance with the WSI for photographic recording of the existing building
6	Detailed: Prior to the commencement of development submission of wind mitigation
7	Detailed: Prior to Commencement of Development (excluding demolition): Submission of a Contamination Remediation Scheme
8	Detailed: Requires compliance with the Sustainable Drainage Scheme for the Detailed Application site
9	Detailed: Prior to Occupation Submission of a scheme of Noise Insulation
10	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Construction Employment Plan
11	Detailed: Prior to Demolition Submission of Demolition and Construction Environmental Method Statement and Management Plan
12	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Details of Public Realm Works (excluding replacement bridge) including Hard and Soft Landscaping
13	Detailed: Requires compliance with the Arboricultural Method Statement
14	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Materials - Buildings

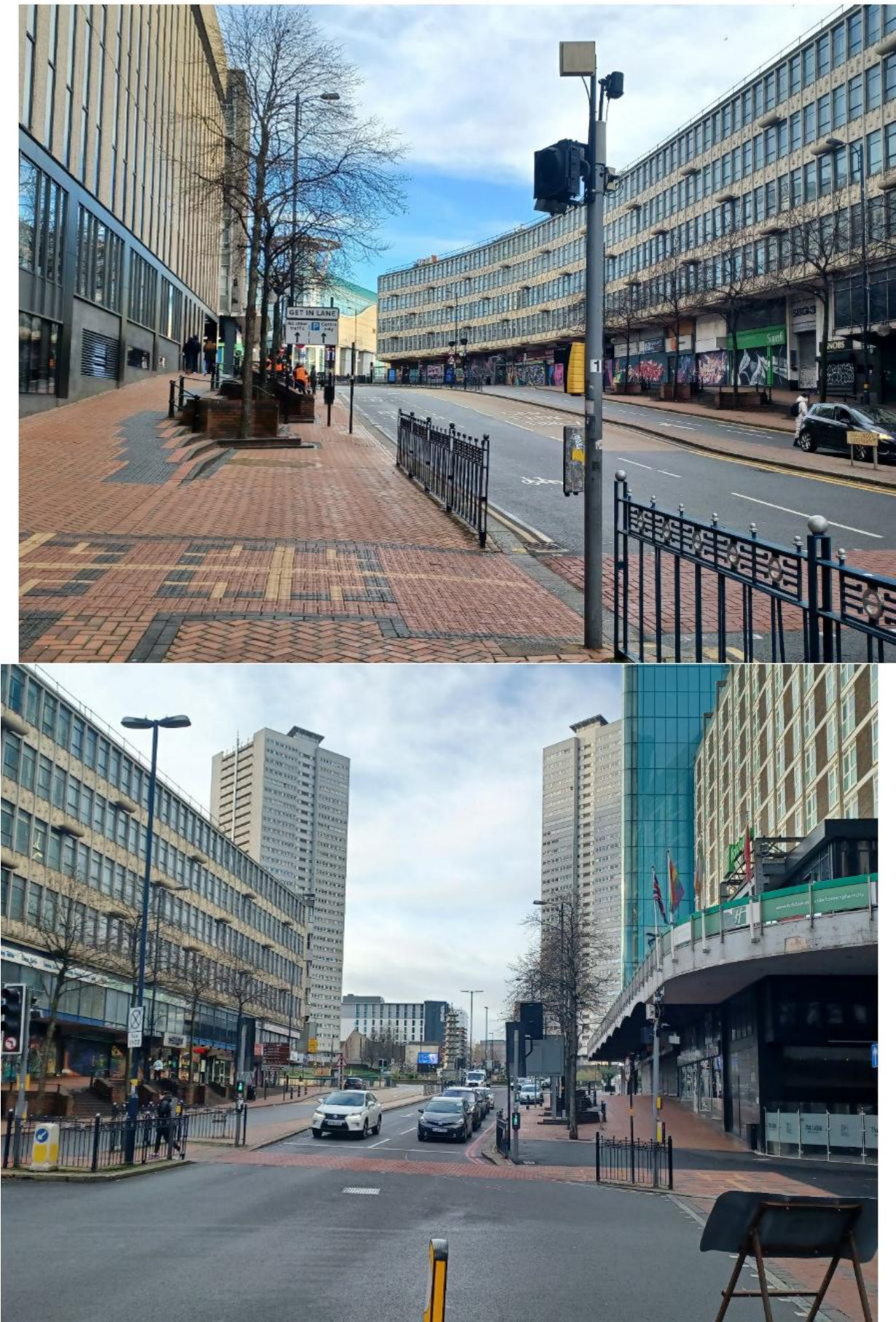
15	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Architectural Details
16	Detailed: Prior to Commencement of Development (excluding demolition) the construction and approval of a sample panel on site
17	Detailed: details of solar glare mitigation
18	Detailed: Submission of Crane Management Plan
19	Detailed: Prior to Commencement of Development (excluding demolition) Submission of Extraction and Odour Control Strategy for commercial uses in SBQ 3
20	Detailed: Prior to Occupation Submission of a Sustainable Drainage Operation and Maintenance Plan
21	Detailed: Requires the completion of works for the s.278 (Highways)
22	Detailed: Requires accordance residential travel plan and Mode Shift Stars programme
23	Detailed: Prior to Occupation Submission of a Contaminated Land Verification Report
24	Detailed: Prior First Use or to Occupation of SBQ 3: Requires the prior submission of a CCTV scheme
25	Detailed: Prior to Occupation of SBQ 3: Submission of Details of Low and Zero Carbon (LZC) Energy Installation(s)
26	Detailed: Prior to installation: Submission of Shopfront Design for Commercial Units within SBQ 3
27	Detailed: Occupation of SBQ3: Submission of Details of Cycle Parking Requires the provision of cycle parking prior to occupation
28	Detailed: Post Occupation of SBQ 3 Commercial units submission of BREEAM standard Excellent certificate/statement
29	Detailed: Limits levels for cumulative noise from all plant and machinery
30	Detailed: Requires the submission of details of public art
31	Outline: Requires the submission of reserved matter details following an outline approval
32	Outline: Requires the scheme to be in accordance with the listed approved parameter plans
33	Outline: Reserved Matters submission to be accompanied by a completed Design Code Statement of Compliance
34	Outline: Reserved Matters Submission for Residential Uses (Use Class C3) to be accompanied by Noise Assessment and Proposed Scheme of Noise Mitigation Measures

-
- 35 Outline: Reserved Matters Submission Proposed Scheme of Noise Mitigation Measures for Office and Light Industrial (Use Class B1), Hotel (Use Class C1) Non-Residential Institutions (Use Class D1), Assembly and Leisure Uses (Use Class D2) and Night Club Use (Sui Generis)
- 36 Outline: Reserved Matters Submission for Residential Uses (Use Class C3) to be accompanied by an Air Quality Assessment and Proposed Scheme of Air Quality Mitigation Measures
- 37 Outline: Reserved Matters - Tree Survey and Arboricultural Implication Assessment Submission Required
- 38 Outline: Reserved Matters - details of solar glare mitigation
- 39 Outline: Reserved Matters Submission of Low and Zero Carbon Technology Assessment
- 40 Outline: Reserved Matters Submission of Daylight, Sunlight and Overshadowing Assessment
- 41 Outline: Reserved Matters Submission of Updated Ecological Appraisal, Mitigation Strategy and Biodiversity Enhancement Plan
- 42
- 43 Outline: Reserved Matters Submission of Extraction and Odour Control Strategy
- 44 Outline - Reserved Matters - Submission of housing mix and tenure
- 45 Outline: Prevents demolition prior to a redevelopment contract for SBQ 1 being entered into
- 46 Outline: Prior to demolition: Submission of Demolition and Construction Environmental Method Statement and Management Plan
- 47 Outline Pre & Demolition: Submission of Demolition and Construction Ecological Management Plan (D&CEcMP)
- 48 Outline Prior to Commencement of Development (excluding demolition): Submission of a Contamination Remediation Scheme
- 49 Outline: Prior to the Commencement of Development (excluding demolition): Submission of Construction Employment Plan
- 50 Outline: Prior to Occupation Submission of a Contaminated Land Verification Report
- 51 Outline: Prior to Occupation Submission of Sustainable Drainage Operation and Maintenance Plan
- 52 Outline: Reserved Matters Submission of Sustainable Drainage Scheme
- 53 Outline: Prior to Occupation Submission of a scheme of Noise Insulation (between non-residential uses at ground floor and residential uses on the upper floors)
- 54 Outline: Prior to Occupation Submission of Extraction and Odour Control Details for Commercial Unit(s)
-

55	Outline: Post Occupation Submission of BREEAM standard Excellent certificate/statement
56	Outline: Prior to Occupation Submission of CCTV Management Scheme
57	Outline: Reserved Matters - Limits exceedance of Obstacle Limitation Surfaces
58	Outline: restricts E (a) Use Class within SBQ 1 and and SBQ 2
59	Outline: Reserved Matters Submission of Fire Statement
60	Requires the prior submission of a lighting scheme
61	Hybrid: No obstruction, displays or signage fitted to shop front.
62	Hybrid: Removes PD rights for telecom equipment
63	Hybrid: Requires the submission and approval of building & site level details for each phase.
64	
65	Hybrid: Requires a post completion telecommunications reception assessment
66	Development to accord with the construction ecological mitigation plan
67	Hybrid: remediation for unexpected contamination
68	Hybrid ; details of piling
69	Prior to commencement of development (above slab): Requires the submission of an Instrument Flight Procedure Assessment (IFP)
70	Prior to Commencement of Development (above slab): Requires the submission of an aviation lighting scheme (Hybrid)
71	To ensure energy and sustainability measures are delivered in accordance with statement (full - SBQ 3)

Case Officer: Rhiannon Hill

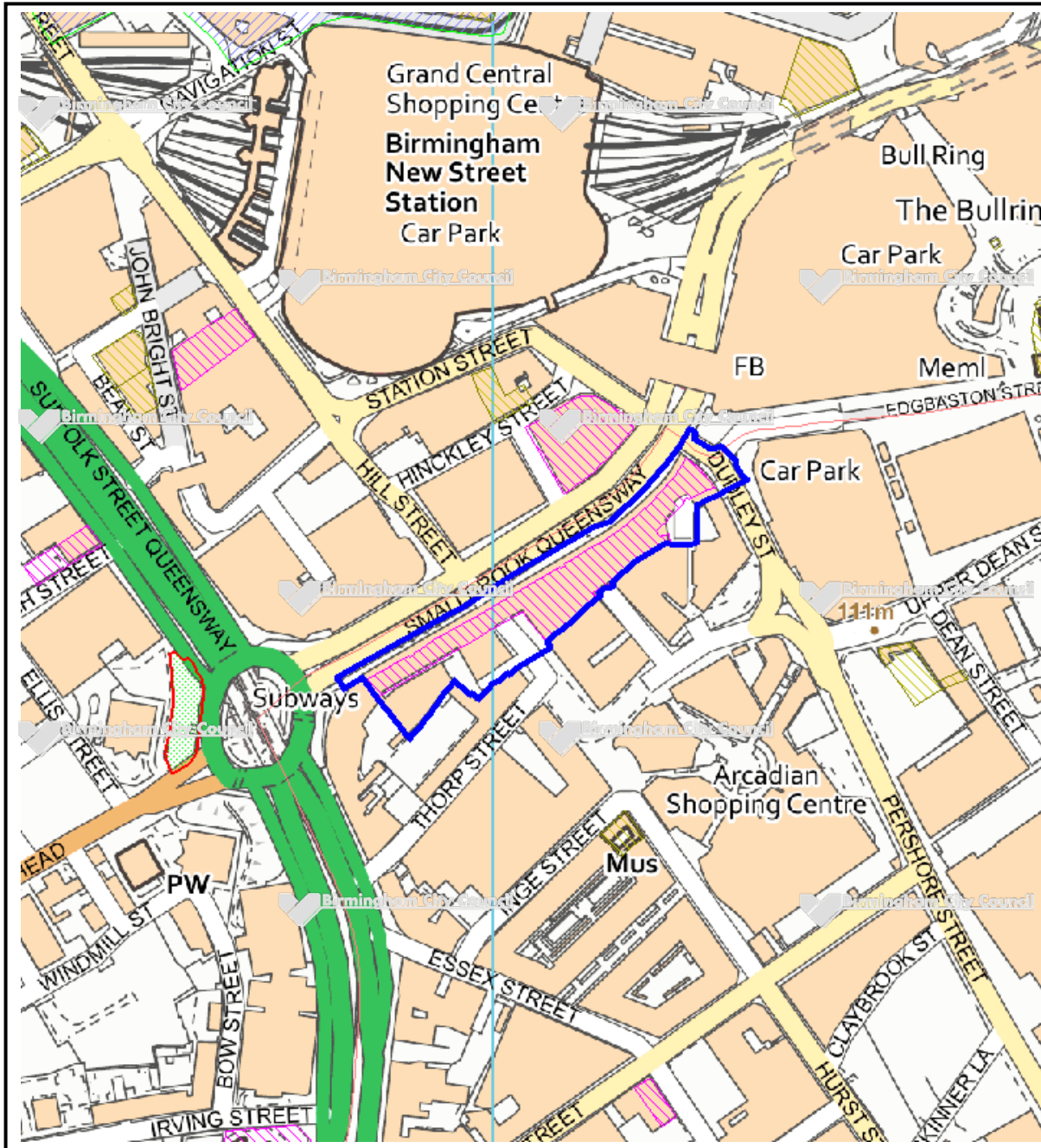
Photo(s)







Location Plan



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Committee Date:	01/02/2024	Application Number:	2023/04130/PA
Accepted:	20/06/2023	Application Type:	Full Planning
Target Date:	02/02/2024		
Ward:	Bordesley & Highgate		

Land south of Garrison Circus, Watery Lane Middleway/Great Barr Street, Digbeth, Birmingham, B9 4HF

Part retention and conversion of Myona Building, demolition of existing buildings and redevelopment for mixed use across four buildings of between 5, 7, 9, 10, 11, 12, 16 and 37 storeys in height comprising 546 apartments (Use Class C3), 710 units of Purpose-Built Student Accommodation (Sui Generis), 851sqm of flexible commercial floorspace (Use Class E) with ancillary amenity spaces, external amenity spaces, bicycle storage, landscaping, car parking, alterations to pedestrian and vehicular access and associated works

Applicant:	Garrison Group Holdings Ltd SAMA Investments Ltd, Corner Oak, 1 Homer Road, Solihull, West Midlands, B91 3QG
Agent:	Claremont Planning Consultancy Ltd Somerset House, 37 Temple Street, Birmingham, B2 5DP

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

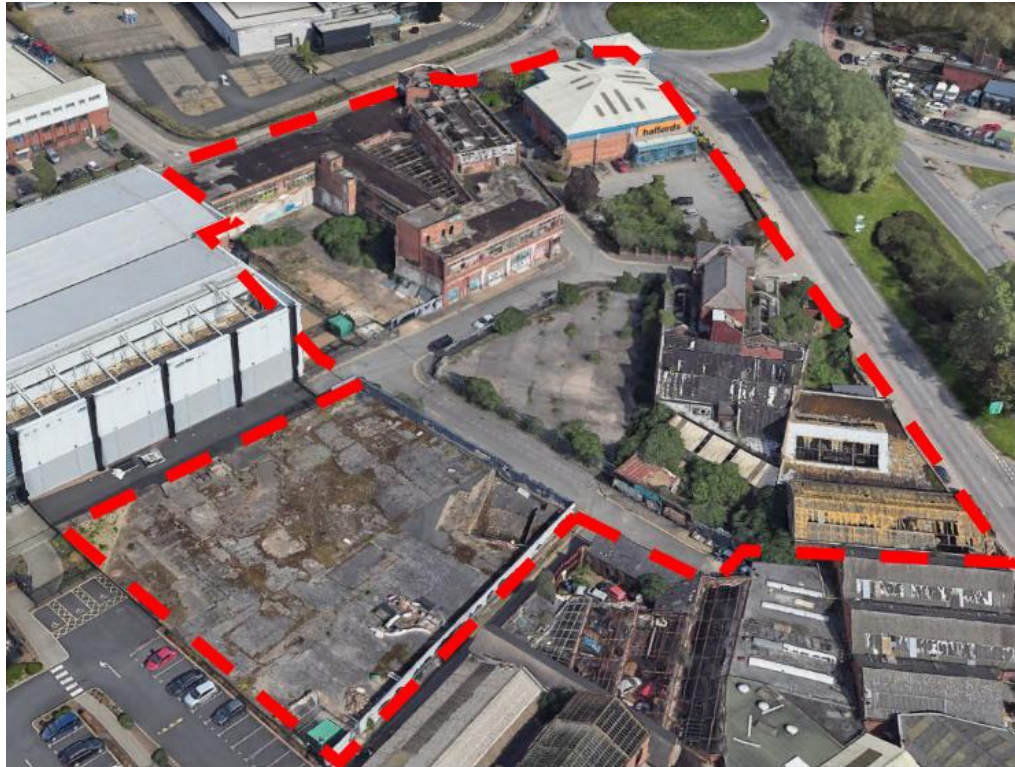
- 1.1 This application seeks full planning permission for the demolition or part demolition of all existing buildings on site, and the erection of four new buildings. Two C3 residential buildings and two buildings for Purpose Built Student Accommodation (PBSA).



Site Location Plan and Proposed Block Plan

- 1.2 There are three existing buildings, two of the existing buildings proposed for demolition or partial demolition are Locally Listed. Complete demolition of the Argyle

Building is proposed (on plot A) and partial demolition of the Myona building (on plot C). The existing Halfords building is also proposed for complete demolition, this is not locally listed or of any architectural interest.



Ariel image of Existing Buildings On Site



Proposed demolition (red)

- 1.3 The proposed new buildings comprise:
- Building A – C3 Residential; 175 (C3) units. Located on to Great Barr Street with 11 storey frontage and 9 storeys to the rear. Two outdoor roof terraces, 201sqm and 304sqm (514sqm total) and a ground floor courtyard 173 sqm. 1,342 sqm of internal amenity space.
 - Building B – C3 Residential; 371 (C3) units. Located at Garrison Circus Middleway junction extending 37 storeys high. Two outdoor roof terraces, 470sqm and 234 sqm, 740sqm total of external amenity space and 800 sqm internal amenity space.
 - Building C – PBSA; 551 (Sui Generis) bedrooms. located along Watery Lane Middleway, 16 storeys high. Part retained Myona building providing ground floor café and upper floor community spaces totalling 167sqm and an additional 753sqm of internal amenity space. 982 sqm of outdoor amenity space.
 - Building D – PBSA; 159 (Sui Generis) bedroom rooms located centrally within the city block extending to 7 storeys down to five storeys. This block provides 248sqm of internal amenity space and 868sqm of outdoor amenity space.
- 1.4 The four buildings propose a total of 546 (C3) residential units and 710 (Sui Generis) PBSA beds.
- 1.5 The ground floor of building A, B and C also proposes a total of 851sqm of flexible commercial floorspace (Use Class E), split across smaller units within each building.
- 1.6 The residential buildings are inclusive of internal and external amenity spaces and ancillary uses, including gym, cinema, workspaces and shared lounge spaces.
- 1.7 The application is accompanied by the following supporting information and reports.

Tall Building Report; Tree Schedule and Survey; Statement of Community Involvement; Residential Standards Statement; Preliminary Ecological Appraisal; Planning Statement; Phase 1 Ground Investigations; Flood Risk Assessment; Design and Access Statement; Affordable Housing Statement; Television and Radio Baseline Survey; Townscape and Visual Impact Assessment; Transport Statement; Telecommunications Impact Assessment; Technical Aerodrome Safeguarding Assessment; Heritage Statement; Fire Statement; Financial Viability Assessment; BREEAM pre-assessment; BNG Assessment; Archaeological Assessment; Air Quality Assessment; Black Restart Survey; Bat Survey; Low and Zero Carbon Feasibility Study; Passive Design Analysis Report; Thermal Comfort Report; Wind Microclimate Report; Schedule of Accommodation; Sustainable Construction Report; Sustainable Drainage Strategy; Daylight Sunlight and Overshadowing Assessment;

1.8 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The site comprises a number of blocks on the far eastern edge of Digbeth (beyond the Conservation Areas) and fronting onto the western edge of Watery Middleway, directly south of the junction with Garrison Circus.
- 2.2. The site comprises four blocks referenced A, B, C and D. 'A' fronts directly onto the southern side of Great Barr Street, with Little Barr Street to the east, the Digbeth Data Centre is to the west and Palmer Street to the south and it contains a mid-20th century works building in the deco tradition that is locally listed (the Argyle Building). 'B' is located east of 'A' and fronts onto Watery Middleway at the junction of Great Barr Street with Garrison Circus and contains a modern retail shed (Halfords). 'C' sits south of 'B' again fronting Watery Middleway with Palmer Street to the north and Little Edward Street to the west and hosts an early-20th century works building which is locally listed (Myona Building). And finally, 'D' sits west of 'C' on the western side of Little Edward Street with the data centre wrapping round from the north to the west

with the backs of older (partially redundant) buildings to the south.

- 2.3. The entire site and the surrounding area is a mix of 20th century traditional light industrial buildings, modern retail sheds, a large data centre and some C3 housing.
- 2.4. To the east side of Watery Middleway is a residential suburb and light industry that extends around Garrison Park public green space. The city centre proper is located to the north beyond the New Street railway viaducts.
- 2.5. The application site contains two locally listed buildings; the Argyle Works building, built c.1948, and the Myona building, an early-20th century, c.1920s, office building built as the Bordesley Offices for W.E. Wassell Ltd.
- 2.6. The site is in close proximity to the Warwick Bar Conservation Area which lies to west and beyond this the Digbeth, Deritend and Bordesley High Streets Conservation Area. Both conservation areas contain a number of designated and non-designated heritage assets.
- 2.7. Other designated and non-designated heritage assets are located to the northeast of the site including the grade II listed Garrison Lane School and Caretakers House and the locally listed Cottage Baths and Eddies Bar on Lower Dartmouth Street.
- 2.8. [Link to site](#)

3. **Planning History:**

Argyle Building (site A)

- 3.1. 2008/06053/PA – Change of use, including partial demolition, from general industrial (Class Use B2) to business use (Use Class B1) plus external alterations (insertion of windows & removal of roller shutters) and 22 new parking spaces on rear. Approve subject to Conditions 16/2/2009.
- 3.2. 2013/04795/PA - Change of use from general industry (Use Class B2) to flexible office/workspace (Use Class B1) with associated external alterations (including replacement windows, removal of roller shutters), landscaping and car parking. Approve subject to Conditions 5/9/2013.

Halfords (Site B)

- 3.3. 1992/00526/PA redevelopment of site to provide unit for 'man for a van' and 2 units for b1/b2 use. Approve subject to Conditions 8/10/1992

Myona Building (Site C)

- 3.4. 2013/04290/PA Application for prior notification of proposed demolition – No prior approval required. 11/7/2013.

Site D

- 3.5. 2013/06999/PA Outline application for the erection of a 2 storey building for use as a data centre (B8) and associated parking & boundary treatment (access only) Approve subject to Conditions 14/11/2013.
- 3.6. 1997/04922/PA Infill open storage area to create warehousing space and erection of new fencing Approve subject to Conditions 16/3/1998

4. **Consultation Responses:**

- 4.1. BCC City Design – No objection, concern

Whilst Blocks A, C and D all have an appropriate 'rear' aspect for servicing, Block B block does not and that results in a less than ideal arrangement of servicing dominating the Middleway frontage.

Thee flanking development (Block A and C) along Great Barr Street and the Middleway respectively, are between 11 and 17-storeys, with the shoulder to the tower itself around a third of the height of the tower itself. Visually this comprises a significant change to the established scale of the area and presents a risk in defining a hard wall of development forming an edge to the city centre. Great Barr Street is a secondary street and the relationship with the data centre is likely to be a long term one and therefore the scale of Block A (at 11-storeys) should come down to 9-storeys.

More detail is required with regards to the architecture and landscaping and whether this is deliverable as shown.

4.2. BCC Conservation – No objection, harm identified.

“The proposed development would cause a moderate degree of harm to the significance of the locally listed Myona Building through partial demolition and development in its setting.

The proposed development would cause a high level of harm to the significance of the locally listed Argyle through total demolition.

The proposed development would cause a moderate degree of harm to the significance of the locally listed cottage baths through development in its setting.

The proposed development would cause ‘less than substantial harm’ to the significance of the grade I listed Curzon Street Station through development in its setting. The harm is placed at the low end of the scale.

The proposed development would cause ‘less than substantial harm’ to the significance of the grade II listed 106-110 Fazeley Street and the grade II listed 122 Fazeley Street through development in their setting. The harm is placed at the low end of the scale.

The proposed development would cause ‘less than substantial harm’ to the Digbeth, Deritend and Bordesley High Streets Conservation Area and to the Warwick Bar Conservation Area through development in their setting. In both cases the harm is placed at the low end of the scale in relation to the conservation areas as a whole”.

Should the application be approved this should be subject to conditions requiring the submission of a phasing plan, Myona works required prior to other phases, building recording, method statement for works to the Myona building, Materials samples to be submitted including mortar details.

4.3. BCC Archaeology – No objection.

4.4. BCC Ecology – No objection, additional information required

Updated BNG to show new landscaping required, commentary of long term sustainability required.

Should scheme be approved this should be subject to requiring a scheme for ecological/biodiversity/enhancement measures, bat/bird boxes, Construction Ecological Mitigation Plan, Landscape management plan, construction management plan.

4.5. BCC Transportation – No objection

Subject to conditions requiring works to the highway to be carried out (s.278) prior to occupation of the building, a Traffic Regulation Order to control parking, details of pavement materials, parking management strategy, cycle parking prior to occupation, pedestrian visibility splays to be provided, delivery vehicle management scheme

- 4.6. BCC Tree Officer – No objection
Subject to details of tree pits to be submitted.
- 4.7. BCC Education – No objection
S.106 financial obligation towards the provision of school places £2,394,369.65 (total)
- 4.8. BCC Employment Access – No objection
subject to the inclusion of a construction employment plan condition
- 4.9. BCC Environmental Protection – No response
- 4.10. Lead Local Flood Authority – No objection
Subject to conditions requiring a Sustainable Drainage Strategy and a Operations and Maintenance Plan.
- 4.11. Historic England – No objection, concern.
The special interest of the wider Digbeth area, including the adjacent Warwick Bar, and nearby Digbeth, Deritend and Bordesley, Conservation Areas, relates to layers of natural and man-made infra structure all characterised by low level industrial character. Historic England is concerned at the harm this scheme, particularly the 37storey element, would cause to the character and appearance of both Conservation Areas. We consider this to be 'less than substantial harm', requiring great weight to be given to the assets' conservation, irrespective of the level of harm.
- 4.12. West Midlands Police – No objection
subject to Secured by Design principles.
- 4.13. West Midlands Fire Service – No objection
subject to compliance with building regulations
- 4.14. Canal and River Trust – No objection
"After reviewing the information, the Trust has no comments to make".
- 4.15. HSE Fire – No objection
"Following a review of the information within this application, HSE is content with the fire safety design as set out in the project description, to the extent it affects land use planning considerations".
- 4.16. Birmingham Airport – No objection
Subject to conditions requiring radar mitigation, construction management plan, crane notification and a bird hazard management plan
- 4.17. Active Travel England – No objection, additional information required.
shortfall of 85 cycle spaces, strong consideration must be given to a financial contribution towards providing or upgrading cycle routes, The progress of the travel plan in achieving targets and identifying any amendments must be agreed in writing by the LPA in the event that targets are not achieved with a plan for future actions to be implemented.
- 4.18. Environment Agency – refer to standing advice.
- 4.19. Birmingham Civic Society – Object
- 4.20. *Our principal concern, in addition to lack of affordable housing, relates to the complete loss of the Argyle Works. The DAS states that "The original Argyle Building was heavily damaged during World War II, and replaced with the existing Argyle Works. The retention, refurbishment and adaptive re -use of the Argyle building was explored, however following a building condition survey, this approach was discounted due to significant structural deterioration and advanced state of dis re pair*

following several years of neglect. The following were additional considerations: - Simple conversion of the existing Argyle building 'as is' is not financially viable for GGHL; - The potential vertical extension of the building has been discounted as harmful; - Ground floor conversion would create suboptimal commercial space that would not meet policy or market requirements; - Inactive frontage at ground floor due to solid brick wall; - First and second floor conversion would create either sub-optimal residential units or overprovision of sub-optimal commercial space; - Due to the buildings former industrial use, hazardous materials and contamination were considered to be present within the building. Of these, the majority simply state that the applicant does not want to accept the financial burden of retaining and adapting the locally listed building. The heritage statement concludes that there will be 'no harm' to a range of assets, but while we may have concurred that harm was less than substantial, it is rare that a scheme can have no harm whatsoever on heritage. The loss of a locally listed building, and harm to the significance of another (the Myona building), should be weighed as part of the overall harm of the scheme.

4.21. C20 Society – Object

We are not convinced that the applicant has undertaken a thorough exploration of alternatives to demolition or clearly demonstrated that refurbishment would not be deliverable. As such, we do not believe that there is compelling justification to demolish this irreplaceable and structurally sound local heritage asset. To summarise, we object to the planning application on heritage grounds and encourage the local authority to refuse permission.

4.22. HS2 Safeguarding – No objection.

5. **Third Party Responses:**

5.1. The application has been publicised by sending out letters to neighbours, posting site notices within the vicinity of the site and a press notice.

5.2. Residents' Associations; Ward Members; the MP and local occupiers consulted with the following representations received.

5.3. Two third party letters of objection were received. Making the following comments

- "No"
- We currently have 3 units and a gateway that requires access via Little Edward Street. The plans submitted show the road layout will be eliminated and replaced with public pathway which leaves us with no access for operating businesses. We would like to retain unrestricted access to our premises.

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

6.1. **National Planning Policy Framework**

- Section 2: Achieving sustainable development
- Section 4: Decision-making
- Section 5 Delivering a sufficient supply of homes
- Section 11 Making effective use of land
- Section 12 Achieving Well-Designed Places
- Section 14: Meeting the challenge of Climate change, flooding and coastal change
- Section 16 Conserving and enhancing the historic environment.

6.2. **Birmingham Development Plan (2017)**

- G1 Overall levels of growth
- GA1 Spatial Delivery of Growth: City Centre

- PG3 Place making
- TP1 Reducing the City's carbon footprint
- TP2 Adapting to climate change
- TP3 Sustainable construction
- TP4 Low and zero carbon energy generation
- TP5 Low carbon economy
- TP6 Management of flood risk and water resources
- TP7 Green infrastructure network
- TP8 Biodiversity and geodiversity
- TP9 Open space, playing fields and allotments
- TP12 Historic environment
- TP20 Protecting existing employment land
- TP21 The network and hierarchy of centres
- TP26 Local employment
- TP27 Sustainable neighbourhoods
- TP28 The location of new housing
- TP29 The housing trajectory
- TP30 The type, size and density of new housing
- TP31 Affordable Housing
- TP33 Student Accommodation
- TP37 Heath
- TP38 A sustainable transport network
- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development
- TP46 Digital communications
- TP47: Developer contributions

6.3. Development Management DPD (2021)

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

6.4. Supplementary Planning Documents & Guidance:

Birmingham Design Guide (2022); Birmingham Parking Supplementary Planning Document (2021); Guidance Note on Sustainable Construction and Low and Zero Carbon Energy Generation (2021); Public Open Space in New Residential Development SPD (2007) National Planning Practice Guidance; Community Infrastructure Levy (CIL); Curzon Masterplan (2015); Our Future City Framework (2023). Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment - Historic England (2015) Good Practice Advice Note 3: the setting of Heritage Assets – Historic England (2017); Digbeth, Deritend and Bordesley High Streets Conservation Area Appraisal and Management Plan; Warwick Bar Conservation Area Appraisal and Management Plan.

7. Planning Considerations:

- 7.1. The main material considerations are
- The principle of development
 - Impact upon Heritage Assets
 - Design
 - Residential Amenity
 - Microclimate
 - Sustainable Construction
 - Transportation
 - Ecology
 - Flood Risk and Drainage
 - Noise, Air Quality and Contamination
 - CIL and S.106
 - Other Matters

Principle of Development

- 7.2. Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development would be continued to be supported where it provides well-designed high-quality environments with the majority of new housing expected to be delivered on brownfield sites within the existing urban area. Policies GA1.1 City Centre, Role and Function, GA1.2 City Centre -Growth and Wider Areas of Change, and GA1.3 City Centre -The Quarters are relevant, they all support the creation of vibrant mixed-use areas, combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area.
- 7.3. Policy GA1.3 'The Quarters' states: - 'New development must support and strengthen the distinctive character of the areas surrounding the City Centre Core raising their overall quality offer and accessibility. The City Centre is formed by seven Quarters with the Core at its heart. The application site is located within Digbeth, where development should be "Creating a thriving creative and cultural hub with a high quality, exciting and easily accessible environment".
- 7.4. Part of the site falls within Great Barr Street Enterprise Zone (No.14 on the City Centre Spatial Plan). However, this site boundary relates to the data centre development granted planning permission in 2013 – this development has not come forward, since its approval. This EZ is not an allocation and its designation does not prevent other development from coming forward.
- 7.5. Overall, the site is within the City Centre growth area, sits outside the Retail Core and would see the use of brownfield land to deliver mixed use residential led development. The principal of which accords with the above policies.

Loss of employment land

- 7.6. The Council's adopted Loss of Industrial Land to Alternative Uses SPD defines industrial uses as those falling within use class B1(b and c) Light Industrial, B2 General Industrial and B8 warehousing, (Since its adoption use class B1 no longer exists). Of the three existing buildings on site two are considered to be employment use (Halfords is class E).
- 7.7. The Myona building sits within block C of the application site and is proposed for partial demolition (albeit only a small area of building is to be retained (the locally listed part) and all modern employment shed, and extensions proposed for demolition). This building has been vacant for at least 10 years. The application is supported by a viability statement and the applicant advances an argument that this demonstrates that even a development of far greater quantum and value is not viable, therefore redeveloping the site for employment use would not be viable. The applicant also makes an argument that planning history shows previous consents for re-development of the site for employment uses (2013/06999/PA) have not been advanced.

- 7.8. The Argyle building occupies block A of the application site and is proposed for complete demolition. In 2013 a planning application was approved to convert the building from B2 industrial into flexible commercial space. At that time the building had already been vacant for 6 years (now 16 years) and was considered to have fallen into disrepair (2013/04795/PA). The applicant provided a loss of industrial land addendum to address the loss of this employment use. It considers that the loss of the use has previously been found to be acceptable though the granting of consent to office use and other flexible commercial use. Further, the document sets out the building was marketed in 2008 and again between March 2012 and June 2011 (all prior to the 2013 planning consents) but has remained vacant. In addition, the condition of the building has deteriorated further from lack of occupation or maintenance. The submission also refers to market research undertaken by Knight Frank in 2022, this research concluded that the area requires wholesale regeneration to improve the viability of the area.
- 7.9. Policy TP20 states that change of use from employment land to other uses will be permitted where it can be demonstrated that the site is considered a non-conforming use or is no longer attractive for employment use having been actively marketed. The 'Loss of industrial land to alternative uses' SPD sets out other factors to be considered in employment land loss and states that 'Within the City Centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives. Proposals involving the loss of industrial land will be supported, however, only where they lie in areas which have been identified in other planning policy documents, that have been approved by Birmingham City Council, as having potential for alternative uses.
- 7.10. In this instance the application site falls outside of any Core Employment Area but is within the Curzon Masterplan area and is identified in Our Future City Framework. These two documents are non-statutory and hold limited weight in making planning decisions. Nonetheless, they clearly and importantly highlight the City's aspirations for regeneration, specifically for this area of the city. The Curzon Masterplan seeks to emphasise the development opportunities in the context of the new HS2 station, which is under construction in proximity to the site. The Future City Framework identifies the site within the 'Central East' area and 'Garrison Park Quarter' Growth Zone which seeks *"An improved city quarter connecting Digbeth with Bordesley Green with a wide range of opportunities for new homes and workspaces"*.
- 7.11. Therefore, when considering the arguments put forward by the applicant along with the Policy support for mixed use re-development within this designated Growth Zone (GA1) and the clear regeneration aspirations of the City, highlighted in both the Curzon Masterplan and more recent Future City Framework, despite the loss of two B2 employment buildings, support can be found for re-development of the site.

Provision of Housing

- 7.12. The Birmingham Development Plan became 5 years old on 10th January 2022 and is currently being updated. In accordance with NPPF paragraph 75, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 7.13. Paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Footnote

7 of the NPPF notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets, this is discussed later.

- 7.14. Policy TP27 of the Birmingham Development Plan highlights the significance of housing and its importance in the creation of sustainable neighbourhoods; and how this is underpinned by the provision of a wide choice of housing sizes, types, and tenures to ensure balanced communities are created to cater for all incomes and ages. Policy TP28 'The location of new housing' requires new residential development to be well located listing several requirements a residential development site should meet. The application site is an appropriate location for housing, in accordance with this policy.
- 7.15. TP30 requires proposals for new housing to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods in accordance with the most recent housing market assessments. TP30 also requires development to be delivered at a minimum target density of 100 dwellings per ha within the City Centre.
- 7.16. The C3 units are delivered across two buildings in the following Mix;
- Building A – C3 Residential; 175 (C3) units total.
- 1 beds – 90 (51.4%),
 - 2 beds – 59 (33.7%)
 - 3 beds – 26 (14.9%)
- Building B – C3 Residential; 371 (C3) units total.
- Studios – 33 (8.9%)
 - 1 beds – 169 (45.6%)
 - 2 beds – 158 (42.6%)
 - 3 beds – 11 (3%)
- 7.17. The PBSA units are delivered across two buildings as follows;
- Building C (551 beds) and D (159 beds) 710 total beds of PBSA delivered in
- 310 x 1 bed en-suite studio (310)
 - 12 x 2 bed studio (24)
 - 2 x 5 bed cluster (10)
 - 27 x 6 room cluster (216)
 - 10 x 7 room clusters (70)
 - 10 x 8 room cluster (80)
- 7.18. Building C and D deliver 185 units of residential accommodation (61 units from clusters and 124 from studios) (calculated by $310 \text{ studio bed spaces} / 2.5 = 124$, where 2.5 is the Housing Delivery Test ratio for student accommodation) towards the five year housing land supply.
- 7.19. The proposal would therefore deliver a total of 546 apartments (Use Class C3) and 185 units of Purpose-Built Student Accommodation (Sui Generis) 731 total units towards the 5YHLS.
- 7.20. The Council's Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and replaces the existing SHMA referred to in Policy. The proposal would not replace existing housing and would therefore add to housing choice within the area. Figure 2 'Tenure of housing' as set out in the BDP (2017) required as a percentage, a mix of housing. This has been updated by the HEDNA which suggests the following mix for the central area. 1 beds: 17% 2 beds: 37% 3 beds: 31% 4 beds 15%.
- 7.21. The 'Central Area' defined in the HEDNA covers more than just land within the ring road it analyses sub-areas within the Central Area which it defines as Inner and Outer Central Sub-Areas – broadly the Inner area corresponds with land within the ring road

and the Outer area covers those areas within the Central Area wards which are outside of the ring road. The HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, which the site would be located within, it does however acknowledge its different characteristics compared to the Outer Central Sub-Area.

- 7.22. Whilst the mix of housing fails to provide a significant number of larger units of accommodation (2 and 3+ bedrooms), the mix is weighted relatively evenly although is favoured towards 1 bed units (53.4% of total units in building A and B). Whilst it is not expected that every proposal would provide the exact mix suggested, it would be preferable to see more 2 and 3 bed units incorporated into the housing mix. This would contribute to the aim of creating a more varied supply of family homes in the central area, suggested in the HEDNA and Policy GA1.
- 7.23. Nonetheless, this mix can be supported in a City Centre location, on a site of this character given that the proposal adds to the mix available housing across the city as a whole. The HEDNA also recognises that brownfield sites within the central area are likely to be suited to flatted development such as that being proposed as it is important to have an *“As well as looking at the stock, and understanding of the role and function of areas”*.

Affordable Housing

- 7.24. In developments where more than 14 residential units are proposed, the Council seeks 35% affordable homes, in accordance with BDP policy TP31. BDP para. 8.21 states the Council is committed to providing high quality affordable housing for people who are unable to access or afford market housing and that this is an important commitment to ensure a choice of housing for all. The HEDNA concludes that there is a *“notable need”* and *“it is clear that provision of new affordable housing is an important and pressing issue in the area.”* Where meeting the 35% target would make the development unviable, the application must be supported by a financial viability appraisal (FVA) to demonstrate this. The FVA is independently assessed on behalf of the LPA, and it may be the case that a lower amount of affordable housing can be offered instead.
- 7.25. The NPPF sets out the definition of affordable housing (in planning terms). The NPPF requires the affordable provision on site to be at least 20% below local market value/rents (including service charges where applicable) in perpetuity.
- 7.26. In this instance an FVA has been submitted and assessed by independent consultants (Lambert Smith Hampton). An offer of 12.5% affordable housing has been made by the applicant; however, this is a commercial decision being offered at less than standard profit levels, comprising 32 x 2 bedroom apartments and 37 x 3 bedroom discount market sale (20% discount) and 17 First Homes at 30% discount (69 total units). LSH's review of the appraisal confirms this to be the case, their review generates a negative land value of -£14,186,598.
- 7.27. However, the value of the units with a 20% discount are shown below.

Discount Market Sale

Site/ Block	Unit Type	No. of Units	Avg. Unit NSA (ft ²)	Total NSA (ft ²)	Average Unit Price (£)	Total Unit Revenue (£)	Average Unit Value (£/ft ²)
Site A	2B4P	10	883	8,826	£276,000	£2,760,000	£313
	3B5P	7	931	6,518	£300,000	£2,100,000	£322
	3B6P	10	1082	10,818	£316,000	£3,160,000	£292
Site A Total:	-	27	969	26,162	£297,037	£8,020,000	£307
Site B	2B4P	14	853	11,935	£269,143	£3,768,000	£316
	3B6P	11	1249	13,735	£352,000	£3,872,000	£282
Site B Total:	-	25	1027	25,670	£305,600	£7,640,000	£298
Site A & B Total:	-	52	997	51,831	£301,154	£15,660,000	£302

- 7.28. The Current income restrictions are: £30,000 for single income and £45,000 for dual income. Therefore, are highly unlikely to be able to afford these units even with a 20% discount.
- 7.29. Approximate affordability calculator (4.5 being likely mortgage lend, although that may come down slightly):
- 30,000x4.5= £135,000
 - 45,000x4.5= £202,500
- 7.30. Therefore, an equivalent value of homes being provided at a greater discount would be preferable and is supported by the Affordable Housing Delivery Team. Therefore, an updated position will be reported to Planning Committee by way of verbal update.
- 7.31. Also, importantly, the First Homes (3B5P) units are capped at a max of £250,000. So this means that the discount to market value is actually greater than 30%, because the First Homes 'ceiling price', would been reached.
- 7.32. The proposed dwellings are delivered at a density in excess of the minimum required by Policy TP30. This is acceptable in the city centre, where high density efficient use of land is encouraged.

Commercial uses

- 7.33. Policy TP21 'The network and hierarchy of centres' supports proposals for main town centre uses within allocated centres, to ensure the vitality and viability of these centres. The site falls within the City Centre Boundary for main town centre uses but falls outside the retail core. The city centre boundary is however the focus for such uses, according with Policy TP21. Policy TP24 states that a mix of uses as defined by TP21 will be encouraged where they are consistent with the scale and function of the centre.
- 7.34. The development is inclusive of 828sqm. Therefore, no retail impact assessment or sequential test is required. This floorspace would be delivered as 6 commercial units across three buildings ranging from 66.5sqm to 259sqm.
- 7.35. In addition to the above, mixed use developments are supported by Policy across the city, therefore these small commercial units that are proposed as part of a mixed use scheme accord with Policy and are unlikely to undermine the vitality and viability of the city centre retail core.

Student Accommodation

- 7.36. Policy TP33 relates to proposals for student accommodation, this states that off campus accommodation will be considered favourably where there is a demonstrated need for the development, it is very well located to the relevant educational

establishment, it is well served by walking, cycling, public transport and local facilities, it will not have an unacceptable impact on the local neighbourhood and residential amenity, the scale, massing and architecture are appropriate for the location, and that the design and layout will create a safe, secure and welcoming living environment.

Demonstrated Need for PBSA

- 7.37. The applicant has submitted a Student Housing Needs Assessment to address these requirements of Policy TP33 with regards to need. The Council's most recent Student Accommodation Supply and Demand paper is dated 16th March 2023. Since then, application 2022/07984/PA 75-79 Lancaster Street, Birmingham (Variation of consented scheme 2018/08221/PA to allow an increase of 258 beds) has been approved, which adds another 258 bedspaces to the city centre supply. This means under scenario 2 of the supply and demand assessment, the shortfall has reduced to 2,371 bedspaces (not including current applications).
- 7.38. The applicant's submitted report satisfactorily demonstrates need based on the demonstration of unmet demand for 2,104 bedspaces (including pipeline). If the 258 bedspaces consented through 2022/07984/PA (as mentioned above) are deducted from this figure, the shortfall will reduce to 1,846 bedspaces leaving sufficient capacity for the proposed bedspaces.
- 7.39. There is another PBSA application on this agenda, that proposes 759 bed spaces, there are 337 existing bed spaces on the site, so the application results in a net increase of 422 bed space, this would still leave sufficient capacity should both applications be approved.
- 7.40. Overall, there is a city-wide need for PBSA, although current city centre demand is not as acute. Whilst demand is likely to outstrip supply in the future, this is still to a lesser degree in the city centre, compared to other parts of the city, based on current data. The need for student accommodation within the city weighs in favour of the application.

Location in relation to educational establishments

- 7.41. The Guidance Note on Student Accommodation Statements defines very well located as 15-20 minutes/around 1.5km in the Council's report on student accommodation supply and demand, based on Policy TP45 of the BDP accessibility standards. This should be a walkable route measured from the application site to the entrance of a building located in the middle of the relevant campus.
- 7.42. The site is considered to be very well located to the city centre-based institutions being only 10 minutes' walk from Aston University, 15 minutes' walk from BCU and 14 minutes' walk UCB. The proposal therefore meets criterion 2 of TP33.

Summary of principle of development

- 7.43. Overall, the proposal delivers a total of up to 731 units of residential accommodation on a brownfield site, within a very sustainable location, helping to deliver housing in accordance with the government's commitment to significantly boosting the delivery of housing, and would assist in meeting the shortfall in the five-year housing land supply. In accordance with the NPPF substantial weight should be afforded to the value of using suitable brownfield land within the urban area for homes and decisions should support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained. This weighs heavily in favour of the application.
- 7.44. Whilst the mix of C3 housing does not provide a greater number of larger units of accommodation (2 and 3+ bedrooms), the proposed mix can be supported in the City Centre location, on a site of this character. Further to this, the scheme offers 12.5% affordable housing, helping to deliver affordable housing in line with the Council's acute need for affordable housing. The delivery of housing and affordable housing in this location, is therefore afforded substantial weight. The proposal adds to the types of accommodation available across the city, in accordance with TP27, TP28, TP30 and

TP31.

- 7.45. The proposal also introduces ground floor commercial uses, outside of the retail core. In accordance with TP21 and T24, this results in a mixed-use scheme on brownfield land that would not compete with the viability of the city centre retail core.
- 7.46. Whilst the proposal does result in the loss of existing employment land, the site has remained vacant for extensive periods, despite planning permissions for development for mixed, commercial uses and there are clear Council aspirations for the regeneration of the site and wider area.
- 7.47. There is a demonstrated need for Student Accommodation and the site is very well located to educational institutions, as well as being accessible to city centre services and public transport.
- 7.48. Therefore overall, the principle of the redevelopment of the site for mixed use residential and PBSA led purposes, with the proposed mix and level of affordable housing, can be supported.

Impact upon Heritage Assets

- 7.49. Policy TP12 establishes that the historic environment will be valued, protected, enhanced and managed for its contribution to character, local distinctiveness and sustainability and the Council will seek to manage new development in way which will make a positive contribution to its character.
- 7.50. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA in considering applications for planning permission has a statutory duty to pay special regard to the desirability of preserving listed buildings, their setting or any features of special architectural or historical interest which they may possess (section 66 (1)).
- 7.51. In instances where paragraph 11d of the NPPF is engaged, such as this, it is also important to note that footnote 7 states that development should be approved unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, assets of particular importance are defined as designated heritage assets (amongst other things such as AOANBs).
- 7.52. The application was reported to the Conservation Heritage Panel (January 2024).
- 7.53. CHP consider the application to have a disregard for the non-designated heritage assets. CHP considered that the demolition of the Argyle works is not justified and is structurally capable of retention and extension. They also consider that the retention of the Myona building is facadism which is then dwarfed by proposed block C. CHP Consider the layout of the development to have a 'campus' design rather than proper street-based planning and that the proposed scheme is attempted to be justified by imagined townscape surrounding it. They do not support the proposal.
- 7.54. A Heritage Assessment (HA) has been submitted in support of the application. The HA identifies a Study Area for the assessment of built heritage using a Zone of Theoretical Visibility (ZTV). BCC Conservation Officers confirms that this is fair. A Townscape Visual Assessment (TVA) with views to support and/or evidence the assessments of the HA has also been provided and relevant heritage views modelled in VUCity appended to the HA. In addition to this, a number of kinetic views have been prepared from Garrison Park, Digbeth and Curzon Street. These views are not verified but give an indication of potential visibility and associated impacts in a number of kinetic views, where the ZTV indicates higher areas of potential visibility.
- 7.55. The HA appraises the site and surrounding area, including the history of the Myona and Argle buildings and assesses the architectural and historic significance of both buildings. BCC Conservation Officer considers the assessments to be "*generally fair*". The HA attaches a low level of heritage significance to both buildings, although considers the significance of the Myona building to be greater than that of the Argyle

Building as it is considered to hold a greater degree of architectural interest through its design and historical associations.

- 7.56. However, BCC Conservation Officer considers the significance of both of these locally listed buildings as being higher than stated in the HA and considers both the Myona and Argyle buildings to “*have moderate (rather than low) levels of heritage significance but would agree with the HA that the significance of the Myona building is at slightly higher level of moderate and the Argyle building towards the lower end of moderate*”.

Myona building (Locally Listed) – Partial demolition.



Proposed Partial Demolition of Myona Building (red)

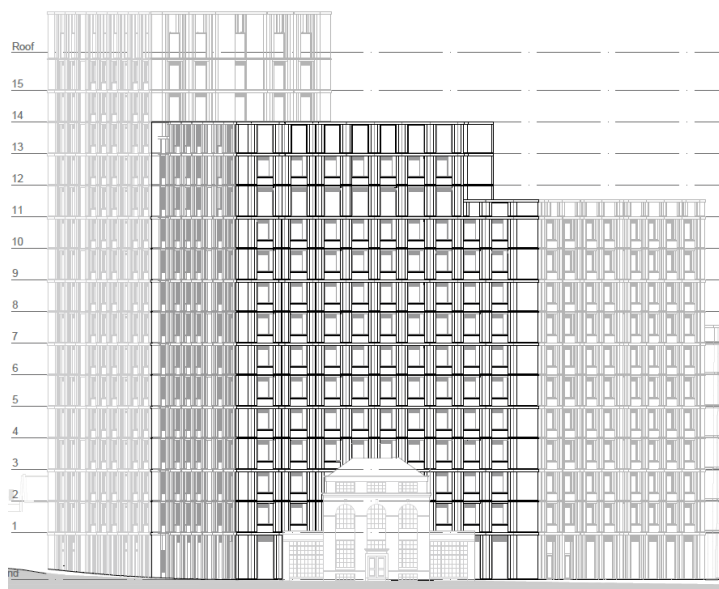


Existing Myona buildings

- 7.57. The proposals would see the removal of the 3-storey rear wing block, and the low-lying saw-tooth roof shed of the existing Myona building, with further works to include the repair and reinstatement of damaged and lost features of the remaining of the building. There would be direct impacts on the fabric of the building through partial demolition and indirect impacts through development in its setting.
- 7.58. *Direct* – The rear section of the building that is proposed for demolition is not locally listed and is in poor condition it is also considered to be of lesser significance compared with the rest of the building. The HA considers the effect of the loss of the rear section and the low-lying sheds to be limited, on the overall significance of the front range and

not considered to erode the overall significance of the building. BCC Conservation Officer recognises that this part of the building shows the historic evolution of the building and contributes to its historic context. Therefore, considers the demolition of the rear buildings to have some localised harm. However, states “*The restoration and re-use of the locally listed principal frontage building is however welcomed and would offer some overall heritage benefits to the scheme*”.

- 7.59. *Indirect* - Following the demolition of the rear section of the Myona building a replacement building of 16-storeys would be constructed. The HA considers that the redevelopment of the area with a high-quality mixed-use development of contextual buildings which reflect the industrial character and materiality of the area, although of a higher scale and density, will not impact upon the building’s architectural or historic interest. BCC Conservation does not fully agree with this and considers that the scale of the new development, particularly Block C (to the immediate rear of the Myona building), would introduce a detracting element into the setting of the Myona building, causing harm to this significance.



Retained Myona building with development behind



CGI of retained Myona (to left) and proposed development.

- 7.60. Overall, BCC conservation Officer concludes that harm to this locally listed building as a non-designated heritage asset would be less than substantial to a moderate degree.
- 7.61. However, there are also heritage benefits identified as a result of reinstatement and repair of missing features, introduction of a viable use for the vacant building. The conservation officer considers these to be moderately beneficial to the building which would *“put a halt to the degradation and deterioration which has occurred to the building”*.

Demolition of the Argyle building (Locally Listed)

- 7.62. The proposal would be result in the complete loss of this non-designated heritage asset, through demolition.



Existing Argyle Building

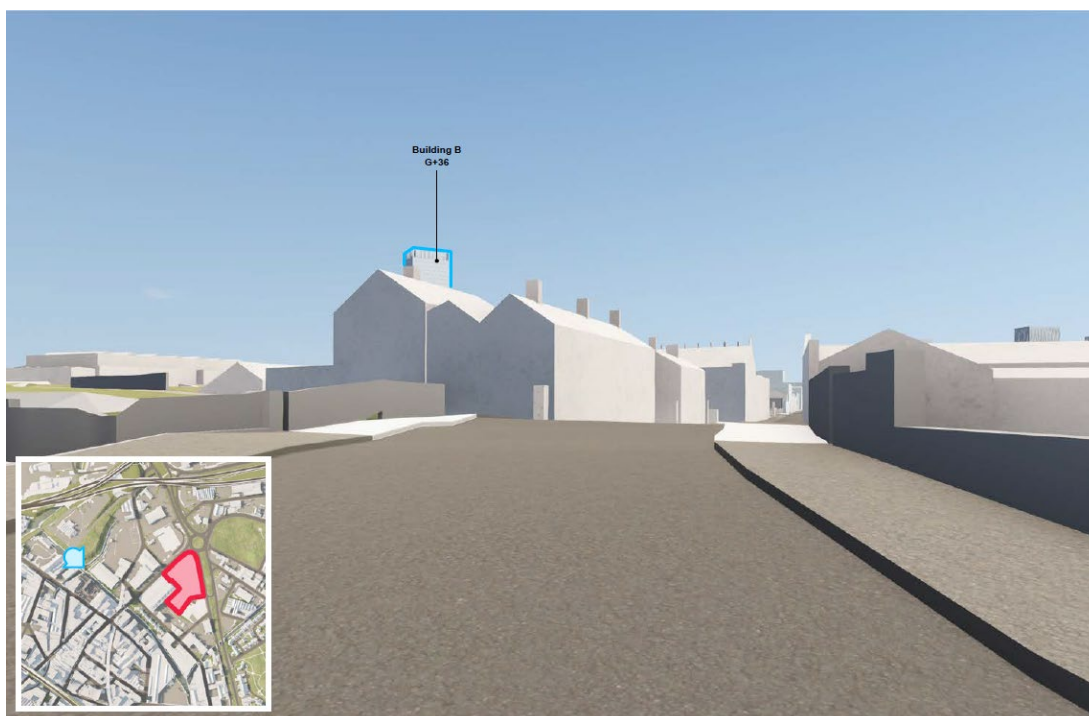
- 7.63. *Direct* – There was much discussion at pre-app stage about the re-use and retention and/or extension of the existing building. These discussions were informed by marketing information which concluded that there is limited interest in the building for various differing uses, and a Proposed Retention and Remodelling Options report which presented three design options for the potential reuse and retention of Argyle Works for office/commercial use and/or residential use. This report concluded numerous design problems with the conversion of the building which included the creation of unacceptable housing mixes, deficiencies in the overall units sizes and general layouts, associated structural implications and issues around viability and deliverability.
- 7.64. A Structural Feasibility report was also provided which considered the structural condition of the existing Argyle Works and the viability of converting and extending the building. This report concluded that the building was in a dilapidated state and all options would require major structural testing and remediation. As set out in the DAS none of the options provide sufficient levels of accommodation to create a viable and deliverable scheme. However, it is noted that some (upward) extension to the building

would be possible. However, BCC Conservation Officer remains unconvinced by these arguments, considering the building should be retained and re-used.

- 7.65. The harm caused to the Argyle Building is considered in the HA to be high and between 'substantial harm' and the higher end of 'less than substantial harm' within the context of the building being placed at the lower end of significance. The document identifies that this harm will need to be weighed against the planning and heritage benefits delivered by the scheme and a balanced judgment made taking into consideration the scale of harm and the low significance of the asset. However, BCC Conservation Officer states *"I would attach a low to moderate degree of heritage significance, on a local level, to the Argyle building. The proposed demolition of the building would destroy this heritage asset through its complete destruction and total loss of significance causing a very high adverse impact. Within the context of the asset being of moderate local significance and the impact very high and adverse, my concluding position on the overall degree of harm is that it is high and substantial"*.
- 7.66. The Conservation Officer finds no heritage benefits with regards to the replacement development that would be considered to balance this harm. Other public benefits will therefore need to be weighed in the overall planning balance in consideration of the complete loss of this locally listed building.

Impact upon the setting of other built heritage assets

- 7.67. The Conservation Officer broadly agrees with the submitted HA with regards to the identified assets in the surrounding area, in all cases no harm to the designated heritage assets being concluded by the HA.
- 7.68. However, the conservation officer disagrees with the level of harm identified to 106-110 Fazeley Street and 122 Fazeley Street (Grade II) rather than no harm to significance as a result of development considered that a low level of less than substantial harm would be found, from the proposed 37 storey tower perceptible within the primary experience of these listed buildings.



View from Fazeley Street – Block B tower visible.



122 and 110 Fazeley Street, Digbeth

- 7.69. *Curzon Street Station* – (Grade I), is also scoped into the HA. The concluding position of the HA is that the proposed development will be read as part of the wider evolving city scape of this part of Birmingham and that the significance of the building will be sustained. However, BCC Conservation Officer considers that the tower element of the proposal would present a distracting element in the backdrop of this high listing building, which does not currently exist, in certain views. Therefore, they consider the harm to be low and ‘less than substantial’.
- 7.70. *Cottage Baths* – (Locally Listed), the proposed development would introduce a building of significant scale within the immediate vicinity of the building. The locally listed building is located on Lower Dartmouth Road, opposite the application site to the other side of the Middleway. In the view of the Conservation Officer, the proposal would diminish to a degree the domestic and low-scale character of the locally listed building, causing some harm to the setting and thereby significance of the asset. The localised harm concluded in the HA is considered to sit at the lower end of ‘less than substantial’ with the HA. However, the Conservation Officer considers this harm to be at a moderate level.



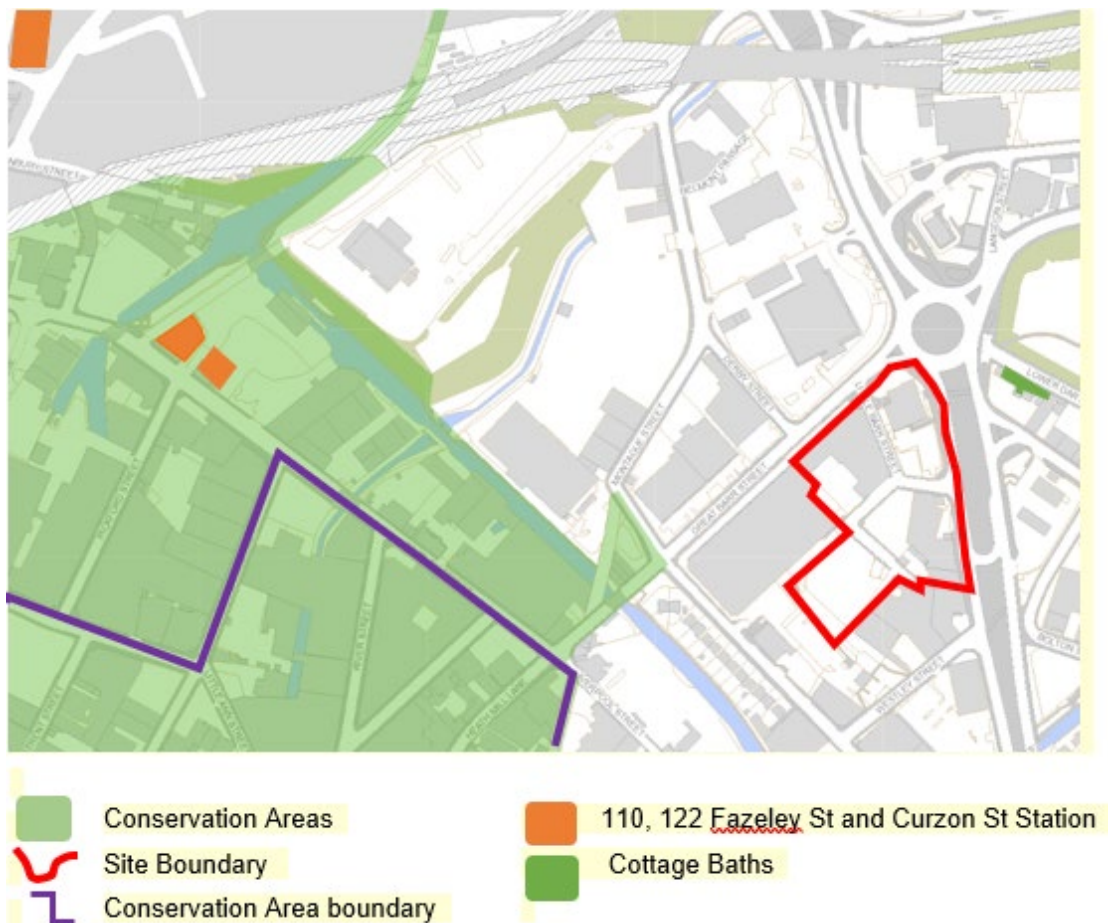
Cottage Baths



Cottage Baths to left of image, application site to right (Halfords)

Impact upon Conservation Areas

- 7.71. The proposed development is not within a Conservation Area; however, the development would be visible from within the two conservation areas identified.
- 7.72. *Digbeth, Deritend and Bordesley High Streets Conservation Area* – The HA acknowledges that the development would be visible from views within the Conservation Area but does not consider it would be harmful to significance with the special character and appearance remaining appreciable. However, BCC Conservation Officer, considers that the proposed tower would feature quite prominently and, in a location, whereby such tall, city centre scale is not currently experienced. Concluding that *“the ability to appreciate the characteristic qualities of the buildings and the cohesiveness of the streets [in the key views within the conservation area] would be challenged by such a dominant tall building in what is, visually, a retained setting in this part of the conservation area which allows for an understanding of its historic significance”* and therefore considers that the tower element of the proposal creates *‘less than substantial’ and at the low end of the scale in relation to the conservation area as a whole* through development in its setting.
- 7.73. *Warwick Bar Conservation Area* – much the same as with the above the Conservation Officer comments that *“currently the buildings of the conservation area are experienced in a low-scale, industrial setting with a notable separation from the much taller buildings of the city centre to the north and west. The introduction of a 37-storey tower to the east, within the visual experience of the conservation area, and in a location whereby such scale is not currently experienced”*. Resulting in a low level of less than substantial harm to this heritage asset.
- 7.74. Historic England comment on the impact of the proposed development on the character and appearance of the two identified conservation areas, concluding that the 37 storey element of the proposal would likely have less than substantial harm to these assets.



Archaeology

- 7.75. BCC Archaeology agree with the conclusions of the submitted archaeological desk-based assessment, that the potential for significant archaeological remains is low. No further investigation of buried archaeology is required.

Heritage Harm

- 7.76. The concerns raised by Historic England and Birmingham Civic Society are noted regarding the impact of the tower and the resulting harm caused to the significance of designated and non-designated heritage assets, through development in their setting or through demolition.
- 7.77. The NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”* and *“Where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”* The more important the asset the greater the weight should be.
- 7.78. This balancing exercise is undertaken towards the end of this report. The identified level of less than substantial harm to designated assets is as follows;
- 106-110 Fazeley Street and 122 Fazeley Street – Grade II Listed: Low level of less than substantial harm
 - Curzon Station – Grade I: Low Level of less than substantial harm.
 - Digbeth, Deritend and Bordesley High Street – Conservation Area: low level of

less than substantial harm.

- Warwick Bar – Conservation Area: low level of less than substantial harm.

7.79. In accordance with the NPPF when considering the effect of an application on the significance of a non-designated heritage, a balanced judgement will be required, having regard to the loss of the asset and the significance of the asset. The identified levels of harm to non-designated assets is as flows;

- Argyle building – Locally Listed: major adverse harm
- Myona building – Locally Listed: moderate adverse harm
- Cottage baths – Locally Listed: moderate adverse harm.

7.80. The above identified harm is weighed against the benefits of the proposal later in this report.

Design

7.81. Policy PG3 of the BDP (2017) advises that all new development must ensure high quality design. It states that development should create a positive sense of place and local distinctiveness; design out crime and make provision for people with disabilities; encourage people to cycle and walk; ensure spaces are attractive and functional in the long term; integrate sustainable design; and make the best use of existing buildings and efficient use of land

7.82. Design Principle 19 (Creating tall buildings) is relevant to the application proposals and states that tall buildings must deliver 360-degree innovative architecture that responds positively to their surroundings; engaging and activating street environments, whilst introducing a silhouette, body and crown that enhances the citywide skyline and respects key views, existing landmarks and the city's historic environment.

7.83. City Note LW-45 Siting of Tall Buildings requires a number of factors to be considered when assessing the acceptability of a proposed site for a tall building, including the character of the surrounding area and potential impact to the area; the role and potential of the Site within its surrounding context; the location and hierarchical position of the Site within the street scene and urban block; the relationship with existing landmark buildings and presence within existing views/street scene and impact on the skyline; impact on surrounding heritage assets and impact surrounding environment and adjacent uses.

7.84. Policy TP33 states that for student accommodation the scale, massing and architecture are appropriate for the location, and that the design and layout will create a safe, secure and welcoming living environment and will not have an unacceptable impact on the local neighbourhood and residential amenity.

Layout

7.85. The development is split into four distinct blocks, A-D, each containing a proposed building. The block layouts and proposed buildings follow the existing development block layout and street patterns but do incorporate some vacant land. The proposed buildings are set in from the back of footpath which is characteristic of Great Barr Street but not of the Middleway or existing internal streets, within the application site. However, this set back allows for soft landscaping which is welcomed and more characteristic of a residential area.

7.86. The layout creates two new routes, one between the data centre and block A, the other between block B and C. Whilst these do allow pedestrian permeability and are welcomed, they do not create new connections to the wider city the City Design Manager considers this to be *“moderately beneficial”*.

7.87. The City Design Manager acknowledges that blocks A, C and D all have acceptable ground floor layouts that allow for appropriate servicing and back of house layouts. However, it is highlighted that block B *“results in a less than ideal arrangement of servicing dominating the Middleway frontage[...]otherwise, the ground floor of the*

development works well with entrances located in appropriate locations". The applicant has however confirmed that the servicing arrangement of the block are better positioned from the Middleway, with no objection to this from BCC Transportation. There is a commercial unit to the most prominent end of the building, at the junction and amended plans have been provided so that there is also some commercial frontage to the Middleway at the southern end of block B. However, it is acknowledged that this ground floor arrangement does leave a long ground floor façade with little activation.



CGI showing street layout between block A (left) and C (right) looking towards block B (centre)

Scale, Form and Massing

- 7.88. The scale of development across the whole site is unprecedented when considered against the surrounding context, which in its majority is low level commercial development. The City Design Manger has advocated for the scale of development to be reduced, there have been reductions made through pre-app discussions where initial schemes presented showed 30 storeys at Great Barr Street and 26 storeys at the Middleway and 20 storeys to block D (in addition to the tower at Block B (which is retained through to application)). Despite the scale being reduced in parts from that presented at pre-application stage it remains tall, the City Design Manager notes *"The tower (at 37-storeys) on the principal corner of Garrison Circus has always been acceptable, but the flanking development along Great Barr Street and the Middleway is between 11 and 17-storeys, with the shoulder to the tower itself around a third of the height of the tower. Great Barr Street is a secondary street and the relationship with the data centre is likely to be a long term one and therefore the scale of Block A (at 11-storeys) should come down to 9-storeys, which would still be more than generous. Land locked Block D is now at seven-stories which is still too tall and should be lowered further to five-storeys"*. In the wider cityscape the scale of development is acceptable and would make a positive contribution to the city skyline.
- 7.89. High quality architecture can go some way to mitigating scale therefore, it is necessary to secure the architect through to delivery as part of the s.106 to ensure that the high quality architecture shown is delivered through to construction, should permission be granted.



View of block B from Garrison Park



CGI Block A (right) and B (left) from Great Barr Street



CGI Rear of block C (right), block D (left)

Architecture and Materiality

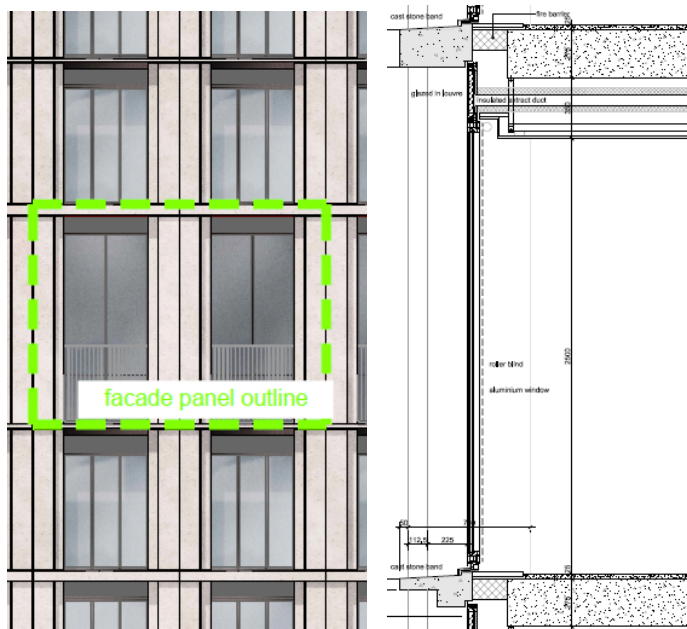
7.90. The City Design Manager considered the architecture of the proposed buildings to be good stating that the architecture is “*a simple and yet rigorous design*” with the elevations having a generous amount of modelling. The City Design Manager requested clarification for the system of construction to give comfort that the architecture being shown has been built into the cost plan of the scheme and that it is buildable. The applicant provided a design addendum that gave information regarding a pre-cast method of construction and expressed a commitment to this. With the City Design Manager stating “*With the generous quantum of development being sought here, quality is paramount if the city is to support the scheme at all. Any watering down of an approved scheme in the future will have consequences with scale//quantum as quality is the one mitigating factor in this scheme*”. The Commitment to a pre-cast construction gives some comfort that the design quality shown in the plans, could be brought forward into delivery.

7.91. Building A – (C3 Residential) is shown as red facing brickwork with a pre-cast stone band, with green aluminium spandrel panels and fenestration. The plans indicate what a typical pre-cast panel would look like (shown within green dashed lines below). Section drawings have also been provided with the generous modelling annotated. The facing brickwork within the window aprons is set around 225mm back from the face of the vertical brick column with the window reveal a further 167mm back. The proposal replicates the chamfered corner entrance at ground floor of the existing Argle Works and the crittal style windows.



Building A typical Bay detail

- 7.92. *Building B – (C3 Residential)* Is proposed in precast piers with a stone finish and precast stone band, the floor to ceiling fenestration is dark bronze aluminium. Again, it has been demonstrated how a pre-cast panel could be constructed and delivered and the section drawings demonstrate generous modelling. With the stone piers being around 337.5mm deep



Building B typical Bay detail

- 7.93. *Building C and D – (PBSA)* are both shown as pre-cast brick piers and detailed spandrel panels with dark bronze aluminium fenestration. The section details provided show generous window reveals and modelling with the spandrel panels and windows recessed from the brick columns



Building C and D typical bay details

- 7.94. The architecture of the buildings varies between blocks whilst creating a group of buildings with similar character through the use of materials and features.

Landscaping, public realm and tress

- 7.95. The proposed landscaping scheme introduces soft and hard landscaping to the edges of all buildings. The soft landscaping is welcomed with support from City Design. However, both BCC City Design and Ecology queried the long-term sustainability of the planting shown with regards to whether the correct tree pits and planting zones can be achieved to establish and encourage growth of the trees/shrubs etc as shown. The applicant has provided typical tree pit details, which BCC Tree officer has confirmed in most cases shows adequate space for root growth. However, BCC Tree Officer is satisfied that conditions can deal with further details for across the site.



Landscaping Masterplan

- 7.96. The hard landscaping shows extensive amounts of new materials on land which is currently adopted highway. Transportation colleagues have not objected to the proposals given there would be limited traffic movement within the development.

Stopping up would be required to allow maintenance of landscaping to be at the expense of the developer or where it remains as HMPE a commuted sum for maintenance. This is considered more with the transportation section.

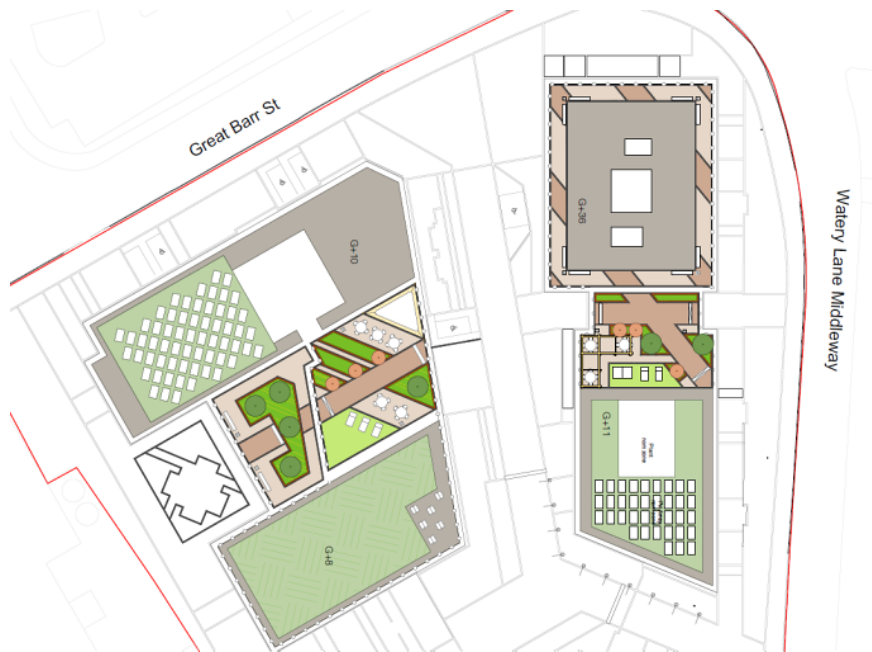
- 7.97. City Design commented that the use of natural stone materials (stone and or clay) would be preferable over the proposed granite aggregate (crushed stone). However, the materials shown on the hard landscaping plan are acceptable in this location. The landscaping is inclusive of street furniture, water features and areas for public art. Therefore, along with the soft landscaping works would create an interesting public environment.

Relationship to wider city block

- 7.98. The application site does not occupy an entire city block, with the surrounding development being made up of commercial uses. The applicant has done a master planning exercise to demonstrate that development would sit within a wider block without prejudicing future development. This exercise highlights the challenges with the remaining buildings and the relationship to the proposed development.
- 7.99. The data centre situated on Great Barr Street and Palmer Street is a large windowless building with a tall security fence boundary to all sides. This creates dead frontages and stifles permeability through the block, it also restricts development of block D, making it land locked. Similarly, the buildings along Westley Street have rear service elevations to the site, again restricting connections through the block and influencing the form and Layout of block D. Therefore, the boundary treatments and landscaping are important details to achieving a high quality environment whilst the wider block remains as existing.

Residential Amenity

- 7.100. Policy DM10 of the DMB (2021) requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site. This policy also requires the proposed development to meet nationally described space standards.
- 7.101. The SPD (City Note LW-13) states the following requirements must be provided:
- 5sq.m (1 bed flat),
 - 7sq.m (2 bed flat) and
 - 9sq.m (3 bed flat).
- 7.102. This would therefore equate to a requirement of 1,097sqm. for block A and 2270sqm for block B totalling 3367sqm. for the C3 Residential units, there is no policy requirement or guidance for the level amenity space required for student accommodation. The proposed development provides for 515sqm of private amenity space for block A in the form of two roof terraces at level 1 and 9. And 740 sqm. for block B, by way of two a roof terraces at level 12 and level 37, totalling 1255sqm. of external amenity space. This is clearly below the above guidance. However, the proposed residential developments also provide a total of 2164sqm. of internal amenity space. The student accommodation benefits from 63sqm of student amenity space within the Myona building and a further 948sqm of internal amenity space and 982 sqm of outdoor amenity space for Block C and 242sqm of internal amenity space and 868 sqm of outdoor amenity space at Block D.
- 7.103. The location of the proposed development, whilst falling below recommended external amenity provision for C3 accommodation, benefits from being within very close proximity to Garrison Park, a large public open space. The landscape masterplan for the wider site does also introduce landscaped 'dwell' spaces accessible to residents, although not private. For example, at the ground floor of block A in a courtyard space.



Private roof spaces for block A and B

- 7.104. All of the C3 residential units meet Nationally Described Space Standards, there are no set standards for PBSA unit sizes, however they are comparable to other PBSA schemes in the city centre.
- 7.105. The submitted daylight, sunlight and overshadowing assessment also considered levels of daylight and sunlight internally at the proposed development. Habitable rooms were assessed and it was found that 97% of habitable rooms achieved or exceeded recommended target illuminance and considered to offer acceptable levels of daylight for potential future occupiers.
- 7.106. Each block is set across a highway from one another and therefore the separation distances between them are typical of development on opposing sides of a highway in typical urban areas. Within the development this varies from around 17m up to 27m. However, across public spaces this is considered an acceptable separation. Where the buildings create a courtyard arrangement for example across the internal area of block A, the separation distance is around 19.5m, in an urban area such as this, this is acceptable and does not create overlooking into any existing residential properties. Therefore, acceptable levels of privacy are provided for future occupiers and protected for existing residents.
- 7.107. Where proposed residential accommodation looks on to existing buildings, acceptable outlook is achieved. Block A has side facing windows on to the flank of the data centre building. Whilst this might not be a high value outlook, the separation is around 21m to the side flank of the data centre from the units on to Palmer Street. The units on to Great Barr Street do have side facing windows around 16m from the side flank of the data centre but these are secondary windows, with the primary windows facing out on to the highway.
- 7.108. There are PBSA units to the side of block C that would face out to the side of the adjacent employment units. However, the ground floor is a commercial unit and the adjacent unit is only single storey although with a series of pitched roofs. Therefore, whilst these first-floor units may be slightly enclosed by the pitched roof, the roof slopes away from these units which would therefore receive adequate light. These rooms are also occupied on a transient basis, therefore, whilst not ideal is acceptable for a limited number of rooms, which also have access to other internal and external amenity spaces.
- 7.109. Block D is positioned centrally within the wider city block and so is the most challenged with regards to outlook and privacy. The T shape of the block goes some way to

mitigating any adverse impacts with rooms facing front and back of Little Edward Street having typical outlooks over the highway towards block C, and over the proposed external amenity spaces to the rear. However, the side facing rooms look towards the existing developments of the data centre and employment uses to the southeast. The landscaping plans show that a good level of landscaping is proposed to the boundaries and a separation distance between 17m and 21m to the boundary of the application site is achieved. This is considered to allow for acceptable levels of outlook and amenity for this PBSA development.



Block D layout and outlook

- 7.110. Currently, the developments overlook employment buildings. However, should the wider block be developed in the future, the applicant has provided an indicative masterplan of how this could be brought forward. This demonstrates that the location of windows within the residential development would not prejudice later development coming forward and amenity of potential residents within the development maintained. For example, side facing windows within block A towards the data centre are secondary to the units along Great Barr Street, with a stairwell located on this side flank also, and to units on Palmer Street have other windows serving these rooms which are also set off from the boundary and therefore adequate separation could be achieved in the future.
- 7.111. Overall, whilst external amenity space for the PBSA is acceptable the space provided for the residential units falls short of guidance. However, this is typical of a city centre location and in this instance the development is in close proximity of a large public open space. Moreover, the developments provide large communal internal amenity spaces and the units themselves meet NDDs and receive acceptable levels of privacy, outlook and daylight resulting in overall acceptable levels of residential amenity.
- 7.112. **Tall Building Assessments – Microclimate, Aviation Safeguarding, Television / Radio and Communications**
- 7.113. City Note LW-44 sets out relevant assessments and methods to 'minimise and mitigate impacts of tall buildings on the local environment and microclimate. The Design Guide also identifies the key technical considerations which need to be considered in the design of tall buildings.

Wind

- 7.114. Computer modelling and a wind tunnel assessment was undertaken, which considers the pedestrian level microclimate of the proposed development. The testing demonstrates that without mitigation some areas would exceed acceptable wind conditions and would experience wind conditions greater than the desired level for its intended use (sitting, walking etc.). However, with additional mitigation, as set out in the submitted report *"it is expected that wind conditions would be suitable for the desired uses."*
- 7.115. The report also emphasis that there would be no strong winds exceeding safety threshold for more than 0.025% of the time annually, at ground or elevated level locations on-site, or in the nearby surrounding area. Demonstrating the proposal does not generate strong winds exceeding safety standards.
- 7.116. The additional mitigation proposed takes the form of fins attached to building B, along with perforated baffles and planters within the landscaping and a pergola to the seating area of the roof top amenity areas.
- 7.117. Design Principle 19 (Creating tall buildings) of the Birmingham Design Guide SPD makes it clear that City Note LW-44 (Minimise and mitigate impacts on the local environment and microclimate) is relevant to the consideration of these applications for tall buildings. City Note LW-44 directs wind mitigation in the first instance to the buildings design (Para 2.240) and only when this fails are pin on mitigation features such as fins appropriate as a secondary measure (Para 2.241).
- 7.118. The City Design Manger expresses concerns with these measures which should be secondary to building design. However, the applicant has stated that there are no alternatives to additional mitigation. The wind consultant has confirmed that all of the wind mitigation measures could be contained to land within the applicant's ownership and mitigation would not be required within the public highway to achieve acceptable wind conditions. Therefore, with a suitable condition the final location and design of wind mitigation could be agreed.



Overshadowing and loss of light

- 7.119. Paragraph 2.250 of the Birmingham Design Guide Healthy Living and Working Places City Manual (2022) states *"the City Council recognises the levels reflected within the BRE guidance relate to a suburban environment, whereas tall buildings are largely located in dense urban environments where levels of daylight and sunlight can typically be below these targets. Therefore, the weight attributed to the conclusion of these studies will be balanced against the scale of the impact, character and nature of the surroundings, site constraints, policy aspirations and other material planning considerations."*
- 7.120. The application is supported by a daylight, sunlight, and overshadowing assessment. In accordance with BRE Guidance only residential accommodation has been assessed for daylight and sunlight, all non-domestic properties in close proximity are not considered to be sensitive receptors.

- 7.121. In terms of daylight, the impact of the proposed development on all assessed neighbouring residential properties is acceptable (with 100% meeting BRE Guidelines).
- 7.122. A sunlight assessment has not been carried out, as this only applies to residential windows within 90degrees sue south of proposed development. The relevant residential properties on Glover Street have north-east facing windows and so this assessment is not applicable.
- 7.123. With regards to overshadowing, the submitted assessment consider shadowing to amenity space of residential properties and finds that all assessed spaces continue to receive good levels of sunlight and fully adhere to BRE guidelines.

Aviation Safeguarding

- 7.124. The application is supported by an Aerodrome Safeguarding Assessment. It states that If the development is to progress at its proposed height, it would not require an aviation lighting scheme in accordance with Civil Aviation Authority policy although a crane management condition may be required. The highest part of the development does not infringe the Obstacle Limitation Surfaces (OLS) for Birmingham Airport who raise no objection testing.

Television and Radio Communications

- 7.125. The Application is supported by a Telecommunications Impact Assessment, the report sets out that relevant consultation with operators was carried out and no objections were received, therefore no mitigation is required as part of the development. However, a condition could be placed on the development for post construction

Sustainable Construction

- 7.126. Policy TP1 sets out that the Council is committed to 60% reduction in total CO2 emissions by 2027 from 1990 levels. This requires new development to be located in sustainable locations, reduced CO2 and water consumption, and to promote the use of LZC technologies.
- 7.127. Policy TP2, Adapting to Climate Change - Requires new development to demonstrate how it has considered the impacts of the future climate and extreme weather through the integration of adaptation and resilience measures.
- 7.128. The Guidance note on Sustainable Construction and Low and Zero Carbon Energy Generation (2022) provides guidance to developers on how to achieve the requirement of Policies TP3 and TP4. This sets out that new residential development building regulations came into effect in 2022. From 15th June 2022 all domestic development must achieve at least a 31% reduction in carbon dioxide emissions compared to the 2013 Building Regulation (Approved Document Part L) standards. For non-domestic buildings this figure is 27%. Policy TP3 of the adopted Birmingham Development Plan requires that development should seek to maximise energy efficiency and carbon reductions. Development proposals should therefore seek to achieve a betterment over the baseline national requirements against the Target Emission Rate (TER) of the 2021 Edition of the 2010 Building Regulation (Part L), where possible and where viable.
- 7.129. For non-domestic development the policy requires development to aim to meet BREEAM standard Excellent (on developments over 1000sqm). Where this is not achieved, the applicant should provide justification and support this with a financial viability appraisal.
- 7.130. An Energy Statement has been submitted which proposes to reduce the energy and CO2 emissions of the Proposed Development by up to 28%(energy demand) and 56% (CO2 emissions) when compared to part L of the building regulations. The report also proposes to contribute up to 69% of its energy from Air Source Heat Pumps providing space heating, cooling, and domestic hot water. Solar PVs are also

proposed, this is proposed as 152 panels located on the roof of the development generating around 68.4KWp.

- 7.131. A sustainable construction statement is also provided, this statement references the fabric first principles used to inform the energy statement and expands on other areas of sustainable construction including, Sustainable Transport, Biodiversity, Overheating and BREEAM.
- 7.132. A Low and Zero Carbon Feasibility Study, Passive Design Analysis Report and Dynamic Thermal Comfort Report, are also provided with the application in line with BREEAM New Construction V6.1. These reports inform the Energy Statement and the technologies chosen within it, to reduce the carbon impact and energy demand of the proposed development, this is also supported by a BREEAM pre-assessment which demonstrates the proposal would achieve a BREEAM 'Excellent' rating. The reports also confirm thermal comfort can be achieved in the proposed buildings.
- 7.133. Therefore, the submitted reports show how the proposals have been designed to reduce energy demand, carbon emissions and shows the inclusion of LZCT in accordance with Policy.
- 7.134. *Re-use of the existing building and embodied carbon*
- 7.135. The proposed development would involve the demolition of existing buildings on the site. Paragraph 157 of the NPPF states that the planning system should "*encourage the reuse of existing resources, including the conversion of existing buildings*". However, there are no local development policies which require the retention of existing buildings or that create a presumption in favour of reusing existing buildings.
- 7.136. In July 2023 the Secretary of State (SoS) issued a decision to refuse planning permission for demolition and redevelopment of an existing M&S store at Oxford Street, London. However, it is important to note the SoS decision is very clear that the decision is based on the circumstances of that case, in the context of the relevant development plan.
- 7.137. The M&S decision is not national policy but is a decision of the Secretary of State, and is therefore a material consideration. Paragraph 24 of that decision reads "*The Secretary of State agrees with the Inspector at IR13.43 that there should generally be a strong presumption in favour of repurposing and reusing buildings, as reflected in paragraph 152 of the Framework.*" (now paragraph 157 of the NPPF). But the inspector himself put it slightly differently: he wrote "*While there should generally be a strong presumption in favour of repurposing and reusing buildings, much must depend on the circumstances of how important it is that the use of the site is optimised, and what alternatives are realistically available.*" It is officers view that paragraph 157 of the NPPF does not create a presumption in favour of re-use of buildings.
- 7.138. Nonetheless, if the SoS decision is correct (currently subject to High Court challenge) and there is a presumption in favour of re-use of the existing buildings, this is weighed in the planning balance.
- 7.139. In this instance two of the existing buildings are locally listed and have been found to have only moderate local significance. The most significant parts of the Myona building (in heritage terms) are to be retained with the remaining parts less significant and in poorer condition. The remaining structures at the Myona are not locally listed and would not be capable of conversion.
- 7.140. At pre-application stage different options were considered for the retention and redevelopment of the argyle works supported by a structural survey and an optioning document, provided by the architect (attached to planning statement of this planning application). These documents set out that significant structural intervention would make this an unviable option, in addition the form of the existing structure presented

challenges in providing adequate floor plans if retained and poor layouts for new development set behind a retained structure. Planning permissions have existed for retention and re-use of the Argle building and have never been implemented. The viability assessment provided with the application supports the view that retention and conversion may not be a viable alternative.

- 7.141. In addition to the above, the NPPF is also clear whilst re-use of buildings should be encouraged, the delivery of housing on brownfield land within existing settlements should be given substantial weight. Weight is also attached to the efficient use of underutilised land, such as this.

Flood Risk and Drainage

- 7.142. BDP Policy TP6 'Management of flood risk and water resources' requires a sustainable drainage assessment and maintenance plan for all major developments. The scale of the proposal also requires a Flood Risk Assessment. BDP Policy TP2 'Adapting to climate change' and TP3 'Sustainable construction' states that new development should be designed and constructed in ways to conserve water and reduce flood risk, promoting sustainable drainage systems.
- 7.143. The site lies within Flood Zone 1 and is therefore appropriate for residential development. The existing site is extensively developed with impermeable areas (buildings and hard surfacing). A Severn Trent Sewer runs through the site, in the roadway (along with other utilities and services, which are to remain).
- 7.144. An amended surface water drainage strategy was submitted, which includes sustainable drainage measures such as below ground attenuation tank, raingardens, blue roof (with green roofs component) and permeable paving. The system will drain to the existing foul sewer at a controlled green field run off rate. The revised strategy is to provide attenuation on each building/phase (rather than the whole site in a single phase), limiting discharge from each system to 0.5l/s. The strategy demonstrates significant betterment to the existing surface water discharge rates.
- 7.145. The LLFA do not object to the proposed application subject to conditions requiring details of the proposed drainage strategy along with an operation and management strategy and a condition requiring mitigation to highways surface water drainage.

Noise, Air Quality and Contamination

- 7.146. *Air Quality* – The site is located within the city-wide air quality management area and within the Clean Air Zone. The site is not considered to likely generate significant levels of traffic and therefore no assessment of road traffic emissions is necessary. However, an 'exposure assessment' was undertaken to consider the suitability of residential development in this location with regards to air quality impact upon potential future occupiers. The assessment was found to be satisfactory and no mitigation measures are required. The site is therefore considered suitable for residential occupation. Mitigation measures are proposed within the submitted assessment to deal with dust during construction, therefore a construction management condition would be required to secure these measures.
- 7.147. *Contaminated Land* – A Phase 1 Report was submitted with the application, the assessment identifies that the site has historically be used for industrial purposes and therefore there is a risk of contaminants below ground. Therefore, intrusive ground investigation is required a scheme for which should be submitted via condition.
- 7.148. *Noise* – The application is supported by a Noise Impact Assessment. The Assessment identified that there may be some noise impact upon the proposed development from road traffic noise. Therefore, the assessment identifies some mitigation strategies to achieve acceptable internal acoustic conditions. This includes, mechanical ventilation, to allow sufficient ventilation without having to open windows, and acoustic glazing.
- 7.149. The BCC Planning Consultation Guidance Note (PCGN) (a non-statutory guidance

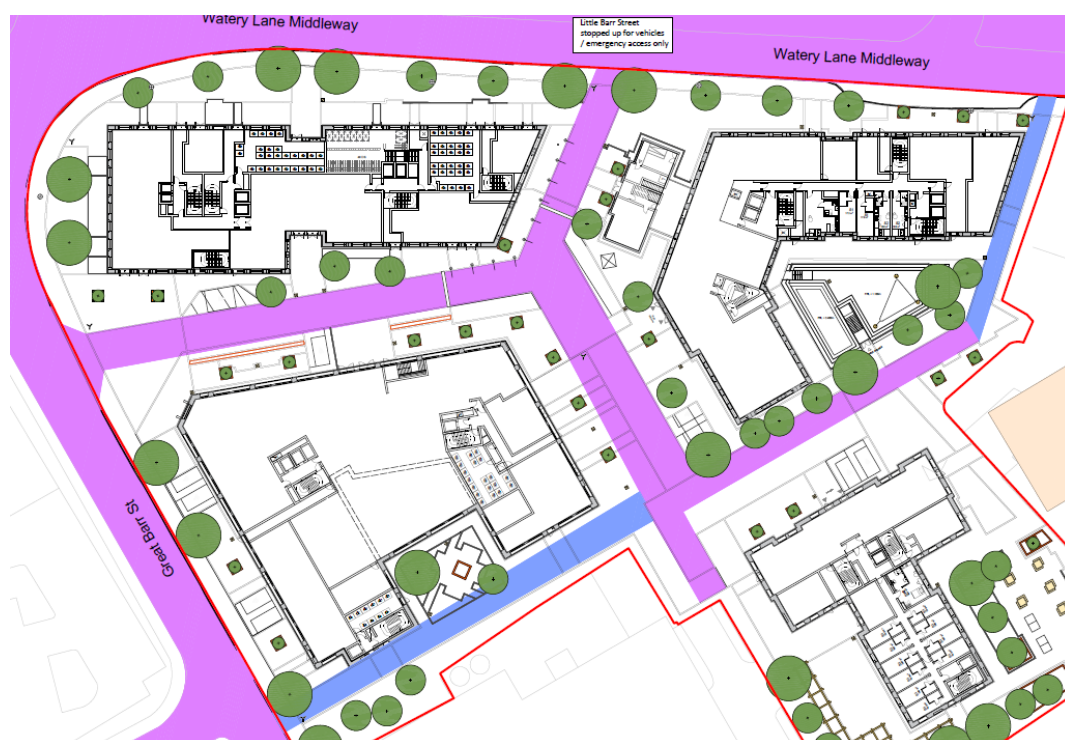
note produced by BCC Environmental Protection) states that mitigation will be required where façade noise levels exceed

- 50 dB $L_{Aeq,16hr}$ daytime, and/or
- 45 dB $L_{Aeq,8hr}$ night-time and/or
- 60 dB L_{AFmax} between 23:00-07:00

- 7.150. The scheme of mitigation should be designed to ensure internal noise levels do not exceed British Standards and no more than 5% of the L_{AFmax} between 11pm-7am or exceed 45dB. The noise assessment demonstrates that noise levels exceed both daytime and night-time acceptable levels and therefore acoustic glazing with a performance of ≥ 40 dB R_w+C_{tr} will be required, to reduce noise to an acceptable level.
- 7.151. The noise assessment acknowledges that predicted noise levels at height (higher up the building) may not decrease to the level predicted if noise sources are industrial. Therefore, given the proximity of employment uses to the south of the site it is reasonable and necessary for additional noise assessments to be conditioned to ensure that the final mitigation scheme adequately mitigates against local sources of noise.
- 7.152. An overheating assessment has been provided to demonstrate compliance with building regulations, this report acknowledges the MVHR system proposed in the development.
- 7.153. **Ecology**
- 7.154. Policy TP8 'Biodiversity and Geodiversity' requires all development, to result in an enhancement of the natural environment.
- 7.155. A Preliminary Ecological Appraisal (PEA), bat survey, black redstart survey and Biodiversity Net Gain Assessment, have been completed in support of the application.
- 7.156. With regard to protected species, the site is considered to have negligible suitability to support bats, some of the buildings were considered suitable for nesting bird species but there was limited to no suitability for other protected species. Dusk emergence surveys were completed, and no bats were recorded. Similarly, a Black Redstart survey was completed, and no birds recorded. BCC Ecology state "*Based on the results of the PEA, Bat Survey and Black Redstart Survey, there is no evidence to suggest ecology presents a significant constraint to development*",
- 7.157. With regards to existing habitat, the application is supported by a Biodiversity Net Gain Assessment and supporting matrix. BCC Ecology noted that "*the site is likely to deliver greater than 10% net gain, given the low baseline for biodiversity*". The assessment demonstrates a net increase of 25.91% biodiversity units. This is largely as a result of the proposed tree planting around the site. BCC Tree Officer has commented on the application including additional tree pit information, stating that the landscaping details are sufficient to demonstrate the proposed trees are likely to mature (including the typical tree pit details provided) and can be achieved on site. Therefore, conditions are suggested to require future planting details for the wider site.
- 7.158. There are some suggested conditions in relation to securing soft landscaping details that deliver enhancements to biodiversity as well as details for the design of green roofs, construction ecological management, long term landscape management and ecology enhancement details. These details are reasonable and necessary.
- 7.159. **Transportation**
- 7.160. A Transport Assessment (TA) has been prepared in support of the development proposals. BCC Transportation do not object to the proposed development, the plans

show provision of 8 disabled and one car club parking space along with cycle parking provision (659 residents and 89 visitor spaces) which is all in line with the BCC Parking SPD. The TA provides tracking plans and show how this can take place within the site and has provision of loading bays. Transportation consider that there would be a reduced level of traffic impact on the highway and the site is accessible being close to the City centre.

- 7.161. Plans have been provided to demonstrate what of the proposed landscape is with the public highway and what would be private. There is some overlap with some landscaping being on HMPE. However, Transportation have not objected to this and stated that this can be dealt with via s.278 works and a commuted sum for maintenance.
- 7.162. A plan has also been provided detailing land they may need to be stopped up, it has not been proposed to stop up small sections of overlap with the landscaping with the routes through the site remaining as public highway. It is proposed to stop up access in to Little Barr Street (other than for emergency vehicles).
- 7.163. Objection has been received from a member of the public who gains access to the rear of commercial units on Westley Street, via Little Edward Street, however as per the provided plan, this would remain a public highway and therefore access will still be achievable. Any rights of way issues are not a material planning concern anyhow.



Highway Maintainable at Public Expense shown in purple.

- 7.164. If stopping up were not achievable this would not prevent the development coming forward, the buildings and landscaping can be delivered even if the extent of HMPE remains as existing, although some works may require a s.278.

Planning Obligations and Financial Viability

- 7.165. The site falls within the Low Value Residential Area and therefore there is no CIL payment for the residential buildings. However, there is CIL payable for the PBSA elements of the proposal which would be circa £2,039,220.
- 7.166. In addition to affordable housing, discussed earlier in the report, either on site public open space or contributions towards off site provision for developments of 20 or more dwellings is also required by the Open Space in New Development SPD. Given the nature of the site, this contribution would be directed off site and would be spent on

the provision, improvement and/or biodiversity enhancement of public open space and associated structures, including the maintenance thereof within. BCC Leisure Services however made no comment on the application.

7.167. BCC Transportation queried whether there would be any s.106 for highway crossings available. However, following discussions there were no specific projects or proposals identified and there is already a facility in the signal junction at Fazeley Street, for crossing. In any case, affordable housing is the priority on this instance.

7.168. Notwithstanding the above, the applicant has submitted a viability report with the application which has been independently assessed by the Council's independent viability consultant. The independent consultant concludes that notwithstanding the affordable housing offer being made the scheme is not financially viable and can not support any s.106 contributions and receive standard profit. The applicant will also be required to pay the liable CIL sum and a minimum spend of £7,050,000 public realm spend.

7.169. **Planning Balance**

7.170. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that 'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise'.

7.171. Paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

7.172. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 75, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites, currently demonstrating a xx-year supply. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. This means that planning permission should be granted, unless adverse impacts of doing so, would significantly and demonstrably outweigh the benefits.

7.173. However, Footnote 7 notes the specific policies which protect important areas or assets, these include policies relating to designated heritage assets. Footnote 7 therefore establishes that where there is a clear reason for refusal (because of harm to designated assets) the tilted balance described above, is not engaged.

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

7.175. A balanced judgment is also required with regards to the high level of harm (complete loss) of a locally listed, non-designated heritage asset (the Argyle Building) and the setting of a non-designated heritage asset (Myona Building).

7.176. The identified harm was as follows;

Designated assets

- 106-110 Fazeley Street and 122 Fazeley Street – Grade II Listed: Low level of

less than substantial harm

- Curzon Station – Grade I: Low Level of less than substantial harm.
- Digbeth, Deritend and Bordesley High Street – Conservation Area: low level of less than substantial harm.
- Warwick Bar – Conservation Area: low level of less than substantial harm.

Non-designated assets

- Argyle building – Locally Listed: major adverse harm
- Myona building – Locally Listed: moderate adverse harm
- Cottage baths – Locally Listed: moderate adverse harm.

- 7.177. Using the three strands of sustainable development the public benefits of the scheme are identified as

Economic

- Temporary construction jobs over the construction period
- Limited employment within the commercial units
- Additional residents adding to the economy
- Limited level of employment within the ground floor commercial units
- Limited level of employment within the PBSA buildings

- 7.178. Para. 85 of the NPPF states that “Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” However, I also note that many of the new jobs would only be for a temporary period, and that whilst some permanent jobs would be created, the figure is not significant. However, given the scale of development, moderate weight is attached to these economic benefits.

Social

- The provision of housing
- The provision of 12.5 % affordable housing

- 7.179. Taking account of the extent of the 5YHLS shortfall and the acute need for affordable housing, and that the NPPF is clear that substantial weight should be given to the value of using brownfield land in sustainable locations to deliver homes.

Environmental

- The site would enhance the ecological and biodiversity offer at the site and contribute to the greening and biodiversification of the city centre.
- Public realm improvements
- Using suitable brownfield land within settlements for homes.

- 7.180. Moderate weight is afforded to the sustainability credentials of the built development, I note the carbon impact of demolition, however given the existing BDP Policies, this carries limited weight in this context. The site has very limited ecological value and the proposal does provide ecological gains, however, this is afforded moderate weight.

- 7.181. Set against these benefits is the less than substantial harm identified to designated heritage assets, identified as low levels of less than substantial harm in all cases. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance. In addition, a balanced judgement is required with the high degree of harm resulting from the complete loss of and

adverse impact to the setting of non-designated heritage assets.

- 7.182. The designated heritage assets hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation colleagues to reach only low levels. Therefore, on balance, I consider there are enough benefits associated with this proposal to outweigh the heritage harm, with particular reference to the delivery of homes and affordable homes on brownfield land within a sustainable urban context. The test within the NPPF is therefore favourable to the proposal. In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies, as referenced by NPPF para.11(d)i and Footnote 7 and the tiled balance engaged.
- 7.183. There is a high degree of harm as a result of complete loss of the Argyle building, through demolition. There is also harm identified to the Myona building. However, taking a balanced judgement I do not consider the high level of harm to a building of low to moderate local significance, and the setting of a non-designated heritage asset of moderate significance, to outweigh the identified significant public benefits of the proposal.
- 7.184. There are also heritage benefits associated with the refurbishment and use of the retained Myona building which weight in favour of the proposal.
- 7.185. The limited private outdoor space also weighs against the development, however given the city centre context, available indoor amenity space and proximity to Garrison Park these adverse impacts do not significantly and demonstrably outweigh the harm. Furthermore, the scale of the proposed development is in its current context unprecedented. However, the high quality design and commitment to construction methods go some way to mitigating this harm through delivery of good architecture. Moreover, there are clear city aspirations for the character of this area to change and the proposed dense development leads to efficient use of brownfield land within the existing settlement. A reduction in scale would lead to reduced viability and delivery of a reduced number of homes and affordable homes. Therefore, again, this harm does not significantly and demonstrably outweigh the identified harm. I note the SoS decision which references a presumption in favour of re-using buildings. However, in the context of the Development Plan and NPPF policies as a whole and for the reasons set out above, I do not find that the demolition of the buildings significantly and demonstrably outweighs the harm identified.
- 7.186. Given there are no adverse impacts identified that would significantly and demonstrably outweigh the harm, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

8. Conclusion

- 8.1. The proposed development would see the delivery of a high-quality residential led development, in a sustainable gateway location on brownfield land. The proposed residential units would make a meaningful contribution towards Birmingham's housing shortfall and contribute towards the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver affordable housing, in accordance with local and national policies. The scheme would also provide economic, social and environmental benefits.
- 8.2. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the application would accord with the development plan taken as a whole and is therefore acceptable subject to completion of a legal agreement and conditions.

9. Recommendation:

- 9.1. That application 2023/04130/PA be APPROVED subject to the prior completion of a Legal Agreement to secure the following:

- Equivalent of 12.5% affordable rental units at a mix of 2- and 3-bedroom apartments provided on site.
 - Minimum public realm spend of £7,050,000, within the red line boundary of the application site.
 - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.
 - Securing the architect through to delivery of the project
- 9.2. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 29th March 2024 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reasons:
- In the absence of any suitable legal agreement to secure the provision of onsite affordable housing, minimum onsite public realm spend and retained architect, the development does not deliver the significant benefits considered when weighing the benefits of the proposal against identified adverse impacts. Therefore, the proposal conflicts with Policies TP31, TP47 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 9.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.4. That no objection be raised to the stopping-up of any public highway required to make the development acceptable and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.
- 9.5. That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 29th March 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/04130/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- | | |
|----|---|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the prior submission of Building Recording |
| 4 | Submission of a method statement for works to the Myona Building |
| 5 | Completion of works to Myona building prior to occupation of any phase |
| 6 | Requires the prior submission of a Demolition Method Statement |
| 7 | Requires the prior submission of contamination remediation scheme on a phased basis |
| 8 | Requires the submission of a contaminated land verification report |
| 9 | Submission of a Construction Environmental Management Plan |
| 10 | Requires the submission of details of the sound insulation for plant/machinery |
-

11	Requires the submission of extraction and odour control details
12	Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
13	Prior to Demolition Submission of Demolition and Construction Environmental Method Statement and Management Plan
14	Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan in a phased manner
15	Prior to the Commencement of Development Submission of Construction Employment Plan
16	Requires the submission and approval of external materials
17	Requires the submission and approval of architectural detailing
18	Requires the construction and approval of a sample panel on site
19	Prior submission of details for a pre-cast method of construction
20	Requires the prior submission of wind mitigation details
21	Requires the completion of works for the S278/TRO Agreement
22	Requires the submission of a residential travel plan
23	Requires the provision of cycle parking prior to occupation
24	Requires the submission of a parking management strategy
25	Requires the submission of details of a delivery vehicle management scheme
26	To ensure energy and sustainability measures are delivered in accordance with statement
27	To ensure that the development achieves BREEAM rating level
28	Requires the submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis
29	Submission of a Construction Ecological Mitigation Plan
30	Requires the prior submission of details of bird/bat boxes
31	Requires the submission of hard and/or soft landscape details
32	Submission of Tree Pit details
33	Requires the submission of boundary treatment details for each phase of the development
34	Requires the submission of a landscape management plan
35	Requires the submission of details of green/brown roofs

-
- 36 Requires pedestrian visibility splays to be provided
 - 37 Requires a post completion telecommunications reception assessment
 - 38 Submission of a Crane Management Plan
-

Case Officer: Rhiannon Hill

Photo(s)



Looking west along Palmer Street towards data centre, Argyle works to right block D to left



Rear of Argyle work from Palmer Street



Looking south along Little Edward Street, block C to left block D to right



Looking East from Little Edward Street across block C, Myona Works visible

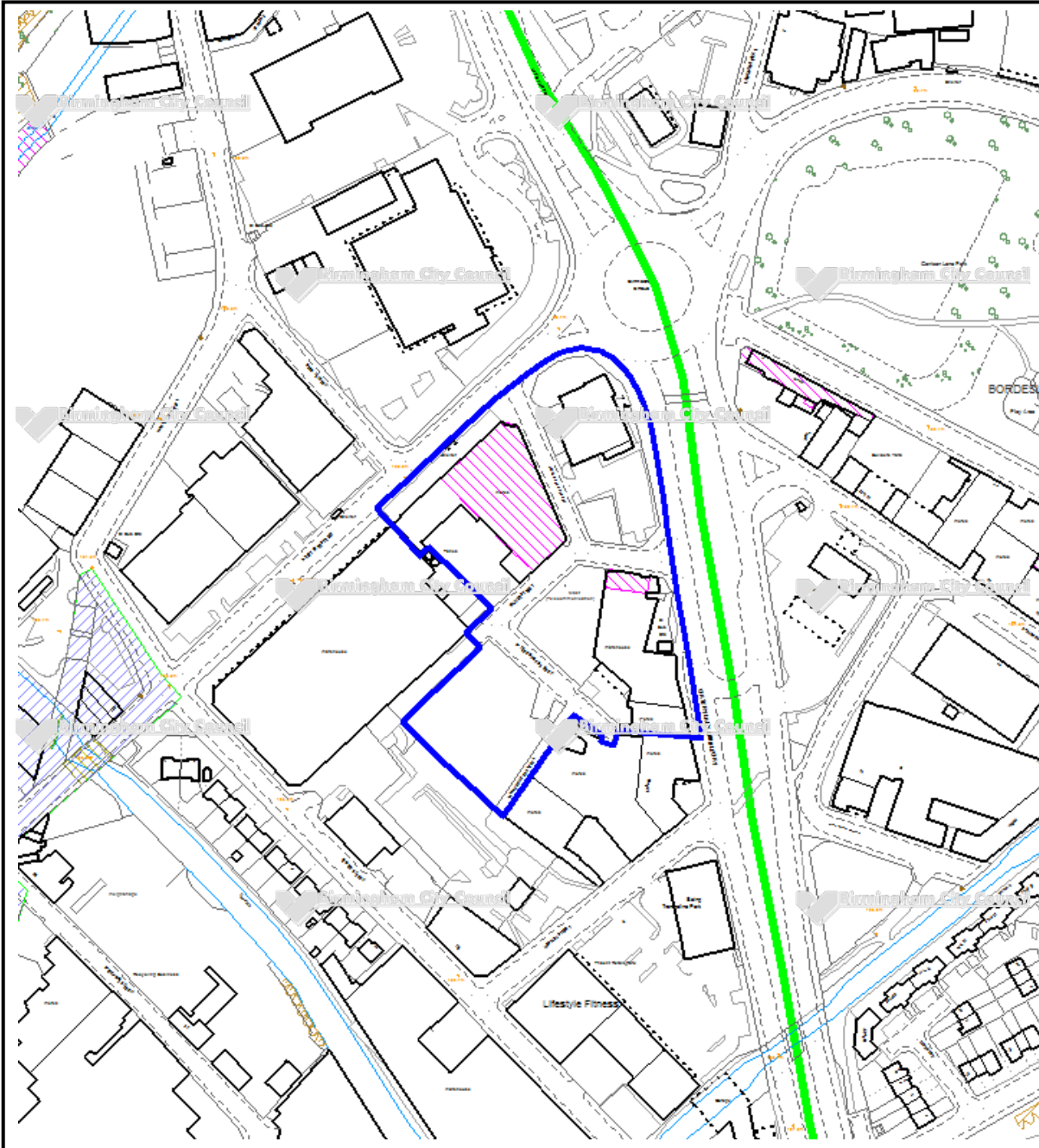


Looking north along the Middleway with Block B (Halfords)



Looking east from Middleway across block C, Argyle Works and Myona building visible

Location Plan



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Committee Date:	01/02/2024	Application Number:	2023/04261/PA
Accepted:	26/06/2023	Application Type:	Full Planning
Target Date:	01/02/2024		
Ward:	Ladywood		

100 Broad Street, City Centre, Birmingham, B15 1AU

Site clearance and demolition of all existing buildings and the erection of a 33-storey building (Ground + 32 storeys) for residential use (294 dwellings) and associated amenity floor space (Use Class C3), ground floor commercial spaces (Use Class E (a-g(i))), public realm works, hard and soft landscaping, access, drainage, and all other associated works

Applicant:	Ropemaker Properties Ltd (C/o Urban Vision Real Estate Ltd)
	Chertsey Road, Sunbury on Thames, Middlesex, TW16 7BP
Agent:	Williams Gallagher
	Somerset House, 37 Temple Street, Birmingham, B2 5DP

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

Planning consent is sought 294 build to rent residential homes in the form of a 33-storey tower. The proposed would provide a sequence of tall buildings stepping in height from 9 + 26 storeys on Ryland Street, 11 + 20 adjacent to 90-97 Broad Street with a central tower of 33 storeys.

1.1



Image 1: CGI of the proposed tower, views from the northwest and southeast along Broad Street (from left to right).



Image 2: CGI street view of the proposed along Broad Street, looking away from Fiveways.

- 1.2 The 294 units would be made up of the following mix:
 134no. 1Beds (45.5%)
 142no. 2Beds (48.3%)
 18no. 3Beds (6.2%)
- 1.3 An affordable housing offer of **15 units** (5.10%) (of 294) at a 20% market discount (7x 1 beds, 7x 2beds and 1x 3 bed) equivalent to a monetary value of **£1,010,000** is proposed.
- 1.4 Although the NPPF sets out the definition of affordable housing (in planning terms) site to be at least 20% below local market value/rents (including service charges where applicable) current income restrictions are: £30,000 for single income and £45,000 for dual income. Therefore, a highly unlikely to be able to afford these units even with a 20% discount. It is agreed that a 30% is more affordable as set out in para 7.21 (3.1%).
- 1.5 A viability appraisal has been submitted and appraised by an independent assessor. The report explicitly includes and accounts for the following additional developer costs, these being:
 - Community Infrastructure Levy - £2,002,000
 - Selective Licensing Fee £1,175,000
 - Public Realm Works - £295,000
 and (as mentioned above) Affordable Housing Contribution - £1,010,000

Total of £4,482,000 – an equivalent of 23.12%
- 1.6 The applicant has noted that the above financial contributions significantly reduce the

number of affordable housing units the the scheme can deliver and if these were not required the offer could be higher. The table below presents the percentatge of affordable housing equivilant to these costs.

<u>Item</u>	<u>Policy Cost</u>	<u>Affordable Housing Units</u>	<u>Affordable Housing Equivalent</u>
Community Infrastructure Levy	£2,002,000	30	10.20%
Selective Licensing Fee and Accrual of future Fees	£1,175,000	18	6.12%
Public Realm Works	£295,000	5	1.70%
S.106 Contribution for ARP	£1,010,000	15	5.10%
Total	£4,482,000	68	23.12%

Table 3: Financial contribution costs vs affordable housing equivalent



Image 3: CGI from floors 18 to 33, off Broad Street

1.7 72% of the proposed apartments would be dual aspect and in addition would provide:

-471 sqm (GIA) of commercial space (Use Class E (a-g(i))) at the ground floor alongside the residential lobby;

-742 sqm of new publicly accessible open space fronting Broad Street and Ryland Street which would be landscaped to introduce planters and 19no. new street trees

alongside seating areas associated with the commercial units;

- 833 sqm of outdoor communal roof gardens / amenity space;

- 777 sqm of shared internal amenity space at first floor which would incorporate shared space including: co-working, gym, meeting rooms, kitchen dining and screening space;

- additional shared communal terrace spaces at Level 19 (shared growing space) and Level 25 (outdoor terrace and indoor bookable dining);

- green roofs on Level 08 (47.2 sqm), Level 10 (46.4 sqm) and Level (28 – 56.1 sqm);

- 212.4sqm of Bio Solar at roof Level;

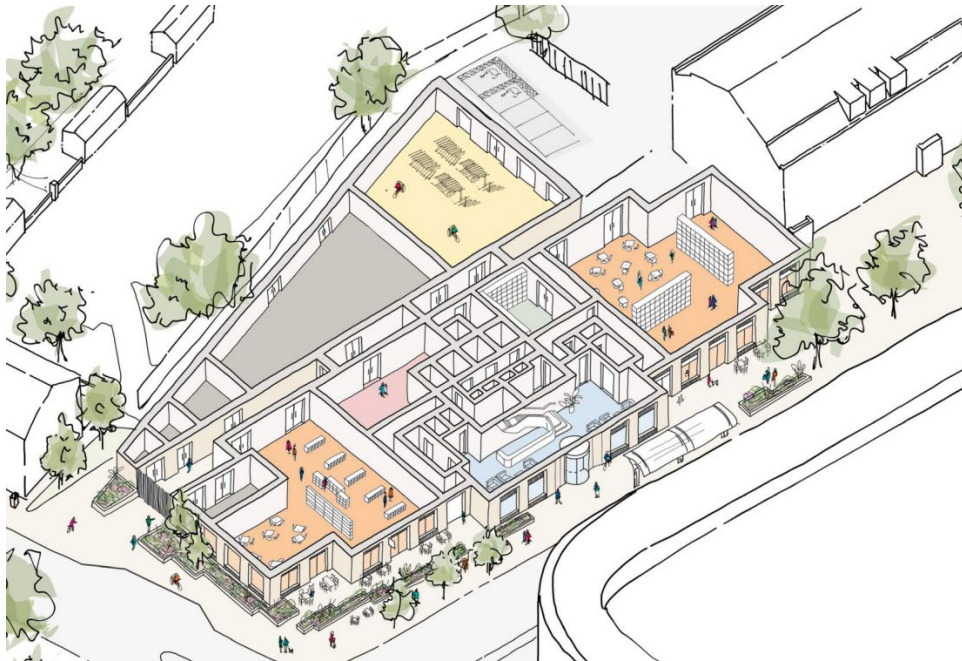


Image 4: Artists impression of the proposed ground floor

- a cycle hub incorporating 338 secure cycle storage spaces

- 2no. vehicle parking bays with EV charging points and a move in / delivery zone accessed from Essington Street alongside a new loading bay and taxi drop-off on Ryland Street (by a s278 agreement).

- private terraces for 10no. apartments – 2no. at level 8, 10, 19 and 4no. at level 32

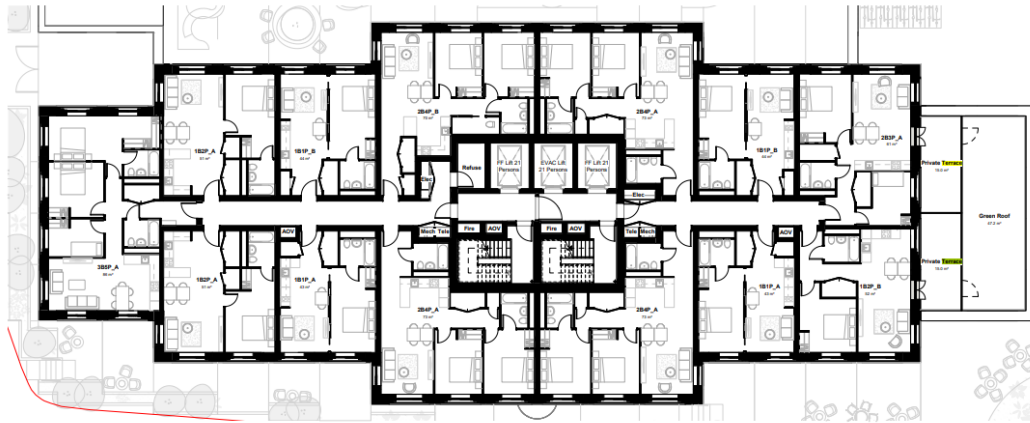


Image 5: Private terrace 8th floor (to the right of this plan)

-49 no. newly planted trees (street level and terraces)

-dedicated bin storage for residential and commercial waste within the rear pavilion buildings which would allow for the sorting of recyclable materials.

- A bin chute would be accessible to residents on all floors with a separator for general and recycling. On collection day the bins would be taken to a waiting zone off Ryland Street. Commercial waste would be stored in the rear of each commercial unit and collected from both Ryland and / or Essington Street.

-With regards to sustainability the building aims to secure various accreditations and targets to demonstrate its strong ESG credentials. These include (*inter alia*):

- EPC Rating B
- Wired Score “Platinum”
- Home Quality Mark 4.0 Star (targeting of 4.5)
- Fitwell
- Biodiversity Net Gain
- Urban Green Factor >0.4
- Water usage 100 litres (or less) per resident per day

- 1.8 As part of the submission, two sets of ground to seventh floors eastern elevations are sought consent and are presented within the application and general arrangement (option A) and option B. This would allow the scheme to be adapted subject to the outcome of application 90-97 Broad Street (The Essington) planning ref: 2023/01324/PA, that situates adjacent, as indicated below.
- 1.9 Image 6: Visual of the proposed 47 storey tower at 90-97 Broad Street (current application).



Image 7: Plan showing the footprint and position of the adjacent scheme to the right.

1.10 Option A (General arrangement):

Option A would result in solid panels within the window openings at ground to seventh floor on the eastern elevation and hard landscaping treatment to the EV charging and a small delivery area with flush edging to allow the adjacent site to come forward and link into the landscaping at some point in the future (see image 8 below).

1.11 Option B:

Windows instead of solid panels at ground to seventh floor on the eastern elevation and hard landscaping treatment to the EV charging bays and a small deliveries area with boundary fencing and gates that would allow the adjacent site to come forward at some point in the future without it compromising landscape quality.



Image 8 of Options A and B from left to right facing northeast – towards 90-97 Broad Street.

- 1.12 The ground floor would be characterised by commercial business and service units fronting along Broad Street that wrap around onto Ryland Street. Central to the plan would be the primary residential entrance to the building, which open up into a double height reception lobby creating activity and movement. Cycle parking and storage as well as plant would be provided at the rear.



Image 9: CGIs of the double height reception

- 1.13 Information submitted in support of the application includes.
- 1.14 Planning Statement incorporating Tall Building Assessment, Design and Access Statement (Howells Architects), Preliminary Ecology Appraisal including Biodiversity Enhancement Plan and Net Gain Calculation (BWB), Daylight and Sunlight Assessment (GIA), Flood Risk Assessment and Drainage Strategy (Cundall), Surface Water Management Drainage Pro-forma for New Developments (Cundall), Air Quality Assessment (Ramboll), Arboricultural Survey Report (Tree Survey / Impact Assessment / Protection) (BWB), Technical Aerodrome Safeguarding Assessment (Pager Power), Heritage, Townscape and Visual Impact Assessment (Node), Archaeological Assessment (BWB), Noise & Vibration Impact Assessment (Ramboll), Overheating Risk Report (Part O) (Ramboll), Phase 1 Geotechnical and Geo-environmental Assessment (Cundall), Transport Statement (M-EC); Travel Plan (M-EC), Energy Strategy (Ramboll), Gateway One Fire Statement Form (Jensen Hughes), Residential Standards Schedule (Howells), Affordable Housing Statement (Williams Gallagher), Wind Microclimate Assessment Report (GIA), Statement of Community Involvement (PLMR), Viability Assessment (Roger Hannah); Landscape Strategy (incorporated within the D&A Statement), Plans and Drawings.

EIA Screening

- 1.15 An EIA Screening Report was submitted to Birmingham City Council in April 2023 and a formal Screening Opinion was issued by the council in May 2023. It was concluded that the development was unlikely to have significant environmental effects, therefore an Environmental Impact Assessment was not required for the proposed development.

1.16 [Link to Documents](#)

2. **Site & Surroundings:**

- a. Application site comprises approximately 0.27 ha of land on the northern side of Broad Street, at its junction corner to Ryland Street. It is currently occupied by a 4/5 storey orange brick office block slightly offset from the back of the pavement and tapering to the corner of Ryland Street surrounded by a wide range of uses including residential, hotel, commercial offices, retail, and leisure.
- b. It is a relatively flat site whereby primary pedestrian access is from Broad Street. Vehicle access, including to the existing rear car park is taken from Essington Street and Ryland Street. Servicing for bin collections is also from Ryland Street and Essington Street.
- c. There are no listed buildings or scheduled ancient monuments within or adjoining the site and the site is not within a Conservation Area. The nearest listed buildings are the former Barclays Bank and former Royal Orthopaedic Hospital on Broad Street and the City Tavern Public House (Bishopsgate Street). The nearest Conservation Area is Edgbaston Conservation Area to the south. There are no Tree Preservation Orders in force on or adjacent to the site.
- d. There are several tall buildings in close proximity to the site, recently developed, or under construction. Directly adjacent the application site at 90-97 Broad Street an application is also being considered for a 47-storey tower block -see image 6.
- e. [Site location \(google maps\)](#)

3. **Planning History:**

- a. 31.01.2019 – Demolition of existing buildings and erection of 61 storey tower to include 503 apartments (Use Class C3), ground floor commercial/retail units (Use Classes A1-A5, B1a, D1 & D2) flexible upper floor uses (Use Classes A3, A4 and D2), ancillary residents' amenity and all associated works – 2019/05158/PA. Approved.

- b. Adjacent the site

90-97 Broad Street

Erection of a 47-storey tower to include 526 residential units (Use Class C3), with residential amenity space, landscaping and all associated engineering and enabling works including site clearance – 2023/01324/PA. Current Application.

01.04.2021 – The Square - Land at Ryland Street, Broad Street and Grosvenor Street West

Demolition of existing buildings and development of a 35 storey tower building with a 6 storey shoulder building and 1 storey podium containing residential apartments (Use Class C3), plant, storage, reception, communal residential amenity areas and cycle parking; an 8 storey hotel building (Use Class C1) with flexible ancillary ground floor uses (Use Classes A1, A3, A4, A5 and D2)

including dining and bar; and creation of a private external square and associated works – 2020/03701/PA. Approved

22.12.2017 – 212-223 Broad Street City

Full planning application for the demolition of existing buildings and development of a 42 storey residential building with 14 storey shoulder and 3 storey podium, containing 481 no. residential apartments (Use Class C3), 1663sq.m of retail floorspace (GIA) (Use Class A1,A2,A3,A4 and A5), 1512sq.m of flexible office work space (Use Class B1), plant, storage, reception, residential amenity areas, site access, car parking, cycle parking and associated works – 2017/08357/PA. Approved.

4. **Consultation Responses:**

- a. Adjoining occupiers, residents' associations, local ward councillors and M.P. notified. Site and press notices displayed.
- b. Active Travel: no objection
- c. Amenities Societies: no comments
- d. Archaeology: no objections
- e. Birmingham Civic Society: supports the application however asks that a more suitable mix of dwellings and supply of affordable housing is discussed.
- f. Birmingham International Airport: supports subject to conditions for the submission of instrument flight procedures assessment, construction management strategy, bird hazard management plan and crane informative.
- g. City Design: No objection subject to conditions.
- h. Conservation: states the proposed development would cause less than substantial harm to the setting of designated heritage assets through development in their setting, the level of harm ranging from *de minimis* to low to moderate degrees of less than substantial.

The development would engage with guidance contained under paragraphs 208 and 209 of the NPPF and the balanced judgment required to be had to the significance of the asset and the level of harm caused.
- i. Ecology: no objections subject to conditions
- j. Environmental Protection: No objections regarding contaminated land and air quality. Objects by reason of noise impacts.
- k. Employment Access Team: no objections, require prior submission of construction employment plan.
- l. Health & Safety Executive: originally sought more information which has been provided via amended plans/documents.
- m. Historic England: state it is vital that this scheme is fully understood, and assessed in the context of other permitted and emerging proposals, and informed by a coherent strategic approach to tall buildings in the city and their cumulative impact; and are aware that the City Council is undertaking a review of its Local Plan and welcome the opportunity to discuss the possibility of a tall

buildings policy or strategy as part of that process. Historic England recommend BCC authority take these representations into account and seek amendments, safeguards, or further information as set out in our advice.

- n. Leisure Services: no comments made
- o. Local Lead Authority: originally objected to the scheme however amended details have been discussed. Any further comments shall be reported.
- p. National Grid/Cadent: no objection, informative note required.
- q. Planning and Growth Strategy: considers the scheme acceptable in its location.
- r. Severn Trent: no objections subject to conditions and informative
- s. Transportation: No objections subject to conditions for highway works to be provided through a Grampian style condition, cycle parking to be provided before occupation, rear service yard to be laid out before the building is occupied, construction management plan.
- t. Trees: No objections, however states there is one London Plane that merits retention and asks this is accommodated in the layout.
- u. West Midlands Fire Service: recommends guidance
- v. West Midlands Police: recommends secured by design guidance be followed and asks for a lighting and CCTV scheme and laminate Glazing secured by condition.
- w. West Midlands Metro: recommends informative around contacting West Midlands Combined Authority who would require sight of method statements, lighting, boundary treatment details.

5. **Third Party Responses:**

- a. The application has been publicised by newspaper advert, site notice and neighbour letters.
- b. 6 representations have been received making the following comments:
 - Queries accuracy of servicing lay by vs pedestrian footway.
 - Cycle parking not conveniently located.
 - None of the units will be affordable to current residents in the area.
 - Tower will block valuable sunlight.
 - Dust and noise pollution

Please note that of the 6 representations 3 referred to their community and homes being demolished – the application does not propose such.

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

- a. National Planning Policy Framework

Section 2: Sustainable Development

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport
Section 12: Achieving well-designed places
Section 14: Meeting the challenge of climate change, flooding and coastal change/
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment

b. Birmingham Development Plan 2017

The application site falls within the City Centre Growth Area where Policy GA1 of the BDP promotes the City Centre as the focus for office, residential and commercial activity. As defined by Policy GA1.3, the application site falls inside the Westside and Ladywood Quarter where the objective is to create a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area.

PG1 Overall levels of growth
PG3 Place making
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and Geodiversity
TP9 Open space, playing fields and allotments
TP12 Historic environment
TP26 Local employment
TP27 Sustainable neighbourhoods
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP31 Affordable Housing
TP32 Housing Regeneration
TP33 Student Accommodation
TP37 Heath
TP38 A sustainable transport network
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development

c. Development Management DPD

DM1 Air quality
DM2 Amenity
DM3 Land affected by contamination, instability, and hazardous substances.
DM4 Landscaping and trees
DM5 Light pollution
DM6 Noise and vibration
DM10 Standards for residential development
DM14 Transport access and safety
DM15 Parking and servicing

d. Supplementary Planning Documents & Guidance:

7. **Planning Considerations:**

- a. The main material considerations are:
- b. Principle of development
- c. Housing need and housing mix
- d. Affordable housing
- e. Design
- f. Microclimate
- g. Landscaping/Biodiversity
- h. Sustainability credentials of the development
- i. Noise, air quality and contamination
- j. Residential amenity
- k. Landscaping and biodiversity
- l. Drainage/flood risk
- m. Fire and building safety.
- n. Access, parking, and highway safety
- o. Third party comments
- p. CIL/Planning Obligations

Principle of development

- 7.1 GA1.1 sees the City Centre as the focus for residential activity, creating a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer (of Westside and Ladywood) into a dynamic well-connected area.
- 7.2 Members may recall that residential development in the form of a 61-storey tower was consented at the application site in 2019, therefore the principle of development has been established. However, the applicant states the previously approved scheme can not be viably constructed and the permission is no longer extant.

Housing need

- 7.3 As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development.
- 7.4 For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Housing mix

- 7.5 BDP policy TP30 states, 'Proposals for new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. Account would need to be taken of the:

- *Strategic Housing Market Assessment (or any subsequent revision)*
- *Detailed Local Housing Market Assessments (where applicable)*

- *Current and future demographic profiles*
- *Locality and ability of the site to accommodate a mix of housing*
- *Market signals and local housing market trends.*

- 7.6 This policy allows for account to be taken of several strands of information which influence housing mix, however neither the text of policy TP30 nor any of the strands of information in themselves set a specific or rigid housing mix requirement. Further analysis of the HEDNA draws out the nuances associated with housing mix, particularly in relation to the Central Area, which includes the city centre.
- 7.7 The housing mix starting point identified in the HEDNA for the Central Area is:
 1 beds: 17% 2 beds: 37% 3 beds: 31% 4 beds 15%
- 7.8 The 'Central Area' defined in the HEDNA covers more than just land within the ring road. It comprises the entirety of the following wards: Balsall Heath West, Bordesley and Highgate, Bordesley Green, Edgbaston, Ladywood, Lozells, Nechells, Newtown, Small Heath, Soho & JQ, and Sparkbrook and Balsall Heath East. These wards cover a mix of areas including the city core, inner city areas and the suburbs.
- 7.9 The HEDNA analyses sub-areas within the Central Area which it defines as Inner and Outer Central Sub-Areas – broadly the Inner area corresponds with land within the ring road and the Outer area covers those areas within the Central Area wards which are outside of the ring road. It looks at the size of homes (using 2011 census data) and the location of schools and central GP practices within these areas.
- 7.10 Within the Inner Central Sub-Area, approx. 85% of homes have 2 bedrooms or fewer and there are fewer schools and GP surgeries. Where there are schools and surgeries, especially primary schools, these are located towards the periphery of the Inner Central Sub-Area. In the Outer Central Sub-Area, 3 bed homes make up the largest group at 38.1% and combine with 2 beds to account for 67% of all homes in this sub-area.
- 7.13 The HEDNA therefore suggests that the Outer Central Sub-Area is likely to see greater demand for larger homes as families grow and are better able to access schools, leaving the inner area which has a lack of social infrastructure able to accommodate smaller homes for singles and couples. It states, 'This also responds to the type of sites that are likely to come forward in the respective areas i.e., higher density more centrally.' (Para. 8.77)
- 7.14 It also states that the location/quality of sites would also have an impact on the mix of housing. For example, brownfield sites in the City Centre (particularly the inner sub-area) may be more suited to flatted development ... whereas a more suburban site may be more appropriate for family housing.
- 7.15 Therefore, although the HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, it does state that the Council should broadly seek the same mix of housing in all locations but to be flexible to a different mix where specific local characteristics suggest.
- The city centre has specific characteristics which make it more suitable for smaller homes and this is only a part of the overall housing offer across the Central Area and the city as a whole.
 - The current city-wide housing mix continues to show a strong emphasis on three bed, family-sized homes and this stock is being added to in some parts of the city centre but particularly beyond the ring road through your committee's decision making.

- Site circumstances and market trends are also relevant. The site comprises of listed buildings whereby scale and layout have had to work with.

7.16 Policy TP30 further allows for the circumstances of individual sites and market trends to play a part in determining house mix.

7.17 The proposed offer of 45.3% 1 bed, 48.5% 2 bed and 6.2% 3 bed dwellings fits into the city's wider provision of housing. Tables 1 and 2 below presents a more detailed breakdown.

- 80no. 1B1P (27.1%);
- 54no 1B2P (18.4%);
- 26no. 2B3P (8.8%);
- 116no. 2B4P (39.5%);
- 14no. 3B5P (4.8%);
- 4no. 3B6P Duplex (1.4%);

Table 1: Proposed mix

UNIT TYPE	PROPOSAL (SQM)	NDSS (SQM)	NDSS COMPLIANT
1 bed 1 person	43-43.7	39	✓
1 bed 2 person	51.2-51.9	50	✓
2 bed 3 person	61	61	✓
2 bed 4 person	73.4	70	✓
3 bed 5 person	86	86	✓
3 bed 6 person (Duplex)	125-130	102	✓

Table 2: Proposed room size vs National Space Standards

7.18 Taking the site as a whole, it would be more effectively and efficiently used for high density housing in accordance with para 128 of the NPPF. This guidance requires planning decisions to give "substantial weight to the value of using suitable brownfield land within settlements for homes", to "promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained", and to "support development that makes efficient use of land".

Affordable housing

7.19 Policy TP31 states, "The City Council seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The developer subsidy would be established taking account of the above percentage and the types and sizes of dwellings proposed." It also allows developers to submit a Financial Viability Appraisal (FVA) when they consider affordable housing of 35% cannot be provided.

7.20 Furthermore, the NPPF makes clear that viability is a material consideration in the assessment of a planning application.

The appraisal must take into account the high quality of the development and the overall pressures around build costs. As mentioned above an affordable homes offer has been put forward and assessed by an Independent Financial Advisor, who

confirms that in addition to the other financial contributions, as below:

- Community Infrastructure Levy - £2,002,000
- Selective Licensing Fee £1,175,000
- Public Realm Works - £295,000

the scheme can support **15no. (5.1%) affordable units** or 9 units (3.1%) at a 30% discount.

- 7.21 The HEDNA states, “Overall, the analysis identifies a notable need for affordable housing, and it is clear that provision of new affordable housing is an important and pressing issue in the area. It does however need to be stressed that this report does not provide an affordable housing target; the amount of affordable housing delivered would be limited to the amount that can viably be provided. The evidence does however suggest that affordable housing delivery should be maximised where opportunities arise.” (Chapter 7, Key Points)

In consultation with the affordable housing team option 2 of the below table has been agreed as it provides a coverage of the properties most required for the ward. This being 9 units at a 30% discount.

AFFORDABLE UNITS MIX OPTIONS					
30% Discount to MR		Option 1: ¹		Option 2:	
Unit Type	Disc. to Market Rent	# Affordable	% Affordable	# Affordable	% Affordable
1B1P	30%	3	0.9%	1	0.3%
1B2P	30%	2	0.6%	1	0.3%
2B3P	30%	1	0.3%	1	0.3%
2B4P	30%	4	1.3%	5	1.7%
3B5P	30%	0	0.2%	1	0.3%
3B6P	30%	0	0.0%	0	0.0%
Totals		10	3.4%	9	3.1%

Design

Layout

- 7.22 The development would sit at back of a widened pavement to the north side of Broad Street, although stepped in its footprint, extending to the corner of Ryland Street, allowing for some space towards the footpath for enhanced public realm.
- 7.23 The north-eastern flank would face onto the flank of a three-story high office building at 90-97 Broad Street, the subject of a residential planning application (known as the Essington ref: 2023/01324/PA), which (if approved and implemented) would extend Essington Street (to the rear) through to Broad Street and create a new route/green space between the developments – as below.



Image 10: Visual of the green space as per planning application ref: 2023/01324/PA. The application site is to the left of this plan.

Scale, height and massing

- 7.24 The site falls within an emerging cluster of tall buildings developing towards the western end of Broad Street. Currently under construction (already at full height) is the development known as The Square, on the opposite corner of Ryland Street to the site (ref: 2020/03701/PA).
- 7.25 Adjacent to the application site, to the east, is a current proposal (noted above) for a 47-storey tower known as the Essington.
- 7.26 The application site itself previously secured approval for a 61-storey tower, which, had it been implemented, resulted in a concentration of height at this western end around Ryland Street.
- 7.27 It is considered the current proposal for a tower at 33-storeys would sit well with this emerging grouping. The scale of the tower in this emerging townscape is considered acceptable and in accordance with LW-39, LW-39, and LW-42 of the Design Guide.



Image 11: View of the proposed scheme and proposed scheme with the proposal at 90-97 Broad Street from Brindley Place. Both images illustrate the 'The Square' to the right of the proposed.

- 7.28 The massing and form of the tower comprises five irregular/asymmetrical masses linked together in order to create both visual interest, but also dual aspect to the accommodation, which is supported by the officer and City Design Manager.

Architecture and materiality

- 7.29 This design is a step change to the typical slabs and squares normally employed for tower design and therefore should be embraced. Consideration has been given to the form and architectural detailing as per LW-40 of the Design Guide, image below.

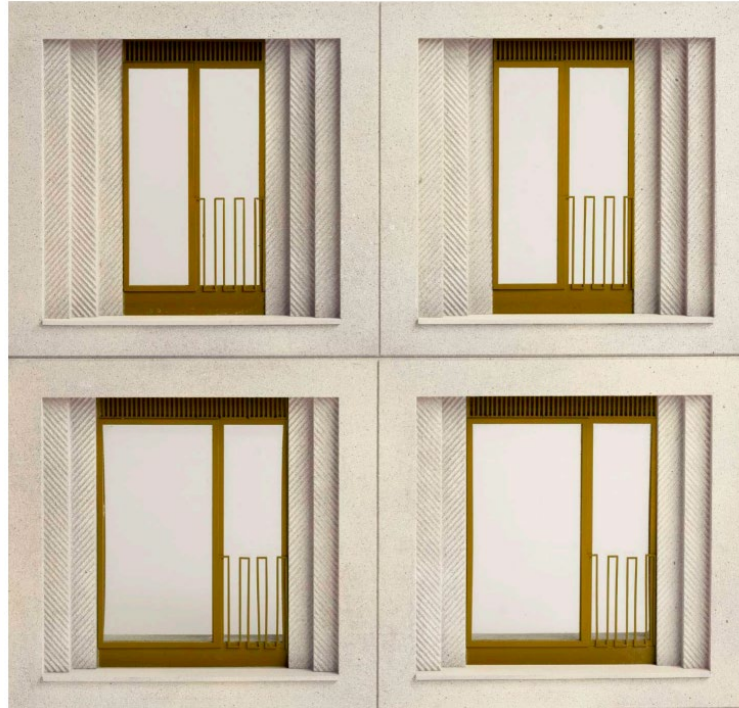


Image 12: CGI of stepped reveals

- 7.30 Deep and generous reveal in the same primary material, including soffits are also proposed. A good proportion of doors to windows is evident along with a simple organisation of window glazing.
- 7.31 The planning application states that the method of construction would be pre-cast concrete with a series of different staggered window openings, dressed in bronze-coloured metal and fittings, with chevron textured patterning pressed into the recessed sections. This method of construction is welcomed and given the complexity of this design is considered central to this project and is secured on the drawings, that would be conditioned via the approved plans.



Image 13: CGI of entrance bay study and entrance by section

- 7.32 The arrangement to the base and top of the building are consistent with the wider design and is considered good architectural planning.

- 7.33 The height of the proposed building relates well to neighbouring buildings and would sit comfortably within the wider townscape and skyline as well as enhance the overall appearance of the streetscape. The area is undergoing change in character and appearance, notably further along Broad Street where new developments constructed, being constructed that include the recently completed 'Mercian' building (42 storeys), 'The Square' (36 storeys) and "The Bank: Towers 1 and 2 (22 and 33 storeys respectively). The proposals would therefore be consistent with the wider character and townscape.
- 7.34 The City Design Manager considers the proposed architectural design exceptional. Having regard to the above, the proposals are considered to accord with the provisions of Policies PG3, GA1.2 and GA1.3 of the BDP and Policies DM2 and DM10 of the Development Management Policies DPD.

Microclimate

- 7.35 The application is supported by a Microclimate (Wind) Assessment and Daylight and Sunlight Assessment. Both of which have been prepared in accordance with the requirements of LW44 and Policies PG2, PG3 and DM2.
- 7.36 The following 3 scenarios were initially tested:
-Existing Site, Existing Surrounds: Site (as existing) with existing buildings surrounding the Site.
-Proposed Development, Existing Surrounds: proposed development with existing buildings surrounding the Site.
-Proposed Development, Cumulative Surrounds: proposed development with existing buildings plus local consented schemes.
- 7.37 At the time of enviro testing the neighbouring scheme at 90-97 Broad Street was at EIA screening stage and was therefore not considered as a standard cumulative scheme, but due to its scale and proximity to the site it was requested by BCC that it is also be considered.
- 7.38 As such, 90-97 Broad Street has been considered and reported within the Wind Microclimate Assessment as the 4th scenario. The Assessment concludes that for all scenarios, the conditions at ground level would not be subject to any significant wind safety risks.
- 7.39 The assessment confirms the ground level comfort conditions would be suitable for consistent with the baseline. There would be no significant wind safety risks for the proposed elevated terraces, and conditions would be suitable for the intended use. The terraces on the northeast of the development would be calmer than those on the southwest, and it is therefore recommended that the Level 10 and 25 terraces are used for occasional break-out terraces rather than as frequent use amenity. This would be controlled through the operation of the building.
- 7.40 It was concluded the cumulative impact of local consented schemes would be negligible. However, was the potential for cumulative impacts should the 90-97 Broad Street scheme come be approved and implemented. That said it would be possible to resolve these impacts with standard measures via the landscaping proposed within this application boundary and open space within the 90-97 Broad Street submission, ensuring both schemes would cumulatively result in acceptable levels of wind conditions.
- 7.41 There would be no significant long term wind safety or comfort issues expected. The proposal therefore meets the requirements of DMB Policies DM2 and City Note LW-44 of the Design Guide.

Daylight Sunlight

- 7.42 In accordance with PG3 of the BDP, DM2 and DM10 of the DPD as well as design principles 11 and 13 of the Design SPD all new developments must ensure they do not have an unacceptable impact on the amenity, outlook, or privacy of existing or new residential properties.
- 7.43 The assessment concludes that upon successful completion of the proposed development, 89% of the windows and 97% of the rooms assessed within the neighbouring sensitive receptors would remain BRE compliant for Vertical Sky Component and NSL. Therefore overall, the scheme would not result in unacceptable living standards for residential amenity.

Noise, air quality and contamination

Air Quality

- 7.44 Regulatory Services raise no objection with respect to the air quality impacts of the development. In terms of the impact of the local air quality on future residents, they do not agree with the methodology of the original report and have requested additional information. This has been provided and any further comments from Regulatory Services will be reported.

Contaminated Land

- 7.45 The application is supported by a Phase 1 contaminated land assessment undertaken by Cundall reference BBS-CDL-XX-XX-RP-GE-60201 dated 5 June 2023. The report concludes that based on the information mitigation of any risks identified by further investigation can be carried out by incorporation of clean cover to any soft landscaped areas and incorporation of any necessary ground gas mitigation measures. EHO concur with the report and confirm no objections subject to a condition.

Noise – any further comments from the EPU to be reported

- 7.46 Environmental Pollution Unit raised concerns in respect to commercial noise (plant) and night-time entertainment noise along Broad Street and future residents making noise complaints resulting in notices being served. Noise easements were discussed between the applicant and EHO however the applicant considered such method to possess several challenges as a solution. Given the potential for multiple sources of noise nuisance (both current and future) affecting the front façade the applicant suggested controlling the scope for nuisance by way of restrictive covenant on future occupants of the property to be a more effective way of mitigating the risk of complaints.
- 7.47 Therefore it has been proposed to deal with this via a covenant within the S.106 Agreement to require that all occupiers close their bedroom windows (as there would be mechanical ventilation provision in place) 11pm until 5am. BCC Legal Team were consulted on this approach and advised that such a proposal could be acceptable and this would place onus on the owner to enforce the clause, rather than the onus be on BCC to pursue noise complaints.
- 7.48 Conditions and the s.106 requirements would identify which units would need to close vents and set out how this would need to be controlled.
- 7.49 The applicant is prepared to accept a S106 obligation (supported by legal advice) that would protect the Local Authority from complaints relating to noise by placing the onus on the developer/operator to enforce the provisions of the obligation and management

of complaints, relating to noise nuisance/disturbance from residents.

- 7.50 This would mean that if any resident has not closed their bedroom window between the hours of 11pm-5am they would remove their basis for complaint in respect of night-time entertainment noise and therefore the subject of suitable enforcement action from the developer/operator. Noise complaint management, including control over the closure windows, would become a landlord and tenant matter to be controlled by the developer/operator with their tenants, including in terms of managing the behaviour and actions of residents, and through suitable methods of communication and available information (e.g. briefings to new residents).

Fire Safety

- 7.51 The provisions of the Fire Strategy are acceptable.

Landscaping/Biodiversity

- 7.52 The landscape design is split into 4 key spaces:
-ground floor which fronts onto Broad Street, Ryland Street and Essington Street
-level 1 podium, communal terrace which is located to the rear of the building,
-level 19 terrace garden and private terraces - which is located on the eastern flank of the building and:
-level 25 communal terrace which is located on the western flank of the building.
- 7.53 The AIA confirms that 2no. Ornamental Cherry Trees (Category C) would be removed to facilitate the proposed development. However, the re-planting of 49 no. new trees as part of the landscaping plan would provide sufficient mitigation for the loss of these trees. No other tree removal would be required to facilitate the development. 19no. of the 49no. new trees would be planted to the front and side of the building along Broad Street and Ryland Street, within the site boundary, with further trees on the pavilion level.



Image 14: General arrangement of landscaping proposed

- 7.54 Being building and hardstanding the site has very limited ecological value. The proposal would provide a significant uplift in greenspace comprising of new public realm (at a cost of £295,000) ornamental planting, green wall, rooftop landscaping including growing space, native garden planting, service yard planting 49 no. new trees (including 19 no street trees) and green roofs. This would secure a biodiversity net gain, this is a significant positive benefit.



Image 15: Artist impression of level 25.

- 7.55 With regards to the application at 90-97 and given a new public realm area could be created between sites, detailed consideration of the adjacent development has therefore been important in terms of planning the landscape between the two buildings. Both schemes have therefore been designed to work closely with other schemes to create a vibrant local masterplan that is cohesive for existing residents and future occupiers but equally work in isolation should the neighbouring development not come forward. The public realm around the development would be enhanced with creative landscaping to provide a safe and inviting environment.

Sustainability credentials of the development

- 7.56 Policy TP3 Sustainable construction of the BDP would be important to ensure that developments would be designed in ways that maximise energy efficiency, reduce energy consumption, minimise the use of carbon and can be resilient and adapt to the effects of climate change. Policy TP4 requires all new development to incorporate the provision of low and zero carbon forms of energy generation or connect into a network where it exists, unless it can be demonstrated that the cost of achieving this would make the proposed development unviable.
- 7.57 The applicant has submitted an energy strategy which outlines that the scheme would maximise energy efficiency by using a fabric first approach to improve air tightness and ensure heat loss is minimised. Low energy LED lighting is proposed alongside mechanical ventilation with heat recovery to reduce energy demand. In terms of renewable energy, air sourced heat pumps and photovoltaics would provide a **67% reduction in Co2** emissions against the 2021 building regs baseline. And a reduction in Primary Energy Use of **up to 43%**. This shows a significant reduction over Part L targets. Furthermore, water use would be targeted at below 100 litres per person per day.
- 7.58 Additionally a waste management plan submitted with the application targets to divert at least 90% of waste from landfill. Water waste would be reduced by utilising leak detection technologies and flow restriction on taps, showers and other water intensive

appliances.

- 7.59 The submitted reports show how the proposals have been designed to reduce energy demand, carbon emissions in accordance with Policy. The scheme would meet the individual requirements listed under policy TP3 and TP4.

Heritage

- 7.60 BDP Policy TP3 requires that developments contribute to a sense of place and respond to local context, including consideration of their effects on heritage assets. Policy TP12 places great weight on the conservation of heritage assets. Proposals that may have an effect on assets or their setting are to be determined in accordance with national policy. In accordance with City Note LW-45 a Heritage, Townscape and Visual Assessment (HTVIA) has been submitted. This outlines the national and local legislation, policy and guidance used to undertake the assessment.
- 7.61 In instances where paragraph 11d of the NPPF is engaged, such as this, it is also important to note that footnote 7 states that development should be approved unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, assets of particular importance are defined as designated heritage assets (amongst other things such as AOANBs).
- 7.62 The application includes an assessment of townscape effects and consider the susceptibility to change and value of townscape receptors concerning the proposed development. The document groups together the heritage assets identified and are as follows:

Group A: Broad Street and Environs

- Main Block to the former Orthopaedic Hospital: grade II listed
- Barclays Bank: grade II listed
- Transport House: non-designated heritage asset
- Lee Longlands: locally listed
- O'Neill's P. H.: locally listed
- Figure of Eight: non-designated heritage asset
- City Tavern P. H.: grade II listed

Group B: Five Ways Interchange

- 60 Calthorpe Road: grade II listed
- Clock Tower outside 60 Calthorpe Road: grade II listed
- Statue of Joseph Sturge in front of Tube investment House: grade II listed
- Marriott Hotel: locally listed
- Lloyds Bank, Calthorpe Road: non-designated heritage asset
- 2-7 Calthorpe Court: non-designated heritage asset

Group C: Northeast Edgbaston fringe

- Frederick Road and northeast extent of Calthorpe Road (20 x grade II listed buildings)
- Edgbaston Conservation Area

Group D: Jewellery Quarter

- Jewellery Quarter Conservation Area
- Clock Tower at junction with Frederick Street and Vyse Street: grade II listed



Image 16 – view of the scheme (pink) from junction with Calthorpe Road/Harborne Road. ‘The Square’ is blue in the foreground and the current application at 90-97 Broad Street is behind the proposal.

- 7.63 The conservation officer states the HTVA accurately identifies the values of these assets and the degree to which their settings make to their significance. With regards to impact the conservation officer considers the proposed development would cause ‘less than substantial harm’ to the setting of the following designated heritage assets through development in their setting. The degree of harm is set out below:

Low-moderate degrees of ‘less than substantial harm to:

City Tavern P. H. grade II

Low degrees of ‘less than substantial harm to:

Main Block to the Royal Orthopaedic Hospital, grade II

Barclays Bank, grade II

Very low degrees of ‘less than substantial harm to:

- 60 Calthorpe Road, grade II
- Clock Tower outside 60 Calthorpe Road, grade II
- Listed buildings of Frederick Road and northeast extent of Calthorpe Road, grade II
- Edgbaston Conservation Area

De minimis degrees of ‘less than substantial harm to:

- Clock Tower at junction with Frederick Street and Vyse Street, grade II
- Jewellery Quarter Conservation Area
- The Statue of Joseph Sturge in front of Tube Investment House

And with regards to the non-designated heritage assets considers the development would cause the following level of harm:

Low degrees of negative impact (harm):

- Transport House

Very low degrees of negative impact (harm):

- Lloyds Bank, Islington Row

De minimis degrees of negative impact (harm):

- Lee Longlands, de minimis
- O'Neill's P. H, de minimis
- Figure of Eight, de minimis
- Marriott Hotel, de minimis
- 2-7 Calthorpe Court, de minimis



Image 17 – View from Frederick Road. The application proposal is in pink, The Square development dark blue and the current application at 90-97 Broad Street in lighter blue

- 7.65 The concerns raised by Historic England are noted regarding the impact of the tower and the resulting harm caused to the significance of designated and non-designated heritage assets, through development in their setting.

The NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”* and *“Where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”* The more important the asset the greater the weight should be.

- 7.66 In accordance with the NPPF, a balanced judgement would be required. This balancing exercise is undertaken towards the end of this report.

Residential amenity

- 7.67 In accordance with PG3 of the BDP, DM2 and DM10 of the DPD as well as design principles 11 and 13 of the Design SPD all new developments must ensure they do not have an unacceptable impact on the amenity, outlook, or privacy of existing or new residential properties. Although separation distances between the new blocks and neighbour development does not adhere to the numerical standards in the Design Guide SPD, by reason of scale and location of habitable and non-habitable serving windows levels of outlook and privacy would not result in an unacceptable standard of

living.

- 7.68 Within the application a plan has been provided to show overlooking distances to the neighbouring sites. The redesign and realignment of the proposals compared to the previously permitted (61 storey development) is an improvement to the relationship with adjoining development. The reduced and stepped height of the building (ground + 32 storeys) along with the associated reduction in dwelling numbers results in a better relationship with neighbouring occupiers. Neighbouring amenity is therefore considered acceptable.

Outdoor amenity space for residents

- 7.69 The SPD (City Note LW-13) states the following requirements must be provided:

- i. 5sq.m (1 bed flat),
- ii. 7sq.m (2 bed flat) and
- iii. 9sq.m (3 bed flat).

This would therefore equate to a requirement of 1,862sqm.

The building benefits from three shared external spaces at levels 01, 19 and 25 providing a total of 833sqm. Where provided for a limited number of apartments, private terraces are at least 2m in depth. All other apartments do not have individual private external spaces. Although the space provided falls short of the standards the proposed level of amenity would create several smaller spaces of variety that would enable different residents to have private space. These include City Centre Gardens and Five ways Community Park. Residents also benefit from communal internal spaces.

- 7.70 Private amenity space for residents to meet their day-to-day needs by socialising, exercising, working, and relaxing is provided through the provision of the following facilities.
- 7.71
- 1st floor - communal terrace, lounge space, co-working rooms, flexible meeting rooms, gymnasium and movement studio;
 - 19th floor - community terrace with growing spaces;
 - 25th floor - a bookable dining room with external terrace; and
 - private terraces provided to 10no. apartments.
- 7.72 The ground floor would provide 742 sqm of new publicly accessible open space fronting Broad Street and Ryland Street. This would be landscaped to introduce planters and 19 no. new street trees, alongside seating areas associated with the commercial units. This active frontage would maintain and enhance activity and vibrancy along Broad Street.

Drainage/flood risk

- 7.73 BDP Policies PG3, TP2, TP3, TP6, TP28 promote the need to adapt to climate change through managing and reducing risk of flooding through ensuring developments are located in areas at least risk of flooding and the use of sustainable drainage systems in accordance with the drainage hierarchy.
- 7.74 The site is situated within Flood Zone 1, with a very low likelihood (1 in 1000) of flooding. The LLFA raise no objection subject to conditions and informative – details of which shall be reported if received prior to the committee meeting.

Access, parking, and highway safety



Image 18: Access, parking and servicing plan

- 7.75 Access for residents would predominantly be via Broad Street and Ryland Street however access could also be gained by Essington Street. The proposed does not include a car park however there are spaces within the site boundary off Essington Street for 2no. car charging spaces, 1no. move in/delivery zone and 1n. loading bay/taxi drop off on Ryland Street.
- 7.76 The development provides 338 cycle spaces all of which can be accessed from the ground floor main core, Essington Street and/or Ryland Street. The cycle store would contain both cycle racks as well as lockers, providing residents and their visitors with secure cycle storage facilities.
- 7.77 A servicing zone is dedicated within the boundary off Essington Street whereby the commercial units would be serviced from Ryland Street and Essington Street, via the proposed loading bay as illustrated on and the servicing area off Essington Street. Similarly, the residential refuse strategy would also be serviced from Ryland Street, via the proposed loading bay. The retail units would be serviced from the rear and the waste gathered in the internal commercial waste zones. The provision of the current commercial waste zones allows space to manoeuvre the bins out of the collection area and enable staff to access the bins to deposit waste. The residential refuse store is also located on the ground floor, by the core, whereby the site-wide management team would wheel the bins up to Ryland Street and back again, through the rear corridor at an allocated weekly slot as shown on.
- 7.78 The proposed development would not have an adverse impact upon the local highway network, pedestrian and cycle infrastructure or public transport networks. The transport details presented are acceptable and accord with Policies TP38, TP39, TP40 and TP44 of the BDP and Policies DM14 and DM15 of the DMB. No objections subject to conditions and requirements for a s278 agreement to be entered into to secure the delivery of the loading/unloading/taxi drop off bay.

Planning Obligations and Financial Viability

- 7.79 The site falls within a high value residential area therefore a CIL payment circa £2,002,000 is applicable.

Planning Balance

- 7.80 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that 'If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise'.
- 7.81 Paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.82 The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 75, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites, currently demonstrating a 3.99 year supply. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. This means that planning permission should be granted, unless adverse impacts of doing so, would significantly and demonstrably outweigh the benefits.
- 7.83 However, Footnote 7 notes the specific policies which protect important areas or assets, these include policies relating to designated heritage assets. Footnote 7 therefore establishes that where there is a clear reason for refusal (because of harm to designated assets) the tilted balance described above, is not engaged.
- 7.84 The harm identified to the significance of designated heritage assets needs to be weighed against the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.
- 7.85 Using the three strands of sustainable development the public benefits of the scheme are identified as

Economic

Temporary construction jobs over the construction period and employment during the operational phase

Limited employment within the commercial units

Additional residents adding to the economy

Limited level of employment within the ground floor commercial units

- 7.86 Para. 85 of the NPPF states that "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development" However, I also note that many of the new jobs would only be for a temporary period, and that whilst some permanent jobs would be created, the figure is not significant. However, given the scale of development, considerable weight is attached to these economic benefits.

Social

- Boost to the supply of housing
- The provision of 3.1 % affordable housing
- Health and well-being on site provision

- 89% of apartments being Accessible Part M4 (2) complaint dwellings
- 7.87 Taking account of the extent of the 5YHLS shortfall and the acute need for affordable housing, and that the NPPF is clear that substantial weight should be given to the value of using brownfield land in sustainable locations to deliver homes.

Environmental

- The site would enhance the ecological and biodiversity offer at the site and contribute to the greening and biodiversification of the city centre.
 - Public realm improvements (costing £295,000)
 - Using suitable brownfield land within settlements for homes.
 - Encouragement of sustainable development through the use of methods of off site construction and materiality
 - Low carbon technologies
- 7.88 The above points set out the key benefits of the scheme. Weighing most highly in its favour are the place making social, economic and environmental benefits. The delivery of a high-quality development in design terms and the provision of public realm accords with policies PG3 and TP27 and the Birmingham Design Guide, and the proposal would rejuvenate a 1980s site and support the transformational change already taking place in and around the surrounding area. Allied to this is the re-use of brownfield land in a highly sustainable location. I attach substantial weight to these benefits.
- 7.89 I also attach significant weight to the provision of housing as well as the mix of uses accords with the aims for the Westside and Ladywood area (GA1.2)
- 7.90 I attached moderate weight to the 3.1% level of affordable housing contribution and the 3 bed units proposed.
- 7.91 I attach moderate weight to the economic benefits and the environmental benefits set out as well as the employment benefits, CIL payment of £2,002,000 and the other economic benefits.
- 7.92 Set against these benefits are the less than substantial harm identified to designated heritage assets low level of 'less than substantial'.
- 7.93 With specific regard to the impact of harm caused to the significance of heritage assets, both the BDP and NPPF place great weight on their conservation. The NPPF states that the more important the asset the greater the weight should be, additionally it calls for this harm to be weighed against the public benefits of the proposal. Whilst policy TP12 is silent with regards to the public benefits test, it states that proposals for new development affecting a designated or non-designated heritage asset or its setting, including alterations and additions, would be determined in accordance with national planning policy (the NPPF).
- 7.94 The limited private outdoor space weighs against the development, however given the city centre context and proximity to nearby green spaces and parks this adverse impact does not significantly and demonstrably outweigh the harm. Both the internal and outdoor shared amenity space and high-quality design and commitment to pre-cast construction methods go some way to mitigating this harm through delivery of good architecture. The proposed dense development leads to efficient use of brownfield land within the existing settlement.
- 7.95 Given there are no adverse impacts identified that would significantly and demonstrably outweigh the harm, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

8 Conclusion

- 8.1 The proposed design and layout of the development would provide for a mix of accommodation in a high quality, secure environment that would complement surrounding developments in a gateway location. The proposed dwellings would result in living accommodation that reflects modern standards, that are also compliant with and exceed the Nationally Describe Space Standards minimum requirements including 89% of apartments being Accessible Part M4 (2) complaint dwellings. The proposed residential units would make a meaningful contribution towards Birmingham's housing shortfall and contribute towards the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver 3.1 % affordable housing, in accordance with local and national policies. The scheme would also provide economic, social and environmental benefits and therefore approval is recommended.

9 Recommendation:

- 9.1 That application 2023/04261/PA be APPROVED subject to the prior completion of a Legal Agreement to secure the following:
- i) 3.1% affordable rental units (9) at a mix of 2- and 3-bedroom apartments provided on site.
 - ii) Minimum public realm spend of £295,000 within the red line boundary of the application site.
 - iii) A requirement of the building owner to manage noise of affected units through the closure of amenity vents between the hours of 11pm and 5am
 - iv) Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000
- 9.2 In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 29th March 2024 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reasons:
- 9.3 In the absence of any suitable legal agreement to secure the provision of onsite affordable housing, public realm and noise mitigation the development does not deliver the significant benefits considered when weighing the benefits of the proposal against identified adverse impacts. Therefore, the proposal conflicts with Policies TP31, TP47 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG the Development Management in Birmingham DPD and the NPPF.
- 9.4 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.5 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 29th March 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/04261/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

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

-
- 2 Requires the prior submission of a contamination remediation scheme
 - 3 Requires the submission of a contaminated land verification report
 - 4 Limits the hours of use
 - 5 Requires the prior submission of a drainage scheme
 - 6 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
 - 7 Requires the submission of extraction and odour control details
 - 8 Limits the noise levels for Plant and Machinery
 - 9 Requires the prior submission of noise insulation (variable)
 - 10 Requires the submission of an overheating assessment
 - 11 Requires implementation of air quality mitigation measures
 - 12 Requires the submission of hard and/or soft landscape details
 - 13 Requires the submission of a landscape management plan
 - 14 Requires the submission of a lighting scheme
 - 15 Requires the submission of an external CCTV scheme
 - 16 To ensure energy and sustainability measures are delivered in accordance with the sustainable construction and energy statement
 - 17 Requires the submission of a demolition method statement/management plan
 - 18 Requires the prior submission of a construction method statement/management plan
 - 19 Requires the provision of cycle parking prior to occupation
 - 20 Requires review of the service management plan
 - 21 No obstruction, displays or signage fitted to commercial frontages
 - 22 Requires the prior submission of a construction employment plan (development)
 - 23 Requires the prior submission of an employment plan (occupation)
 - 24 Requires the submission of an Instrument Flight Proceedure Assesssment
 - 25 Requires the submission of a Construction Management Strategy
 - 26 Requires the submission of a Bird Hazard Management Plan
 - 27 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
-

28	Requires the prior submission of details of bird/bat boxes
29	Requires the submission of a Landscape and Ecological management Plan
30	Requires details of biodiversity roofs
31	Requires the submission of a further BNG design stage report
32	Requires the highway works and service yard to be constructed prior to first occupation
33	Requires the completion of the wind mitigation measures prior to occupation
34	Requires the submission and approval of external materials
35	Requires the submission and approval of architectural detailing
36	Requires the construction and approval of a sample panel on site
37	Requires the submission and approval of building & site level details
38	Requires the implementation of tree protection
39	Implement within 3 years (Full)

Case Officer: Sarah Plant

Photo(s)



Broad Street -adjacent the Square/Ryland Street



Broad street facing the site

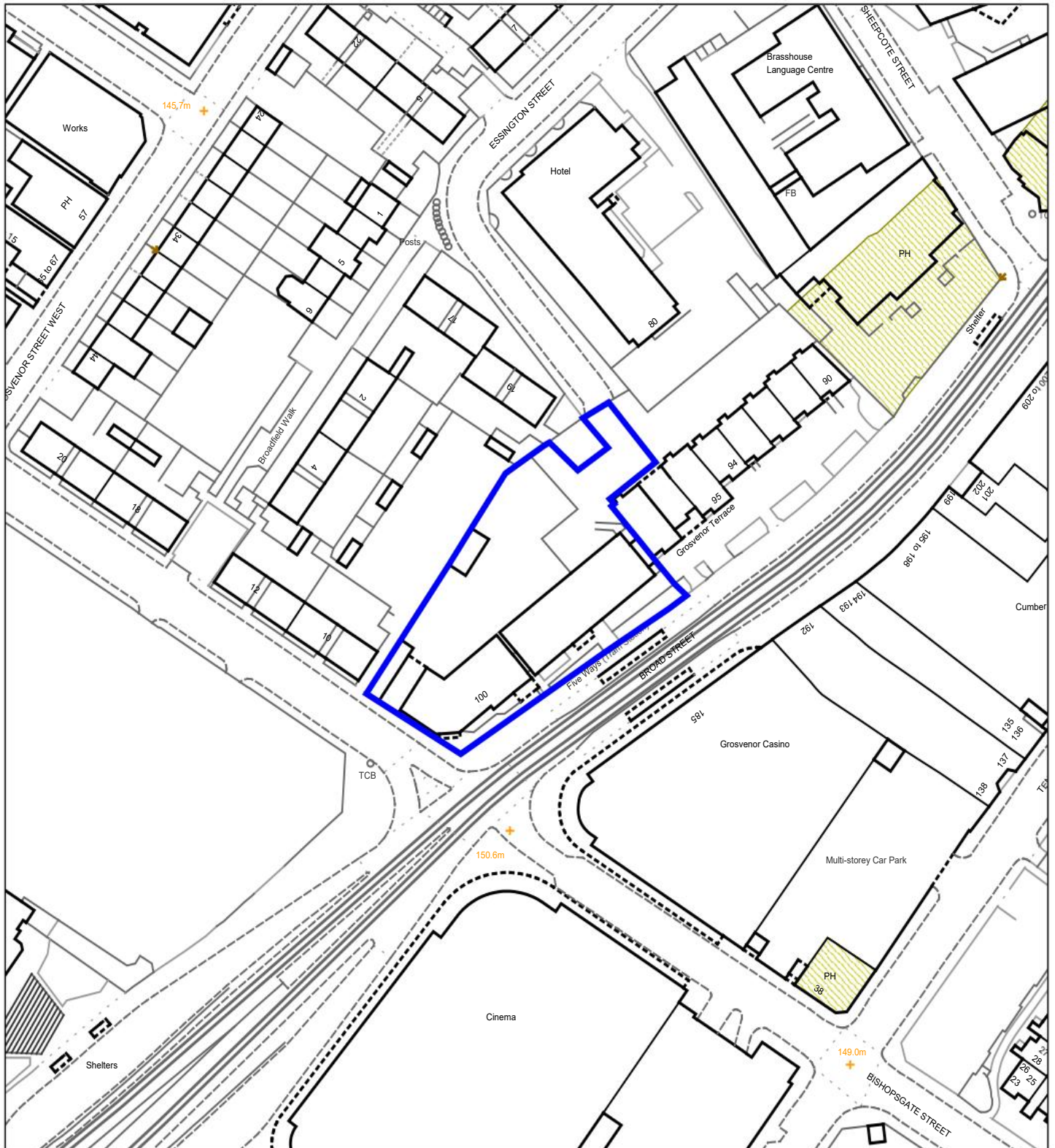


Rear of the site with Essington Street in view



Back of the existing site

Location Plan



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Committee Date:	01/02/2024	Application Number:	2023/02925/PA
Accepted:	03/05/2023	Application Type:	Full Planning
Target Date:	25/01/2024		
Ward:	Ladywood		

Land at Queens Hospital Close, Bath Row, Edgbaston, Birmingham, B15 1NH

Full planning for site clearance and demolition of existing student accommodation buildings, the refurbishment and conversion of two Grade II listed buildings, the mixed-use redevelopment of the site comprising: purpose-built student accommodation (sui generis), residential apartments (Class C3), ancillary internal and external amenity areas, commercial floorspace (E(b), E(d) and/or sui generis (drinking establishment)), along with landscaping, servicing, parking and other associated works

Applicant: Aventicum PBSA Holdco Ltd and McLaren (Birmingham) Ltd
C/o Agent
Agent: Turley
9 Colmore Row, Birmingham, B3 2BJ

Recommendation
Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

- 1.1 Full planning is sought for a 31-storey PBSA building, two build to rent residential blocks and the conversion of two Grade II Listed buildings.



Images 1 and 2: 3D sketch and site plan of the proposed scheme.



Image 3. CGI of the 31-storey building, 2 x BTR blocks and two listed buildings (former Birmingham Accident Hospital)

- 1.2 The PBSA tower would provide 707 units, comprising 477 cluster beds (with a range of bedspaces from 4 bed to 9 bed) and 230 studios (a mixture of standard and premium models).
- 1.3 The new residential blocks would range from 7 to 10 storeys accommodating 189 built to rent (BTR) apartments (Use Class C3). Comprising of the following housing mix:
2

Table 1. Proposed BTR housing mix.

	1 bed	2 beds	3 beds	Total
Units	87	95	7	189
%	46%	50%	4%	100%

- 1.4
- 1.5 The proposed mix is 46% 1 bed, 50% 2 bed and 3% 3 bed dwellings.
- 1.6 With an affordable housing offer of 24no. units (of 189) at a 20% market discount (12x 1B1P + 12x 2B3P) = **24no. / 12.7% affordable housing**.
- 1.7 The scheme seeks to refurbish and convert two listed buildings known as the East and West blocks.
- 1.8 The east block is to be retained as student accommodation, with a reduction from 66 bedspaces (clusters) to 52 PBSA student studios (sui generis). A new layout and typology is proposed with high quality larger sized student studios limiting alterations to the original fabric of the buildings, hence the reduction in units. Together with the

PBSA units being provided within the tower this would equate to 759 PBSA bedspaces on site, resulting in a net increase of 422 student bedspaces. (707 within the PBSA building and 52 in the listed East Block)

- 1.9 The west block is sought to provide ancillary internal amenity space for the residents for both the PBSA and BTR units. This building would include a gym at ground floor level which would be primarily for residents with some public use. This building would also include a commercial unit at ground floor.

Image 4: Ground Floor plan – West Block



1.10



Image 5: Proposed site plan.

- 1.11 New public realm area around the West Block, landscaping as well as cycle provision for 300 cycles and 6 inclusive car parking spaces.
- 1.12 Both pedestrian and vehicle access would be off Bath Row.

Phasing

- 1.13 The proposed scheme would be phased whereby the listed buildings would be converted in the first phase of works and no occupation to take place until the works to the listed buildings are complete. Such has been agreed with the applicant and would be addressed by condition.

EIA Screening

- 1.14 An EIA Screening Report was submitted to Birmingham City Council (BCC) on 6 April 2022 and a formal Screening Opinion was issued by the council on 27 April 2022. It was concluded that the development was unlikely to have significant environmental effects, therefore an Environmental Impact Assessment was not required for the proposed development.

Revisions

- 1.15 During the consideration of the application revised reports and plans have been provided relative to student need, bat surveys, retention of 2no. mature Lime trees (on Bath Row) and additional tree planting and biodiversity net gain matters. Consultees have been renotified; responses have been provided in the report.

- 1.16 [Link to Documents](#)

2. **Site & Surroundings:**

- a. The application site measures 1.10 hectares and is located within the Westside and Ladywood Quarter of Birmingham city centre. The site is bordered by the Worcester and Birmingham Canal Old Line (non-designated heritage asset) to the west and north, student accommodation to the east (The Maltings) and Bath Row to the south. Vehicular, pedestrian and cyclist access to the site is solely gained from Queens Hospital Close via Bath Row (B4127).
- b. The site currently comprises a number of purpose-built student accommodation buildings (built during the 1990s and ranging from 3 to 4-storeys) and two mid-19th Century Grade II listed buildings around Queens Hospital Close off Bath Row, which both formed part of the former Birmingham Accident Hospital.



Image 6: Aerial view of the site as it exists.

- c. The East Block (currently is use as student accommodation) is estimated to have been constructed in 1840-41 and is an early example of a purpose-built teaching hospital. The West Block (currently is use as amenity space) was constructed in 1873 as an extension to the original hospital building (the East Block).
- d. The site is fairly level yet at the northern end drops fairly steeply down to the canal towpath and comprises of trees and landscaping. It is not located within a Conservation Area.
- e. [‘Site location’ \(google maps\)](#)

3. **Planning History:**

- a. 03/05/2023 - 2023/02926/PA - Listed Building consent for site clearance and demolition of existing student accommodation buildings, the refurbishment and conversion of two Grade II listed buildings, the mixed-use redevelopment of the site comprising: purpose-built student accommodation. Current application.
- b. 06/12/1994 -1994/00917/PA – Erection of residential accommodation and ancillary facilities. Approved.

4. **Consultation Responses:**

Adjoining occupier, residents’ associations, local ward councillors and M.P. notified. Site and press notices displayed.

- a. Active Travel: request the application is deferred to allow for further assessment, evidence, revisions relative to cycle parking spaces, improving local active travel accessibility and mechanisms for securing improvements.
- b. Amenities Societies: no comments made.

- c. Archaeology: no objections and agrees with the conclusions of the submitted archaeological desk-based assessment and would not recommend any further archaeological work takes place.
- d. Birmingham Civic Society: object and state the following,
 - the tower has an adverse impact on the Edgbaston Conservation Area
 - materials proposed do not appear to be of sufficient material quality for a landmark building
 - conforms to the OFCP and includes net carbon reduction and 10% biodiversity net gain
 - would prefer to see more 3-bedroom units
- e. Canal and Rivers Trust: has concerns with the height of the 31 storey building and the loss of daylight impacts and requests conditions.
- f. City Design: no objections subject to conditions.
- g. Conservation: acknowledges the proposed development would cause harm to the significance of the East Block and West Block to Birmingham Accident Hospital through development in their setting. The harm is 'less than substantial' in framework terms and placed at the moderate level to the East Block and the moderate to high level to the West Block. The tests of paragraph 202 (now 208) of the NPPF are engaged.
- h. The proposed development would cause harm to the significance of the Edgbaston Conservation Area through development in its setting. The harm is 'less than substantial' in Framework terms and placed at the low level to the conservation area, as a whole. The tests of paragraph 202 (now 208) of the NPPF are engaged.
- i. Ecology: awaiting further comments on BNG assessment/amended landscape scheme.
- j. Environmental Protection: no objections subject to conditions.
- k. Employment Access Team: no objections subject to condition.
- l. Health & Safety Executive (Fire Safety): no objections.
- m. Historic England: has concerns about the potential harm to the significance of the Grade II listed buildings through the proposed scale of development within their immediate setting.
- n. Leisure Services: request an offsite open space financial contribution of £388,700 to be directed towards improvements to public open space at Moonlit & Sunset Parks with Park Central, Ladywood.
- o. Local Lead Flooding Authority: no objections subject to conditions.
- p. Natural England: Awaiting comments.
- q. Planning and Growth Strategy: no objections, the proposal would provide a mix of uses and make a positive contribution to the city's housing supply.
- r. Severn Trent: no objection subject to condition and site informative.

- s. Transportation: no objection subject to conditions for cycle parking and refuse facilities provided before occupation, condition for serving and delivery to be imposed and a construction management plan. Note – awaiting comment on retention trees/vehicular access view.
- t. Trees: consulted on amended information, any comments shall be reported.
- u. West Midlands Fire Service: no objections and makes design recommendations.
- v. West Midlands Police: no objections subject to conditions.

5. **Third Party Responses:**

- a. The application has been publicised by newspaper advert, site notice and neighbour letters.
- b. 2 representations have been received making the following comments:
 - Request confirmation of materials for hard landscaping and ask they are of high quality and are consistent with other areas of the City Centre
 - Despite the site abutting the canal no plans mention the treatment of boundary the wall of the canal needs work.
 - Suggestion to use swift bricks for small birds.

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

- a. National Planning Policy Framework
 Section 2: Sustainable Development
 Section 8: Promoting healthy and safe communities
 Section 9: Promoting sustainable transport
 Section 12: Achieving well-designed places
 Section 14: Meeting the challenge of climate change, flooding and coastal change/
 Section 15: Conserving and enhancing the natural environment
 Section 16: Conserving and enhancing the historic environment
- b. Birmingham Development Plan 2017:
 The application site falls within the City Centre Growth Area where Policy GA1 of the BDP promotes the City Centre as the focus for office, residential and commercial activity. As defined by Policy GA1.3, the application site falls inside the Westside and Ladywood Quarter where the objective is to create a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area.

 PG1 Overall levels of growth
 PG3 Place making
 TP1 Reducing the City's carbon footprint
 TP2 Adapting to climate change
 TP3 Sustainable construction
 TP4 Low and zero carbon energy generation
 TP6 Management of flood risk and water resources
 TP7 Green infrastructure network
 TP8 Biodiversity and Geodiversity
 TP9 Open space, playing fields and allotments

- TP12 Historic environment
- TP26 Local employment
- TP27 Sustainable neighbourhoods
- TP28 The location of new housing
- TP29 The housing trajectory
- TP30 The type, size and density of new housing
- TP31 Affordable Housing
- TP32 Housing Regeneration
- TP33 Student Accommodation
- TP37 Heath
- TP38 A sustainable transport network

- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development

c. Development Management DPD:

- DM1 Air quality
- DM2 Amenity
- DM3 Land affected by contamination, instability, and hazardous substances
- DM4 Landscaping and trees
- DM5 Light pollution
- DM6 Noise and vibration
- DM10 Standards for residential development
- DM14 Transport access and safety
- DM15 Parking and servicing

d. Supplementary Planning Documents & Guidance:

- Student Accommodation Supply and Demand Update (2022)
- Birmingham Parking SPD
- Birmingham Design Guide SPD

7. **Planning Considerations:**

- a. The main material considerations are:
- b. principle of the residential (C3) and student housing (sui generis) development, including location and need.
- c. housing need position and housing mix
- d. affordable housing
- e. commercial use
- f. design
- g. heritage assets
- h. microclimate
- i. residential amenity
- j. landscaping and biodiversity.
- k. sustainability credentials of the development
- l. air quality, contamination and noise
- m. drainage/flood risk
- n. access parking and highway safety
- o. fire and building safety
- p. third party comments
- q. CIL/Planning Obligations.

- 7.1 GA1.1 sees the City Centre as the focus for residential activity, furthermore the focus for Westside and Ladywood is to creating a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well connected area.
- 7.2 The principle of student accommodation development in this location is supported by the BDP, subject to satisfying other relevant local plan policies below. Policy TP33 sets out the policy for student accommodation and sets out the criteria for assessment of off-campus PBSA which relate to need; location; impact on the local neighbourhood and residential amenity; scale, massing and architecture; and the resulting living environment.
- 7.3 The applicant has submitted a Student Property Market Analysis and Development Review (prepared by Frank Knight, March 2023). The report looks at national and regional trends as well as providing a more detailed local analysis of supply and demand. It states that the Queens Hospital Close site can satisfy the demand from the Edgbaston area – meaning that it can serve both University of Birmingham (UoB) and the city centre-based universities.
- 7.4 However, Planning and Growth Strategy have reviewed the report and note the analysis does not include bedspaces currently under construction and with permission yet started, neither does it deduct students who live with their parents or in their own home and therefore consider that Knight Frank’s method over-estimates demand.
- 7.5 The report states that there are 3,329 full time students living within 0.5 mile radius of Queen Hospital Close. 45% of these study at UoB, 21% at UCB, 267 at NCU and 5% at Aston. However, it is noted that only 21 students (6%) who live in the current Queens Hospital accommodation attend UoB (2022/23 academic year) (Planning Statement, Turleys). Therefore, demand from UoB is limited. There are currently 337 student beds within the existing site. There is another PBSA application on this agenda, that proposes 722 bed spaces, this would still leave sufficient capacity.
- 7.6 The report further states that there are 3,329 full time students living within 0.5 mile radius of Queen Hospital Close. 45% of these study at UoB, 21% at UCB, 267 at NCU and 5% at Aston. However, it is noted that only 21 students (6%) who live in the current Queens Hospital accommodation are attending the UoB (2022/23 academic year) (Planning Statement, Turley’s). Therefore, demand from UoB is limited.
- 7.7 The Council recently updated its Student Accommodation Supply and Demand paper on 16th March 2023. Since then, application 2022/07984/PA 75-79 Lancaster Street, Birmingham (Variation of consented scheme 2018/08221/PA to allow an increase of 258 beds) has been approved which adds another 258 bedspaces to the city centre supply. This means under scenario 2, the shortfall in the city centre has **reduced to 2,371 bedspaces** (not including current applications).
- 7.8 Given the site’s close proximity to Fiveways Station which services University of Birmingham, it could be accepted that some demand from UoB could be met. There is currently a high level of unmet demand from UoB at c. 14-15k bedspaces under Scenario 2 as illustrated in the Council’s report.
- 7.9 Criterion 2 of TP33 requires proposals to be very well located to the institution it seeks to serve by walking, cycling and public transport. The site’s location is:
- 17 minutes’ walk from BCU South Campus
 - 20 minutes’ walk UCB
 - 30 minutes’ walk from Aston University and BCU Curzon
 - 44 minutes’ walk from University of Birmingham (18 minutes by train)

7.10 There is no formal definition of 'very well located' in the context of policy TP33 however the Guidance Note on Student Accommodation Statements refer to a 15—20minute walk as a guide and is based on BDP policy TP45 Accessibility Standards for new development. This equates to approximately 1.5km.

7.11 Based on the above it is considered that the site to be a suitable location for PBSA. The proposal meets criterion 2 of TP33.

Site security and management

7.12 A Student Management Plan, Security Strategy and Moving in/moving out strategy have been submitted that is submitted and reviewed by West Midlands Police who confirm no objections subject to conditions.

Housing Need

7.13 As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development.

7.14 For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Housing Mix

7.15 BDP policy TP30 states, 'Proposals for new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. Account will need to be taken of the:

- *Strategic Housing Market Assessment (or any subsequent revision)*
- *Detailed Local Housing Market Assessments (where applicable)*
- *Current and future demographic profiles*
- *Locality and ability of the site to accommodate a mix of housing*
- *Market signals and local housing market trends.*

7.16 This policy allows for account to be taken of several strands of information which influence housing mix, however neither the text of policy TP30 nor any of the strands of information in themselves set a specific or rigid housing mix requirement. Further analysis of the HEDNA draws out the nuances associated with housing mix, particularly in relation to the Central Area, which includes the city centre.

7.18 The housing mix starting point identified in the HEDNA for the Central Area is:
1 beds: 17% 2 beds: 37% 3 beds: 31% 4 beds 15%

7.19 The 'Central Area' defined in the HEDNA covers more than just land within the ring road. It comprises the entirety of the following wards: Balsall Heath West, Bordesley and Highgate, Bordesley Green, Edgbaston, Ladywood, Lozells, Nechells, Newtown, Small Heath, Soho & JQ, and Sparkbrook and Balsall Heath East. These wards cover a mix of areas including the city core, inner city areas and the suburbs.

- 7.20 The HEDNA analyses sub-areas within the Central Area which it defines as Inner and Outer Central Sub-Areas – broadly the Inner area corresponds with land within the ring road and the Outer area covers those areas within the Central Area wards which are outside of the ring road. It looks at the size of homes (using 2011 census data) and the location of schools and central GP practices within these areas.
- 7.21 Within the Inner Central Sub-Area, approx. 85% of homes have 2 bedrooms or fewer and there are fewer schools and GP surgeries. Where there are schools and surgeries, especially primary schools, these are located towards the periphery of the Inner Central Sub-Area. In the Outer Central Sub-Area, 3 bed homes make up the largest group at 38.1% and combine with 2 beds to account for 67% of all homes in this sub-area.
- 7.22 The HEDNA therefore suggests that the Outer Central Sub-Area is likely to see greater demand for larger homes as families grow and are better able to access schools, leaving the inner area which has a lack of social infrastructure able to accommodate smaller homes for singles and couples. It states, 'This also responds to the type of sites that are likely to come forward in the respective areas i.e., higher density more centrally.' (Para. 8.77)
- 7.23 It also states that the location/quality of sites will also have an impact on the mix of housing. For example, brownfield sites in the City Centre (particularly the inner sub-area) may be more suited to flatted development ... whereas a more suburban site may be more appropriate for family housing.
- 7.24 Therefore, although the HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, it does state that the Council should broadly seek the same mix of housing in all locations but to be flexible to a different mix where specific local characteristics suggest.
- The city centre has specific characteristics which make it more suitable for smaller homes and this is only a part of the overall housing offer across the Central Area and the city as a whole.
 - The current city-wide housing mix continues to show a strong emphasis on three bed, family-sized homes and this stock is being added to in some parts of the city centre but particularly beyond the ring road through your committee's decision making.
 - Site circumstances and market trends are also relevant. The site comprises of listed buildings which present constraints that the development has had to work with.
- 7.25 Policy TP30 further allows for the circumstances of individual sites and market trends to play a part in determining house mix.
- 7.26 The proposed offer of 46% 1 bed, 50% 2 bed and 3% 3 bed dwellings fits into the city's wider provision of housing.
- 7.27 Taking the site as a whole, it would be more effectively and efficiently used for high density housing in accordance with para 124 of the NPPF. This guidance requires planning decisions to give "substantial weight to the value of using suitable brownfield land within settlements for homes", to "promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained", and to "support development that makes efficient use of land".

Affordable Housing

- 7.28 Policy TP31 states, “The City Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The developer subsidy will be established taking account of the above percentage and the types and sizes of dwellings proposed.” It also allows developers to submit a Financial Viability Appraisal (FVA) when they consider affordable housing of 35% cannot be provided.
- 7.29 Furthermore, the NPPF makes clear that viability is a material consideration in the assessment of a planning application.
- 7.30 An affordable homes offer has been put forward and assessed by an Independent Financial Advisor, who confirms the scheme can support **24no. (12.7%) affordable units** or 15 units (7.9%) at a 30% discount of the proposed build to rent dwellings.
- 7.31 The HEDNA states, “Overall, the analysis identifies a notable need for affordable housing, and it is clear that provision of new affordable housing is an important and pressing issue in the area. It does however need to be stressed that this report does not provide an affordable housing target; the amount of affordable housing delivered will be limited to the amount that can viably be provided.
- 7.32 The evidence does however suggest that affordable housing delivery should be maximised where opportunities arise.” (Chapter 7, Key Points)

Commercial use

- 7.33 A GIA of 376 sq.m. of floorspace is proposed for E(b), E(d) and sui generis use. Policy GA1.1 of the BDP states that “Appropriate scale retail development will continue to be supported where it complements the existing Retail Core and as part of mixed-use redevelopments throughout the City Centre.” I consider the scale of the proposed retail use to be appropriate.

Design

Layout

- 7.34 The 31-storey PBSA block is located in the south-west corner of the site, adjacent to the canal, furthest away from the listed buildings. Active uses are proposed at ground floor level of the listed West Block that would provide active surveillance and create a community outward facing scheme.
- 7.35 The proposed layout would result in some tree loss however 119 trees are to be replanted along with a net gain increase in BNG. No objections are raised by the tree officer.
- 7.36 Originally the site was to be gated however the West Listed Building would now have public realm extending entirely around it, offering a more connected and integrated feel.

Scale, height and massing

- 7.37 This western end of Bath Row (between the Peace Gardens and the canal) predominantly features a mix of low to mid-rise developments (of no greater than six-ten stories) therefore City Design are of the view that the proposed scheme departs from the established character of the area, forming a tall structure on one side of a prominent vista. With regards to the two additional new build blocks to the rear of the listed buildings (7 and 10-storeys), along with the shoulder to the tower (10-storeys) are also considered a departure from the existing 1980's development on the site that respects the scale of the listed buildings.



Image 7: Proposed view from Bath Row looking east.

7.38 In response to the above the 31-storey building would locate at the corner of Bath Row, at the first node as you come off the ring road/Five Ways Roundabout. Bath Row is a main arterial route into the City Centre that connects to the Islington Row Middleway and at this junction another bigger building locates. Whilst the scale of this area is mostly low to mid rise taller buildings do exist within the locality and on corner plots not too far from the site. Furthermore, when stood within the northern part of application site, a view of the Mercian tower (along Broad Street) can be experienced.

7.39 A building of this scale is therefore considered appropriate in this location by reason of its position along a main arterial route (within the city centre).



Image 8: Communication Row – buildings at the corners including Toybox to the right.

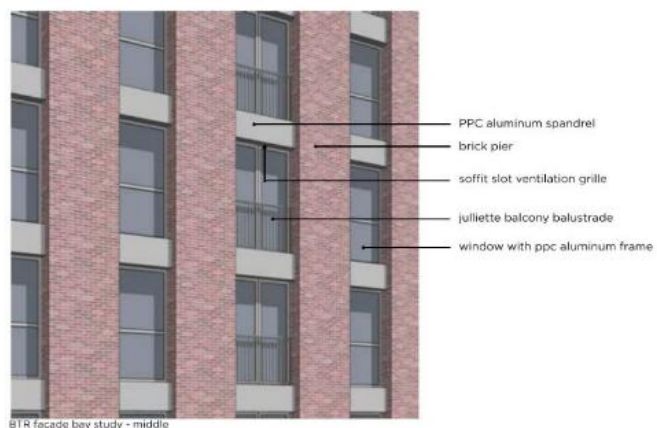
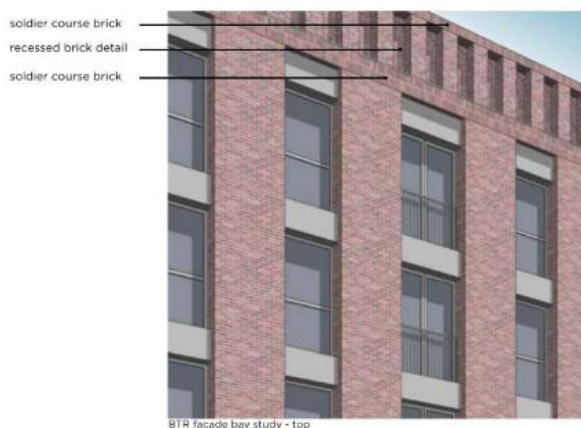
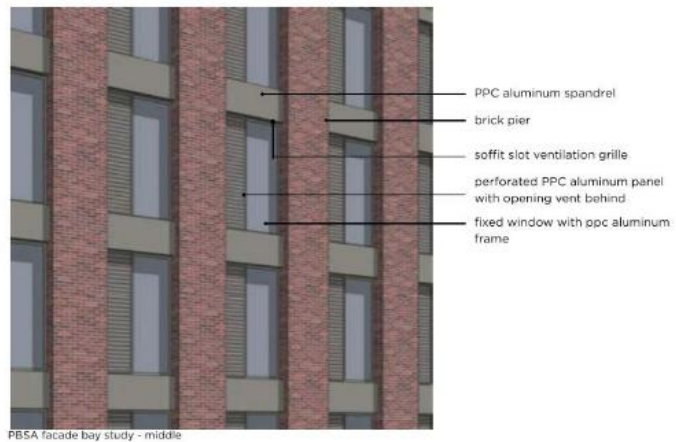
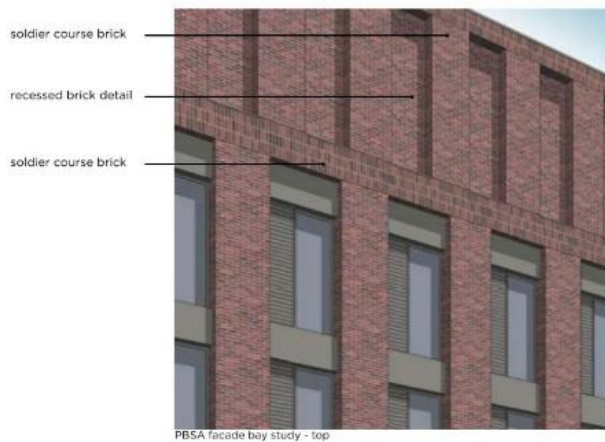


Images 9 and 10: View from the application site of Mercian Tower and other tall building north of the site.

Architecture and materiality

7.40

The design is simple, following a similar formula throughout all the new build blocks. This consists of red/orange brickwork, composed in vertically orientated bays (with horizontal brick banding at first and fourth floor of the tower) and fluted brick parapets. The architecture is typical of what is often submitted to the City. The below images provide further detail.



- 7.41 The proposed red/orange brick is very positive and a colour which falls in keeps with and respects the base material of City and surrounding heritage assets. Generally, I consider the design to be acceptable subject to conditions to secure and ensure material quality.

Heritage assets

- 7.42 Historic England have raised concerns about the potential harm to the significance of the Grade II listed buildings through the proposed scale of development within their immediate setting.

Historic England state:

'the west block to the Birmingham Accident Hospital was built as an extension to the adjacent earlier hospital and was designed by local architect J H Chamberlain. It is 2 storeys in height, with a taller centre, and has an unusual Italianate style. The earlier east block of the hospital is 3 storeys high. The buildings are Grade II listed.

Both buildings provide a strong frontage onto Bath Row and make a valuable contribution to the street scene in this part of the city. The presence of the Grade II listed buildings is emphasised by the relatively low scale of newer 6-7 storey development adjacent to the site and across the road.

In terms of the proposed refurbishment works for which Listed Building Consent is sought, we would defer to the Council's own heritage advisers in respect of details. In terms of wider impacts, it is not entirely clear from the application information as to how the proposed refurbishment would be achieved in relation to any proposed phasing of the proposed new development. The Council would need to be satisfied that the proposed works could be implemented should planning permission be granted and Listed Building Consent be issued.

In respect of the proposed planning proposals, whilst there are other tall building in the vicinity of the site, as presented in the application information, none appear in the key view into the site from Bath Row. We have concerns regarding the impact of the 31 storey tower and the resulting harm, albeit less than substantial harm, that this would cause to the significance of the Grade II listed buildings through this scale of development within their immediate setting.

Should the Council consider that public benefits of the proposal outweigh the harm to the heritage assets, we would refer you to your own expert heritage and design advisors to consider matters of detail, such as materials, finishes, and fixtures to ensure the detail, quality and execution of the intended approach to both existing and new development could be achieved.'

- 7.43 As detailed above the scheme includes the refurbishment and conversion of the two, grade II listed former hospital buildings, erection of new two residential blocks and a 31-storey tower.

- 7.44 The development would involve direct works to the listed buildings on the site and therefore direct impacts would arise. The proposed would also give rise to indirect impacts to the setting of the listed buildings through development in their setting, particularly considering the 31-storey tower and the two 7 & 10-storey blocks located behind the listed hospital buildings.

East and West Block

- 7.45 The submitted Heritage Statement (HS) identifies that the proposed development would be highly visible in combination with the grade II listed hospital buildings in views of the assets from the east and west, this is illustrated by Viewpoints 2, 3 and 4 of the Townscape Visual Impact Assessment (TVIA) (Turley, April 2023) and shown in figures 5.13-5.15 of the HS.



Image 13 and 14: Townscape Viewpoints 2 and 3



Image 15: Townscape viewpoint 4 looking westwards down Bath Row from the east

- 7.46 The HS considers that the scale and massing of the proposed development, specifically due to the height of the tower and proximity to the East and West Blocks and its prominence in views is considered to distract from an appreciation of these assets.
- 7.47 From these particular Viewpoints BCC Conservation agrees with this assessment in relation to the impact on the listed buildings.
- 7.48 The proposed Bath Row elevational plan gives some indication of the impact of the proposed development on the listed buildings and of, not only the dominance of the tower in their streetscape setting, but also of the 7 and 10-storey blocks of development directly to the rear of the listed buildings.



Bath Row Street Elevation

7.49

From Bath Row and from the north part of Wheelleys Lane clear views of the principal elevations of both buildings are gained and from here the 7 and 10-storey buildings of the development would be clearly seen rising up in the immediate backdrop of both of these listed buildings. From these vantage points the development would be highly visible and would certainly be considered to impact on views of the buildings. Whilst some other tall buildings and large-scale modern development are perceptible in the wider townscape in views of the listed buildings, the tall building examples are at some distance on Broad Street and none are viewed in such close proximity to or rising up behind the listed buildings in these primary experiences.



Image 16: Aerial view from the rear of the site (from the north)

7.50

It is therefore the view of officers that the development would introduce unprecedented

scale into the immediate backdrop and curtilage setting of the listed buildings and be a considerable change to their visual amenity and the ability to appreciate this. Furthermore, introducing larger scale development to the rear of the buildings creates an reversible hierarchy of built form on the site and presents a challenge to the prominence of these heritage assets.

- 7.51 The proposed development would considerably vary the baseline setting of the listed buildings and become dominant and detracting feature(s) in an extensive part of their curtilage setting.
- 7.52 BCC Conservation states the ability to experience, appreciate and understand the architectural and historic interest of the listed buildings in primary experiences and views would be significantly compromised through this level of detraction and distraction, and further diminished in secondary experiences, both individually and as a pair. The overall, adverse impact is therefore considered to be moderate to the East Block and moderate to high to the West Block. In this respect BCC Conservation do not fully agree that the level of harm is low to moderate as is the position of the HS.
- 7.53 The scale presents no challenge to the landmark prominence of the church in views along Bath Row and whilst the visual presence of the church from views in conjunction with the tower would be reduced, the church tower would remain visible.

Impact on Edgbaston Conservation Area

- 7.54 The HS identifies that the tower element of the proposal would be seen from within the conservation area in views northwards and that the upper floors would project above the roof scape of the largely two and three-storey built form of the conservation area. Viewpoint 9 of the TVIA and figure 5.16 of the HS taken from Wheelleys Road demonstrates the impact of the tower on this part of the conservation area.



Image 17 Viewpoint 9

- 7.55 The HS identifies there are a number of streets in this northern part of the conservation area from where the taller buildings of the city centre can be perceived at a distance and some from where taller buildings have begun to encroach closer to the conservation area boundary but there are also many streets which have little or no perception of these tall buildings or the city centre beyond the Middleway.

7.56 The HS considers that due to the height of the proposed development it would distract from the ability to appreciate the character and appearance of the conservation area through development in its setting, with impact reduced through careful and simple design and materiality. Neither the design or materiality of the tower is considered to reduce the impact of the tower on the setting of the conservation area, particularly where it would appear in views from within where currently limited or no perception of such city centre scale exists and suburban character is sustained. The majority of tall buildings in the conservation area setting are located to the north of the conservation area on Hagley Road, Five Ways and onto Broad Street and it is these buildings which are currently visible in some views out of the northern parts of the conservation area. No buildings of such height are currently experienced in such close proximity to the northeast of the conservation area and from within many of its suburban streets such as Wheelleys Road.

7.57 BCC Conservation agrees with the position of the HS that the introduction of a tall building of such height in this location would distract from the ability to appreciate the character and appearance of the conservation area and that this would result in less than substantial harm at the low level. Whilst the harm could be considered to be quite moderate in those parts of the conservation area where such scale is not readily experienced, the level of harm needs to be assessed on the impact of the designation as a whole and therefore this is the BCC officers reason for placing the harm at the low level of the 'less than substantial' scale.

Other listed buildings and locally listed buildings

7.58 The impact on the significance of all other listed buildings identified for assessment is concluded in the HS as being sustained and therefore no harmful effects are concluded. Based on the impact assessments and reasons given in the HS for this position I would agree this to be the case.

Non-designated heritage asset (canal)

7.59 Following the submission of further information the Conservation Officer comments:

An Addendum to the Heritage Statement was submitted by email on 20th September 2023 (Turley, September 2023) which assesses the significance of the canal as a non-designated heritage asset, the physical surroundings and experience of the asset and the contribution made to significance through setting. The assessments are fair and proportionate.

The impact assessment in the Addendum identifies that at this point along the route the setting of the canal does not contribute to its significance. Whilst it is acknowledged in the document that the proposed development would have a visual impact and represent a change to the setting of this part of the canal, this change it is not considered to impact on any elements that contribute to the significance of the asset and therefore significance is sustained and no harm concluded.

I can broadly agree with the assessment made in the document and conclude no harm to the significance of the canal.

7.60 To summarise:

7.61 The proposed development would cause harm to the significance of the East Block and West Block to Birmingham Accident Hospital through development in their setting. The harm arises through the scale of the development and the dominance and prominence of this scale in a number of views (including primary views) of the listed

buildings which is considered to detract and distract from the appreciation, experience and understanding of the architectural and historic interest of these heritage assets. The harm is 'less than substantial' in framework terms and placed at the moderate level to the East Block and the moderate to high level to the West Block. The tests of paragraph 208 of the NPPF are engaged.

7.62 The proposed development would cause harm to the significance of the Edgbaston Conservation Area through development in its setting. The harm arises through the introduction of a tall building in this location which would distract from the ability to appreciate the character and appearance of the conservation area, particularly where it would appear in views from within where currently limited or no perception of such city centre scale exists. The harm is 'less than substantial' in Framework terms and placed at the low level to the conservation area as a whole. The tests of paragraph 208 of the NPPF are engaged.

7.63 The concerns raised by the Historic England (above) and harm identified (low, moderate and moderate to high level of less than substantial) are noted, thereby in accordance with para. 208 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm is to be weighed against the public benefits.

7.64 In line with paragraph 205, when considering impacts to a heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset. The more important the asset the greater the weight should be. This balancing exercise is undertaken towards the end of this report.

Residential amenity

7.65 In accordance with PG3 of the BDP, DM2 and DM10 of the DPD as well as design principles 11 and 13 of the Design SPD all new developments must ensure they do not have an unacceptable impact on the amenity, outlook or privacy of existing or new residential properties. Although separation distances between the new blocks and neighbour development does not adhere to the numerical standards in the Design Guide SPD, by reason of scale and location of habitable and non-habitable serving windows levels of outlook and privacy would not result in an unacceptable standard of living.

Outdoor amenity space for residents

7.66 Design Principle LW-13 of the Design SPD states all residents should be able to access private outdoor amenity space of sufficient size and quality to service intended occupants; and as a minimum requires 10sq.m per resident for sui generis shared residential use. This would therefore equate to a requirement of 7,590sq.m (for 759 students)

7.67 The site would benefit from three areas of private external amenity space:



Image 18

-The sunshine courtyard with an exclusive external amenity area with hard and soft landscaping.

-The central courtyard with a bicycle store and access to a viewing deck over the canal.

-The third courtyard between the BTR blocks referred to as the 'Woodland Garden' providing a viewing area an interaction with the canal along with hard and soft landscaping.

7.68 With regards to residential use (C3), as a minimum, the SPD states following requirements must be provided for each BTR residential apartment:

- 5sq.m (1 bed flat),
- 7sq.m (2 bed flat) and
- 9sq.m (3 bed flat).

This would therefore equate to a requirement of 1,165sq.m.

7.69 The application seeks to provide a shared total of 5,141sqm of outdoor amenity space the proposed level of amenity would create several smaller spaces of variety that would enable different residents to have private space. These include Moonlit and Sunset Park to the south.

7.70 Additionally, internal amenity space (amounting to 1,314sq.m) for residents and students use, with the gym being open for the public would be provided in addition to the 245sqm of internal amenity space within Block 1 (PBSA Block).

LEVEL	Level 0 (sqm)	Level 1 (sqm)	Level 2 (sqm)	Total GIA (sqm)
Gym	337	0	0	337
BTR Amenity	97	121	0	218
PBSA Amenity	50	519	90	659
Commercial	100	0	0	100
Total				1,314

Table 2:

- 7.71 Therefore, despite the shortfall I considered the level of outdoor amenity proposed acceptable in this case.

Wind

- 7.72 The submitted wind assessment concludes that wind conditions substantially satisfy the safety criteria. Exceptions were said to occur at the south-east corner of the PBSA tall building and along the western frontage of the listed West Block. However, the assessment confirms that with the mitigation measures proposed, wind conditions within the accessible areas of the site and immediate surrounds would meet the pedestrian safety criteria, and conditions would be acceptable in terms of comfort.
- 7.73 In terms of mitigation, it is proposed that a 3m wind baffle is positioned forward of the PBSA tower as well as an exclusion zone (in the form of tree planting) adjacent to the West Grade II Listed Building as per image below. Further details are provided in the landscape drawings.



Image 19: Proposed wind baffle

Images 20 and 21: Location of proposed wind mitigation



Location of proposed wind mitigation

- 7.74 Discussions regarding removal of the wind baffle along with re-designing the layout of the site and scale of the buildings were had however for several reasons presented in the Wind Microclimate Alternative Options were unsuccessful. Options for alternative types of wind screens in form of projecting 2m canopies and 0.75m fins were also reviewed as part of the Mitigation Options document however it was concluded the baffle to be the preferred option as per image above and below.



Image 22: 0.75 fins



Image 23: 2m canopy's



Image 24: View of wind baffle.

- 7.75 With regards to wind, the case officer is therefore satisfied the proposal would have an acceptable impact on its surrounding environment and comply with PG3 of the BDP, DM2 and DM10 of the DPD as well as the design principles in the Design SPD

Daylight, Sunlight and Overshadowing

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

7.77 The submitted daylight report indicates that a number of properties would experience technical breaches of the recommended BRE guidelines. These properties are the following:

- 1-75 Waterside;
- 1-3 Longleat;
- 8 Longleat;
- 10 & 12 Communication Row;
- 56-60 Bath Row;
- 3-4 Bishopsgate;
- Holder House;
- Darby House;
- Atkinson House;
- Golding House;
- Lady Astor House; and
- 240 Holiday Street.

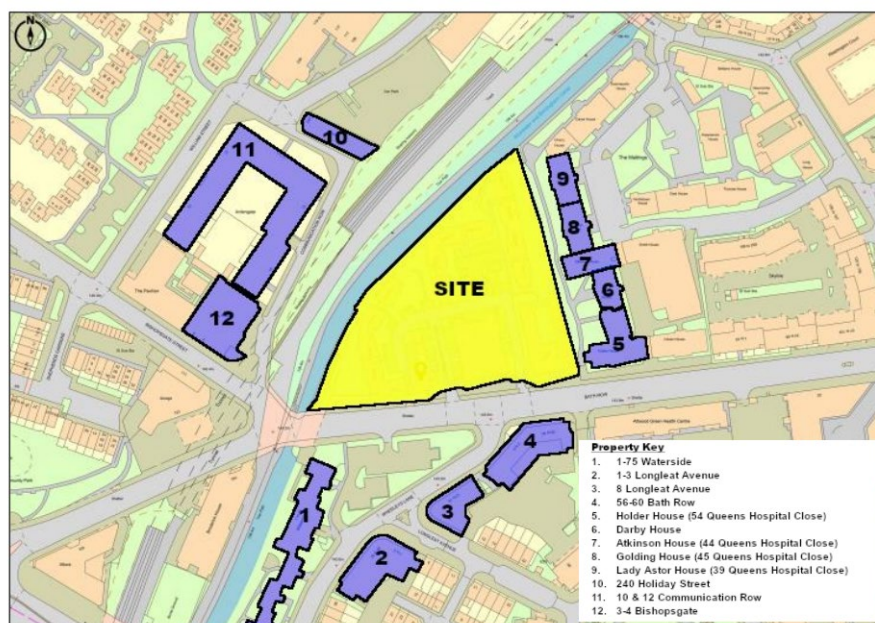


Image 25: Properties assessed

7.78 For Vertical Sky Component (VSC) 51% of neighbouring windows assessed were found to meet the BRE guidelines. Although 49% of windows did not meet the criteria for VSC 89% surpassed the targets for Daylight Distribution (NSL).

(No.1) 1-7 Waterside

Six of the 18 (33%) of the windows assessed would meet the recommended the Building Research Establishment (BRE) Guidelines for VSC. Of the 12 windows that do not meet the guidelines for VSC, all retain in excess of 20% VSC.

(No.2) 1-3 Longleat Avenue

Of the 212 windows that have been assessed, 135 windows (64%) would comply with the recommended BRE criteria for VSC. Of the 77 windows that do not meet the guidelines, 43 retain in excess of 15% VSC.

(No. 3) 8 Longleat Avenue

Of the 229 windows that have been assessed, 110 (48%) would comply with the recommended BRE criteria for VSC. Of the 119 windows that do not meet the guidelines, 104 windows achieve less than 27% VSC in the existing condition and therefore, it is clear that the presence of balconies is limiting the amount of daylight

able to penetrate the windows. Those 15 windows that experience in excess of 27% VSC in the existing condition are lit to in excess of 17% VSC in the proposed condition.

(No. 3) 10-12 Communication Row

166 of the 355 (47%) of the windows assessed would meet the recommended BRE Guidelines for VSC. Of the 189 windows that do not meet the guidelines for VSC, 170 windows will enjoy in excess of 15% VSC

(No.4) 56-60 Bath Row

84 of the 224 (38%) of the windows assessed would meet the recommended BRE Guidelines for VSC. Of the 140 windows that do not meet the guidelines for VSC, 24 windows will enjoy in excess of 15% VSC.

(No. 5) 3-4 Bishopsgate Street

Of the 116 windows that have been assessed, 40 (34%) would comply with the recommended BRE criteria for VSC. Of the 76 windows that do not meet the guidelines, all retain in excess of 15% VSC.

(No.7) Holder House

Of the 82 windows that have been assessed, 81 (99%) would comply with the recommended BRE criteria for VSC.

(No.6) Darby House

6 Of the 28 windows that have been assessed, all (100%) would comply with the recommended BRE criteria for VSC

(No.7) Atkinson House, 44 Queens Hospital Close

Of the 28 windows that have been assessed, 16 (57%) would comply with the recommended BRE criteria for VSC. Of the 12 windows that do not meet the guidelines, nine will retain in excess of 15% VSC.

(No.8) Golding House, 45 Queens Hospital Close

Of the 36 windows that have been assessed, one (3%) would comply with the recommended BRE criteria for VSC. Of the 35 windows that do not meet the guidelines, 18 retain in excess of 15% VSC (rounded up) which the report considers may be an acceptable level of VSC in an urban built up location. In high density locations, typical VSC values can be in the region of 15% (or mid-teens).

(No.9) Lady Astor House, 39 Queens Hospital Close

Of the 30 windows that have been assessed, none would comply with the recommended BRE criteria for VSC. Of the 30 windows that do not meet the guidelines, all retain between 1%-24% VSC. Those that exceed the guidelines in the existing condition will retain in excess of 14% VSC in the proposed condition.

(No.10) 240 Holliday Street

Of the five windows that do not meet the guidelines, all retain in excess of 14% VSC.

- 7.79 Two of the most significant alterations in daylight occur within 39 and 45 Queens Hospital Close, both of which serve student accommodation. Whilst these losses would be noticeable and material in nature, we note they are affecting student accommodation, which whilst relevant for consideration could be treated with less sensitivity due to their generally short term and transient occupancy.
- 7.80 Although several of the adjacent units would experience a loss of light it should be noted that BRE guidelines have been developed with suburban areas in mind and therefore a lower retained mid-teen VSC level with a small number below this level is often considered appropriate in an urban location where there is less available sky by

reason of surrounding building densities.

- 7.81 Therefore overall, the scheme would not cause unacceptable impacts upon levels of light to adjacent dwellings with those apartments falling below BRE guidelines.

Biodiversity and Landscaping

- 7.82 Ecological assessments/appraisals, bat survey reports and internal bat roost inspections highlight that although no access or egress points were identified in any of the existing roof voids and no evidence of bats identified, Harris Lamb categorised buildings B1 and B3 as having low bat roost potential.
- 7.83 Surveys have identified that two possible small (occasionally used) day roosts for common pipistrelle (B3 - peak count 2) and soprano pipistrelle (B2 - peak count 1) which would be impacted by the proposed scheme.
- 7.84 As such, a bat mitigation licence would be required from Natural England (for the proposed scheme) before any works would to start. Given the low conservation status of both day roosts, Harris Lamb considers the proposed works to be eligible under a Bat Mitigation Class Licence (BMCL).
- 7.85 Where the presence of a European Protected Species (EPS) (in this instance bat roosts) is confirmed, the Council, as a local planning authority, must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) before determining planning applications that may affect EPS (ODPM Circular 06/2005, paragraphs 99, 112 and 116). Regulations 55(2) and 55(9) define the circumstances where derogation is allowed for an affected EPS and a licence could be issued by Natural England. Accordingly, the LPA have considered the three tests and believe the statements below set out how each test can be met.

Test 1:

The proposed scheme would provide several economic, social, and environmental public benefits including the renovation of two Grade II Listed buildings, a meaningful contribution towards Birmingham's Housing Shortall, the delivery of 24 affordable homes along with a CIL payment of £2,457,182.93.

Test 2:

The only alternative would be to leave the building in situ which is not a suitable alternative as the buildings are no longer economically viable for the long-term future of the site and as such not a suitable alternative.

Given the low status of both bat roosts and the view they could be maintained through conditioned mitigation and that significant harm to biodiversity would not occur as part of this development (as per paragraph 186 of the NPPF) further alternative options have not been sought.

Test 3:

The ecologist confirms that the development should have no detrimental effect on the favourable conservation status of the EPS. Given the low conservation status of both day roosts, it is considered that the favourable conservation status of bats within the site could be maintained through the implementation of appropriate ecological mitigation, compensation, and enhancement measures.

- 7.86 Conditions would be imposed for the submission and implementation of a Construction Ecological Management Plan (CEcMP) (which must include a Precautionary Working Method Statement (PWMS for bats), details of integrated bat and bird boxes to be installed within the development and a scheme for

ecological/biodiversity/enhancement measures.

- 7.87 The Ecologist confirms no objections subject to conditions and the that the applicant seeks an agreement from Natural England. Natural England have recently been notified of the application and any further comments received shall be reported.

Biodiversity net gain

- 7.89 Amened plans were recently submitted after officer concerns over the number/category of trees to be removed and the proportion of non-native species. Revised plans show the removal of 44 and the planting of 119 additional trees, an increase in native species soft landscaping and the retention of two lime trees as per images below.



Image 25: Photo of 2no large lime trees fronting the West Listed Building

- 7.90 The Environment Act 2021 recently brought in a mandate for a minimum 10% biodiversity net gain and the implementation of this requirement is currently delayed until February; therefore, it is not reasonable to insist developers comply. That said the NPPF paragraph 185 states new developments should pursue opportunities for securing measurable net gains for biodiversity. Originally the submitted BNG assessment presented an inaccurate BNG net gain figure. The assessment was revised whereby a net loss calculation was highlighted. In response, amended plans and reports were sought whereby the landscaping scheme (as touched on above) amended to provide biodiversity enhancements.
- 7.91 The results of the revised BNG demonstrates that the proposed development would result in an overall new gain in biodiversity achieving a 10.12% net gain in habitat units. The revised landscaping scheme and BNG are currently with the ecologist and tree officer and any further comments will be reported.
- 7.92 Overall, (subject to awaited comments) the proposal accords with Policy TP6, TP7 and TP8 of the BDP and the NPPF.

Landscaping

- 7.93 The application site currently offers a mixture of hardstanding, grassland and dense/scattered scrub trees. The proposal involves the loss of 43 trees, the planning of 119 new trees, soft landscaping as well as 3 green roofs. The image and key below

visually demonstrate where such is proposed.



Image 26

KEY	
	Boundary
●	Retained trees
◆	Proposed trees
	Developed land, /sealed surface (Building)
	Developed land, /sealed surface
	Introduced shrub - Woodland Ground Cover Shady Mix
	Mixed scrub - Woodland Shrub and Perennial Shady Mix
	Introduced shrub - Woodland Ground Cover Dry Shade Mix
	Introduced shrub - Flowering Shrub and Perennial Sunny Mix
	Introduced shrub - Flowering Shrub and Perennial Shady Mix
	Rain garden - Dry/ Wet Rain Garden Shady Mix
	Modified grassland - Lawn - Tapestry Biodiverse Rich Turf
	Biodiverse green roof - 1500sqm

Key

Sustainability credentials of the development

- 7.94 Policy TP3 'Sustainable construction' of the BDP requires development to maximise energy efficiency, minimisation of waste and the maximisation of recycling during the construction and operation of the development, conserve water, consider the use sustainable materials and the flexibility and adaptability of the development to future

occupier's requirements. It also requires non-domestic development (including multi-residential accommodation) over a certain threshold to aim to meet BREEAM 'Excellent'. The BREEAM requirement applies. TP4 'Low and zero carbon energy generation' requires development to incorporate low and zero carbon energy generation where viable.

- 7.95 An Energy and Sustainability Statement has been submitted which confirms that the sustainability and energy strategy would adopt a fabric first approach and incorporate air source heat pumps and solar PV. Overall, the development would achieve an 11.5% and 73% carbon reduction over the compliant building regulations. The scheme would target BREEAM Excellent. A pre-demolition audit would be carried out to help identify materials which could be reused on site and target 90% waste diversion from landfill where viable. An energy efficiency condition would be imposed to ensure the measures proposed are designed and constructed accordingly. A BREEAM condition requiring a final certificate to meet BREEAM standard excellent to be issued 6months post completion is to be imposed, as agreed with the applicant.

Air Quality, Contamination and Noise

- 7.96 The site falls within the city's Air Quality Management Area. Accompanying the application environmental reports have been submitted and reviewed by Regulatory services who confirm no comments or objections subject to conditions around noise and contamination.

Drainage/flood risk

- 7.97 The site is situated within Flood Zone 1, with a very low likelihood (1 in 1000) of flooding. The LLFA raise no objection subject to conditions and informatives.

Access, parking, and highway safety

- 7.98 The site lies within a highly accessible location and is in walking distance of the city core. The application details have been reviewed and BCC Transport Development supports the application subject to conditions and a highways agreement.
- 7.99 Cycle parking would be provided in two locations with the main provision within the courtyard between the new PBSA and the BTR building). A secondary small cycle store is located within the BTR courtyard for residential use (overall 253 cycle spaces. Accessible vehicle parking would be incorporated into the landscaping between the listed buildings.
- 7.100 The servicing route would be around the West Listed Building and integrated into the public realm. The two existing vehicle entrances into the site would be utilised with retractable bollards.
- 7.101 Refuse stores are to be located within each of the buildings and to be accessed via the courtyard.
- 7.102 Active Travel have commented on the application and asked that it be deferred to allow for further discussions around financial contributions towards permanent traffic lights and a cycle lane. Active Travel also requested further cycle spaces. However, subsequent discussion with the applicant confirms the scheme, by reason of viability could not finance other site benefits. That said the development would deliver a CIL contribution of over 2 million pounds. Furthermore, BCC Transportation consider the number of cycle spaces acceptable and the proposal in accordance with the BDP and Parking Design SPD. The case officer has since spoken with Active Travel should any further correspondence from them will be reported to committee.

- 7.103 The proposed development would not have an adverse impact upon the local highway network, pedestrian and cycle infrastructure or public transport networks and is considered to be in accordance with policy and planning guidance. The transport details presented are acceptable and accord with Policies TP38, TP39, TP40 and TP44 of the BDP and Policies DM14 and DM15 of the DMB.

Fire and Building Safety

- 7.104 HSE have been consulted and confirm, with regards to fire safety design they are satisfied with the proposal.

Third Party Letters

- 7.105 A letter of objection comments on design and materials, this issue has been addressed above.

CIL/Planning Obligations

- 7.106 This application is subject to the CIL charge as it lies within a High Market Residential Value Area, which is applicable for the residential element, and the purpose built student accommodation is also subject to the levy; whereby the charge equates to CIL payment circa of £2,457,182.93.
- 7.107 Policy TP31 of the BDP requires 35% of the total number of dwellings to be affordable on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or a contribution towards off site provision for developments of 20 or more dwellings.
- 7.108 The applicants contend that the development would be unable to meet the Policy requirements outlined above and still deliver a sufficient developer's return. Therefore, a Financial Viability Appraisal (FVA) has been submitted and independently assessed.
- 7.109 Independent review of the submitted Financial Viability Appraisal indicates that the proposal could support the provision of 7.9% on site affordable housing as set out in this report.
- 7.110 BCC Leisure Services have also requested financial contributions. However, in this instance it is considered that affordable housing is the greater priority.

8. Planning balance

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

For **decision-taking** this means:

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

- 8.3 Footnote 8 confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 8.4 The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites, and the latest published housing supply figure is 3.99 years. This is derived from a 5- Year requirement of 37,464 dwellings (including a 5% buffer) and a supply of 29,944 dwellings. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 8.5 However, Footnote 7 notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets.
- 8.6 The proposals would cause less than substantial harm to the significance of several designated heritage assets and, if found to provide a clear reason for refusal, in this case because the public benefits of the scheme do not outweigh the heritage harm identified, then planning permission should not be granted.
- 8.7 The harm identified to the significance of designated heritage assets needs to be weighed against harm; considerable importance and weight is to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in sections 66 and 72, as well as the degree of accordance with BDP policy TP12 and the relevant paragraphs in the NPPF. These are presented below.

Potential public benefits of the proposal

Economic Benefits

- 8.8 The development would create local employment opportunities during the construction and operational stage, including the construction supply chain, supporting Policy TP26 of the Birmingham Development Plan (adopted January 2017). Economic benefits would also be available to surrounding commercial, retail and leisure uses, which are likely to experience increased patronage from new residents.
- 8.9 Para. 81 of the NPPF states that "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business

needs and wider opportunities for development” (my emphasis). Accordingly, the economic benefits in terms of jobs and expenditure above are met, as are the CIL contributions.

- 8.10 However, I also note that a significant number of new jobs would only be for a temporary period, and whilst post job roles in servicing, repair and maintenance would be permanent and ongoing these would be a low figure. Despite these factors moderate weight is afforded to these benefits.

Social Benefits

- 8.11 Provision of PBSA and BTR accommodation including 7.9% affordable housing (at 30% discount) as well a mix of 1, 2 and 3 bed apartments.
- 8.12 The proposed development would contribute to the creation of a sustainable environment with the proposed use being located in an area served by existing services such as employment opportunities and education services, retail and leisure provision.
- 8.13 The scheme provides outdoor amenity provision for on residents including a hard and soft landscaped courtyard areas.
- 8.14 Removal of the existing secure line at the front of the site, creating a new area of public realm that is more open and inclusive to the community.
- 8.15 The design of the scheme has sought to minimise energy consumption. This is via modern methods of construction and insulation that would be brought forward in line with Building Regulations.
- 8.16 Taking account of the extent of the 5YHLS shortfall, the provision of housing should be given substantial weight in the determination of this application. The PBSA in meeting student need figures should also be given moderate weight.
- 8.17 The plans show appropriate layout, scale and height and there is sufficient detail to ensure that a high-quality development is delivered. I am confident that the resulting development accords with the thrust of BDP policy PG3 and the Birmingham Design Guide. This should be given substantial weight.
- 8.18 Enhancing social cohesion (by means of publicly accessible outdoor amenity space) is a benefit, again in accordance with the thrust of PG3 and the City Design Guide. The extent of public realm is limited and therefore given limited weight in the balance.

Environmental Benefits

- 8.19 The application is supported by an Energy Statement, which seeks to demonstrate suitable measures appropriate to the scheme as per Policies PG3, TP1 and TP3 of the Birmingham Development Plan (adopted January 2017).
- 8.20 Low Carbon Technologies have been proposed including solar photovoltaic systems to the roof of both Blocks to provide approximately 228m² pf Solar PV panels on the main roofs to offset carbon emissions associated with corridor lighting and water pumping, which would also limit communal charges to the tenants.
- 8.21 Sustainability benefits including carbon reduction across the development and targeting BREEM ‘Excellent’ for the new build PBSA, and promoting green travel options.

- 8.22 Biodiversity gains of 10.19%, and the provision of biodiverse infrastructure such as green / brown roofs and planting;
- 8.23 A Travel Plan has also been submitted with the planning application to further promote sustainable travel measures to encourage travel via walking, cycling, and car sharing.
- 8.24 Demolition of late 1980's/early1990s buildings (which have little architectural merit) and the delivery of a high-quality and well-designed scheme, which enhances the visual appearance of the site and its surroundings;
- 8.25 That said the scheme would have less than substantial harm (at the low, moderate and moderate to high level) to the significance of heritage assets further afield. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance.
- 8.26 This proposal demands a balanced judgement.
- 8.27 The above points set out the key benefits of the scheme. Weighing most highly in its favour are the place making social, economic and environmental benefits. The delivery of a high-quality development in design terms and the provision of public realm accords with policies PG3 and TP27 and the Birmingham Design Guide, and the proposal would rejuvenate the site and support the transformational change already taking place in and around the surrounding area. Allied to this is the re-use of brownfield land in a highly sustainable location. I attach substantial weight to these benefits.
- 8.28 I also attach significant weight to the provision of housing. The mix of uses accords with the aims for the Westside and Ladywood area (GA1.2) and the residential component accords with the broad location for a residential neighbourhood in the Smithfield Masterplan. Delivery of 394 2 beds is particularly welcome.
- 8.29 I attached moderate weight to the 7.9% level of affordable housing contribution and the 3 bed units proposed.
- 8.30 I also attach moderate weight to the provision of student accommodation that falls in line with PG3 and TP24.
- 8.31 I attach moderate weight to the economic benefits and the environmental benefits set out particularly the renovation and continued use of the Grade II Listed Buildings as well as the employment benefits, CIL payment of £2,457,182.93 and the other economic benefits. Whilst welcome, these would make a lesser contribution to the overall benefits of the development.
- 8.32 Set against these benefits are concerns regarding daylight/sunlight impacts, and the less than substantial harm identified to designated heritage assets lowest and moderate to high level of 'less than substantial'.
- 8.33 With specific regard to the impact of harm caused to the significance of heritage assets, both the BDP and NPPF place great weight on their conservation. Paragraph 205 of NPPF states that the more important the asset the greater the weight should be, additionally paragraph 208 calls for this harm to be weighed against the public benefits of the proposal. Whilst policy TP12 is silent with regards to the public benefits test, it states that proposals for new development affecting a designated or non-designated heritage asset or its setting, including alterations and additions, would be determined in accordance with national planning policy (the NPPF).
- 8.34 These buildings hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by

conservation advisors to reach a high level. However, in my view, I consider there are enough benefits associated with this proposal to outweigh the heritage harm. The paragraph 208 test of the NPPF is therefore favourable to the proposal.

- 8.35 In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies which protect heritage assets, as referenced by NPPF para.11(d)i and Footnote 7.
- 8.36 Overall, on balance, I do not consider that the adverse impacts arising even collectively would, either individually or cumulatively, outweigh the benefits of the scheme, and certainly not significantly and demonstrably outweigh the benefits of the scheme.
- 8.37 Consequently, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

9. **Conclusion**

- 9.1 The proposed development would see the delivery of additional student and residential development in a sustainable location. The proposed 189 residential units would make a meaningful contribution towards Birmingham's Housing shortfall and would see the delivery of a well- designed student accommodation.
- 9.2 Although there being some conflict with BRE guidelines the scheme on the whole accords with TP30 and DMB Policy DM10. The scheme provides a much-needed mix and contributes towards the regeneration aspirations for this part of the City Centre. It would deliver 7.9% of affordable housing (15 units) at a 30% market discount in accordance with local and national policies and generate a CIL payment of £2,457,182.93 thereby the weight attributed to the lack of a 5-year housing land supply (5YHLS) outweighs the weight afforded. The proposal is sustainably located whereby the very limited harm by means of unit mix would not be outweighed by the economic, environmental, and social benefits the development could deliver.
- 9.3 The scheme would provide economic and environmental benefits by means of employment, visitor spend during the construction phase as well as re-use this brownfield site and increase the biodiversity value.
- 9.4 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the application would accord with the development plan taken as a whole and is therefore acceptable subject to completion of a legal agreement and safeguarding conditions.

10. **Recommendation:**

- 10.1 That application 2023/02925/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- 7.9% (15) affordable rental units at a mix of 1 and 2 - bedroom apartments provided on site at a discount market value of 30%.
 - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £1,500.
- 10.2 In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 29th March 2024 or such later date as may

be authorised by officers under powers hereby delegated, planning permission be refused for the following reasons:

- 10.3 In the absence of any suitable legal agreement to secure the provision of onsite affordable housing the development does not deliver the significant benefits considered when weighing the benefits of the proposal against identified adverse impacts. Therefore, the proposal conflicts with Policies TP31, TP47 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG the Development Management in Birmingham DPD and the NPPF.
- 10.4 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 10.5 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 29th March 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/02925/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission)

1	Time Limit
2	Approved Plans
3	Phasing Plan
4	CEMP (including PWMS)
5	CMP
6	Materials
7	Arch Spec Details
8	Construction Employment Plan
9	Green Roofs
10	Landscaping Management Plan
11	Cycle Parking
12	Energy and Sustainable Measures
13	SUDS
14	Tree Protection
15	Noise Insulation Scheme
16	Noise Levels for Plant and Machinery
17	CCTV
18	Lighting
19	BREEAM

20	Boundary Treatments
21	Hard and soft landscaping
22	Foul and Surface
23	No signage
24	Bird/Bat Boxes
25	CRS
26	CVS
27	Removal of PD for tele
28	SDOMP
29	MOMI Management System
30	Demoliton Management Plan
31	Phase 2 Intrusive geo environmental assessment
32	Biodiversity enhancements
33	Requires the refurbishment of the listed buildings

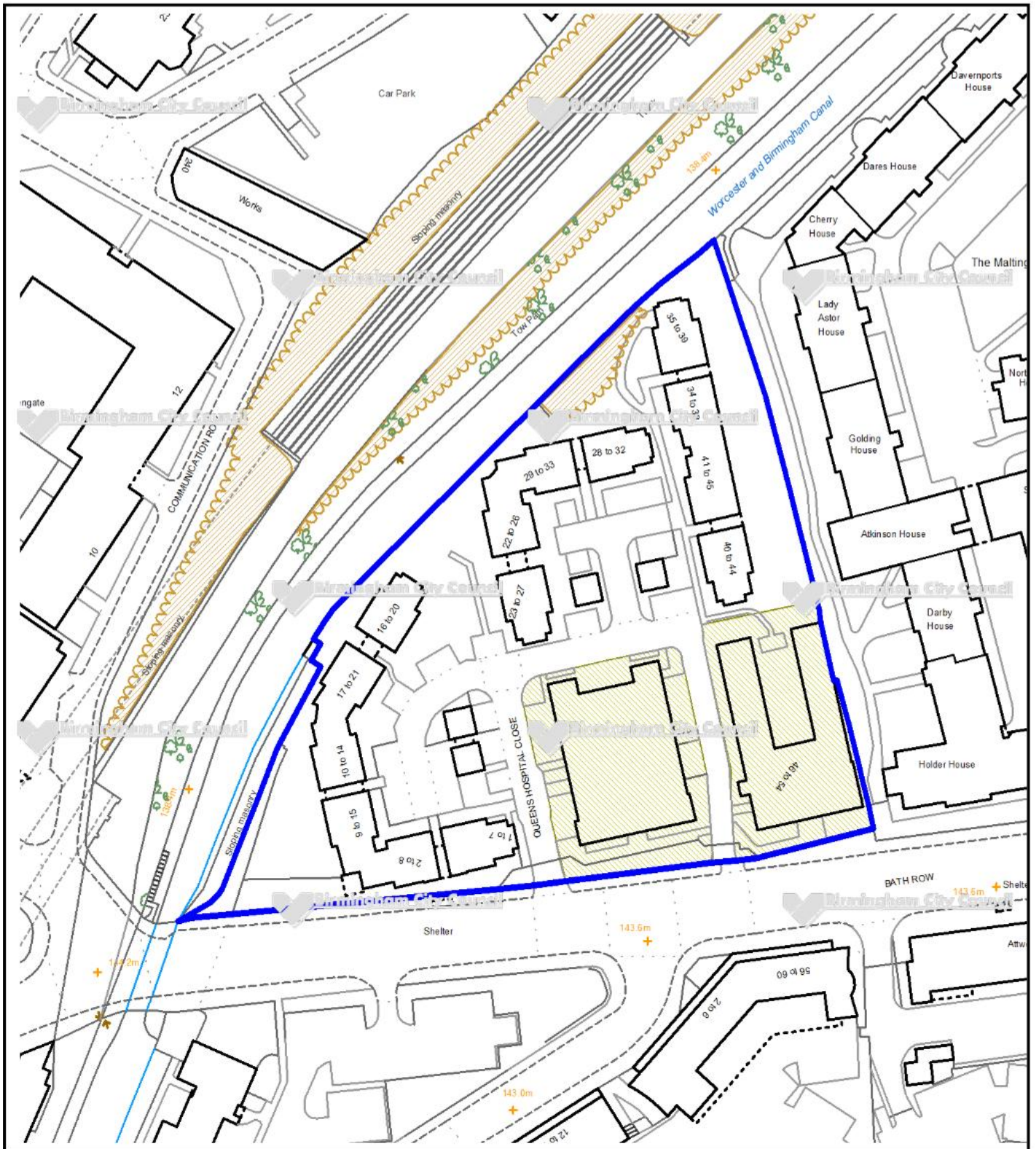
Case Officer: Sarah Plant

Photo(s)





Location Plan



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Committee Date:	01/02/2024	Application Number:	2023/02926/PA
Accepted:	03/05/2023	Application Type:	Listed Building
Target Date:	25/01/2024		
Ward:	Ladywood		

Land at Queens Hospital Close, Bath Row, Edgbaston, Birmingham, B15 1NH

Listed Building consent for site clearance and demolition of existing student accommodation buildings, the refurbishment and conversion of two Grade II listed buildings, the mixed-use redevelopment of the site comprising: purpose-built student accommodation (sui generis), residential apartments (Class C3), ancillary internal and external amenity areas, commercial floorspace (E(b), E(d) and/or sui generis (drinking establishment)), along with landscaping, servicing, parking and other associated works

Applicant: Aventicum PBSA Holdco Ltd and McLaren (Birmingham) Ltd
C/o Agent
Agent: Turley
9 Colmore Row, Birmingham, B3 2BJ

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 The proposals comprise the retention and refurbishment (internal and external) works to the listed 'East Block' to the former Birmingham Accident Hospital (the Grade II listed building at the south-east of the site). The use would be retained as student accommodation.
- 1.2 The refurbishment works proposed would remove the non-original partitions and fittings installed as part of the conversion to student residential in the 1990's. A new layout and typology is proposed, with high-quality, larger sized, student studios suiting the grandeur of the building.
- 1.3 The proposed development includes the partial conversion and complete refurbishment (external and internal) of the listed 'West Block' to the former Birmingham Accident Hospital (the western Grade II listed building).
- 1.4 [Link to Documents](#)

2. **Site & Surroundings:**

- a. The wider application site measures 1.10 hectares and is located within the Westside and Ladywood Quarter of Birmingham city centre. The site is bordered by the Worcester and Birmingham Canal Old Line (non-designated heritage asset) to the

west and north, student accommodation to the east (The Maltings) and Bath Row to the south. Vehicular, pedestrian and cyclist access to the site is solely gained from Queens Hospital Close via Bath Row (B4127).

- b. The site currently comprises a number of purpose-built student accommodation buildings (built during the 1990s and ranging from 3 to 4-storeys) and two mid-19th Century Grade II listed buildings around Queens Hospital Close off Bath Row, which both formed part of the former Birmingham Accident Hospital. The application site contains the two, grade II listed Former Queen's Hospital buildings. The original hospital building (East Block) is of 1840-41 by Bateman & Drury, a 3-storey building of brick and ashlar with stucco in an Italianate style. The building is u-shaped in plan with its Regency frontage to Bath Row and two linear wings extending to the rear.
- c. The West Block was built as an extension to the original hospital in 1871-73 and is by Martin & Chamberlain, rectangle on plan, of ashlar and brick and in a more classical Italianate style. The buildings were connected by a central block which linked the two.
- d. The Queen's Hospital site continued to be developed in the late-19th and early part of the 20th century and included further blocks to the northwest and an early 20th century ward block fronting Bath Row. The hospital site became the Birmingham Accident Hospital and Rehabilitation Centre in the 1940s where it continued to operate until the 1990s when the site was redeveloped for student accommodation. The majority of the hospital buildings were demolished as part of the redevelopment and replaced with 4-storey student accommodation blocks fronting Bath Row and 3-storey blocks to the rear grounds.
- e. To the east of the application site is the grade II listed (Remains of) St. Thomas Church. The Church was constructed in 1826-9. by Rickman and Hutchinson and only the West front of the church survives following bombing in WWII. Further northeast on Blucher Street is the grade II* listed Singers Hill Synagogue of 1855-6 by Yeoville Thomason and the grade II listed buildings on Severn Street; The former British School and the Athol Masonic Hall.
- f. West of the application site on Bishopsgate Street is the grade II listed City Tavern P. H. an early 20th century brick & terracotta corner pub of 1901 by James & Lister Lea.
- g. Directly to the north and bordering the site is the Worcester and Birmingham Canal, a non-designated heritage asset, which continues to the north/northeast to Gas Street Basin and the grade II* former Gas Retort House at No. 39 Gas Street. Also, to the north and east are the locally listed No. 145 Granville Street and Nos. 60-82 Granville Street, two 19th century red brick former offices and warehouses.
- h. To the south and beyond the Middleway lies the Edgbaston Conservation Area and its many constituents listed buildings, notably the characteristic 19th century Regency villas of the Calthorpe Estate.

3. **Planning History:**

- a. 28/02/2017 – 2016/09778/PA – Listed Building Consent for proposed repair to roof of West Block, proposed repair of existing rendered wall, stonework, brick and leadwork and portico of East Block. Approved.
- b. Current Application – 2023/02925/PA – Full planning for site clearance and demolition of existing student accommodation buildings, the refurbishment and conversion of two Grade II listed buildings, the mixed-use redevelopment of the site comprising: purpose-built student accommodation (sui generis), residential apartments (Class C3), ancillary internal and external amenity areas, commercial

floorspace (E(b), E(d) and/or sui generis (drinking establishment)), along with landscaping, servicing, parking and other associated works.

4. **Consultation Responses:**

- a. Amenities Society: No comments
- b. Archaeology: no objections
- c. City Design and Landscape: no objections subject to conditions
- d. Conservation: The proposed works would cause low level harm to the significance of the grade II listed East Block and West Block to Birmingham Accident Hospital. Recommends conditions.
- e. Ecology: no objections subject to conditions requiring a scheme of ecological/biodiversity enhancement measures, CEMP, bird/bat boxes, lighting, protected and species method statement.

5. **Third Party Responses:**

The application has been advertised in the press, publicised by a site notice and neighbours notified. In addition, the Local MP, local residents' groups and forums have been consulted. Associations and Ward Councillors consulted. No comments received.

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

National Planning Policy Framework
Section 16: Conserving and enhancing the historic environment

Birmingham Development Plan 2017
TP12 Historic environment

Supplementary Planning Documents & Guidance:
Design Guide SPD

7. **Planning Considerations:**

- 7.1. The main considerations for this application are the impact upon the listed building.
- 7.2. When considering the merits of the current listed building application Section 16 of the Planning (Listed Buildings & Conservation Areas) Act 1990 must be adhered to in order to ensure that the decision maker has paid special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses Section 72 of the Act relates to Conservation Areas and advises that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.3. The National Planning Policy Framework states under paragraph 205 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. The NPPF refers to the requirement to consider the harm to the significance of the heritage asset, and if harmful whether there would be substantial harm or less than substantial harm.

- 7.4. In addition, Policy TP12 of the Birmingham Development Plan reiterates the national guidance above noting that the City Council will value, protect, enhance and manage its statutorily protected assets and their contribution to character and local distinctiveness.

External alterations

- 7.5 Externally minimal alterations are proposed with modest new interventions to the western courtyard at lower ground floor which include one new door opening formed within a blocked opening, one new window opening formed to match appearance and proportions of adjacent windows and the alteration and enlargement of two existing windows to create doorways. The proposals would also include the repair and restoration of historic fabric including the repair and repointing of brickwork, cleaning and repainting of stonework like for like refurbishment and thermal upgrade of roof and refurbishment of the original timber sliding sash windows and installation of secondary glazing.

Internal alterations

- 7.6 Internally the proposals would see the removal of non-original partitions, installed at the time of the 1990s conversion, and new lightweight partitions installed, two new door openings formed on each floor in the original stair wall and former openings, blocked up in the 1990s re-used. Original walls, chimney breasts are retained on all floors with existing openings utilised and small openings created where needed, with two new openings created at each floor to create secure lobby and a circulation route.

Impact of the proposals on the significance of East Block

- 7.7 As set out in the submitted Heritage Statement, the proposed works to the East Block have been designed to have a minimal impact on the historic fabric of the building. The works would however result in the removal of a small amount of historic fabric through the creation of openings with the impact reduced through consideration of layout, location of openings and the utilisation of existing or blocked openings where possible. It is considered in the Heritage Statement that the proposed works would result in a low level of harm to the significance of the building overall concluding 'less than substantial harm' in framework terms at the low level. The harm arises through the removal of historic fabric which reduces the legibility of original plan form and erode the historic character of the building.
- 7.8 The repair and long-term sustainable use of the building is considered in the HS to provide public (heritage) benefits. By retaining the building in use as student accommodation minimal alterations are required and the works would allow the building to be utilised efficiently and provide a long term and viable use. The repairs to the building would also ensure that the condition of the fabric of the building is improved.
- 7.9 BCC Conservation agrees with conclusions of the HS that the proposed works would cause some harm to the significance of this building and for the reasons given for the cause of this harm. BCC Conservation further agrees that the harm would be 'less than substantial' and at the low level. The heritage benefits associated with the works to this building as set out in the HS are considered moderately beneficial to the building overall and consider the benefits to outweigh the harm in this case.

West Block

External alterations

- 7.10 The external alterations to this Block are proposed to impact on those areas of the building previously altered so that there would be no loss of historic fabric. These proposals include the removal of the non-original entrance to the south elevation and replacement with a simple and contemporary new entrance. To the north elevation two single-storey 1990s extensions would be removed and some openings altered, including reinstatement of original window opening, a new window into the ground floor of the east gable and a new entrance to the ground floor of the central gable, again designed to be simple and contemporary.
- 7.11 To east and west elevations a small number of existing openings at ground floor would be altered, windows here are modern and the ground floor of both elevations has been rebuilt. Due to past alterations no historic fabric would be lost and the works considered sensitive to the building.

Internal alterations

- 7.12 The HS identifies that the ground floor of this building has undergone substantial alterations as part of the changes that occurred in the 1940s when Queen's Hospital closed and re-opened as Birmingham Accident Hospital, and subsequent alterations that have occurred following the 1990s works when the building was taken on by the University. To the ground floor, there are no visible historic features save for the rear staircase, thought to date to the 1940s and it is considered unlikely that there are any concealed historic features.
- 7.13 Works proposed include the removal of most of the modern partitions, two modern staircases removed and relocated, and a lift inserted adjacent to the rear historic staircase, resulting in the removal of part of the ground floor ceiling and first floor, floor. A small number of openings would be created and where possible blocked openings would be utilised. The formation of new openings would retain surrounding masonry to allow the existing plan form of the building to be appreciated, and some existing openings blocked up where no longer required.
- 7.14 The first floor would remain largely unaltered with minor alterations focused on those areas to the front and rear which retain fewer features of interest. The central hall would remain unchanged apart from the opening up of some of the blocked-up windows to the east and west sides of the room. Within the outer rooms there would be minor modifications including the removal of modern partitions and addition of new partitions and creation of two new openings in blocked archways. The mezzanine would be increased in size and a new staircase to access it installed.

Impact of the proposals on the significance of West Block

- 7.15 The proposed works to West Block includes the modification of the exterior and interior of the building. As set out in the HS, the building has been extensively altered over a number of phases, notably in the 1940s and 1990s, which included the rebuilding of the lower part of the rear gable and ground floors of both the north and south elevations. The works have been designed to have minimal impact on the historic fabric with alterations focused on the less sensitive areas. The HS identifies that the works would result in the loss of some historic fabric through the creation of openings and the installation of a lift but that the alterations are focused on areas already impacted by alterations and of less interest. It is considered in the HS that the proposed works would result in a low level of harm to the significance of the building overall concluding 'less than substantial harm' in framework terms at the low level. The harm arises through the removal of historic fabric which reduces the legibility of original plan form and erode the historic character of the building.

- 7.16 BCC Conservation agrees with conclusions of the HS that the proposed works would cause some harm to the significance of this building and for the reasons given for the cause of this harm. BCC Conservation would further agree that the harm would be 'less than substantial' and at the low level. The heritage benefits associated with the works to this building, such as the removal of later extensions and the opening up of blocked historic windows, are considered moderately beneficial to the building overall and I consider the benefits to outweigh the harm in this case.
- 7.17 The harm arises through the removal of historic fabric which reduces the legibility of original plan form and erodes the historic character of the buildings. The harm would be 'less than substantial' in Framework terms and at the low level. The heritage benefits associated with the works to this building, such as the removal of later extensions, the opening up of blocked historic windows, and securing the ongoing and viable use of these buildings are considered moderately beneficial to the building overall and listed building consent can be granted subject to conditions.

8. **Conclusion**

The less than substantial harm the proposals causes upon the historic fabric of these Grade II listed buildings is acknowledged. However, officers are satisfied that the most significant features would be retained, and the proposed development would secure the reuse of the building whilst restoring public access. Therefore, the harm is found to be outweighed by the benefits of the proposal, according with both National and Local Policy requirements.

9. **Recommendation:**

9.1 Approve subject to the following conditions:

-
- | | |
|----|---|
| 1 | Time Limit |
| 2 | Phasing |
| 3 | Delivering works in advance of new builds |
| 4 | Method Statement |
| 5 | Repair and work to historic fabric |
| 6 | Approved Plans |
| 7 | Details |
| 8 | Mechanical and Electrical Strategy |
| 9 | Lighting |
| 10 | Bird/Bat boxes |
| 11 | Ecological Enhancements |
| 12 | CCTV |
-

Case Officer: Sarah Plant

Photo(s)



Image of the hospital soon after construction

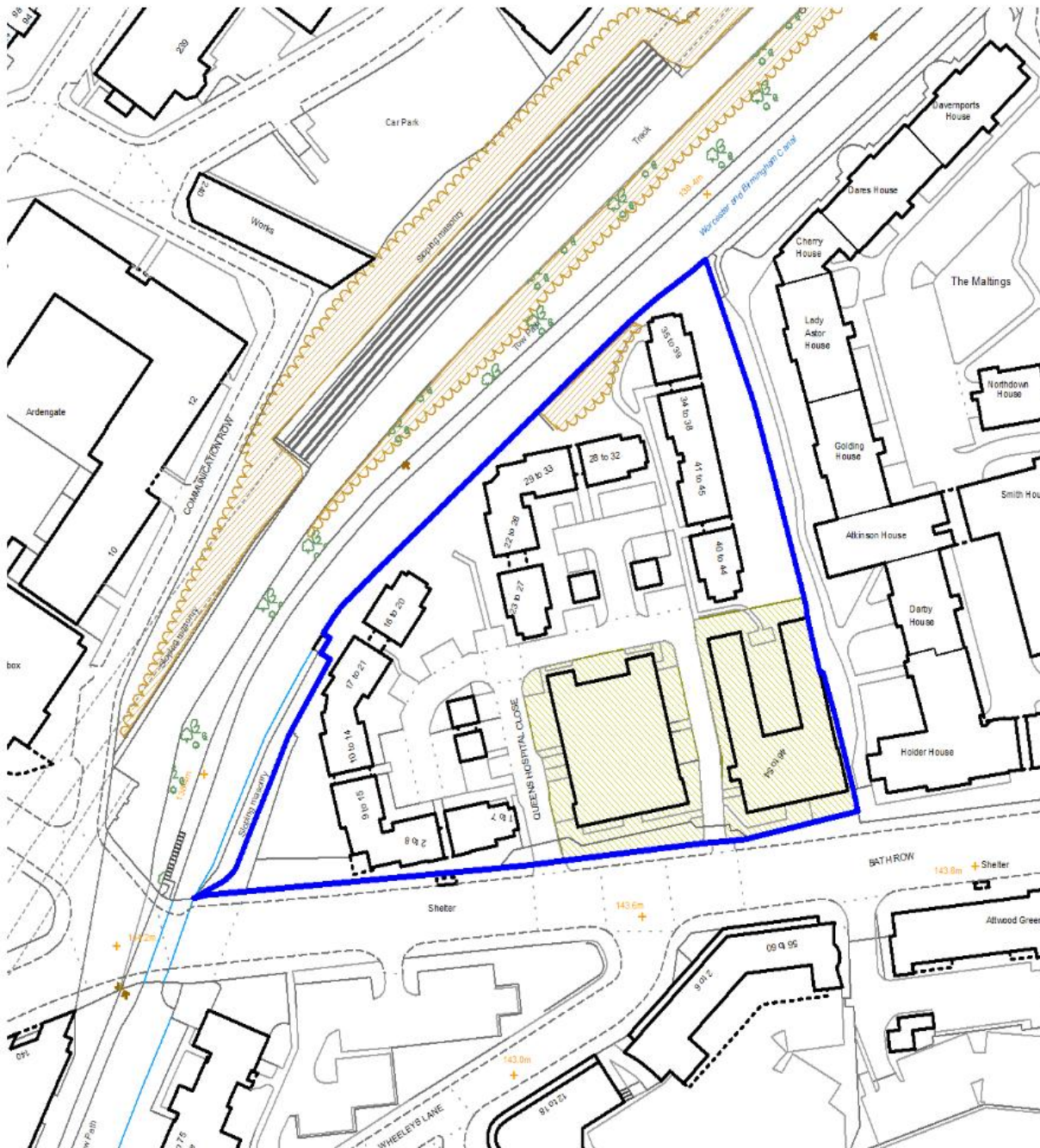


Application Building (eastern block)



Application Building (western block)

Location Plan



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