

Birmingham City Council

Planning Committee

23 May 2019

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	13	2018/10286/PA 61 Gravelly Hill North Erdington Birmingham B23 6BP Change of use from existing 3 no. self contained flats to 9 bed HMO (Sui Generis) and retrospective erection of single storey rear extension.
Determine	14	2019/01573/PA 2 Gravelly Lane Erdington Birmingham B23 6UH Retrospective change of use from shop unit and residential flat (Use Class A1 & C3) to 7 bed HMO (Sui-Generis) with communal living room and kitchen
Approve – Subject to 106 Legal Agreement	15	2018/03556/PA Equipoint 1506 Coventry Road South Yardley Birmingham B25 8AD Extension and alterations including infilling existing undercroft and addition of new floor to create 28 new residential units
Approve - Conditions	16	2019/02652/PA 408-410 Ladypool Road Sparkbrook Birmingham B12 8JZ Continued use as cafe/restaurant at no. 408 Ladypool Road in conjunction with adjoining cafe/restaurant at no. 410 Ladypool Road including retention of single-storey rear extensions.

Approve - Conditions

17

2019/01052/PA

71 Goodison Gardens
Erdington
Birmingham
B24 0AG

Erection of first floor side and single storey rear
extensions

Committee Date:	23/05/2019	Application Number:	2018/10286/PA
Accepted:	10/01/2019	Application Type:	Full Planning
Target Date:	10/05/2019		
Ward:	Gravelly Hill		

61 Gravelly Hill North, Erdington, Birmingham, B23 6BP

Change of use from existing 3 no. self contained flats to 9 bed HMO (Sui Generis) and retrospective erection of single storey rear extension.

Recommendation

Approve subject to Conditions

1. Proposal

1.1. [Link to Documents](#)

1.2 Retrospective consent is sought for the conversion and rear extension of this building and outbuildings to a HMO. The building was previously in use as 3 flats. The site currently has 11 rooms in HMO use, one of which is accommodated within the extension. During the course of the assessment of the application revised plans were submitted to reduce the number of rooms to 9, in order to provide improved accommodation.

1.3 One of the rooms is a former integral garage and is set over two floors. At ground floor level there are 4 other rooms (each with ensuite), two communal kitchens and laundry room. At first floor there are three rooms (one with ensuite), two communal kitchens and a communal shower. There is also a room within the roof space. Room sizes range between 11.4 sq.m and 26.3 sq.m.

Site & Surroundings

2.1 The site lies within a row of dwellings (no.s 49-71 on the western side of Gravelly Hill North), several of which appear to have been subdivided to form flats/HMO's - this includes the adjacent property, no.63, which is currently in use as an HMO. There is a driveway to the front of the building which can accommodate several vehicles. To the rear is a courtyard and outbuildings which have been converted to habitable rooms as part of the development, and a rear garden of approximately 45 metres length.

SITE LOCATION PLAN

2. Planning History

3.1 This application has been submitted following an enforcement investigation in 2018 into the alleged unauthorised use of the property as an HMO.

3. Consultation/PP Responses

4.1 Transportation –

Should permission be granted it is recommended that details of vehicle parking/turning and cycle storage and a car parking management plan are sought by condition.

4.2 Environmental Pollution Control – No objection.

4.3 West Midlands Police - No objection.

4.4 Local residents and Ward Councillors have been notified and a site notice displayed. Two letters of objection have been received from properties on Gravelly Hill North, raising the following concerns:

- Subdivision of the property has increased overlooking between it and adjacent properties, resulting in a loss of privacy;
- The development provides poor quality living accommodation as a result of small room sizes and the conversion of the garage and outbuilding to provide rooms;
- Insufficient parking provision;
- Increased anti-social/criminal behaviour;

4.5 One letter of support has been received from a property on Gravelly Hill North. The letter states that there are ‘no noise issues, no litter issues, no parking issues’.

4.6 A letter of support has been received from Prospect Housing, stating the following:

‘Prospect Housing is a registered provider of social housing and currently manages 1800+ rooms in Birmingham, Telford and Solihull for single, homeless people. We provide much needed accommodation in all parts of Birmingham and there is particular demand for this in Erdington. This is evidenced by the referrals we and other providers receive for the area.

The applicant is one of a number of hand-picked Managing Agents who work in partnership with Prospect Housing. There is an excellent relationship between the two companies and Prospect’s role is to provide support to residents and monitor the performance of the applicant in their areas of responsibility, namely property and housing management.

The applicant provides Prospect with consistently high-quality accommodation and is very responsive to the need for repairs and general refurbishment to be undertaken quickly and regularly in this type of accommodation’.

4. Policy Context

5.1 National Planning Policy Framework 2019 Birmingham Development Plan 2017 Saved 2005 UDP Policies Car Parking Guidelines SPD

5. Planning Considerations

6.1 With regard to Saved Policies 8.23 - 8.25 (Houses in Multiple Paying Occupation) of the 2005 UDP, the main issues in the assessment of this application are:

- The impact of the development on the character of the area and on adjoining premises;
- The size and character of the property and whether the development provides satisfactory living accommodation for the occupants.
- The impact of the development on highway safety.

Character of the area/residential amenity impacts

6.2 Policy TP27 (Sustainable Neighbourhoods) of the BDP requires that new housing contributes to making sustainable places. This is to be achieved by providing a wide choice of housing types and tenures to ensure balanced communities catering for all incomes and ages, within easy reach of local facilities and public transport. It is considered that, in principle, this development accords with these aims particularly given that the site does not lie within an 'Area of Restraint'.

6.3 The row of properties within which the building lies are all in some form of residential use. Subdivision of a number of the properties has taken place and this now forms part of the character of this part of the road. The use of the building as an HMO is acceptable within this context and the cumulative effect is not considered harmful to the character and appearance of the wider area, given also that the property retains the appearance of a family home.

6.4 The nature of the use may generate more activity in terms of comings and goings than would be the case with single family homes. Given that the building is located on a busy classified road this activity would not be readily noticeable at existing nearby properties and no demonstrable harm to existing amenity can be identified in terms of undue noise disturbance. No objections have been received from either of the neighbouring properties in relation to this matter. The siting of the rear extension does not breach the 45 degree code in respect of outlook from those properties. With regard to the concerns of the objectors there is no substantive evidence that the HMO is or would be occupied by persons likely to commit crimes or behave in an antisocial manner. In relation to this West Midlands Police have confirmed no objection to the proposal.

Size and character of the property/living accommodation

6.5 Saved Policy 8.25 of the UDP advises that the use of small terraced and semi-detached houses as HMO's should be resisted. This is a large semi-detached building, the scale of which allows for it to be converted to multiple occupation use.

6.6 The floor space of each of the rooms exceeds the City's minimum room size requirement of 6.5 sq.metres for a single room within an HMO, where there is a separate communal living room. Places For Living SPG requires the provision of 30

sq.metres per unit of amenity space, equating to 270 sq.metres for this development – the site has a rear courtyard within the immediate vicinity of the building and a garden of approximately 45 metres in length; sufficient private amenity space is therefore available for the occupants.

Highway safety

- 6.7 The Specific Needs Residential Uses SPG states that proposals should not prejudice the safety and free flow of traffic and that parking guidelines for HMO's should be treated on their individual merits. Given that Transportation have not identified any specific highway safety implications resulting from the use, it is considered that the development complies with BDP Policy TP44 (Traffic and Congestion Management) which seeks to ensure the safe use of the existing transport network. The car park management plan and details of vehicle parking requested by Transportation are not considered to be necessary given that no highway safety issues have been identified.
- 6.8 The site is located within 500m walk of Six Ways Erdington and associated amenities and 600m from Gravelly Hill Station . Frequent bus services are available within the immediate vicinity. A reduced level of vehicle ownership is generally anticipated in bed-sit type accommodation and BCC Car Parking Guidelines SPD (2012) does not provide parking provision standards for large HMOs. Gravelly Hill is subject of Traffic Regulation Order parking restriction (double yellow lines/no stopping or waiting at anytime). The impact of any 'displaced' parking from the site is likely to be in terms of amenity & increased competition on side roads rather than potential adverse highway safety implications.

6. Conclusion

- 7.1 The proposal constitutes a sustainable form of development in this location which provides satisfactory living accommodation for its occupants and has no harmful effect on the existing character of the area, residential amenity or highway safety. As such the proposal complies with the relevant policy documents referred to in Section 5 above.

7. Recommendation

- 7.1. Approve subject to conditions.

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

2 Requires the submission of cycle storage details

Case Officer: Faisal Agha

Photo(s)



Figure 1: Application Site

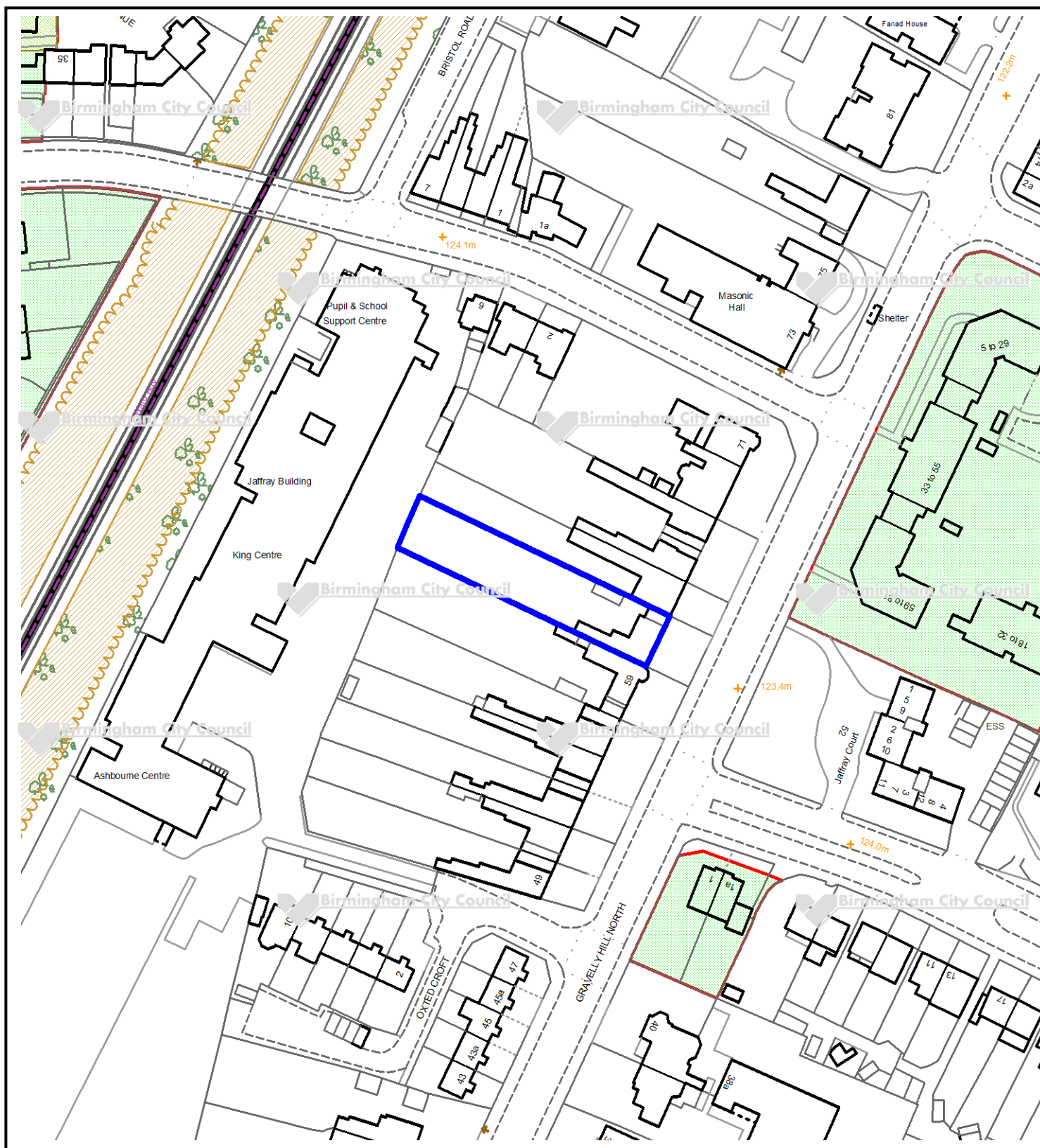


Figure 2: Adjoining site to the north



Figure 3: Application Site and adjoining site

Location Plan



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Committee Date:	23/05/2019	Application Number:	2019/01573/PA
Accepted:	01/03/2019	Application Type:	Full Planning
Target Date:	10/05/2019		
Ward:	Erdington		

2 Gravelly Lane, Erdington, Birmingham, B23 6UH

Retrospective change of use from shop unit and residential flat (Use Class A1 & C3) to 7 bed HMO (Sui-Generis) with communal living room and kitchen

Recommendation
Determine

1. Report Back

- 1.1 Members will recall that this application was presented to Committee on 9th May 2019. The decision was deferred by Members, minded to refuse on the grounds of lack of private amenity space within the development.
- 1.2 Officers consider that the recommendation to approve in accordance with the original report remains appropriate and would refer Members to paragraph 6.6 of the report in this respect. Refusal of the application on the grounds of underprovision of private amenity space would also render the site unsuitable for use as a family home.
- 1.3 Should Members remain minded to refuse the application then the following reason for refusal is suggested:

'The development does not provide private amenity space within the site and as such constitutes a poor quality living environment for the occupants. The proposal is therefore contrary to the National Planning Policy Framework, Policies PG3 and TP27 of the 2017 Birmingham Development Plan, Saved Policies 8.23-8.25 of the 2005 Unitary Development Plan, and the Specific Needs Residential Uses SPG'.

ORIGINAL REPORT

2. Proposal

- 1.1. Consent is sought for continued use as a 7 bedroom HMO (Sui Generis). The property was previously in use as a retail shop, with residential flat above. At ground floor, the accommodation comprises a communal kitchen, communal living room, bathroom, boiler room and two bedrooms (with en-suites). At first floor, there are four rooms (with en-suites) and a kitchen. Within the roof space, there is a further bedroom with en-suite). Bedroom sizes range between 7sq.metres and 17sq.metres.
- 1.2. There is an existing side garage which is to be retained.

[Link to Documents](#)

2 Site & Surroundings

- 2.1. The building is located at the corner of Gravelly Lane and Summer Road and has previously been extended along both Gravelly Lane and Summer Road frontages. The surrounding area is predominantly residential (with a wide variety of house types, including family homes, flats and subdivided buildings), interspersed with commercial uses.

[Site location](#)

3. Planning History

- 3.1. None relevant to the assessment of the application.

4. Consultation/PP Responses

- 4.1. Transportation Development – No objections.
- 4.2. Regulatory Services – No objections, subject to a noise insulation scheme for door/windows.
- 4.3. West Midlands Police – No objections received.
- 4.4. Local residents and Ward Councillors have been notified and a site notice displayed. Councillor Moore has requested that the application be determined by Planning Committee and not under delegated power on the grounds of highway safety and cumulative impact on the number of HMO's in the area.

A resident of Summer Road has also objected on the grounds that the development will exacerbate existing on-street parking problems.

5. Policy Context

NPPF 2019
Birmingham Development Plan 2017
Saved 2005 UDP Policies
Car Parking Guidelines SPD
Places For Living SPG
Specific Needs Residential Uses SPG

6. Planning Considerations

- 6.1 With regard to Saved Policies 8.23-8.25 (Houses in Multiple Paying Occupation) of the 2005 UDP, the main issues in the assessment of this application are:
- The impact of the development on the character of the area and on adjoining premises;

- The size and character of the property and whether the development provides satisfactory living accommodation for the occupants;
- The impact of the development on highway safety.

6.2 *Character of the area/residential amenity impacts*

6.3 There is no evidence of any existing over intensification of existing HMO uses within the immediate vicinity of the site and the site does not lie with an 'Area of Restraint'. The proposal complies in principle with Policy TP27 (Sustainable Neighbourhoods) of the BDP which requires that new housing contributes to making sustainable places, to be achieved by providing a wide choice of housing types and tenures to ensure balanced communities catering for all incomes and ages. Given the mixed commercial/residential nature of the area, it is not considered that the use is not out of character. As a relatively 'isolated' building located on a busy classified road, the use would not have any harmful effect on the existing amenities of occupants of nearby dwellings resulting from noise/ disturbance.

6.4. *Size and character of the property/living accommodation*

6.5. Saved Policy 8.25 of the UDP advises that the use of small terraced and semi-detached houses as HMO's should be resisted. This is a detached former retail shop/ flat of residential scale and appearance which has previously been extended – in principle therefore its existing scale and character allow for it to be converted to multiple occupation use.

6.6. The floorspace of each of the rooms exceeds the City's minimum room size requirement of 6.5 sq.m for a single room within an HMO, where there is a separate communal living room. No amenity space is available within the site. Special Needs Residential Uses SPG requires the provision of 16 sq.m per unit. However, this is considered acceptable as the property is only approximately 500m from Blaze Hill Recreation Park to the north west. In addition, the property provides a reasonable level of accommodation, including a large communal living room and two separate kitchens. The SPG also advises that 'lifestyle' choices should be taken into account when considering amenity space provision and that it is not necessarily required in higher density housing developments.

6.7. *Highway Safety*

6.8. The Specific Needs Residential Uses SPG states that proposals should not prejudice the safety and free flow of traffic and that parking guidelines for HMO's should be treated on their individual merits. Given that Transportation have not identified any specific highway safety implications, and that the use would be unlikely to generate significantly higher volumes of traffic and parking requirements than the previous use, it is considered that the development complies with BDP Policy TP44 (Traffic and Congestion Management) which seeks to ensure the safe use of the existing transport network. Further, the site is located within a convenient walking distance of a number of regular bus services and within 500m of Erdington Railway Station.

7. Conclusion

7.1 The proposal constitutes a sustainable form of development in this location which provides satisfactory living accommodation for its occupants and has no harmful effect on the existing character of the area, residential amenity or highway safety. As such the proposal complies with the relevant policy documents referred to above.

1. Recommendation

8.1 Approve subject to conditions.

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- | | |
|---|---|
| 1 | Requires details of noise insulation scheme within 1 month and implementation within 3 months |
| 2 | Requires the submission of cycle storage details within 1 month and implemented within 3 months |
| 3 | Limits the maximum number of residents to 7 |
| 4 | |
| 5 | Requires the scheme to be in accordance with the listed approved plans |
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Case Officer: Faisal Agha

Photo(s)



Fig. 1: Gravelly Lane – Application property

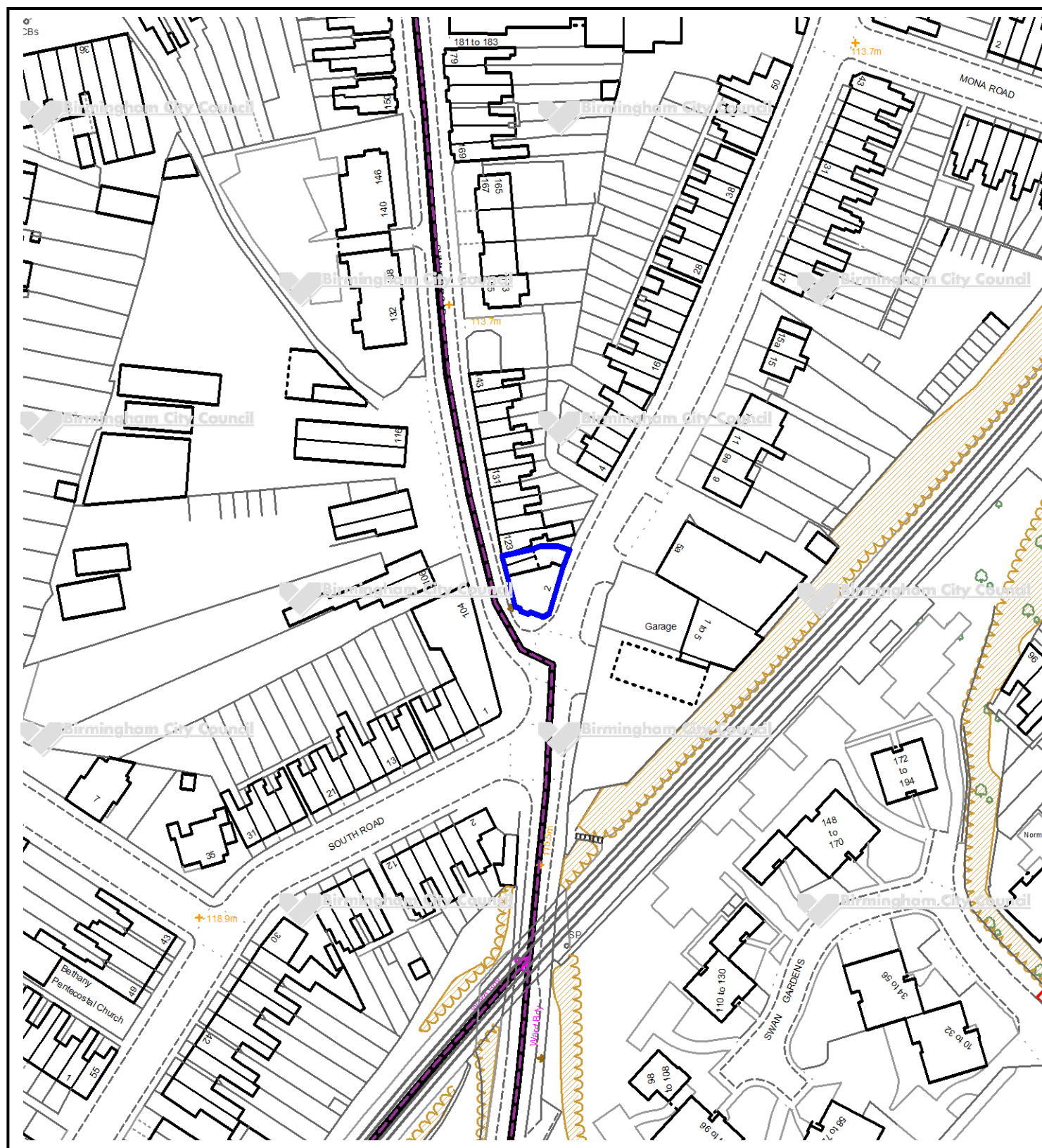


Fig. 2: Gravelly Lane – Rear of adjoining dwellings



Fig. 3: Summer Road – Application property

Location Plan



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Committee Date:	23/05/2019	Application Number:	2018/03556/PA
Accepted:	16/07/2018	Application Type:	Full Planning
Target Date:	15/10/2018		
Ward:	South Yardley		

Equipoint, 1506 Coventry Road, South Yardley, Birmingham, B25 8AD

Extension and alterations including infilling existing undercroft and addition of new floor to create 28 new residential units

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

1.1. [Link to Documents](#)

- 1.2. This application is for the extension and alterations including the infilling of the existing undercroft of the building and the addition of a new floor on the roof to create 28 new residential units
- 1.3. The existing floor space of undercroft will be utilised to provide flats 12 x flats and the addition of a new floor on top of the current roof space to provide a further 16 flats.
- 1.4. There will be 28 flats in total comprising 26 x 1 bed room units and 2 x 2 bed room units split as follows 12 on the ground floor (11 x 1 bed and 1 x 2 bed) and 16 on the top floor (15 x 1 bed and 1 x 2 bed).
- 1.5. This is in addition to the previously approved conversion into flats under the prior approval to create 113 no. x 1 bedroom & 107no. x 2 bedroom flats (220).
- 1.6. Details with respect to the parking layout, access and servicing arrangements have been accompanied by a Transportation Statement that shows 262no. Parking spaces (to include 4no. disabled parking spaces) and a bike store within the curtilage of the site, however the number of cycle parking spaces has not been specified.
- 1.7. A Planning statement, Transport Assessment and Noise Assessment report has also been submitted as part of supporting documents with this application.

2. Site & Surroundings

- 2.1. The application site presently comprises the 10-storey office block and associated car park with access from Church Road and egress onto Willard Road. This vacant office space fronts onto the main Swan Island where Coventry Road (A45), Church Road and Yardley Road converge.
- 2.2. To the east is the large Tesco development with several smaller retail units forming part of the Swan District Centre. To the North is Oaklands Recreation Ground.

Towards the west are residential properties fronting Willard Road and retail/commercial units fronting Coventry Road. To the south, on the opposite side of Coventry Road, is a large retail unit, library, and other residential units.

2.3. [Site location map](#)

3. [Planning History](#)

- 3.1. 21.05.2004 - 2004/01204/PA - Change of use from B1 Offices to A2 Staff Recruitment Offices (opening hours Monday to Saturday, 0800hrs to 1800hrs) – Approved subject to conditions.
- 3.2. 26.02.2010 - 2009/05191/PA - Change of use of 1st floor from Use Class B1 (Business) to Use Class A2 (Financial & Professional Services) – Approved subject to conditions.
- 3.3. 26.04.2012 - 2012/01098/PA - Change of use of ground, 8th, 9th and 10th floor from offices (Use Class B1) to a 125 bedroom hotel (Use Class C1) including minor alterations to entrance area and car park – Approved subject to conditions.
- 3.4. 23.03.2018 - 2018/00071PA – Prior Approval for the change of use of office accommodation to 220 residential units – Prior Approval Granted
- 3.5. 10.12.2018 - 2018/04339/PA - Window and fenestration changes to external appearance of the building – Approved subject to conditions

4. [Consultation/PP Responses](#)

- 4.1. **Transportation** - Conditions required if minded to approve:
Cycle Storage Details to include improved provision at 1 space per dwelling to meet SPD minima guidelines. Given the minimal areas currently allocated for such this is likely to require a more significant land take and so may impact upon the design of the parking/circulation area necessitating amended companion conditions.
- 4.2. This should include layout plan and tracking for refuse vehicle given that no tracking has yet been provided site. Also to improve the disabled parking offer in line with SPD guidelines. Require a Parking Management Strategy and Residential Travel Plan
- 4.3. **Regulatory Services** – We have no objections to make regarding this application. Window details shall be installed as detailed in the report "Assessment of the Existing Noise Climate in the Vicinity of the Proposed Residential Development at the Equipoint Building, 1506 Coventry Road, Birmingham", (DRUK Limited. DRUK/ACC/RS/ADCEBCRYB/2698. Dated 24th April 2018).
- 4.4. **Local Lead Flood Authority (LLFA)** - Given the context of this development, that there is no increase of impermeable area, no alterations to the existing drainage network and that there are negligible external works, the LLFA do not have any comment.
- 4.5. **Education** – No objections or comments
- 4.6. **West Midlands Police** – No objections – recommend 'Secure by Design' principles.

4.7. Ward Members, MP, Residents Groups and neighbouring properties notified - No representations received.

4.8. Site notice posted and press notice advertised - No comments received

5. Policy Context

- Birmingham Plan 2017
- Saved policies of the Birmingham UDP 2005
- Places for All SPG
- Places for Living SPG
- Car parking Standards SPG
- National Planning Policy Framework 2019

6. Planning Considerations

6.1. **Principle**

The National Planning Policy Framework 2018 and Birmingham Development Plan (2017) stress the importance of the re-use of previously developed land and its accessibility to public transport to secure well placed, sustainable residential development.

6.2. Policies PG3, TP27 and TP30 contained within the current development plan, saved policies 3.14-3.14D contained within the saved Birmingham UDP and guidance within adopted Supplementary Planning Guidance Places for All and Places for Living requires consideration to be given to the design and layout.

6.3 Moreover, It is the 'golden thread' that runs through the NPPF 2019 and the adopted Birmingham Plan that new development should also provide good quality residential accommodation that builds upon local character, whilst not detrimentally impacting upon the character and quality of the residential environment to existing residents in the area.

6.4 Members will appreciate that there is a live consent on the site with the prior notification for 220 units in regard to the conversion of the offices and therefore I raise no objections to the principle of redeveloping the application site for residential purposes and the provision of a further 28 additional units. These units will be provided as new floor over the roof and partial infilling of the ground floor/undercroft of the building. Therefore regard the main planning considerations to be the design of the proposed development, the impact of the development in terms of access and servicing, any associated contamination risks within the site, landscaping, flooding/drainage issues at the site and to consider the impacts of noise from commercial premises on the intended occupiers of the development and the neighbouring properties.

6.5. **Design and Appearance/Character of the Location**

The former 'Equipoint' building is a high rise office block which is a distinctive and significant feature building on the Swan Island in Yardley. The building is visible from a number of vantage points and from a considerable distance and is considered a local landmark.

- 6.6. The proposed changes to the building in terms of the conversion and the previously approved repair and repainting of the external elevations and window changes will provide a more modern look to the building with uprated noise insulated window openings and the new grey finish to the concrete work. The proposed infill elements will be in a contrast engineered brick and matching render panels in basalt grey to match the main building and the repainted exterior.
- 6.7. In this instance I consider the design of the proposed block to have an acceptable appearance in the context of the main block and with the additional floor and undercroft utilised as part of this scheme I consider there would be little impact in terms of the character of the location and the local environs which would ensure the development complies with policy PG3 of the Birmingham Plan.
- 6.8. The Landscape officer has commented on the proposal and considers conditions should be applied to cover both the soft landscape especially around the boundaries and I concur with this view which will help soften the overall appearance of the development.
- 6.9. **Transport and Highway impacts**
The application site is located within the Swan District Centre and has excellent access to public transport with bus routes serving the site between Birmingham City Centre and Sheldon. The proposals would result in the provision of 239 no. car parking spaces with access from Church Road (adjacent to the Petrol filling Station). This would include disabled parking spaces and an area of cycle storage. It is noted that no detail is provided in respect of the specific cycle parking provision proposed.
- 6.10. A Transport Statement was submitted in support of the application, following a request from Transportation Development colleagues. The Transport Statement includes projected existing/proposed trip generation for the site using data from industry standard database TRICS and was originally provided in terms of the conversion.
- 6.11. The analysis prepared by the applicants suggests a relatively high existing B1 use trip rate and a relatively low comparison C3 use trip rate and therefore concludes that the development would be favourable in terms of likely reduced peak hour movements.
- 6.12. Transportation Development colleagues had previously commented that whilst internal Local Highways Authority analysis generates lower trip rates for B1 use and high rates for C3 use (compared to those in the applicants statement), it is not considered that the variance is so significant that objections on the basis of the applicants adopted methodology could be upheld. The prospective impact of additional trips from the proposed residential use on network performance would consequently be unlikely to result in a demonstrably severe impact upon the surrounding highway network and on this basis no objection is raised by Transportation Development.
- 6.13. Notwithstanding the acceptability of the proposal in terms of its likely impact on the highway network, given the increase of units by 28, a number of conditions are recommended to achieve the best possible outcome with regards to highway safety for the scheme with the additional units. These parking layout, access and cycle parking provision, and a proposed parking management scheme. Given the scale of the proposals and the level of parking provision proposed here I consider that such conditions would be reasonable and necessary to ensure the safe management and operation of the application site and car park arrangements.

6.14. Landscaping

There are limited opportunities for landscaping of the site. Members will be aware that the prior approval for the majority of the units did not require any formal landscaping of the site. It is still considered an important part of the overall appearance of the site and therefore conditions are suggested in terms of the boundary and maintenance to ensure the development has some degree of softening.

6.14 Flooding risks

The site falls within Flood Zone 1 and has a low probability of flooding and is not shown to be at risk from surface water flooding. Consequently, there are no significant risks from flooding from the proposed alterations to the building to create the additional floor

- 6.15. The Local Lead Flood Authority have raised no objections to the scheme in principle and have commented that since there is currently drainage to the site the additional 28 units would lead to an increase in the amount of foul drainage from the site. A condition relating to foul/surface drainage of the site would be recommended in this instance.

6.16 Contaminated Land

The existing building will remain in this instance and therefore there at no contamination concerns for the site.

6.17 Amenity

Each of the new 28 flats will have adequate bedroom sizes and overall space as required by the DCLG Technical Standards which will provide a satisfactory living environment for the new occupiers. It is noted that that there is no on site amenity space for residents however, the site is next to 'Oaklands Recreation Ground' where open space for the amenity of the residents is available.

- 6.18 The new residents will be aware of the proximity of commercial properties in the surrounding area and the main strategic Coventry Road (A45) running alongside. A copy of the noise report that was produced as part of supporting documentation for the prior approval application specifies that the existing windows would be upgraded to achieve the necessary sound reduction levels to protect the amenity of any prospective residents. The purpose built office block which was proposed to be converted as a result of this prior approval is of robust construction and achieves appropriate levels of thermal and sound insulation.

- 6.19. Regulatory Services have further required that the additional apartments be restricted by the same noise assessment undertaken under the prior notification and have raised no objection subject to this being imposed. Therefore, subject to the condition requiring the same noise insulation standards as the conversion scheme and recommendations of the noise report being undertaken I concur with this approach which will ensure adequate amenity levels are maintained.

6.20. Affordable Housing and Planning Obligations

The development site falls within a Low Value Area Residential Zone and will therefore be subject to a nil CIL charge. However, given the scale of the proposed development, seeking to deliver more than 15 no. dwellings, 35% affordable housing must be delivered as part of the scheme, in accordance with Policy TP31 of the Birmingham Development Plan. In accordance with Policy TP9 of the BDP, residential schemes of 20 or more dwellings should provide on-site public open

space and / or children's play provision. Developer contributions could also be used to address the demand from new residents if not provided onsite.

- 6.19. The application proposals seek to provide 28 new units of 26 x 1 bed and 2 x 2 bed units. Given the above and in this instance the developer has provided a financial viability report based on the new development as proposed.
- 6.20. Since the provision of affordable housing has been agreed in principle with the applicant. The housing officer has acknowledged the need for the provision of affordable units (ie 9 units), however after consultation and careful consideration it is clear that registered social providers are unlikely to want to take up the offer given the size of the proposed units and the ability to maintain/access their location in the wider development. In this instance housing have suggested that an off-site contribution would be most appropriate way for the provision of affordable homes. This off site contribution would provide towards the construction of new family homes in the locality. As noted, the developer, in this instance, has provided a viability report with regard to the development. This has been thoroughly assessed by the Councils' independent advisors and in this instance, given the low land values, and the resulting development being rental development a payment of £47,000.00 which is the equivalent to (3 units) equating to 10% delivered on an 'affordable rent basis' and at 20% discount to market rent can be sustained
- 6.21. Since the site was previously developed as an office it has a large expanse of hard standing to provide adequate parking for the site and has no open space. In this regard there is still no open space provided on site and no opportunity to provide any meaningful space.
- 6.22. Leisure Services have requested an off-site contribution to be secured to offset for the lack of on site provision. The assessment has further concluded that a payment for Public Open Space can be sustained. The applicant has agreed with this request and the affordable housing payment and therefore I find this approach acceptable and may be adequately secured through the S106 agreement.
- 6.23. **Community Infrastructure Levy**
The proposed development would not attract a CIL contribution.

7. Conclusion

- 7.1. This is previously developed land and the main principle of residential use has been established through the Prior Notification scheme. The design of the new elements will continue to complement the existing building. Subject to conditions I consider the development may be adequately serviced and the proposed acoustic glazing in the new and converted flats and the recommendation of the noise report will ensure appropriate amenity levels are secured for future residents.

8. Recommendation

- 8.1. Approve subject to conditions and 106 legal agreement
That consideration of application number 2018/03556/PA is deferred pending the completion of a Section 106 Legal Agreement to secure the following:
- i) Payment of £47,000.00 which is the equivalent to (3 units) equating to 10% delivered on an 'affordable rent basis' and at 20% discount to market rent.

- ii) Payment of £39,000.00 (index linked to construction costs from 23rd May 2019 to the date on which payment is made) towards the provision, improvement and/or biodiversity enhancement of public open space, and the maintenance thereof within the Yardley Ward; and
 - iii) Payment of a monitoring and administration fee associated with the legal agreement of £3010.00
- 8.2. In the event of the above legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 6th June, 2019, planning permission be REFUSED for the following reason;
 - i) The proposal represents an unacceptable form of development as it would not achieve Section 106 Planning Obligations in the form of appropriate affordable housing and a financial contribution towards the maintenance and improvement of local public open space. This is contrary to Policies TP9 and TP47 of the Birmingham Development Plan 2031, Affordable Housing SPG, Public Open Space and New Residential Development SPD, and the National Planning Policy Framework (2018).
- 8.3. That the City Solicitor be authorised to prepare, complete and seal the appropriate planning obligation via an agreement under Section 106 of the Town and Country Planning Act.
- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 6th June, 2019, favourable consideration be given to this application, subject to the conditions listed below. That subject to the signing of a S106 agreement that planning permission be granted subject to conditions. In the event of this agreement not being signed by then permission be refused.

1	Requires the scheme to be in accordance with the listed approved plans
2	Requires the submission of sample materials
3	Requires the submission of an amended car park layout
4	Requires the submission of a parking management strategy
5	Requires the submission of a residential travel plan
6	Requires the submission of details of turning, loading and parking
7	Requires the dedicated use of access and egress points
8	Requires the submission of cycle storage details
9	Requires the submission of details of a delivery vehicle management scheme
10	Requires the provision of a vehicle charging point
11	Requires the submission a Noise Insulation Scheme in accordance with report to

ensure residential acoustic protection

- 12 Requires the submission of soft landscape details
 - 13 Requires the prior submission of a drainage scheme
 - 14 Requires the submission of a lighting scheme
 - 15 Implement within 3 years (Full)
-

Case Officer: Sarah Willetts

Photo(s)

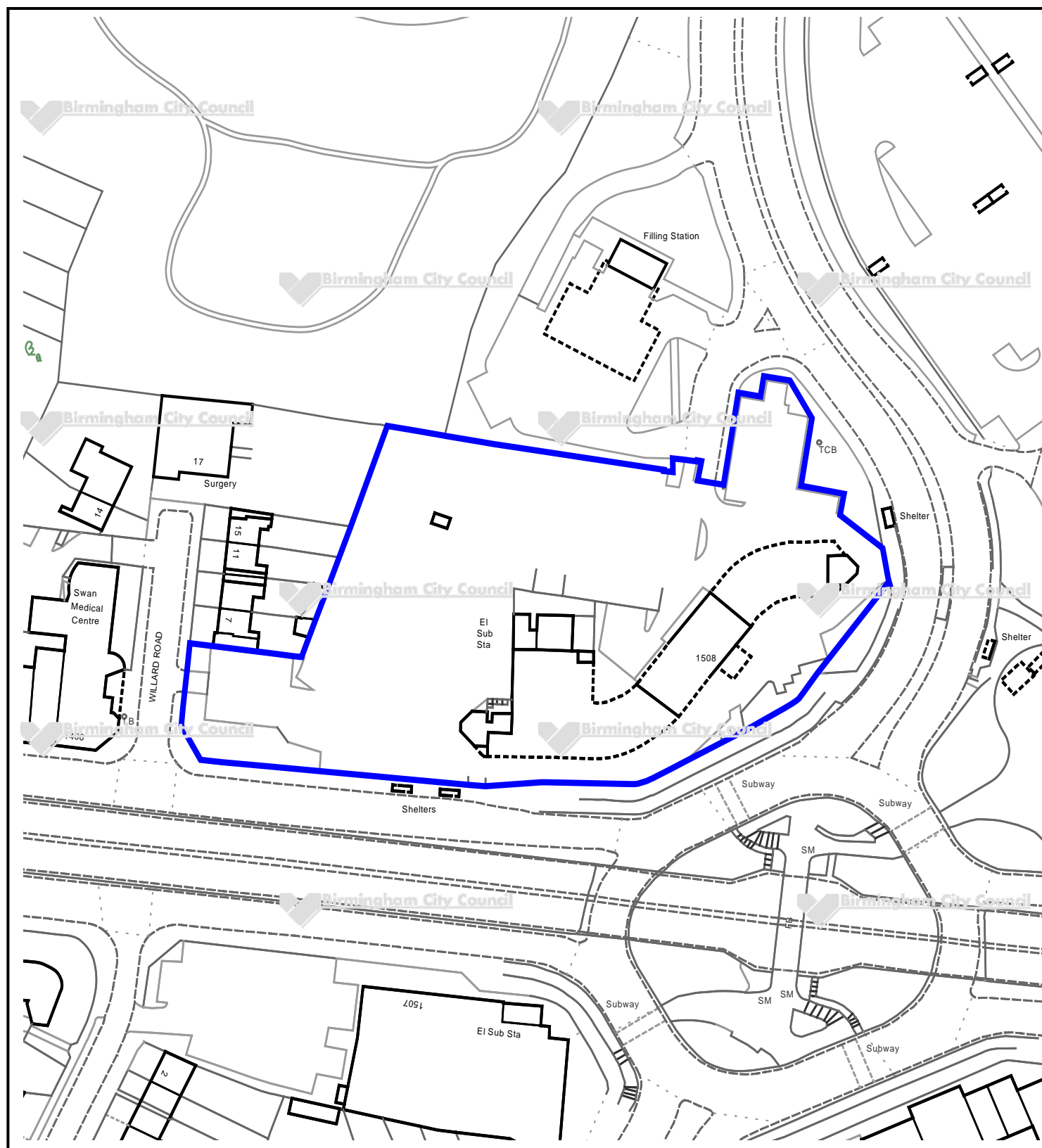


Photo 1 View of office from car park looking towards roof



Photo 2 View of Undercroft from car park entrance

Location Plan



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Committee Date:	23/05/2019	Application Number:	2019/02652/PA
Accepted:	29/03/2019	Application Type:	Full Planning
Target Date:	24/05/2019		
Ward:	Sparkbrook & Balsall Heath East		

408-410 Ladypool Road, Sparkbrook, Birmingham, B12 8JZ

Continued use as cafe/restaurant at no. 408 Ladypool Road in conjunction with adjoining cafe/restaurant at no. 410 Ladypool Road including retention of single-storey rear extensions.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The application seeks permission for the continued use of no. 408 Ladypool Road as café/restaurant in conjunction with the adjoining café/restaurant at no. 410 Ladypool Road. In addition, the applicant seeks permission for the retention of single-storey rear extensions.
- 1.2. The internal, modified ground floor plan for both units shows the main customer seating area with 33 seating along with a rear food preparation/ kitchen and storage area as well as toilet facilities.
- 1.3. The single-storey rear extensions to be retained at nos. 408 and 410 Ladypool Road would both extend by 2 metres (4.6 square metres) to the rear of the original wings. Refuse storage areas are provided within the rear courtyard area of the site. The overall gross internal floor area of the combined units is approximately 83 square metres.
- 1.4. The proposed enlarged café/ restaurant would operate between the hours of 08:00 – 23:30 hours Monday to Saturday and 08:00 – 23:00 hours Sunday. The existing extraction flue is mounted on the rear elevation and would continue to serve the enlarged café/restaurant unit. It is located 2.5 metre above ground level and extends 1.2 metre above the main building's eaves.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is located within the Primary Shopping Area of Ladypool Road Neighbourhood Centre. The application site consists of a three-storey terraced property with two units used as a café/restaurant. Previously no. 408 Ladypool Road was operated as a retail unit (Use Class A1) before being extended at the rear and incorporated into the existing café/restaurant use at no. 410 Ladypool Road.
- 2.2. The application site's first and second floor are currently used as residential flats. Access to the upper floors is provided via an external staircase to the rear of the site.

- 2.3. The surrounding area is mixed commercial and residential in character. The application site forms part of a small row of terrace with four units (1no. A1 unit, 1no. A2 unit and 2nos. A3 units – the application site). The wider parade and street frontage between Taunton Road and Alder Road comprises overall 15no. units (9no. A1 units, 2no. A2 units, 3no. A3 units, and 1no. vacant).
- 2.4. There are parking restrictions (TRO's) in the form of double yellow lines to the road frontage of the application site and along both sides of Ladypool Road to the north. In southern direction parking is permitted on-street on either side of Ladypool Road.

[Site location](#)

3. Planning History

- 3.1. 31.10.2016: 2016/07244/PA – 410 Ladypool Road. Change of use from sandwich bar (Use Class A1) to restaurant (Use Class A3) and installation of extraction flue. Approved subject to conditions.
- 3.2. 25.03.2003: 2003/00755/PA – 410-412 Ladypool Road. Erection of single storey rear extension (revised application). Approved subject to conditions.
- 3.3. 29.11.2002: 2002/05342/PA – 410-412 Ladypool Road. Erection of single storey rear extension. Approved subject to conditions.

4. Consultation/PP Responses

- 4.1. Councillor Azim has requested that the application be determined by Planning Committee and not under delegated powers on the grounds of parking, fly tipping and neighbour concerns.
- 4.2. Adjoining neighbours, Residents Association and Ward Councillors consulted and Site Notice posted. One further response received from Councillor Shabrana Hussain on the grounds of no parking facilities, obesity on the increase, close to primary schools and that there are already too many food and dessert places on Ladypool Road
- 4.3. Transportation – No objections.
- 4.4. Regulatory Services – No objections subject to conditions to include prior submission of extraction and odour control details, noise levels for plant and machinery, noise insulation scheme, prevention of amplification equipment, restriction of opening hours and maximum number of customers/covers.
- 4.5. West Midlands Police – No objections.

5. Policy Context

- 5.1. Birmingham Development Plan (2017), Birmingham Unitary Development Plan Saved Policies (2005), National Planning Policy Framework (2019), Car Parking Guidelines Supplementary Planning Document (2012), Shopping and Local Centres Supplementary Planning Document (2012).

6. Planning Considerations

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

Principle of Development

- 6.2. The site is located within the Primary Shopping Area of Ladypool Road Neighbourhood Centre and Policy TP21 (The network and hierarchy of town centres) of the BDP identifies such centres as a preferred location for retail and office development. Proposals which will make a positive contribution to the diversity and vitality of these centres will be encouraged.
- 6.3. Policy TP24 of the BDP (Promotion and diversity of uses within centres) encourages a mixture of uses within centres including restaurants. However, whilst it recognises the niche role of some centres in terms of the mix of uses (for example the Balti triangle in Sparkbrook), it stipulates the importance of maintaining the predominant retail function and that it is not undermined by an over-concentration of non-A1 uses.
- 6.4. In addition, the Shopping and Local Centres SPD, adopted as guidance in 2012, is consistent with the NPPF and identifies and defines Birmingham's District and Neighbourhood Centres as well as Primary Shopping Areas within these centres. Retail development and other town centre uses, including those that generate significant numbers of people will be encouraged. These include: shops, offices, assembly and leisure, health, religious buildings, restaurants, pubs and hot food takeaways.
- 6.5. Consequently, I consider the proposed/ continued use as a restaurant at this location is acceptable in principle.

Impact on Vitality and Viability

- 6.6. Policy 1 and 2 of the Shopping and Local Centres SPD advocates that at least 50% of all ground floor units within Neighbourhood Centres should be retained in retail use (Use Class A1) and when a change is considered to a non-retail use, that regard will be had to the need to avoid an overconcentration or clustering of non-retail uses in order to prevent a negative impact on the vitality and viability of existing centre. In addition, Policy 5 notes that exceptions may be permitted in centres that have a recognised tourism role such as the Balti Triangle on Ladypool Road.
- 6.7. Saved Policies 8.6 and 8.7 of the UDP states the criteria to be used when deciding where new hot food shops, restaurants and cafes can acceptably be located and, states that the City Council will use those criteria when considering planning applications for such development. The criteria stated in Policy 8.7 includes the following:
- Due to amenity issues usually associated with such development (late night opening, noise, disturbance, smell and litter) and their impact on traffic generation, hot food shops and cafes/restaurants should be generally confined to shopping areas of mixed commercial development.
 - Within such areas and wherever similar facilities exist, account will be taken of the cumulative impact of such development particularly in terms of impact on the amenity of the area and traffic generation. Where concentrations of facilities exist that are already causing such problems planning consent may well be refused if the additional use causes further demonstrable harm.

- When considering a proposal, and particularly the change of use from an existing shop, account will be taken of the impact that it will have on the viability and vitality of the frontage and centre which it forms part. Where a primary retail frontage has been identified within a shopping centre, the change of use of existing retail premises to a hot food shop/restaurant or café will not be permitted. Elsewhere, within shopping areas or areas of mixed commercial development, a proposal will be considered on its merits with account being taken of the character and prosperity of the centre (e.g. as evidence by the number of vacant units) and subject to the other specified criteria.
 - The availability of public transport, convenient on/off street car and cycle parking provision and impact on highway safety will be important considerations. Where insufficient car parking or likely traffic movement are such as to create a traffic hazard planning consent is likely to be refused.
- 6.8. The application site is located within the linear Ladypool Road Neighbourhood Centre and most recent survey data of April 2018 identify 61.45% of units retained within retail (Use Class A1) including vacant units. It is acknowledged that there are a number of restaurant uses on both sides along this end of Ladypool Road, in particular on the opposite side between Brighton Road and Newport Road. However, the proposal would not result in the number of retail units (Use Class A1) falling below the required threshold of 50% as recognised within Policy 1 of the Shopping and Local Centres SPD.
- 6.9. With regards to Policy 2 of the Shopping and Local Centre SPD, there are a total of 15no. units within the extended parade to the eastern side of Ladypool Road between Taunton Road and Alder Road of which 9no. units are in retail use. In addition and considering the adjoining units, the unit to the north (no. 406 Ladypool Road) is used for retail purposes (Use Class A1) whilst the unit to the south (no. 412 Ladypool Road) is used as an estate agent (Use Class A2 – financial and professional services). Whilst, it is acknowledged there are a number of restaurant uses located within this part of Ladypool Road (in particular on the opposite side of the road), policy 5 of the 'Shopping and Local Centres' SPD allows exceptions and recognises the Balti Triangle (Ladypool Road) as playing a tourism role within the City. Therefore, I consider the proposed additional restaurant unit would constitute an appropriate exception as part of the 'Balti Triangle' but would also not result in an over-concentration as there is a mix of uses provided within the parade.
- 6.10. I am content the application proposals represent a mix of a café and restaurant. The proposed opening hours from 8.00am until 23.30pm Monday to Saturday and 8.00am to 23.00pm Sundays would have a positive impact on the character and function of the centre and would not result in a dead frontage. The proposal would not result in the creation of a new restaurant unit, but proposes the merging of two units of which one already lawfully operates as a restaurant/café (no. 410 Ladypool Road). The increase in seating spaces would in my opinion not cause harm to the local centre.
- 6.11. I therefore conclude the continued use of the enlarged café/restaurant complies with adopted planning policies and would not negatively impact on the vitality and viability of the local centre. Other relevant matters are considered below.

Residential Amenity

- 6.12. The application property is a three-storey mid-terraced building. The majority of units in the surrounding area are of commercial nature on the ground floor with residential accommodation on upper floors. The first and second floor of the application is

residential. An existing extraction flue is located to the rear of the application property with a height of 2.5 metres. Regulatory Services raise no objection subject to conditions in relation to the submission of extraction and odour control details, noise levels for plant and machinery, noise insulation scheme, prevention of amplification equipment and restriction of opening hours. I consider the majority of the proposed conditions to be acceptable; however, a proposed condition in respect of the maximum number of customers/covers is considered to be unreasonable and would not meet the necessary tests as set out in National Planning Practice Guidance. As the scheme proposes the continued use as a restaurant, I would consider it reasonable that the information in respect of extraction and odour control and noise insulation have to be submitted within three months of any grant of planning permission and agreed in writing with the Local Authority.

- 6.13. The refuse storage area (including location of bins for recycling, fat and food waste) is shown within the rear courtyard area of the application site and a condition would be attached to any grant of planning permission to ensure the refuse area will be laid out and maintained in accordance with the details submitted. In addition, I note concerns from Councillor Azim in respect of fly tipping and would also consider it reasonable that a condition is attached to any grant of planning permission requiring that a litter bin is provided to the forecourt of the premises.
- 6.14. The single-storey rear extensions are of very small-scale (4.6 square metres) and extend to the rear of the original rear extensions by an additional 2 metres. The application site is adjoined by existing commercial uses and extensions are constructed using matching materials to the main building. There is no breach with the Council's 45 Degree Code and therefore it is considered the rear extension would not negatively impact on the amenity of nearby residential uses in terms of loss of privacy, outlook or light.

Highway Safety

- 6.15. The application site is located within the Primary Shopping Area of Ladypool Road Neighbourhood Centre which is a sustainable location with good public transport accessibility and limited on-street vehicle parking. The proposal does not provide car parking and results in additional short stay car parking demand which I consider to be consistent with the site's location within a Primary Shopping Centre.
- 6.16. I note comments from Councillor Hussain that there are no parking facilities in the locality. Transportation Department have assessed the scheme and raise no objections to the proposed development. I concur with the view and consider there would be no detrimental impact on highways or pedestrian safety.

Visual Amenity

- 6.17. The application has been submitted for a continued use; therefore the application proposals are already visible in the existing streetscene. I consider that the overall design and appearance of the restaurant is acceptable and has aesthetically improved the parade of shops by providing a façade that allows for views in and out of the restaurant and use of natural lighting.
- 6.18. The proposed extraction flue is situated to the rear elevation of the property and would be sited at an acceptable distance from the public realm and street frontage. It is therefore unlikely to have an adverse impact upon the visual amenity of the immediate area.

Other Concerns

6.19. Councillor Hussain has made representations that there are too many food and dessert places within the area where obesity is on the increase. The proposal is for a café/restaurant use the type of food to be prepared at the property consists of hot and cold drinks, breakfast, lunch and dinner options. Whilst there is a need to promote healthy eating which is a material consideration, I am of the opinion there is no evidence submitted to substantiate the claim that the proposed use would result in detriment to healthy eating programmes. Consequently, I do not consider that this concern warrant refusal of this application. Councillor Hussain also refers to the close distance of the restaurant to Primary Schools. The nearest Primary School (Clifton Primary School) is located approximately 500 metres to the north of the application site on St Pauls Road. The walking route from the school to the application site would be along Ladypool Road where there are already various other restaurants/cafes and hot food takeaways situated. Therefore, it is considered the location of the restaurant at nos. 408-410 Ladypool Road would not negatively impact on pupils of the nearest Primary Schools.

7. Conclusion

7.1. The use of the site as a larger restaurant would not compromise the vitality and viability of the existing centre and I am satisfied that the proposed development would not have a detrimental impact on residential amenity or highways safety. I consider there are no sustainable grounds that would warrant refusal of the application. The proposal is therefore recommended for approval subject to conditions.

8. Recommendation

8.1. Approve, subject to conditions.

1	Requires the scheme to be in accordance with the listed approved plans
2	Limits the hours of operation (08:00 - 23:30 Monday to Saturday and 08:00 - 23:00 Sunday/ Bank Holiday)
3	Requires the submission of extraction and odour control details within three months of the date of the application hereby approved
4	Limits the noise levels for Plant and Machinery
5	Prevents the use of amplification equipment
6	Requires the prior submission of noise insulation within three months of the date of the application hereby approved
7	Requires refuse storage to be implemented in accordance with details submitted
8	Requires the provision of a litter bin within two months of the date of the application hereby approved

Case Officer: Laura Pohl

Photo(s)



Figure 1: Application site and adjoining units

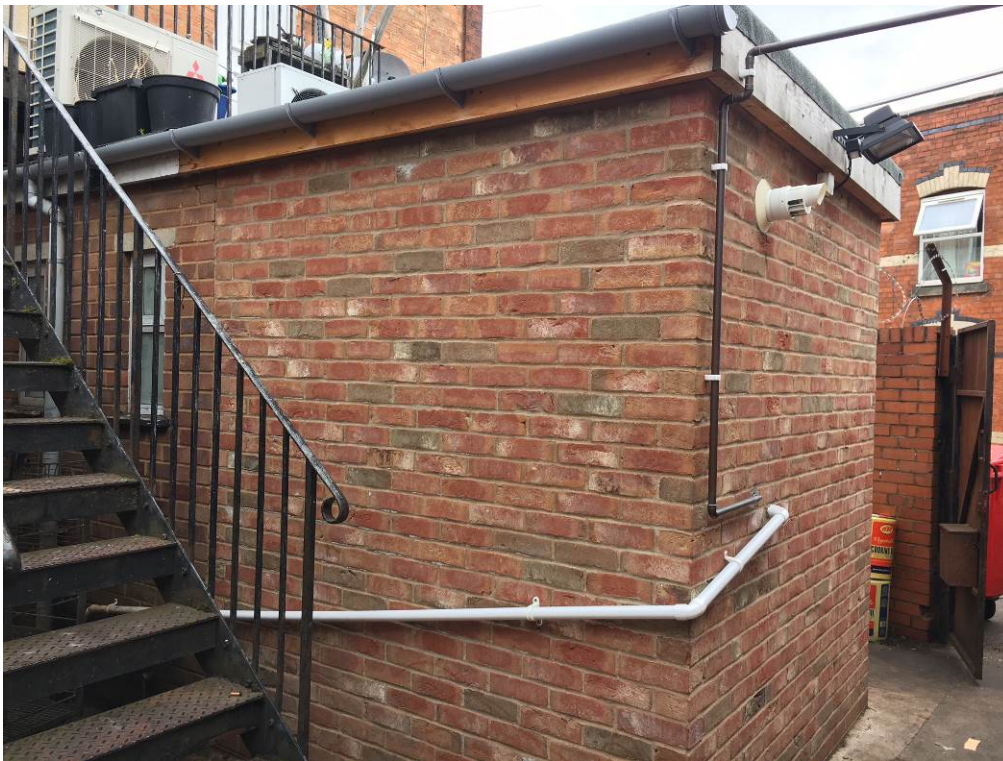
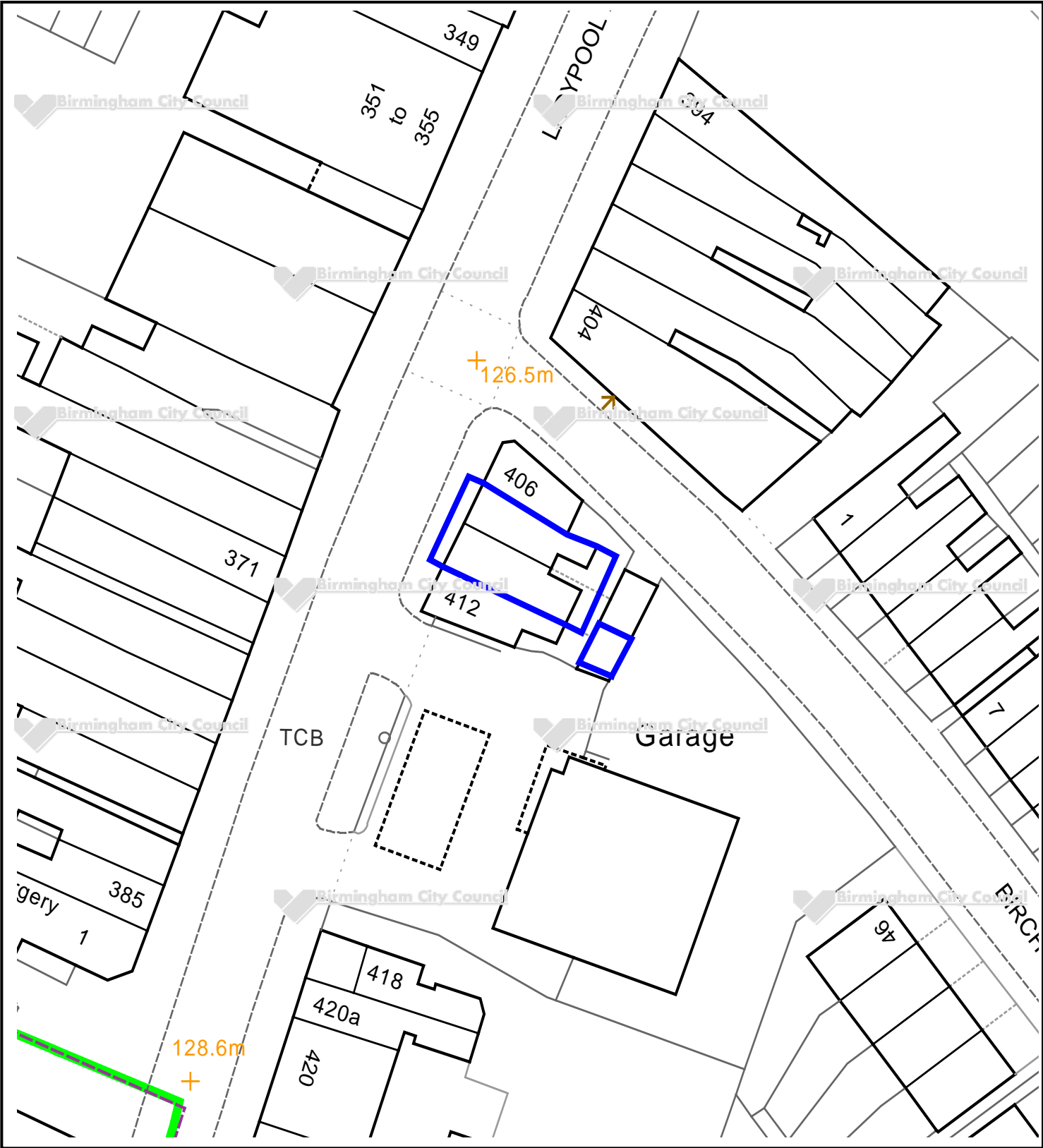


Figure 2: Single-storey rear extension at no. 408 Ladypool Road



Figure 3: Rear of application site and flue

Location Plan



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Committee Date:	23/05/2019	Application Number:	2019/01052/PA
Accepted:	07/02/2019	Application Type:	Householder
Target Date:	26/04/2019		
Ward:	Erdington		

71 Goodison Gardens, Erdington, Birmingham, B24 0AG

Erection of first floor side and single storey rear extensions

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. This application seeks planning consent for the erection of first floor side and single storey rear extensions.
- 1.2. The proposed side extension would provide a bedroom to replace the existing garage at the ground floor and a bathroom and bedroom at the first floor. The extension would have a gable roof design with ridge set down by 0.2metre from the main ridge and would be set back 0.6m from the front elevation. The proposed brickwork and materials would match existing.
- 1.3. The proposed rear extension would provide a dining room.

1.1. [Link to Documents](#)

2. Site & Surroundings

- 2.1. Goodison Gardens consist of 1970's semi-detached dwellings and No. 71 Goodison Gardens is situated on a bend in the street. The dwelling has been extended at the rear in the form of a conservatory. The application site has a frontage measuring about 12.0 metres deep towards the highway. The side and rear garden boundaries of Nos. 69 and 73 Goodison Gardens are defined by 1.8m wooden fence.

[Site Location Map](#)

3. Planning History

- 3.1. There is no relevant planning application associated with this application site.

4. Consultation/PP Responses

- 4.1. 5 letters of objection have been received, raising the following concerns:
 - scale of development is not in keeping with the character of the area,
 - loss of daylight,
 - loss of privacy,
 - impact on visual amenity,
 - increased noise and traffic,
 - potential multi occupation dwelling.

5. Policy Context

- 5.1. National Planning Policy Framework (2019), Birmingham Development Plan (2017), Birmingham Unitary Development Plan (Saved Policies - 2005), SPG Places for Living (2001), Places for All (2001) and the 45 Degree Code (1996).

6. Planning Considerations

Background

- 6.1. This application has been assessed against the objectives of the policies as set out above. The main issues for consideration are the scale, design and siting of the proposed building, impact on the existing street scene and the amenities of neighbouring occupiers and highway safety.

Policy

- 6.2. NPPF Paragraphs 117 and 118 advise that decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions; and should allow upward extensions where development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene and is well designed (including complying with any local design policies and standards).
- 6.3. Policy PG3 of the BDP states that all new development will be expected to demonstrate high design quality, contributing to a strong sense of place. New development should reinforce or create a positive sense of place and local distinctiveness, with design that responds to site conditions and the local area context.
- 6.4. Saved Policy 3.14C of the Birmingham UDP states that development should have regard to the development guidelines set out in Places for All and Places for Living SPG.

Impact on the Character of the Area

- 6.5. The scale of the proposed development would not adversely affect the character and appearance of the area. The design of the proposed development would be in keeping with character and appearance of the host dwelling. The siting of the proposed development would be in accordance with existing building line and would not result in significant loss of amenity space from 144m² to 138m². Therefore, the scale, design and siting of the proposed development is acceptable and would not conflict with Para. 117 and 118 of the NPPF.

Residential amenity

- 6.6. Extending Your Home' Design Guide requires that extensions should not have a harmful effect on residential amenity. The proposed rear extension complies with the 45 Degree Code in relation to Nos. 69 and 73 and would not result in loss of outlook and daylight. The first floor side extension would meet the minimum separation distance requirement from windows to the rear boundary (10 metres required according to the Places for Living SPG).
- 6.7. The development would therefore comply with the guidelines set out in Extending Your Home' Design Guide, 'Places for Living' and Policy PG3 of Birmingham Development Plan which are relevant to the proposal.

Other Matters

- 6.8. I am mindful of adjoining neighbours' concerns regarding scale of development, the character of the area, loss of daylight and privacy, impact on visual amenity, increased noise and traffic and potential multi occupation dwelling. The applicant has advised that the site is a family dwelling only. There would be sufficient parking spaces for 2 cars. These concerns were duly considered in my assessment.
- 6.9. Arboricultural Team has advised that there is an oak tree from a 1965 TPO extant in the neighbouring garden but this is 21 metres away and should not come to harm or be impacted post-development.

7. Conclusion

- 7.1. The application has been assessed against the policies outlined above. I consider that the development does not have detrimental impact upon the amenity of neighbouring occupiers, character of the area or highway safety. I therefore recommend approval of the application.

8. Recommendation

- 8.1. Approval subject to conditions.

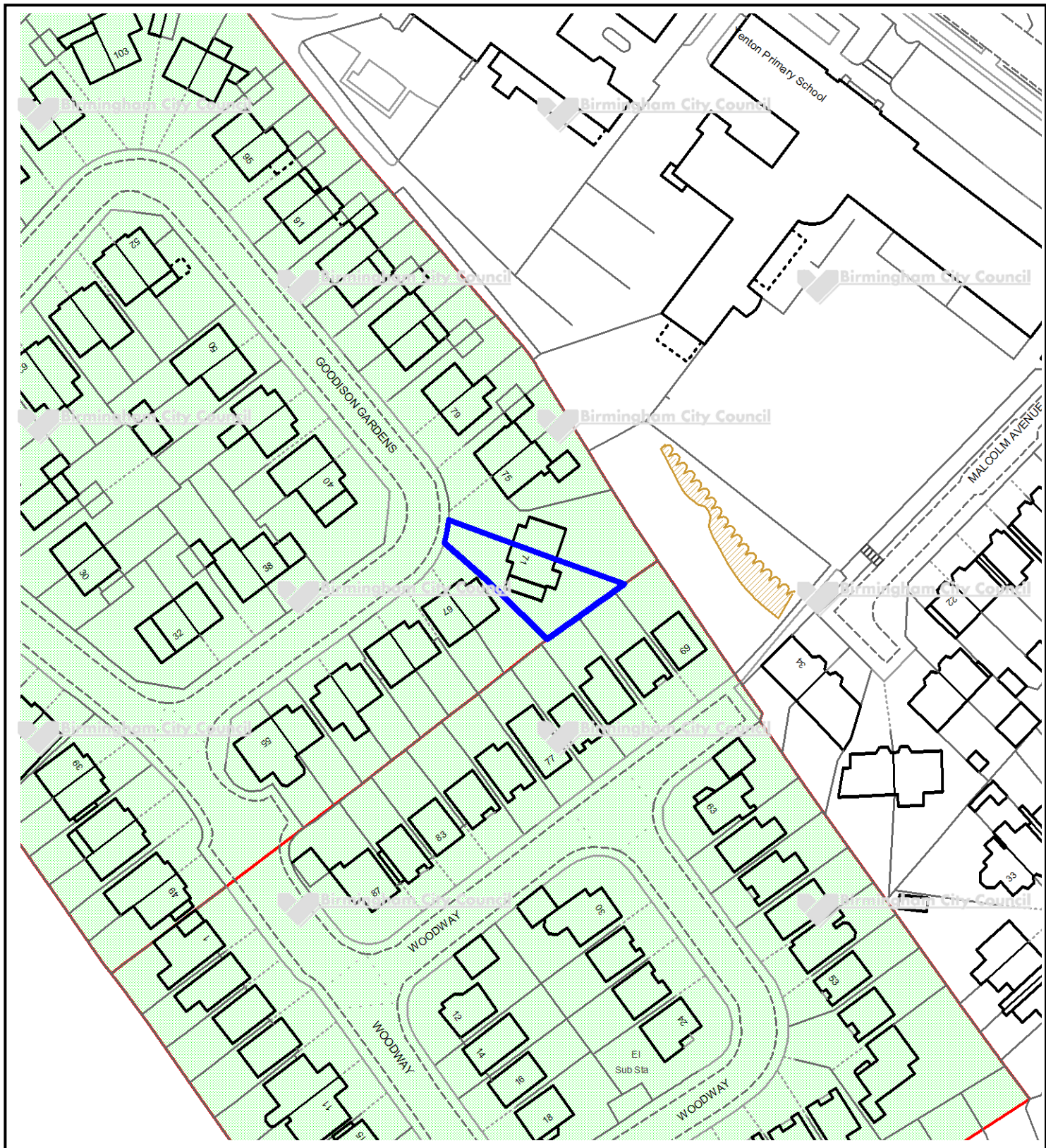
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- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires that the materials used match the main building |
| 3 | Implement within 3 years (Full) |
-

Case Officer: Obafemi Okusipe

Photo(s)



Location Plan



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Birmingham City Council

Planning Committee

23 May 2019

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 - Conditions	18	<p>2018/10311/PA</p> <p>71 Corporation Street & 43 Temple Row City Centre Birmingham B2 4UG</p> <p>Redevelopment comprising: change of use of 71 Corporation Street from retail (Use Class A1) to flexible mixed use including office (Use Class B1), hotel (Use Class C1), retail uses, including food and drink and professional services (Use Classes A1, A2, A3, A4, A5) and/or leisure (Use Class D2) under Part 3, Class V of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (as amended); change of use of 43 Temple Row from office (Use Class B1) and bank (Use Class A2) to hotel (Use Class C1); additional and extended floorspace; part replacement and part refurbishment of the existing facades and associated works</p>
Approve – Subject to 106 Legal Agreement	19	<p>2018/10092/PA</p> <p>Derwent House 1 Mary Ann Street Birmingham B3 1RL</p> <p>Conversion of existing industrial building to 40 one and two bed apartments with associated works including demolition of modern extension, removal and replacement of existing pitched roof and some windows, insertion of three mezzanine floors within building and various restoration and repair works.</p>

Approve - Conditions	20	<p>2018/10122/PA</p> <p>Derwent House 1 Mary Ann Street Birmingham B3 1RL</p> <p>Listed Building Consent for conversion of existing industrial building to 40 one and two bed apartments with associated works including demolition of modern extension, removal and replacement of existing pitched roof and some existing windows, insertion of three mezzanine floors within building and various repair and restoration work.</p>
Approve - Certificate	21	<p>2019/01172/PA</p> <p>City Park Gate Land at Moor Street, Albert Street and Park Street Birmingham B4</p> <p>Certificate of Appropriate Alternative Development for a mixed use development of up to 108,000 sqm (GIA) comprising A1, A2, A3, A4, A5, B1(a), C1, C3 and student accommodation (Sui Generis) uses</p>

Committee Date:	23/05/2019	Application Number:	2018/10311/PA
Accepted:	20/12/2018	Application Type:	Full Planning
Target Date:	21/03/2019		
Ward:	Ladywood		

71 Corporation Street & 43 Temple Row, City Centre, Birmingham, B2 4UG

Redevelopment comprising: change of use of 71 Corporation Street from retail (Use Class A1) to flexible mixed use including office (Use Class B1), retail uses, including food and drink and professional services (Use Classes A1, A2, A3, A4, A5) and/or leisure (Use Class D2) under Part 3, Class V of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (as amended); change of use of 43 Temple Row from office (Use Class B1) and bank (Use Class A2) to hotel (Use Class C1); additional and extended floorspace; part replacement and part refurbishment of the existing facades and associated works

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Planning permission is sought for redevelopment of 71 Corporation Street and 43 Temple Row. The proposals for the exterior design, scale and appearance of the buildings are submitted in full detail; however flexibility is sought over the different uses that could be accommodated within 71 Corporation Street across each level.
- 1.2. Whilst the planning application includes comprehensive proposals for the two buildings, the current buildings function separately. It is therefore proposed to deliver the development in two phases. The redevelopment of 71 Corporation Street would commence first in 2019, followed by works commencing on 43 Temple Row in 2020. This is due to the current lease arrangements for the two buildings.
- 1.3. All of the uses proposed for 71 Corporation Street require natural daylight, which is not currently present due to the inward looking nature of the department store. It is therefore proposed to create a new central atrium; and the replacement of the existing (largely opaque) concertina to both the Temple Row and Corporation Street elevations, with a new glazed solution. The creation of the internal atrium would in turn lead to a loss of internal floorspace, which it is proposed to be replaced via a new roof top extension in order to ensure the viability of the scheme.

External Appearance

- 1.4. The proposals for 71 Corporation Street include the part-refurbishment and part replacement of the existing façade. The existing Portland stone frame would be

retained and 'cleaned' where necessary and the concertina would be replaced with a new glazed interpretation of this feature, whilst retaining the distinctive shape.

- 1.5. The proposals for 43 Temple Row includes the complete replacement of the existing façade with a new higher quality façade which would be constructed from reconstituted stone cladding, perforated metal infill panels and "champagne gold" aluminium window frames.
- 1.6. The proposals include a three storey rooftop extension to both 71 Corporation Street and 43 Temple Row (plus lift overruns and plant). A more subservient roof top extension is proposed on the Cathedral Square frontage, with a more dramatic cantilevered design response on Corporation Street.
- 1.7. Active uses are proposed at street level along Temple Row, Cherry Street, Corporation Street and in the North Western Arcade. To create a more attractive and inviting ground floor environment, a series of design interventions are proposed to be incorporated such as: removal of the existing canopy; increased height of the ground floor units; and removal of the existing frontages and replacement with new glazed shopfronts with higher quality finishes. A shopfront strategy has been submitted consisting of large glazed modern shopfronts with dark bronze framing and horizontal band of louvres at the head of the shop front. Tennant signage would be behind the glazing of each shopfront bay with a projecting sign fixed to the pilaster (1 per unit).

Proposed Uses - 71 Corporation Street

- 1.8. The proposals for 71 Corporation Street include the change of use of the existing building into an office led, mixed use building. Flexibility is sought on a range of acceptable uses which could be provided at basement through to first floor and at roof level to allow for the development to respond to market demands. The area(s) where flexibility is sought is set out in the Table below.

71 Corporation Street Use Class accommodation schedule

Use Class	Maximum GIA sqm
B1 – offices	48,872 (plus 2,513 sqm ancillary space)
A1 – shops	7,596
A2- financial and professional services	7,596
A3 – restaurants and cafes	9,678
A4 – drinking establishments	9,678
A5 - hot food takeaway	7,596
D2 – assembly and leisure	6,535

- 1.9. Office floorspace (Use Class B1) is the primary use which is proposed over 11 principal floors (basement, ground and floors one to nine). The office areas proposed at basement and ground floor level are 'back of house' areas, rather than usable office floorspace. The usable office floorspace is proposed from first floor to ninth floor where an atrium would provide natural light into the development.
- 1.10. The main entrance to the offices is proposed at the first floor level (ground level to Temple Row). The office reception and lobby area provide access to the upper office floors, and would also include a potential 'co-working' area, which could be shared with and connected to the hotel. The remaining part of the first floor where it fronts on to Temple Row is proposed to be flexible uses (Use Classes A1/A2/ A3/A4/A5).

Flexibility is sought over the use and composition of this floorspace and the precise layouts, location of shopfronts and any additional external entrances as may be necessary to facilitate individual uses.

- 1.11. The ground floor (access via Corporation Street, Cherry Street, and the North Western Arcade) and basement areas are proposed for flexible retail and leisure uses (Use Classes A1-A5 and/or D2). Indicative entrances are shown along the key main frontages along Cherry Street, Corporation Street, and North Western Arcade. A 'route through' from Temple Row to the ground floor via either a staircase or lift, as per the existing arrangement is also indicated.
- 1.12. At roof level, a new publically accessible terrace area is proposed, and flexibility is sought for potential A3 and A4 uses.
- 1.13. Vehicular access into the service yard (located at the second floor of 1 Temple Row) is off Temple Row via the existing vehicular ramp. This access would be limited to service vehicles only; there are no parking spaces proposed as part of the development, which is reflective of the site's sustainable location and the existing arrangement. However a new secure cycle store and associated facilities is proposed within the service yard to serve the new office accommodation. Depending on the final level of office floorspace, up to 233 cycle parking spaces could be provided in this area.

Proposed Uses 43 Temple Row

- 1.14. The proposal for 43 Temple Row includes the change of use of the existing building to a hotel to include up to 200 bedrooms (Use Class C1). The proposed building would be 11 storeys in total (excluding the basement) plus roof top plant.
- 1.15. The hotel lobby would be accessed off Temple Row. No parking spaces are proposed to serve the hotel; however there is an opportunity for provision of a dedicated taxi drop-off point on Temple Row.
- 1.16. In support of the application the following documents have been submitted:-
 - Design and Access Statement
 - Planning Statement
 - Heritage Statement
 - Economics Benefits Statement
 - Statement of Community Engagement
 - Transport Statement and Travel Plan
 - External Lighting Strategy
 - Incoming Utility Statement
 - Flues and Ventilation Strategy
 - Energy Report
 - Noise and Vibration Assessment
 - Sustainable Construction Statement
 - Sustainable Drainage Strategy and Sustainable Drainage Operation and Maintenance Plan
- 1.17. [Link to Documents](#)
2. [Site & Surroundings](#)

- 2.1. The site is situated in Birmingham City Centre and forms part of an urban block bound by Corporation Street to the south east, Cherry Street to the south west, Temple Row to the north west and Bull Street to the north east.
- 2.2. The site measures 0.9 hectares in area, and includes 71 Corporation Street (currently occupied by the House of Fraser Department Store), the associated service yard (located at the second floor of 1 Temple Row), and 43 Temple Row. There is a pedestrian arcade known as the North Western Arcade which runs through the site, however this is not within the ownership of the applicant, nor is 1 Temple Row which is adjacent and forms the remainder of the city block.
- 2.3. 71 Corporation Street is an 8 storey building designed by TP Bennett and built in several phases between 1957 and 1980. The principle frontage and main pedestrian entrance to the department store is from Corporation Street, with secondary pedestrian entrances off Temple Row and the North Western Arcade. A vehicular access into the service yard is located on Temple Row.
- 2.4. 43 Temple Row is a 7 storey building designed by James A Roberts Associates and built in 1980. It is currently occupied by Lloyds Bank at ground floor and office accommodation above.
- 2.5. The site has frontages to Temple Row/Cathedral Square, Cherry Street and Corporation Street. These areas developed during different periods and have distinct characters.
- 2.6. The site is located within (but on the edge of) the Colmore Row and Environs Conservation Area, which includes a diverse range of architectural styles primarily from the early to mid-19th century. There are no listed buildings within the site, but there are a number of notable listed buildings within close proximity, including the Grade I listed Birmingham Cathedral.
- 2.7. Cathedral Square is situated to the north west of the site with the Cathedral Church of St Philip at its centre surrounded by its churchyard and enclosed by buildings along Temple Row (including House of Fraser and 43 Temple Row), Temple Row West, St Philip's Place and Colmore Row.
- 2.8. [Site Plan](#)

3. Planning History

- 3.1. The application site does not have an extensive recent planning history. There have been various planning permissions for minor alterations to the existing buildings but nothing substantial or relevant to the current proposal.

4. Consultation/PP Responses

- 4.1. Prior to submission of the planning application the applicant had discussions with appropriate officers of Birmingham City Council. They also invited key stakeholders - including adjoining owners, special interest groups, ward councillors and business groups - to attend presentations. A Press Release providing details of the proposals and the website address were also issued to the local media on 3rd December 2018.

- 4.2. On submission of the planning application, consultations were undertaken with adjoining occupiers, residents associations, local ward Councillors and M.P. Site and press notices displayed. Below is a summary of the comments received.
- 4.3. BCC Transportation Development - no objection to the stopping-up plan and taxi plan details, noting a stopping-up resolution. Suggest conditions to secure a servicing and taxi management plan; provision of the stated cycle parking and related facilities (changing rooms and showers) and; a construction management plan. There are also various canopy structures that project over the public footway and these will require a licence from BCC Traffic Management Services team.
- 4.4. BCC Regulatory Services -
- Hotel - the developer should ensure that the proposed hotel provides suitable amenity for future customers and they should bear in mind the comments and recommendations in the submitted noise assessment;
 - Bar / restaurant - the noise report makes recommendations for the façade insulation to the roof top bar, which should be incorporated in the approved plans. There appear to be 2 open terrace areas on the top storey - music etc. from these areas should be controlled via a condition. The noise assessment is for the roof top club only that is on the side of the building furthest from the nearby residential use. Bar use in the ground floor units should not be an issue as future uses will be controlled via the licensing regime;
 - Restaurant / hot food takeaway - provided all the kitchen extract systems discharge vertically 1 m above the roof this will be acceptable.
- 4.5. BCC Employment Access Team – recommend securing local employment and training.
- 4.6. Local Lead Flood Authority – no objections
- 4.7. Design Review Panel:-
- The mix of uses is a positive move;
 - The glass box roof extension is very substantial, potentially out of scale with the historic context of the Victorian buildings on Corporation Street as well as impacting on the character of Cathedral Square and surrounding buildings. A rationale for the proposed massing and design narrative explaining the preferred massing solution is required to justify the proposed extension;
 - Retaining some character of the existing building is an interesting approach. Although loss of the 60s façade is regrettable, a contemporary solution with quality detailing and materials could be acceptable. Further details regarding the proposed cladding approach are required;
 - The proposed treatment of the hotel is underwhelming;
 - The early proposals for the atrium space appear confused and lack clarity.
 - There is a lack of legibility at street level particularly Corporation Street;.
 - Further improvement could be done to ensure that the health and wellbeing agenda is clearly imbedded into the design proposal. It was also suggested that community and art facilities are incorporated to encourage people into the building.
- 4.8. Historic England –concerned regarding the proposed 3-to-4 storey roof extension and its harmful impact on both the Colmore Row and Environs Conservation Area and the setting of the Grade I listed St Philip's Cathedral. They do not consider that the current designs make a positive contribution to local character and distinctiveness, nor sufficiently respond to the character and appearance of the

conservation area. Furthermore they do not consider that the proposal offers any heritage benefits and are concerned that it results in harm that could be avoided by an alternative design for a reduced scheme which better responds to the various heritage assets.

4.9. Civic Society –

- The change to mixed use is welcomed and it is accepted that there is a reduced need for a department store of this scale in this location;
- The layout proposals are grounded in sensible principals - new atrium, retail and leisure on the lower floors and offices on upper floors;
- The external design misses many opportunities; the very uniform treatment of the corner (hotel) block is mundane. This and the additional floors added subsume the visual importance of the original concertina façade which the new copper mesh and glazed treatment cannot overcome.
- The building's original firm of architects has been employed but it is felt that the proposals are not of an equal quality to those of the original building;
- The development will impact on Cathedral Square and particularly the setting of St Philip's Cathedral, and its scale and detailing should be reconsidered in view of this;
- The development will have a dominating effect on the street-scenes. This addition of approximately another two-thirds of the mass of the building on top seems over-bearing, and particularly to Temple Row appears like a 'cliff face';
- It is questioned whether the rooftop could be formally designated as public open space;
- There are known to be a range of features surviving and every effort should be made to preserve these as a positive feature of the design:
 - Interiors: a watching brief on the uncovering of interior fittings and fixtures should be carried out
 - Main facades to Corporation Street and Temple Row: the delicate and playful nature of these facades is a significant feature of the building, and they are compositions in their own right, offset with projections to respond to the interior spaces and entrances. Whilst the bays and mullions have a vertical emphasis, there is also a clear horizontality which speaks of the dynamic movement along the street, articulated through the coloured spandrel panels. Only the concertina form appears to have been considered important in this reworking, losing much of the variation and composition, and of material quality and detail. This removes much of the quality of the original building.
 - The canopies: these make and draw in the context of the department store, and whilst they and the ground floor façade are detailed in such a way to make this area quite dark, they are an important feature of the building and should be interpreted to maintain the overall composition. Their proposed removal alters the overall balance of the massing in the way that it meets the street, and diminishes the sophistication of this part of Corporation Street
 - Portland stone massing: retention of the main massing in Portland stone is welcome, and it is important that this is seen not only as the primary cladding but in relation to how openings are formed in it. The depth of reveal gives the impression of weight and contrast to the more playful elements of the building, so areas of punched windows (the slot windows to Cherry St) and curtain wall infill are important in balancing this. The detailing and composition of these elements should retain the existing pattern and detail, in particular to Cherry Street as this is another sculptural composition in its own right.
 - Roof top extension and void: the glazed façade bears little relation to the rest of the building and unless detailed to a high level risks value engineering which will significantly diminish the quality of the existing building. The

character of the void, whilst understood as a requirement to unlock deep footprints, appears entirely at odds with the building, and the fact that it will be for office spaces only the proposed void would be quite a sterile space given it is only for daylight. It should in no way be a pastiche of the existing but some referencing of the material, spatial conditions of the existing should be considered as a minimum. The use of terracotta and irregular shaped pavilions seems at odds with the Portland stone and steel vernacular of the main building.

- 4.10. Brutiful Birmingham - pleased that the owners wish to retain the building and have an interest in conserving the “glamour” of a previous time. However, they are concerned about:
- Changes to the design of the windows – the windows are the major feature of this design contributing to the fun and joyousness of the building. This is achieved by the concertina construction but also the horizontal draught board design of windows and coloured glass panels. Emphasis on the vertical panels only, will radically change the character and definition of the concertina design;
 - Four storey glass roof extension – concerned about the heavy and dominating glass roof extension visible on all elevations. This will dominate St Philips Square, overpowering the other buildings and taking away from the Cathedral. The size and mass alters the balance of the current building making it top heavy and losing its character of fun and lightness;
 - Roof line – With the four storey glass extension the roof line, that is now interestingly stepped with the higher 43 Temple Row and the tower on Temple Point creating space, will be lost;
 - The Canopies – these are an integral element of the 60’s design and are important to the design of the building as a department store as well as adding to the overall interest;
 - Shop fronts– concerned that there are a number of proposals for the “shop fronts” and are concerned about how these will be managed;
 - Cherry St Elevation – the current building incorporates a number of designs in the way that the smaller windows are arranged including the slit windows on Cherry St. The diversity and a symmetry of the designs add to the interest of the building. On Cherry St the asymmetry of the slit windows has been lost and the size of the windows increased resulting in a bland façade in contrast to the current modernist features on this side;
 - Interior features – there may be more internal features of interest that will be uncovered when building work begins and urge that these features are carefully evaluated and preserved. We are concerned therefore that there seemed to be no coherent plan to maintain the existing staircases that in themselves define the quality, glamour and style of the 50’s. To these features we would add that there are areas of travertine stone that also should be incorporated in the new design;
 - 43 Temple Row – It is not clear why the exterior has to be so altered resulting in a new design that is bland and adds nothing to the overall design of the complex or the Square.
- 4.11. Transport For West Midlands - West Midlands Metro currently operate trams adjacent to the proposed works on Corporation Street and Bull Street. Due to the location and proximity of the tram there may be potential of electrical transfer from the overhead wires. The overhead wires that are attached to the building may need to be isolated. Permits for working next to Metro may be required with the necessary approvals from West Midlands Metro, prior to works commencing.

- 4.12. Severn Trent Water – no objections subject to a condition to secure drainage plans for the disposal of foul and surface water flows.
- 4.13. West Midlands Fire Service - early liaison should be held in relation to fixed firefighting facilities, early fire suppression and access. Where fire mains are provided in the building there should be access to the riser inlet, for a pumping appliance to within 18 metres of each fire main inlet connection point, typically on the face of the building and each inlet should be clearly visible from the appliance. Water supplies for firefighting should be in accordance with national guidance. The approval of Building Control will be required to Part B of the Building Regulations 2010.
- 4.14. West Midlands Police -
- Work should be carried out to Secured by Design standards
 - Suitable CCTV, lighting and an alarm system, together with blast resistant glass should be installed;
 - A suitable boundary treatment should be installed around the roof terrace to prevent falls of no lower than 2m in height and of a clear anti-climb design. Any furniture installed on the roof should be located so it cannot be used as a climbing aid to scale the boundary and secured in such a way that it cannot be moved to a location where it could act as a climbing aid;
 - The provision of a manned security booth within the service yard for access control is a very positive step. The proposed refuse collection plan is well-thought out and should reduce the risk of off-site staff leaving the site insecure during the collection process;
 - Further details of the intended security measures to the cycle stores should be provided. Other security measures, such as a hostile vehicle mitigation scheme, extra glazing treatment and fall protection, are supported;
 - Although the building will have 24-hour manned security presence, the Design and Access Statement notes that *“it will be the occupiers’ responsibility to secure their own demise”*. This could create ambiguity around some aspects of security/management within the site;
 - Although there is no parking the site is within a short distance from a significant number of well-established transport hubs and existing car parking facilities
 - The location of the staff desk within the reception of the hotel is unclear and should be sited to allow staff to have a clear line of sight to the main entrance to the hotel, the entrance lobby area, the ground floor facilities and the access to the stairwell and lifts, and;
 - The hotel will have 24 hour staffing, 365 days a year, which is supported
- 4.15. In addition, one letter of objection and one letter of support have been received:-
- Letter of objection - loss of the existing House of Fraser store will have a detrimental effect on other retail businesses within this area. A luxury smaller store over 3 or 4 floors, with offices on the upper levels, and a sky glass restaurant at the top, would make sure this part of the city survives as a retail destination.
 - Letter of support – this is a fantastic idea and good progress in developing the area as a whole, how will the adjacent roads be affected during the development?

5. Policy Context

- 5.1. Birmingham Development Plan (BDP) 2017; Birmingham Unitary Development Plan 2005 (Saved Policies); Big City Plan; City Centre Retail Strategy; Snow Hill

Masterplan; Colmore Row and Environs Conservation Area Management Plan; Car Parking Guidelines SPD; Lighting Places SPD; Access for people with Disability SPD; Places for all SPG and Revised National Planning Policy Framework (2019).

6. Planning Considerations

Principle of the Proposed Development

- 6.1. Given the site's location in the city centre, the uses proposed as part of this development (office, retail, leisure, hotel etc.), are all considered appropriate in principle. The adopted BDP is supportive of office, hotel, retail and leisure based developments in the city centre (policies GA1, TP21 and TP24) and this support is replicated at a national level within Sections 6 and 7 of the revised NPPF.
- 6.2. Furthermore, in response to current retail market trends, the diversification of the existing department store into a new mixed-use development is also supported in principle at both a national and local level. In particular, the Birmingham Retail Strategy confirms support for diversification of uses in the current struggling retail environment.
- 6.3. More specifically, the changing character of this part of the city means that the proposed uses are ideally suited to this location and provide a well-considered response to the surrounding context. The proposed office element responds to the close relationship the site has with the Colmore Business District, whilst the retail and leisure elements create active frontages along Corporation Street and Cherry Street which form an important part of the retail core. The introduction of a hotel creates further variety and diversity of uses, and supports Birmingham as a tourist destination.
- 6.4. To secure the proposed mix of uses a condition is attached to restrict the maximum floor areas for each use. This would help define the permission whilst retaining flexibility for the applicant.

Economic Benefits

- 6.5. The proposals will deliver a number of key benefits as summarised below:
 - Securing the refurbishment and reuse of an important building, responding to the original design intent, whilst updating and modernising the building to suit 21st Century requirements.
 - A long term investment of £110 million into Birmingham City Centre acting as a catalyst for wider investment.
 - Creation of a new 'destination' for the city, with significantly improved active frontages to Temple Row, Cherry Street, and Corporation Street.
 - Provision of flexible Grade A office floorspace suitable for multi-nationals and start-ups.
 - Provision of flexible retail space better suited to current market requirements.
 - A new hotel to serve Birmingham City Centre which will deliver high quality accommodation prior to the 2022 Commonwealth Games.
 - Approximately 1,980 FTE jobs created during operation of the development.
 - Approximately 200 FTE additional jobs created during construction.
- 6.6. To maximise the benefits to the local economy a condition is attached as recommended by BCC Employment Access Team to secure local employment and training.

Sustainability / Energy

- 6.7. The application is supported by an Energy Statement, which sets out the proposed energy strategy and confirms the design of the building will deliver improvements beyond the minimum standards required. The development includes a range of sustainable design and construction features including reduced energy consumption whereby CO2 emissions are reduced by 23.8% on average for all buildings below Building Regulations Part L (2016) to deliver a low carbon development.
- 6.8. Birmingham Development Plan Policy TP3 (Sustainable Construction), expects all new commercial developments to find innovative sustainable solutions and aim for a BREEAM “Excellent” score. As the development is made of three distinct uses: offices, retail and hotel, three BREEAM pre-assessments have been developed. The anticipated scores for each use are summarised below:
- “Fully Fitted” Hotel with 74.08% target performance for “Very Good” rating.
 - “Fully Fitted” Offices with 74.06% target performance for a minimum “Very Good” rating.
 - “Shell Only” Retail with 70.5% target performance for a minimum “Very Good” rating.
- 6.9. Although the development does not reach the BREEAM “Excellent”, given that the scheme is for re-use of an existing building, I consider that the proposed target performances are acceptable. In order that the development meets the expected BREEAM ratings a condition is attached.

Design

- 6.10. Rooftop Addition and Atrium – The scheme proposes a three storey rooftop extension to both 71 Corporation Street and 43 Temple Row. The scale of the proposed extension has been carefully considered within the context of the surrounding mixed character of the local area (i.e. the ‘transitional’ area between St Phillip’s Square and the varying roofscape and architectural forms of Corporation Street and further building blocks to the west). Whilst the design approach has sought to provide a cantilevered design to the roof top extension along Corporation Street, a more subservient design approach and form is proposed to the Cathedral Square frontage.
- 6.11. The applicants believe that only a bold intervention will successfully incorporate the new floors required and that expressing this as a lightweight independent form, rather than stepping back upper levels or blending them into the original building architecturally is the correct approach.
- 6.12. The rooftop extension and overall design approach to the development has been influenced by various factors including the necessity to change the use of the building in order to meet altered market demands (including the decline of department store formats nationally), the creation of a vibrant and viable mixed use scheme, and the applicant’s desire to retain the existing building but ‘reimagine’ and repurpose its uses to meet 21st century occupier requirements and bring the building back into viable and active occupation.
- 6.13. Given the size of the existing floorplates (purpose built for use as a department store) the suitability of existing commercial space within the building for most modern-day retail and even office tenant requirements is limited. In order to ensure that the

building can be viably retained, modernisation and repurposing of the building is therefore essential, including the introduction of natural daylight. The proposed internal atrium will enable such light to be provided for future tenants of the proposed office floorspace and will create a striking and distinctive feature of the building in keeping with the dynamic mix of proposed uses at ground-floor, throughout the building, and at rooftop level. The creation of this atrium has substantially reduced the existing internal footprint of the building, thus requiring a suitable level of replacement floorspace for commercial occupation to be provided atop the building in the form of three additional storeys. This floorspace is therefore a necessary commercial requirement of the scheme.

- 6.14. I note the concerns raised about the scale of the proposed rooftop addition but on balance, I consider that the proposed 3 storey rooftop is acceptable. In detail, the proposed materiality of the rooftop addition reflects the original building. The darker tones proposed for the glazing framework respond to the appearance of the existing windows, whilst the feature cantilever soffit and rooftop structures have a more striking copper colour to add visual interest. I consider that a cantilevered articulation to Corporation Street would be bold design statement and create new landmark building for building.
- 6.15. Cathedral Square - whilst, the south facing blocks around Cathedral Square have a consistent fenestration and shoulder height, the north facing side of the Square is much more irregular, as buildings push back and forth with a variety of styles responding to different eras. There is therefore a lack of consistency in style and height. The bulk and massing has been assessed against the St Philip's Cathedral, with the top balustrade set below the top height of its spire. The top floor of the House of Fraser building is then recessed to minimise its impact on the Square. I note that Historic England consider that the scheme does not offer any heritage benefits and that an alternative reduced scheme could better respond to the various heritage assets. However, although reducing the scale of the rooftop addition by one storey would have less of an impact, on balance, I consider that proposed new massing is acceptable in the Square and would not significantly overpower the Grade I listed Birmingham Cathedral or surrounding buildings.
- 6.16. In detail, the existing terrace at level six is emphasised by providing the seventh floor with a stone parapet to visually reinforce the gap between the new and existing. It also provides an additional amenity terrace. Above this level the elevational treatment of the façade has 3 glazed additional floors with a subtle curve to follow the main building. The mullion thickness to each floor then gradually reduces to give a lightness effect. I consider that the additional glass floors will minimize the perceived weight on top of the building. Furthermore, differentiating the new top from the original building gives clarity to the composition of the façade.
- 6.17. 43 Temple Row – at pre-application stage the applicant considered a number of design options, favouring a complete glazed façade. However, the Head of the City Design considered that the glazed façade option was unsuitable for its proposed hotel function, and setting of Cathedral Square. The City Council therefore asked the applicant to explore a cladding with a more solid materiality to better respond to the character of Cathedral Square.
- 6.18. A number of options were considered with the final option aimed at re-interpreting the rhythm and proportion of the House of Fraser “punched” window reveals and new build floors above, to visually tie the hotel back into the House of Fraser block. The uniform repetition of the stone façade with the hotel windows creates a building that doesn't overpower the House of Fraser building. The solid corner also offers a

counterbalance to the fully glazed concertina window that is a key feature of the House of Fraser building. The proposed building would in my view be a handsome background building that would complement buildings around Cathedral Square.

- 6.19. Cherry Street Elevation – during the consultation concern has been raised about the way the Cherry Street elevation departs from the original design. The applicant has looked again at this elevation and has submitted a revised plan with smaller windows to more closely follow the original intention and reintroduce the glazed band that currently existing between the stone plane on the corner and the solid façade.
- 6.20. Concertina Window – the application proposes to retain the concept of the concertina windows to both elevations but with larger format glazing panels to replace the old metal framing. The current proposals improve the thermal and solar performance of the building, and increase the amount of natural light into the building. The proposed design rationalises the framing and emphasises the verticality of the façade and further looks to strengthen the concertina effect by applying a subtle pattern to the glass. Consultation feedback has raised concerns that the design had over simplified the concertina design, and that a more even balance should be sought between verticality of the façade and ensuring that the horizontal banding is not lost.
- 6.21. The applicants have looked at alternative options that introduce solid spandrel panels at floor level and additional horizontal framing to replicate the effect of the existing façade. However, I concur with the applicant who believe that emphasising the vertically in the new curtain walling system, while still retaining the concertina feature is the best way of reinterpreting the building. There will inevitably be some horizontal framing incorporated in the elevation, also each floor slab behind the glazing will also be partially visible and could be concealed with a semi-transparent spandrel panel. A condition is therefore attached to secure further details of the concertina design.
- 6.22. Shopfront - further information has been submitted setting out a Shopfront Design Strategy. This comprises large glazed modern shopfronts with dark bronze framing. Above the shopfront would be a horizontal band of louvres to facilitate air intake. The louvres would match that of the glazing framing to ensure a coherent appearance between the various components of the shopfronts. Tennant signage would be behind the glazing of each shopfront bay with a projecting sign fixed to the pilaster (1 per unit). I consider that in principle the proposed shopfront strategy is acceptable and attach a condition to secure further details of the shopfront design.
- 6.23. Shop Front Canopy Removal – the current shopfronts are quite low in relation to the proportion of the elevation and are further dominated by the concrete canopies that frame the majority of the building's elevations. The applicant is therefore proposing to remove these canopies to allow the existing shopfronts to be enlarged to more modern standards, improving their visibility and creating a much more welcoming relationship with the surrounding streets. The removal of the canopies also removes the dark, uninviting environment. For these reasons, I consider that there is little benefit in retaining the canopies and have no objections to their removal.
- 6.24. Access and Entrances - Active uses are proposed at the street level along Temple Row, Cherry Street, Corporation Street and in the North Western Arcade. As part of the building's refurbishment, the ability to walk through the building from Corporation Street to Temple Row and vice versa will be maintained. The entrances enabling passage through the building would be differentiated from the retail entrance through the use of signage, altering material colours around the entrance and lighting. Further detail on entrance legibility will be secured via the shopfront detail condition.

- 6.25. Permeability through the building is achieved, with access from Temple Row through to Corporation Street and Cherry Street. Access is provided into the building at the ground floor level of Temple Row using the stairs/ elevators to access the Ground floor whereby access and egress is provided to both Cherry Street and Corporation Street, replicating the existing level of public access and movement through the building. A condition to ensure public permeability through the building during normal opening hours is attached.
- 6.26. Interior Alterations – as the building is not statutorily listed consent is not required for the internal alterations. However, the applicant has indicated that they are intending to retain as much as possible of the relevant and valuable interior e.g. the murals. It is also the applicants intention that the departments store's original curved staircases are retained and refurbished for use within the new scheme.
- 6.27. I note the concerns raised and although the applicant is not willing to reduce the scale of the roof top addition, I consider that on balance the proposed design interventions are acceptable. Further information has been submitted about the concertina window and shopfronts. I therefore consider that the application is acceptable subject to safeguarding conditions to ensure the scheme is well detailed.

Impact on Heritage Assets

- 6.28. Historic England are concerned about the scale, massing and design approach of the proposed 3-4 storey roof extension and its impact on both the conservation area and the setting of the Grade I listed St Philip's Cathedral.
- 6.29. The site does not contain any statutorily listed or locally listed buildings. It is partly situated within the Colmore Row and Environs Conservation Area and the Steelhouse, City Centre Conservation Area is situated approximately 200m to the north east. The site has frontages to Temple Row/Cathedral Square and Corporation Street. These areas developed during different periods and have distinct characters.
- 6.30. There are a number of listed buildings proximate to the site, including the Grade I listed Cathedral Church of St Philip, which have the potential to be affected by the proposed development as a result of change within their setting. The Former Bank of England, a locally listed building, is a late 20th century commercial building situated adjacent to the site on Cherry Street and Temple Row.
- 6.31. In determining applications for planning permission Local Planning Authorities have statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the special interest and setting of listed buildings and to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 6.32. At a local level policy TP12 of the Birmingham Development Plan advises that the historic environment will be valued, protected, enhanced and managed for its contribution to character, local distinctiveness and sustainability. Furthermore, the Council will seek to manage new development in ways which will make a positive contribution to its character.
- 6.33. Colmore Row and Environs Conservation Area Character Appraisal and Supplementary Planning Policies set out more detailed guidance. It states that the Council will expect all new development to achieve a satisfactory visual relationship with its historic surroundings, demonstrating a regard for the character of the immediate street scene and the wider conservation area. Permission for new

development will only be granted where it preserves or enhances the character of the conservation area as a whole. It adds that new buildings must not appear to be significantly higher or lower than their neighbours and roof forms and rooflines of new buildings must complement the roof forms and rooflines of the adjoining and/or surrounding buildings, preserving or, where appropriate, enhancing vertical emphasis.

- 6.34. Cathedral Square is situated to the north west of the site with the early 18th century Cathedral Church of St Philip at its centre surrounded by its churchyard and enclosed by later 19th to 21st century buildings. 71 Corporation Street and 43 Temple Row form part of a group of modern commercial buildings along the south and east of Cathedral Square. Though greater in scale, height and mass than the 19th century development on the opposite side of the Square (Colmore Row and Temple Row West), they provide a relatively neutral backdrop by virtue of their neutral palette of materials, simple forms and balance of horizontal and vertical proportions.
- 6.35. The site sits at a point along Corporation Street where there is an abrupt change between the 19th century development of the conservation area, and the greater height, scale and massing of mid- to late- 20th century development outside the Conservation Area. Due to its age, height, large scale and materiality, the Department Store is more similar to the Square Shopping Centre and the Lewis' building outside the conservation area than the fine-grained 19th century architecture to the south of the street.
- 6.36. The site is considered to make a minor contribution to the character and appearance (significance) of the Colmore Row and Environs Conservation Area attributable to the enclosure it provides to Cathedral Square and contribution it makes to the conservation area's varied commercial architecture. Although the site provides definition to Cathedral Square and views along Corporation Street towards the site, it does not contribute to the significance of the Cathedral Church of St Philip, or other nearby listed buildings.
- 6.37. Whilst the extension and alteration of 71 Corporation Street and 43 Temple Row will introduce contemporary elements to the buildings; their general appearance as large-scale, modern commercial buildings will not change. The simple form, materiality and colour palette of the proposed development is consistent with the existing character of the group of modern buildings of which the site forms part. Along Corporation Street, the site will continue to mark an abrupt contrast between the 19th century development of the Colmore Row and Environs Conservation Area, and will be viewed alongside the existing height, scale and massing of mid- to late- 20th century development of the wider city centre context in which the Colmore Row and Environs, the Steelhouse, City Centre Conservation Area and the listed buildings within them are situated.
- 6.38. I note the concerns of Historic England about the scale, massing and design approach of the proposed 3-4 storey roof extension and its impact on both the conservation area and the setting of the Grade I listed St Philip's Cathedral. However, as detailed above, the scheme would deliver significant economic benefits for the City. It would also bring forward a new use for this key City Centre site, which could otherwise remain underused. In this instance, I therefore am of the view that the public benefits outweigh the less than substantial harm to the conservation area and setting of the St Philip's Cathedral.

Ventilation Strategy

- 6.39. BCC Regulatory Services have commented that they would not support low level discharge of cooking fumes to the ground floor restaurants and that permission should not be given until the applicant can demonstrate that the kitchen extracts from these units can discharge at an appropriate level to allow fumes and odour to disperse. In response the applicant has submitted a revised Flue and Ventilation Strategy, which confirms that all kitchen, bathroom and dish washer extracts will be routed through the building and discharged at roof level. The Strategy sets out the mechanical supply and extract ventilation system that will be provided for each part of the building based on the uses proposed, and any associated flue requirements. BCC Regulatory Services have been re-consulted and have raised no objections. I consider that the revised Flue and Ventilation Strategy is acceptable and attach a condition to secure further details.

Noise Implications

- 6.40. BCC Regulatory Services have requested that the noise mitigation measures set out in the Noise Assessment are reflected on the elevational plans submitted as part of the application, however, the final glazing and façade specification is unknown at this stage. A condition is therefore attached requiring details of the specification of the facade to be submitted for approval.
- 6.41. In addition to noise mitigation for users of the future development, BCC Regulatory Services have recommended a condition restricting the use of external amplification equipment on or in any part of the development. Accordingly, a condition to this effect is attached.

Transportation Issues

- 6.42. The proposed development is located in a highly sustainable location with regard to sustainable transport methods. It is close to New Street and Snow Hill railway stations, and within close proximity of a number of bus stops and a metro stop. On this basis, no car parking is proposed as part of the development. However, the proposed development would provide 233 cycle spaces, together with associated facilities, which would be consistent with BCC Parking Guidelines,
- 6.43. BCC Transportation Development have requested confirmation of the extent of any existing highway land which will need to be 'stopped up' as a result of the proposed development. They are also awaiting comments from the Transport Management Services team in response to proposed amendments to the existing TRO on Temple Row, to allow a taxi drop off facility on the corner of Temple Row and Cherry Street.
- 6.44. The agent has clarified that alterations to the existing building line of 71 Corporation Street are proposed as part of the redevelopment of the building. The plans confirm that the new building line extends 600mm from the current building line in some locations. The remaining footway width would still be sufficient and I therefore have no objections. Accordingly, a resolution is attached to authorise a Stopping Up Order under section 247.
- 6.45. The proposed development will broadly be serviced using the existing arrangements already in place, via the internal service yard accessed from Temple Row. As set out in the Transport Statement, it is proposed that taxis will be able to pick up and drop off on Temple Row, outside the hotel lobby entrance. Temple Row, from its junction with Cherry Street to Bull Street, is currently designated as a pedestrian zone except for access to off-street areas and for loading with no waiting at any time. The existing Traffic Regulation Order will therefore need to be amended to facilitate the proposed

taxi drop-off facility. It is anticipated that the taxis would utilise Temple Row as a one way route with an exit onto Bull Street where taxis will be required to turn left. As recommended by BCC Transportation Development conditions are attached to secure a detailed delivery and taxi management plan, the provision of cycle facilities and a construction management plan.

- 6.46. The comments from Transport for the West Midlands about the need for permits for working next to the Metro have been forwarded to the applicant for their information.

Safety and Security

- 6.47. As requested by West Midlands Police conditions are attached to seek further details in relation to lighting and CCTV. The Design and Access Statement also refers to other potential physical security measures such as street bollards, but the precise nature of any security measures are unknown at this stage. I am concerned about the impact street bollards could have on the character of the Conservation Area and therefore suggest a condition requiring a security strategy for the proposed development, as well as any specific security measures for each future occupier.
- 6.48. In relation to the proposed roof terrace, West Midlands Police have requested that the barrier be no lower than 2.0m in height and of an anti-climb design. They have also recommended that roof furniture is designed and located appropriately to ensure that it cannot be used as a climbing aid. Building regulations prescribe 1.1m balustrades for tall buildings and barriers in excess of that height are advisable only where required for comfort, wind protection and visual protection perception. A balustrade of 1.3m is proposed for the roof terrace, which I consider would provide adequate safety and be of an appropriate design.

7. Conclusion

- 7.1. Overall it is considered that the principle of the proposed development fully accords with both local and national policy. The proposed uses are acceptable in principle in the city centre and the development represents sustainable reuse of an existing building. The introduction of flexible new uses, which complement the surrounding context, will ensure the longevity of the scheme and create activity and vibrancy within the city core.
- 7.2. I note the concerns raised about design and impact on heritage assets. However, the applicant is not willing to reduce the scale of the roof top addition and on balance I consider that the proposed design interventions are acceptable. The proposed development will deliver a number of significant benefits and, subject to safeguarding conditions, will not result in any significant adverse impacts. It is therefore considered that the benefits of the scheme outweigh concerns about the design and heritage implications of the scheme.
- 7.3. The proposed development does not attract a CIL contribution. The new floors that are being constructed in 43 Temple Street and are being used for hotel space – would normally be chargeable; but as the buildings form one planning application, CIL is calculated based on all the floorspace in its entirety of the scheme.

8. Recommendation

- 8.1. Approve subject to safeguarding conditions.

- 8.2. That no objection be raised to the stopping-up of parts of Temple Row and Corporation Street 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.

1	Limits the maximum gross floorspace of the unit
2	Entrance / Shop Front Details
3	Requires a Signage Strategy for the Building
4	Requires the window not to be obscured
5	Limits the hours of use
6	Requires the prior submission of a drainage scheme
7	Requires the submission prior to occupation of the building of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
8	Requires the submission of extraction and odour control details
9	Limits the noise levels for Plant and Machinery
10	Prevents the use of amplification equipment
11	Requires the scheme to be in accordance with the façade specification
12	Requires the submission of a lighting scheme
13	Requires the prior submission of a construction method statement/management plan
14	Requires the prior submission of a construction employment plan
15	Requires the prior submission of an operational employment plan
16	Requires the submission of sample materials
17	Requires the submission of a CCTV scheme
18	Requires the details of safety and security measures
19	Requires the submission of cycle storage details
20	Requires the submission of details of a delivery vehicle management scheme
21	Requires the submission of details of a taxi management scheme
22	Requires the submission and completion of works for the S278/TRO Agreement
23	Requires a pedestrian route through the building between Temple Row and Corporation Street
24	Requires Submission of BREEAM pre-assessment report / design stage certificate

-
- 25 Requires the submission of the concertina window details
 - 26 Requires the scheme to be in accordance with the listed approved plans
 - 27 Implement within 3 years (Full)
-

Case Officer: David Wells

Photo(s)



View from Cathedral Square

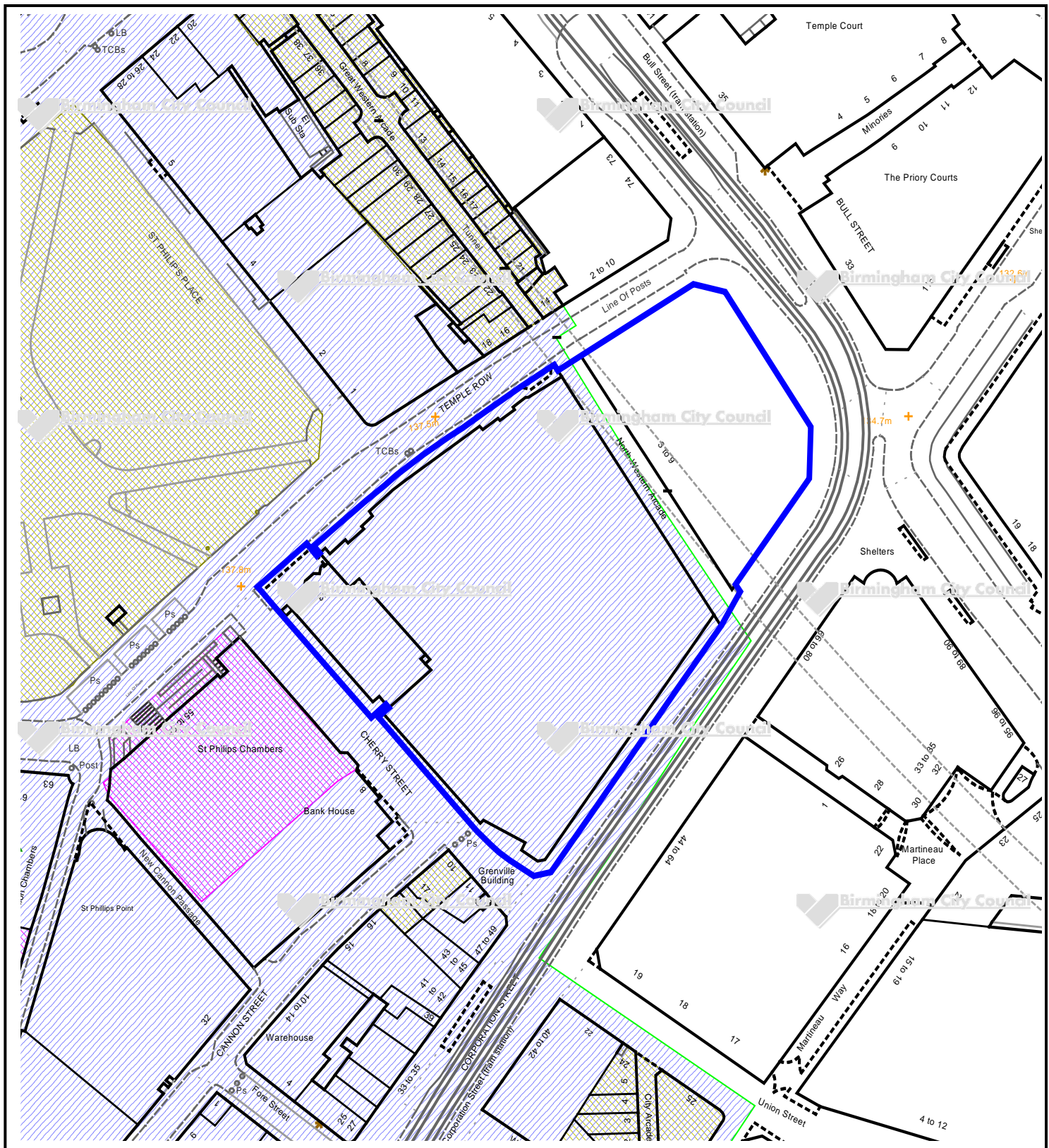


View along Corporation Street toward New Street Station



View along Corporation Street toward Central Methodist Hall

Location Plan



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Committee Date:	23/05/2019	Application Number:	2018/10092/PA
Accepted:	15/01/2019	Application Type:	Full Planning
Target Date:	07/06/2019		
Ward:	Soho & Jewellery Quarter		

Derwent House, 1 Mary Ann Street, Birmingham, B3 1RL

Conversion of existing industrial building to 40 one and two bed apartments with associated works including demolition of modern extension, removal and replacement of existing pitched roof and some windows, insertion of three mezzanine floors within building and various restoration and repair works.

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1 The application relates to a Grade II listed building within the Jewellery Quarter Conservation Area currently used as a metal finishing workshop and offices by an engineering company. It is proposed that the manufacturing activities would be relocated to other premises owned by the company and the building on the site would be refurbished and altered to allow its conversion to 40 one and two bedroom apartments.
- 1.2 The works to allow the conversion to take place include the following:-
 - Replacement of the existing roof cladding with a lightweight metal roof which would include a series of opening roof lights to provide light into the living accommodation proposed within the roof space.
 - Installation of an independent metal-frame within the building to support three new mezzanine floors inserted within the existing structure.
 - Subdivision of the internal floor space into mainly duplex apartments with the accommodation in each unit linked via an internal spiral staircase.
 - Restoration and repair of the existing windows on the main street frontages and the installation of acoustic screens behind the windows to provide winter gardens and noise mitigation.
 - Replacement of windows where they have been previously bricked up or have been significantly altered mainly within the courtyard elevations.
 - Various repairs to the existing building fabric including the removal of external flues, signage and replacement of roller shutter door with timber doors and glazing.
 - Removal of modern extensions within a courtyard area to allow the area to be laid out to provide 7 (17.5%) car parking spaces, bin and cycle storage areas. It would also be resurfaced with blue paving.
- 1.3 The 40 apartments proposed would provide a mix of 29 x 1 bed (72.5%) apartments and 11 x 2 bed (27.7%) with sizes ranging from 59-75 square metres for the 1 bed units and 65 -117 square for the 2 bed units. There would also be ancillary space for residents in the form of a laundry and storage areas.

- 1.4 The application has been supported with a Design and Access Statement, Heritage Statement, Archaeological note, Planning Statement, sustainable drainage scheme, noise assessment, air quality note, sustainable construction statement, energy statement, structural inspection, transport statement, bat roost investigation and viability appraisal.
- 1.5 A letter in support of the development has also been submitted from the current owner/occupant of the building. It advises that the company are planning a phased relocation from the area as their work requires specialist buildings in terms of their height and strength due to the need to accommodate heavy overhead cranes with room to operate. Their original plan was to downsize into the building they also occupy on the north side of Mary Ann Street and have a more compact operation but the proposed sale of the application site to the applicant has enabled them to take over a similar business and move their finishing shop to larger more efficient premises saving jobs. Without the sale of the existing premises there was a risk of the company would have gone into liquidation. The relocation of the finishing shop means that much of the heavy and noisy equipment is no longer located in Mary Ann Street and has also reduced LGV traffic to and from the site. Other part of the business will be gradually relocated to their new site and company employees will be transferred if they wish to stay.
- 1.6 [Link to Documents](#)
2. Site & Surroundings
- 2.1 The application site of 0.03ha lies at the junction of Mary Ann Street, Livery Street and Water Street and is within the Jewellery Quarter Conservation Area. It is currently occupied by Derwent House which comprises the Grade II listed former foundry and offices built for Taylor and Challen Ltd which originally formed part of a larger complex of manufactory space built for the company in the late 19th and early 20th century's. The application building dates from 1902 and extends along the full length of the Livery Street frontage with narrower frontages to Mary Anne Street and Water Street. The majority of the building forms an open plan manufactory but it also has a three storey office area fronting Mary Ann Street and a link building on Water Street enclosing a small courtyard used for car parking. The main entrance to the foundry is from Livery Street via a roller shutter door.
- 2.2 The building is of dark red/orange brickwork with a repeating sequence of tall multi-paned windows set between banded brick piers and with blue brick detailing. Both of the frontages to Water Street and Mary Ann Street feature angled corners and terracotta parapet panels with "Taylor and Challen Ltd" in raised lettering. The building was purpose built for the production of presses and is now occupied by an engineering company who specialise in machined steel fabrications. Its position makes it a prominent corner building within the Conservation Area and it is highly visible from Snow Hill train station when approaching and leaving Birmingham.
- 2.3 Other parts of the original Derwent Works built for Taylor and Challen lie to the west and north of the site. Several of these buildings have been altered and extended to provide offices immediately abutting the site on the Mary Ann frontage and apartments on the Water Street frontage. Opposite the site on the Mary Ann frontage are other industrial workshops occupied by the same engineering company as well as offices and apartments. On the opposite side of Livery Street lies a high brick wall supporting the railway line into Snow Hill Station and one of the brick

arches has been infilled to provide a night club. On the Water Street frontage there are also several former workshop buildings now converted into apartments.

- 2.4 There are a number of listed buildings near to the site, particularly around St Pauls Square which lies to the west. This includes St Pauls Church, Nos 1, 3, 4, 5, 11, 12, 13 and 14 St Pauls Square and No 26, Mary Ann Street.

2.5 [Site Location](#)

3. [Planning History](#)

Site

- 3.1 Current application - 2018/10122/PA – Listed Building consent for Conversion of existing industrial building to 40 one and two bed apartments with associated works including demolition of modern extension, removal and replacement of existing pitched roof and some existing windows, insertion of three mezzanine floors within building and various repair and restoration work. Reported elsewhere on this agenda.

Neighbouring sites

- 3.2 18/5/15 - 2015/01691/PA – Planning permission granted for erection of a three storey side extension, provision of rear extension to provide first and second floor to existing building and change of use to provide a ground floor gymnasium and 4 two bed loft apartments with associated parking at Derwent Works, 6 Henrietta Street.
- 3.3 16/2/12 - 2011/08683/PA – Planning permission granted for change of use of offices/warehouse to 4 loft apartments and associated third floor rear extension at Viceroy House, 65 Livery Street.
- 3.4 10/04/2006 – 2006/00162/PA and 2006/00163/PA - Planning Permission and Listed Building consent granted for conversion of existing building and erection of new buildings and associated works to provide 98 apartments and 909 sqm of offices at the Derwent Foundry, Mary Ann Street and Water Street and adjoin the site.

4. [Consultation/PP Responses](#)

- 4.1 Transportation - No objection subject to conditions requiring the redundant footway crossing on Livery Street to be reinstated and provision of at least 20 cycle stands.
- 4.2 Regulatory Services - Recommend refusal on the basis that the development could lead to harm to health and quality of life for future residents due to noise from nearby transport/industrial/commercial uses and could threaten the operation of these nearby businesses. They also comment that they would expect to see a more robust air quality assessment and contamination assessment but these could be conditioned.
- 4.3 Lead Local Flood Authority - Do not wish to comment as the application is for a change of use of an existing building with minimal external works so there is little impact to the existing surface water drainage scheme. Request that they be re-consulted if significant external works or modifications to the existing surface water drainage scheme are proposed.

- 4.4 Historic England - Has no objection to the principle of converting the former Derwent Works to residential accommodation but have concerns regarding the wholesale replacement of the windows. Comment that the tall, metal framed windows are a key feature of the building, and a major contributor to both its character and the character of the conservation area. They consider that it would be more appropriate to refurbish the existing windows wherever possible, with like for like replacements only being used where restoration of the historic fabric is not achievable. They also comment that:
- The proposed subdivision of the interior will impact on the significance of the building as it will remove the historic open space of the foundry but note consideration has been given to the use of an independent metal frame to support the new flooring, and to the retention of key fixtures such as the vertical beams which supported the crane gantry. Stepping back the floors from the external wall will also help to minimise the visual impact of the floors behind the windows.
 - They have no objections to the replacement of the internal staircase in the office area or the proposed replacement of the pitched roof as the internal steel trusses and the timber boarding are to be retained.
 - Consider the proposed horizontal roof lights to be appropriate to the industrial character of the building, subject to your conservation advisors advice with regard to specification and methodology.
- 4.5 Canal and River Trust - Comment that the site is at sufficient distance from the canal that the proposal is unlikely to have a significant altered visual or other impact on users of the canal and towpath. As the canal and towpath offer a sustainable travel option for occupants of the development, as the access point on Livery Street is less than 40 metres away, they however request a small financial contribution towards wayfinding and ongoing work in promoting the canal network and its benefits to residents.
- 4.6 West Midlands Police - No objections and have the following comments:-
- Work should meet the Secured by Design 'Homes 2016' guide.
 - A lighting plan should be produced for the communal and car parking areas.
 - CCTV coverage should be provided for entrances/exits to the site, publically accessible and communal areas, car parking and cycle storage spaces
 - The management for refuse collection and deliveries should ensure that the site will not be left vulnerable with access control points insecure.
 - Exit/entrance points should have two layers of security before the doors to the apartments are reached with suitable, robust, access controls.
 - Controls are required to the vehicle access to the rear yard.
- 4.7 West Midlands Fire Service – No objection and comment that Water supplies for firefighting should be in accordance with National Guidance.
- 4.8 Ward Councillors, MP, residents associations, local residents and businesses notified of the application and site/press notices displayed. No comments received.

5. Policy Context

- 5.1 National Planning Policy Framework, Birmingham Development Plan 2031, Birmingham Unitary Development Plan 2005 (saved policies), Places for Living SPG, The Jewellery Quarter Conservation Area Character Appraisal and Management Plan, Jewellery Quarter Conservation Area Design Guide, Conservation Through Regeneration SPD; Car Parking Guidelines SPD.

6 Planning Considerations

6.1 **Land Use Policy**

6.2 The Birmingham Development Plan (BDP) sets out a number of objectives for development in the City until 2031 including the need to make provision for a significant increase in population. Policy PG1 quantifies this as the provision of 51,000 additional homes within the built up area of the City which should demonstrate high design quality, a strong sense of place, local distinctiveness and that creates safe and attractive environments. Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will continue to be supported where it provides well designed high quality environments. The majority of new housing is expected to be delivered on brown field sites within the existing urban area.

6.3 The Birmingham Development Plan (BDP) identifies the application site as being within the City Centre Growth Area where the focus will primarily be upon re-using existing urban land through regeneration, renewal and development. Policy GA1.3 relating to the Quarters surrounding the city centre core states that development must support and strengthen the distinctive characteristics, communities and environmental assets of each area. For the Jewellery Quarter the aim is to create an urban village supporting the areas unique heritage with the introduction of an appropriate mix of uses.

6.4 Policy TP12 of the BDP states great weight is to be given to the conservation of the City's heritage assets and where a Conservation Area Character Appraisal or Management Plan has been prepared it will be a material consideration in determining applications. A Character Appraisal and Management Plan for the Jewellery Quarter Conservation Area was adopted as an SPG in January 2002. It shows the site as being within the designated St Paul's/Canal Corridor area where further residential is acceptable in principle subject to compliance with various design criteria. The document mentions the streets surrounding St Paul's Square as displaying a gradual change in land use with residential and industrial uses frequently located side by side. It also refers to the 20th century foundry and factory buildings on Mary Ann Street as forming a strong vertical edge to the northern boundary of the locality.

6.5 As the site lies in part of the Jewellery Quarter where residential development can be allowed, the main issues to be considered are the layout and design of the conversion scheme, the impact of the development on heritage assets, noise and impact on neighbouring development, transportation and Section 106 issues.

6.6 **Layout/Design**

6.7 The proposals seek to convert the building to apartments without the need for any extensions or external alterations other than the removal of unsympathetic alterations carried out to the buildings such as the extraction flues, roller shutter doors, signage, reinstating blocked up window openings and replacing the metal roof. Repairs would be carried out to the existing brickwork and stone work as required. Internally the existing steel trusses and timber rafters would be retained but with 3 additional floors provided within the existing framework. The framework provides a 5.5 metre wide structural grid between the existing window bays and this form has been used to subdivide the resultant internal floor space to provide duplex apartments. This form also would allow natural borrowed light to be provided

into the accommodation at lower ground floor level with the accommodation in the roof space being lit from roof lights.

- 6.8 This form of development would mean that most of the proposed apartments would have one bedroom (29 units - 72.5%) however they would be of a generous size at between 59-75 square metres exceeding the minimum nationally described standards of 50 square metres for a 1 bed x 2 person apartment. The 11 x 2 bed apartments proposed (27.7%) would have sizes ranging from 65 -117 square metres also exceeding the minimum national guidance of 61 square metres for a 2 bed apartment. Although the mix is therefore predominantly one bed units the apartment sizes and duplex layout would provide a different and larger type of accommodation than that normally provided and would add to the range of housing available in the Jewellery Quarter.
- 6.9 The proposed dwellings would have limited amenity space which is common in city centre developments. There is however a small external courtyard area and although this is to be used predominantly to provide a small car park, cycle and bin storage areas it is to be resurfaced with blue brick paving and granite setts. The existing outbuildings within the space would also be demolished to enhance its appearance. Most of the apartments would benefit from having small winter gardens set behind the existing tall window openings. The various comments made by the Secure by Design officer regarding site security can be covered by conditions.
- 6.10 **Impact on Heritage Assets**
- 6.11 The application building is listed, within a Conservation Area and there are other listed buildings in the vicinity of the site. The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special regard to the desirability of preserving listed buildings, their setting or any features they have of special architectural or historic interest. National Planning Policy as set out in the NPPF is that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It also requires 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. There are also similar policies aimed at protecting heritage assets within the BDP, Jewellery Quarter Conservation Area Character Appraisal and Management Plan and Design Guide.
- 6.12 Although the existing building was purpose built as a manufactory space the current occupants have found that it is no longer suitable for modern engineering activities due to its configuration, limited access and location. This part of the Jewellery Quarter is now predominantly in residential use and the neighbouring Derwent Foundry has since been converted to apartments, as have a number of other buildings in close proximity to the site including Viceroy House opposite the site on Water Street. The proposed residential use of the building would therefore follow this trend and the proposed use can be accommodated without the need for any material alterations to the historic fabric of the building.
- 6.13 The conservation officer has commented that there is no objection to the internal conversion works. Whilst it is always regrettable to lose large internal areas of industrial space the mezzanine levels are an acceptable solution to this and the floors will sit back from the external walls and windows on an internal metal frame. Although some of the crane machinery is to be removed in order to facilitate the

internal conversion the existing vertical steel beams are to remain in situ and be visible which will allow the building to retain some internal industrial character. The conservation officer also considers the removal and replacement of the existing roof is an acceptable proposal and the proposed horizontal roof lights have a simple industrial look and are the preferred solution over individual, domestic style roof lights. The internal steel roof trusses and timber boarding are of significance and the proposal will retain these. The demolition of a modern substation extension and existing plant to the courtyard area and the removal of a modern doorway are felt to be enhancements to the listed building. The proposed removal of some internal walls and an internal staircase is also considered to be acceptable. An internal inspection has concluded that these elements are of little to no historic significance and no objection is raised to this. These comments echo those of Historic England.

- 6.14 Although both the Conservation Officer and Historic England have raised no objections to the principle of the use, the internal works proposed and replacement roof they have raised concerns to the original proposals to replace all the existing windows. This is on the grounds that they are highly significant to the character and appearance of the building. The applicant has therefore now agreed to retain the existing windows and restore and repair them apart from the windows in the courtyard that are beyond repair due to being bricked up and in a further location where a door has been cut into a window frame. Amended plans to show this revision have been provided and therefore the conversion works can now be supported and are not considered to cause harm to the significance of the listed building
- 6.15 In terms of the impact of the proposals on the conservation area and other listed buildings nearby the conversion scheme and alterations proposed are likely to have a positive impact by restoring and repairing the building and providing a new use. Minimal alterations to the external appearance of the building would be required so the development would not have an impact on the significance or setting of the conservation area or nearby heritage assets. There would be some loss of industrial character to the conservation area however the original Taylor and Challen premises have already been subdivided and new residential uses introduced as the area changes and adapts over time.
- 6.16 **Noise/Impact on neighbours**
- 6.17 Regulatory Services are currently recommending refusal of the application as they are concerned that the development could lead to harm to health and quality of life for future residents due to noise from nearby transport and commercial uses. Their concerns relate to noise from the Tunnel Club, which operates from one of the nearby railway arches 16 metres away from the site boundary, that the site is within 30 metres of the elevated railway line, is opposite an industrial workshop on Mary Ann Street and is also affected by road traffic noise. They consider the applicants submitted noise report has not adequately addressed these matters and the proposed mitigation, which relies on two sets of glazing and trickle vents, will not be adequate and cause issues of overheating within the apartments. They are also concerned that any noise complaints from future residents in relation to the operation of existing businesses could result in loss of employment activities.
- 6.18 In response the applicants have provided an updated noise assessment including a plan showing the other residential premises nearby, a statement from the Tunnel Club on their operating hours and stating they have no outdoor activity events, information on vibration and proposed glazing build up and a letter from building control confirming that they are happy with the ventilation strategy. They have also

provided correspondence from the company that own the application building and operate the industrial premises on the opposite side of Mary Ann Street confirming that they are in the process of moving the noisier aspects of their production out of the city centre. The applicant's revised report concludes that the dominant source of noise at the site is road traffic noise, and that the noise break-in to dwellings can be controlled to meet the limits within BCC Guidance through the proposed glazing and ventilation measures specified. This would include adding internal secondary glazing with trickle vents set back behind the existing windows to form winter gardens which will give sound insulation to the dwellings on the Mary Ann Street and Livery Street facades.

- 6.19 Comments on the additional noise information are awaited from Regulatory Services however there are already a number of other apartment buildings in close proximity to commercial uses in this area. This includes the former Derwent Foundry which abuts the application building on the Water Street frontage, Viceroy House which lies opposite the site and the nightclub and the Henrietta Street apartments which abut the railway line. These have all been granted planning permission in recent years despite the presence of the adjacent industrial premises, nightclub and railway line. There are also a number of other instances in the immediate area where residential premises adjoin industrial and commercial premises as mentioned in the 2002 Jewellery Quarter Character Appraisal and Management Plan. Provided suitable noise mitigation measures are incorporated into each apartment it is considered that the residential use of the building would be acceptable.
- 6.20 In addition to industrial premises adjacent to the site the western boundary adjoins a 3 storey office building on the Mary Ann Street frontage and apartments on the Water Street frontage. Although the office building has windows on a rear extension adjacent to the site boundary these are high level openings and no further windows are proposed within the application building. The adjacent apartment has openings to a side balcony on the roof space overlooking the application site and originally a doorway to a new balcony was proposed as part of this development. These have now been removed from the scheme to avoid any overlooking of the neighbouring apartment. On the Water Street frontage there is also a block of 4 storey apartments opposite the site some 10 metres away. Although the proposals would result in apartment windows being located opposite this building, with the potential of overlooking, given the separation distances and as the scheme makes use of existing windows it is not considered there would be any unacceptable loss of privacy. The proposals would also replace industrial activities with residential uses which are likely to be quieter. It is therefore not considered that the development would have any adverse impact on neighbouring properties.
- 6.21 **Transportation Issues**
- 6.22 The development would provide limited car parking (7 spaces) but 22 external bike storage spaces are proposed and there are also 18 apartments with designated lockable stores sized to be able to be able to accommodate bikes. Transportation raise no objections to the development subject to conditions and comment that the site is in the City Centre close to all facilities and public transport services and all surrounding roads protected by Traffic Regulation Orders.
- 6.23 **CIL and Section 106 Obligations**
- 6.24 The proposed development does not attract a CIL contribution but given the number of apartments proposed the City Councils policies for Affordable Housing and Public Open Space in New Residential Development apply. The applicant is not able to

meet in full the affordable housing or off-site public open space requirements due to the high costs associated with restoring and converting the listed building. A Viability Statement has been submitted with the application to justify this. This has been independently assessed by the City Council's consultants and it has been agreed that a commuted sum payment of £160,000 would be paid towards off site affordable housing provision which would equate to approximately a 17% discount on four 1 bed market units. Although the preference would normally be for on-site affordable and/or low cost market dwellings the nature and size of the units means that they are likely to command a relatively high price (estimated to be between £235,000 and £360,00) so even with a 17% discount they are unlikely to be affordable to those on lower incomes. In the circumstances it is considered that more affordable homes could be delivered by the £160,000 being used by a housing association such as BMHT. This is considered to be a fair and justifiable in these circumstances and to meet the necessity tests set out in the CIL regulations.

- 6.25 Requests have also been received for financial contributions from the Canal and River Trust towards improvements to the canal towpath and normally an off-site contribution towards off site public open space/public realm improvements would be required. The viability appraisal however shows that the development would not be viable if these additional contributions are paid and it is considered the priority is to provide contributions towards affordable housing.

7.0 Conclusion

- 7.1 The BDP encourages further residential development in the City Centre where it provides well-designed high quality living environments and for the Jewellery Quarter seeks to create an urban village with an appropriate mix of uses. The site lies within part of the Jewellery Quarter where residential development is acceptable in principle and the proposed conversion scheme would provide a new use for an important listed building without the need for significant alterations or extensions.
- 7.2. The design and layout proposed to create the 40 apartments is acceptable following the amendments to ensure most of the existing windows are retained and repaired so that the significance of the listed building and conservation area would be conserved. The objections from Regulatory Services are noted but it is considered that with suitable noise mitigation measures, residents would be provided with an acceptable residential environment. It is also intended that the proposals would also allow the existing business on the site to relocate its finishing shop operations to more suitable premises thereby reducing noise in the area. It is therefore considered that the application is acceptable subject to conditions as recommended below:-

8.0 Recommendation

- 8.1 That consideration of application 2018/10092/PA be deferred pending the completion of a Section 106 legal agreement to secure:
- a) A financial contribution of £160,000 (index linked from the date of this resolution) toward off site affordable housing to be paid upon first occupation;
 - b) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the affordable housing subject to a maximum of £10,000.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 7 June 2019, planning permission be refused for the following reason:

1. In the absence of a legal agreement to secure a financial contribution towards affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the Affordable Housing SPG

- 8.3 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 8.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by the 7 June 2019, planning permission for application 2018/10092/PA be APPROVED, subject to the conditions listed below:-

-
- | | |
|----|--|
| 1 | Requires the prior submission of a construction method statement/management plan |
| 2 | Requires the prior submission of a contamination remediation scheme. |
| 3 | Requires the submission of a contaminated land verification report |
| 4 | Requires the implementation of the submitted Drainage Note |
| 5 | Requires the prior submission of details of bird/bat boxes |
| 6 | Requires the implementation of the noise protection and ventilation measures |
| 7 | Requires an air quality assessment and monitoring |
| 8 | Requires the submission of a lighting scheme. |
| 9 | Requires the submission of site security measures. |
| 10 | Requires the submission of hard surfacing materials |
| 11 | Requires the submission of details of refuse storage |
| 12 | Requires the submission of cycle storage details |
| 13 | Requires the submission and completion of works for the S278/TRO Agreement |
| 14 | Requires the scheme to be in accordance with the listed approved plans |
| 15 | Implement within 3 years (Full) |
-

Case Officer: Lesley Sheldrake

Photo(s)



Figure 1: View of site frontage to Water Street



Figure 2: View of building from junction of Water Street and Livery Street



Figure 3: View of building frontage to Mary Ann Street

Location Plan



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Committee Date:	23/05/2019	Application Number:	2018/10122/PA
Accepted:	15/01/2019	Application Type:	Listed Building
Target Date:	07/06/2019		
Ward:	Soho & Jewellery Quarter		

Derwent House, 1 Mary Ann Street, Birmingham, B3 1RL

Listed Building Consent for conversion of existing industrial building to 40 one and two bed apartments with associated works including demolition of modern extension, removal and replacement of existing pitched roof and some existing windows, insertion of three mezzanine floors within building and various repair and restoration work.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1 The application relates to a Grade II listed building within the Jewellery Quarter Conservation Area currently used as a metal finishing workshop and offices by an engineering company. It is proposed that the manufacturing activities would be relocated to other premises owned by the company and the building would be refurbished and altered to accommodate its conversion to 40 one and two bedroom apartments.
- 1.2 The works to allow the conversion to take place include the following:-
- Installation of an independent metal-frame within the building to support the floors and roof. This would allow the retention of the existing structural steel trusses and allow a horizontal subdivision of the floor space to form the proposed apartments.
 - Removal of the horizontal girders supporting the gantry as they are pushing against the wall on Livery Street and damaging the brick work.
 - Provision of internal vertical supports at each floor level to tie the structural elements together to achieve stabilisation.
 - Replacement of the existing roof covering with a new lightweight metal roof to allow the existing frame to be retained, with one span visible in each upper floor apartment.
 - Provision of opening roof lights in the new metal roof covering would bring natural light into the upper floors of the apartments.
 - Repair and refurbishment of the large street facing windows together with their decorative security railings
 - Replacement of windows where they have been previously bricked up or have been significantly altered mainly within the courtyard elevations
 - Provision of glass enclosed circulation space/winter gardens, to provide a private space for each apartment incorporating a staircase to give access to a further floor of accommodation.
 - The lowering of the floor level to the rear of the building to fit in with a required fire escape door.

- Removal of the modern signage, roller shutter doors, infill blockwork, modern partitions, external staircases, ducts and pipes, vents in the windows, existing plant room; substation; the office stairs, steps to the basement and metal grid over the basement.
- Repairs to the external damaged glazing, lintels, decorated brickwork, brick sills and corner bricks, concrete quoins, removal of plaster added to brickwork and replacement plastic water goods with cast iron.
- Replacement of an existing modern stairs with historic style spiral staircase and replacement of roller shutter door with timber doors and glazing.
- Alterations to the ground floor timber flooring to introduce a light well and allow natural light into the basement level.
- Removal of modern additions in the courtyard to allow the area to be resurfaced in blue paving and granite setts and laid out to provide car parking spaces, bin and cycle storage areas.

1.3 The application has been supported with a Design and Access Statement, Heritage Statement, Archaeological note, Planning Statement, sustainable construction statement, energy statement and structural inspection report. A letter in support of the development has also been submitted from the current owner/occupant of the building. It advises that the company are planning a phased relocation from the area as their work requires specialist buildings in terms of their height and strength due to the need to accommodate heavy overhead cranes with room to operate. Their original plan was to downsize into the building they also occupy on the north side of Mary Ann Street and have a more compact operation but the proposed sale of the application site to the applicant has enabled them to take over a similar business and move their finishing shop to larger more efficient premises elsewhere.

1.4 [Link to Documents](#)

2. [Site & Surroundings](#)

2.1 The application site of 0.03ha lies at the junction of Mary Ann Street, Livery Street and Water Street and is within the Jewellery Quarter Conservation Area. It is occupied by Derwent House which comprises a Grade II listed purpose-built manufactory and offices built in 1902 as part of an extensive complex of buildings occupied by Taylor and Challen Ltd. Their business premises extended from Constitution Hill through to Water Street and Mary Ann Street linked via a road tunnel under the railway line. The company was one of six press manufacturers in Birmingham in 1915 and played an important part of the economic and industrial history of the Jewellery Quarter Conservation Area.

2.2 Much of the original Taylor and Challen premises are now in separate use but the application building and workshops on the opposite side of Mary Ann Street are currently occupied by an engineering company who specialise in machined steel fabrications. The main part of the building comprises of a single open working area with travelling cranes mounted on tracks running along the side wall heads. The original 8 bays were extended in 1913-1916 to enclose the open courtyard on the Water Street frontage. 3 storey office accommodation occupies the Mary Ann Street frontage which has been modernised altering the exterior windows, stairs and windows overlooking the work floor which were bricked-up. Its position makes it a prominent corner building within the Conservation Area and it is highly visible from Snow Hill train station when approaching and leaving Birmingham.

- 2.3 The building is of red brick with terracotta, blue brick, painted concrete detailing, diamond-shaped decoration and flat sheet covered roofs. The roof contains a deep parapet on both ends bearing panels with Taylor and Challen Ltd in raised lettering. One of the most prominent features of the building is a series of 22 tall multipane metal windows set back behind projecting brick piers fronting Livery Street. The south-facing facade, looking onto the car park, mirrors the piers and windows on the Livery Street façade but does not incorporate a similar level of architectural detailing. It has openings for 18 tall, multi-pane windows many of which have been completely or partially bricked up.
- 2.4 Other parts of the original Derwent Works lie to the west and north of the site. Several of these buildings have been altered and extended to provide offices immediately abutting the site on the Mary Ann frontage and apartments on the Water Street frontage. Opposite the site on the Mary Ann frontage are other industrial workshops as well as offices and apartments. On the opposite side of Livery Street lies a high brick wall supporting the railway line into Snow Hill Station and one of the brick arches has been infilled to provide a night club. On the Water Street frontage there are also several former workshop buildings now converted into apartments.
- 2.5 There are a number of listed buildings near to the site, particularly around St Pauls Square which lies to the west. This includes St Pauls Church, Nos 1, 3, 4, 5, 11, 12, 13 and 14 St Pauls Square and No 26, Mary Ann Street.
- 2.6 [Site Location](#)
3. [Planning History](#)
- 3.1 Current application - 2018/10092/PA – Conversion of existing industrial building to 40 one and two bed apartments with associated works including demolition of modern extension, removal and replacement of existing pitched roof and some existing windows, insertion of three mezzanine floors within building and various repair and restoration work. Reported elsewhere on this agenda.
- 4.0 [Consultation/PP Responses](#)
- 4.1 Historic England – Has no objection to the principle of converting the former Derwent Works to residential accommodation but have concerns regarding the wholesale replacement of the windows. Comment that the tall, metal framed windows are a key feature of the building, and a major contributor to both its character and that of the conservation area. They consider that it would be more appropriate to refurbish the existing windows wherever possible, with like for like replacements only being used where restoration of the historic fabric is not achievable. They also comment that:
- The proposed subdivision of the interior will impact on the significance of the building as it will remove the historic open space of the foundry but note consideration has been given to the use of an independent metal frame to support the new flooring, and to the retention of key fixtures such as the vertical beams which supported the crane gantry. Stepping back the floors from the external wall will also help to minimise the visual impact of the floors behind the windows.
 - They have no objections to the replacement of the internal staircase in the office area or the proposed replacement of the pitched roof as the internal steel trusses and the timber boarding are to be retained.

- Consider the proposed horizontal roof lights to be appropriate to the industrial character of the building, subject to your conservation advisors advice with regard to specification and methodology.
- 4.2 Ward Councillors notified of the application and site/press notices displayed. No comments received.
- 5. Policy Context
- 5.1 National Planning Policy Framework, Birmingham Development Plan 2017, Birmingham Unitary Development Plan 2005 (saved policies), The Jewellery Quarter Conservation Area Character Appraisal and Management Plan, Jewellery Quarter Conservation Area Design Guide, Conservation Through Regeneration SPD.
- 6.0 Planning Considerations
- 6.1 **Policy**
- 6.2 Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that Local Planning Authorities (LPAs) give special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses. The NPPF states that LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting and also requires that great weight should be given to the heritage asset's conservation. Any harm to, or loss of, the significance of a designated heritage asset, including through its alteration, should require clear and convincing justification. There are also similar policies aimed at protecting heritage assets within the BDP, Jewellery Quarter Conservation Area Character Appraisal and Management Plan and Design Guide.
- 6.3 A Heritage Statement has been submitted with the application which has assessed the impact of the proposed development on the listed building and concludes that, on balance, the proposed development would be beneficial to the manufactory. There are some elements of the conversion work would have a small adverse impact however most would be beneficial and the proposed change of use would secure the upkeep and survival of the Derwent Manufactory. The scheme necessitates some degree of adaptation but overall the proposals have been designed to respect the features and characteristics of the building and its historic fabric. It concludes that this would outweigh any minor adverse effects and would ensure that there would be a viable new use for the building consistent with its conservation and restoration.
- 6.4 The Heritage Statement quantifies that there would be some impact on the industrial character through the loss of the workshop use, the open plan form of the building and its association with surviving industrial premises on Mary Ann Street. However the proposed development would retain the industrial appearance of the building including the Taylor and Challen name plaques and the exposure of historic features within the design would aid legibility and would not mask the phases of construction. The statement comments that market forces have always influenced growth and change in the Jewellery Quarter and the development would preserve the elements of significance that have been identified as contributing to its special interest.
- 6.5 The conservation officer has commented that whilst it is always regrettable to loose industrial floor space from the Jewellery Quarter there is no objection to the principle of converting the existing building to residential use as any impact on the significance

of the heritage asset would be less than substantial. Historic England has also expressed the same view.

6.6 Details of conversion works

6.7 In terms of the works proposed to facilitate the conversion scheme, Historic England and the Conservation Officer raise no objections to the proposed subdivision of the interior. Although they note that there would be an impact on the significance of the building by removing the historic open floor area the use of an independent metal frame to support the new flooring allows the retention of key fixtures such as the vertical beams which supported the crane gantry. The proposals are therefore considered to provide an acceptable solution that would retain some industrial character. They also advise that stepping back the floors from the external wall will also help to minimise the visual impact of the floors behind the windows. No objection is raised to the proposed replacement of the pitched roof cladding as the internal steel trusses and the timber boarding are to be retained and the proposed horizontal roof lights are considered to be appropriate providing a simple industrial look.

6.8 They also have no objection to the demolition of the modern substation extension, existing plant in the courtyard area and the removal of a modern doorway as these are felt to be enhancements to the listed building. The proposed removal of some internal walls and a staircase are also considered to be acceptable as an internal inspection of the building has found that these elements are of little to no historic significance.

6.9 Both the Conservation Officer and Historic England have however raised concerns to the original proposal to replace all the existing windows as they are considered to be highly significant to the character and appearance of the building. The applicant has therefore now agreed to retain the windows, restore and repair them apart from the windows on the courtyard elevation that are beyond repair. Amended plans to show this revision have been provided. The impact on the historical significance of the building has been reduced and the application can be supported subject to suitable conditions.

7. Conclusion

7.1 Although the loss of a further workshop building from the Jewellery Quarter is regretted it is considered that the conversion of the building to apartments would be acceptable as the proposed design requires minimal alteration to the external appearance of the building retaining its industrial character. The effects of the conversion scheme on building have been assessed in terms of its Significance and found that whilst there would be the small impacts most would be beneficial particularly now that the application has been amended to retain and repair most of the existing windows. The beneficial effects are considered to outweigh any adverse effects and the proposed development would sustain the special historic and architectural interest of Derwent Manufactory, by preserving those elements contributing to its special interest and carrying out sympathetic restoration works.

8. Recommendation

8.1 That listed building consent be APPROVED subject to the following conditions:-

1	Requires the prior approval of an inventory of existing fixtures and fittings
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- 2 Requires the prior approval of a building recording survey
 - 3 Requires the prior approval of a Implementation Method Statement
 - 4 Requires the prior approval for repair to the historic fabric:
 - 5 Requires the submission of details of fixtures and fittings,
 - 6 Requires the submission of mechanical and electrical (M&E) and water utilities strategy
 - 7 Requires the submission of sample materials
 - 8 Requires the scheme to be in accordance with the listed approved plans
 - 9 Implement within 3 years (conservation/listed buildings consent)
-

Case Officer: Lesley Sheldrake

Photo(s)



Figure 1: View of building from junction of Water Street and Livery Street



Figure 2: View of building from Mary Ann Street



Figure 3: View of building from courtyard area

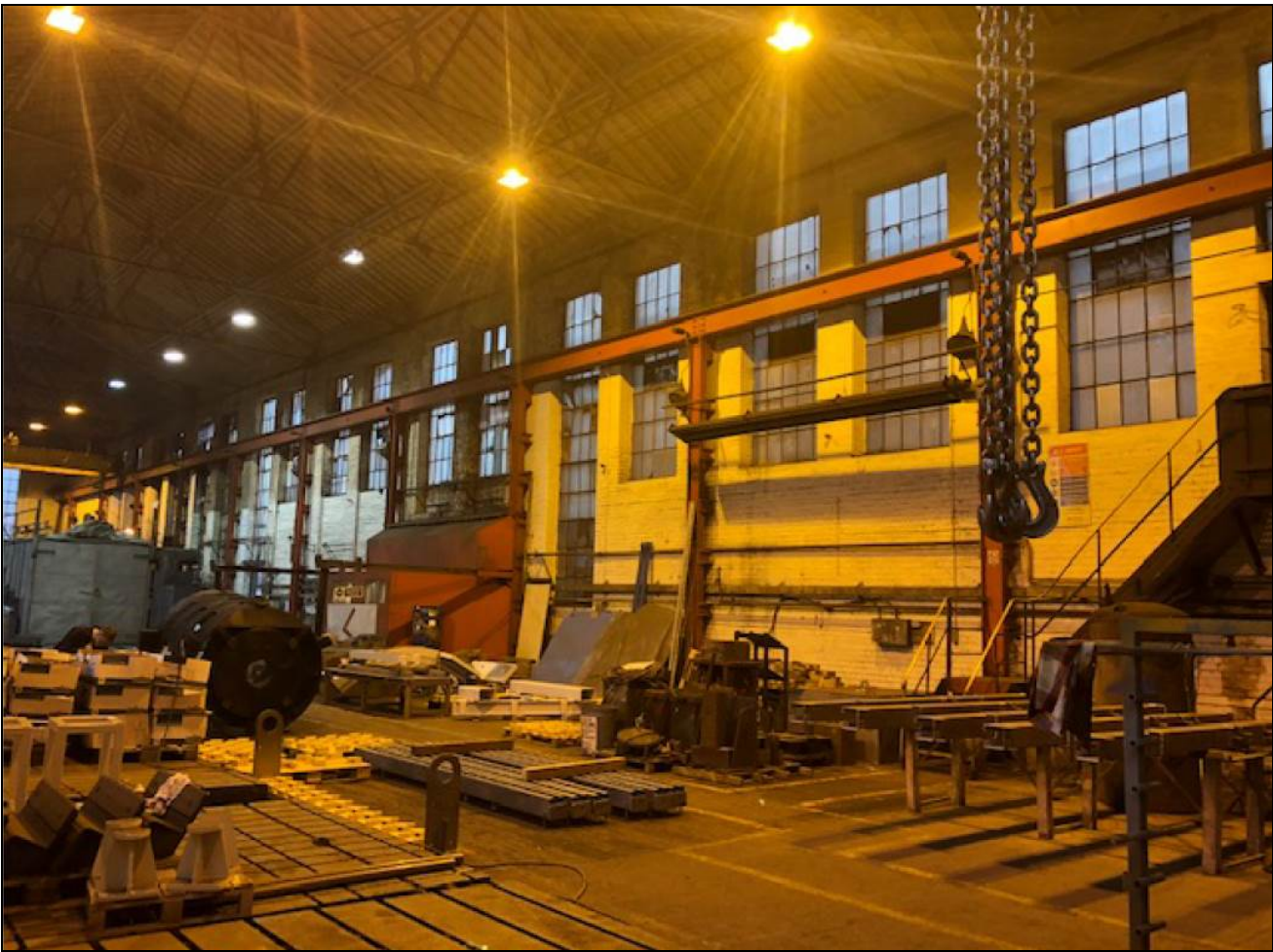
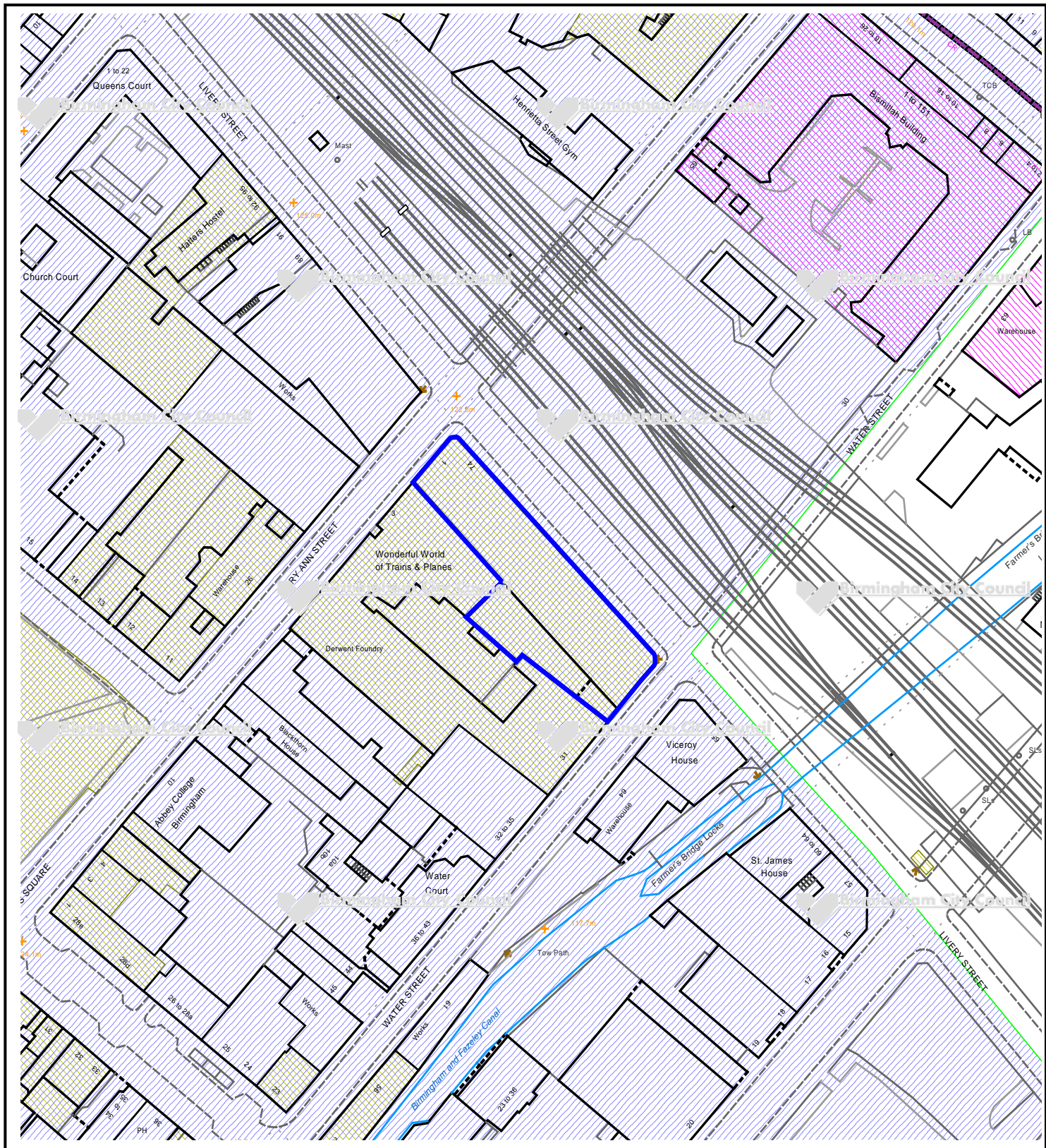


Figure 4: Internal view of building

Location Plan



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Application Reference: 2019/01172/PA**PUBLIC AGENDA ITEM****BIRMINGHAM CITY COUNCIL****REPORT OF THE CORPORATE DIRECTOR, INCLUSIVE GROWTH****PLANNING COMMITTEE****23rd May 2019****WARD: Nechells****High Speed 2 (HS2) (London to West – Midlands) Act 2017****Certificates of Appropriate Alternative Development****1. SUBJECT OVERVIEW**

- 1.1 An application for a Certificate of Appropriate Alternative Development has been received for a parcel of land that has been acquired by HS2 Ltd for the construction of the new phase 1 railway terminus and associated development. The application, brought by the previous owners, sets out the form and type of development that they consider would reasonably have been granted had the entirety of the HS2 scheme been cancelled at its inception on 25th November 2013 in the policy context that existed upon the site's acquisition on the 17th July 2018.
- 1.2 Members will recall that a report providing guidance on the consenting regime for such certificates was presented on the 14th February; this is included as Appendix A. It should be noted that the applicant benefitted from a long lease of the application site, with the City Council being freeholder prior to the compulsory acquisition of the site.
- 1.3 Broadly speaking, this process provides a mechanism for helping to establish land values where land is being acquired through compulsory purchase powers (CPO). The acquiring authority, in this instance HS2, has objected to this application. Whilst useful, ultimately the grant of a certificate is not definitive and the Upper Tribunal (Lands Chamber) will rule on the final land value.
- 1.4 It is recommended that a certificate be issued confirming that the amended development as set out in the application could reasonably have been expected to gain planning permission were HS2 cancelled on the relevant date. Legislation and guidance requires that any conditions or Section 106 requirements that could reasonably have been expected to have been imposed which could have a material bearing on land values be set out. A schedule of key conditions and S106 requirements are set out at the end of this report.

2. Recommendation

- 2.1 That Planning Committee resolves to issue a certificate pursuant to Section 17 of the Land Compensation Act 1961 (as amended) that planning permission would have been granted for the development set out in the application, were HS2 cancelled on the relevant date, subject to conditions and CIL/Section 106 obligations as set out below
- 2.2 That no development would have been granted other than as set out in Table 1

PROPOSAL

- 3.1 This application seeks to demonstrate that a flexible scheme providing a range of uses as follows could reasonably be expected to gain planning consent:

Use	Minimum (no. or GIA)	Maximum (no. and/or GIA)
Residential	0	910 dwellings / 70,955 sq.m
Office	19,212 sq.m	29,670 sq.m
Student Residential	0	1,940 bedrooms / 52,147 sq.m
Hotel	0	580 beds / 20,343 sq.m
Retail	0	5,727 sq.m
Public House	168 sq.m	168 sq.m

Table 1

- 3.2 Notwithstanding the flexibility, the submission indicates a maximum overall floorspace of 99,490 sq.m (GIA), from the suite of uses in the table above. Parameters plans within the Design and Access Statement illustrate the form, layout and scale of this development in the form of an indicative scheme working to the maximum parameters sought. Whilst the overall indicative scheme would allow for flexibility of uses across the site, the illustrative proposals demonstrate the overall scale and massing of the floorspace sought.
- 3.3 In terms of the student accommodation, the illustrative scheme works on the basis of 5-6 bedroom cluster units along with a 10% provision of student studio apartments. In respect of the hotel, the illustrative scheme has been designed around the typical requirements of a mid-tier hotel operator with typical rooms of 24 sq.m and accessible rooms of 30 sq.m.
- 3.4 In respect of the residential element of the scheme the overall mix is assumed to comprise of a maximum of 40% one bedroom and 60% two bedroom apartments. Typical apartment layouts are given (1 bed 2 person shown as 50sq.m and 2 bed 4 person as 70 sq.m). A table has been provided setting out the minimum sizes vs. bed spaces which is in accordance with the National Described Space Standards. Due to the flexibility sought the exact proportion of 1 bed 1 person vs 1bed 2 person and 2 bed 3 person and 2 bed 4 person is not known.
- 3.5 The illustrative scheme is broadly split into three parcels of land, as per the previous consent. The approved parameters plan is attached as figure 1.

Block A

- 3.6 Is a triangular shaped site adjacent to the Clayton Hotel, with streets a minimum of 18m wide to its north and south. Park Street Gardens and an extended Eastside City Park would be to the east on the other side of the retained Park Street.

- 3.7 This block would be a maximum of 168.3m above ordinance datum (AOD), which equates to 16 no. residential storeys in height. The illustrative scheme shows how a student residential block could be developed within these parameters. This comprises of a ground floor entrance and amenity space and upper floor cluster bed rooms, with an area of single storey podium. Alternative uses for this block sought are retail, hotel and residential.

Block B

- 3.8 Is the largest development block across the masterplan and is irregular shaped and situated between blocks A and C. The existing Moor Street and Park Street would run to the west and east of this plot respectively with the retained 18m wide Seymour Street to the north. A new 19m wide pedestrianised route to the south would separate the development from Block C.
- 3.9 The parameters would allow for a two storey podium level across the entire site with three buildings projecting above (B1, B2 and B3). The illustrative scheme shows car parking at the lower levels and substantial levels of retail at lower ground and ground floor levels along with the entrances to the high-rise blocks above.
- 3.10 Above podium level, B1 would be the tallest block and is situated on the Moor Street frontage and 'U' shaped. The tallest part of this part of the building would be 217.3m AOD, which equates to 30 residential storeys. Flexibility is sought for this block to be either traditional residential or student accommodation.
- 3.11 The illustrative scheme for B1 shows a 30 storey tower at the north-western corner of the site, a 20 storey tower at its south-western corner with a 6 storey shoulder. There would be a separation of 21m between the two tower elements.
- 3.12 Block B2 would have a maximum AOD of 157.3m and also have a 'U' shape, being the almost a mirror of B1. Parameters plans seek flexibility of this block being either office, residential or student residential. The illustrative scheme shows how this block could form a residential development of between 10 and 6 storeys providing 162 units. In an office scenario this block would provide 7 floors of accommodation due to the increased floor to ceiling heights associated with commercial uses.
- 3.13 B3 would have a maximum AOD of 163.3m which equates to 12 storeys of hotel accommodation, which is the use shown on the illustrative scheme. Flexibility over this block seeks residential and student accommodation. This block is situated at the southwestern corner of the wider block and, if built to the maximum shown on the illustrative scheme, would be the lower of three towers fronting Moor Street when combined with B1.
- 3.14 Block C is the most fixed part of the masterplan, with only office use sought. This block is at the southern end of the site running between Moor Street Queensway and Park Street. The block is split into two separate office blocks, C1 and C2. The maximum AOD is the same for both blocks (155.7m) but due to the change in ground level the Moor Street building (C1), at 8 storeys, would provide one floor less of accommodation than C2, which is 9. Block C1 would complete the Moor Street

Queensway frontage and is situated adjacent to the grade II listed Moor Street Station. C2 would have Paternoster Row and the culverted Rugby railway line behind.

- 3.15 The Fox and Grapes public house, retained in its existing use as a pub completes the masterplan.
- 3.16 In terms of the flexibility proposed, whilst it is appreciated that this is likely to add complexity for the Upper Tribunal when determining final land value, such an approach is legitimate and typical under the regular planning regime when considering large multi-phase developments. Such flexibility is required in order to respond to changing market demands over the extended delivery period. The CAAD regime requires that all potential forms of development (whether applied for or not) should be considered and listed in the certificate. Therefore an element of flexibility is always a possibility in any positive certificate issued.
- 3.17 As required by legislation, alternative forms of development have been considered by the city, however none are likely to result in a higher land value than the scheme presented in the application. Therefore as there would be no practical benefit to the process in considering uses/development that would not maximise the land value, consideration of these alternatives has not progressed any further.
- 3.18 In terms of cumulative impacts, HS2's representatives have written separately on this point. The other current applications for certificates are neither part of the policy context nor the planning position at the relevant valuation date. As the assumption has to be that the project is cancelled on its launch date no CAAD submissions by neighbouring landowners could have been submitted. There is therefore no requirement or basis for considering cumulative effects of these submissions.

4. SITE AND SURROUNDINGS

- 4.1 The application site currently consists of a cleared site that has been hoarded off following its acquisition by HS2 last year. The site is bounded by Moor Street to the west; the grade II listed Moor Street Station and the culverted Rugby railway line to the south; Park Street to the east and a path in front of the Clayton Hotel to the north. Exhumations are currently ongoing as part of HS2's enabling works.
- 4.2 The site previously accommodated large surface level car parks together with both Freeman and Seymour Streets. The locally listed Island House was demolished some years ago on the triangular site in front of the Clayton Hotel. The extensively fire damaged Grade II listed Fox and Grapes public house that occupied the corner of Park Street and Freeman Street was recently demolished under powers granted by the HS2 Act.
- 4.3 The wider area includes further areas of land that have been acquired and cleared by HS2 in order to deliver railway infrastructure. In addition to the application site, these were originally cleared of buildings as part of the expansion of the city core to the

east with developments such as Millennium Point, Masshouse (the Hive) and Eastside Locks together with Eastside City Park part of this wider regeneration project. The emergence of HS2 has resulted in changes to the overall masterplan to capitalise on the benefits of the station, with more recent projects being influenced by the Curzon Masterplan.

- 4.4 Wider historic context includes the Grade I Curzon Station, the Grade II Church of St. Michael, former Christopher Wray Lighting on Bartholomew Row – Grade II, the Grade II Woodman Public House, together with the Digbeth, Deritend and Bordesley High Streets and Warwick Bar Conservation Areas on the other side of the railways viaduct to the south.

5. BACKGROUND

- 5.1 Members will be aware of the new high speed rail link connecting Birmingham to London, Manchester and Leeds. This is a major national infrastructure project that will be progressed over several years, by three Hybrid Bills through Parliament. Phase One of the network, between London and the West Midlands (including into Birmingham City Centre), has successfully progressed through Parliament and received Royal Assent on 23rd February 2017. Within the city, HS2 Phase One will include a new rail line from Water Orton through Castle Vale, Bromford, and Saltley to a new City Centre station at Curzon Street (to be completed 2026). Phase 2A, between the West Midlands and Crewe (to be completed 2027), is currently being progressed through a further Hybrid Bill in Parliament with Royal Assent targeted for late 2019. A third Hybrid Bill for Phase 2B between Crewe and Manchester and the West Midlands and Leeds is in its development stage and will be deposited in Parliament this year (to be completed 2033).

6. CONSULTATION/REPRESENTATION

- 6.1 No consultation is required for such applications, although HS2, as the acquiring authority, have been consulted on both the original and updated proposals. In response High Speed 2 Ltd have made comprehensive representations on this submission.
- 6.2 They note that the applicant has provided an abridged version of the pre-application discussions between the applicant and the city and consider that it is unfair to not be able to see the full details of discussions. They add that despite the application being submitted after the advice provided the scheme as originally submitted had not been amended to account for the city's comments.
- 6.3 They acknowledge the ability of the applicants to implement the two office buildings for which reserved matters consent had been secured on the relevant date for valuation purposes (17th July 2018).

- 6.4 The note adds that given the scale of the site they would expect there to be the need for detailed pre-application discussions with both the city and consultees such as Historic England before a satisfactory solution was arrived at.
- 6.5 Main considerations set out by HS2's representatives are land use, quality of the living environment, the historic environment, design (specifically height) and transport.
- 6.6 The Birmingham Development Plan (2017), the 2012 NPPF, the June 2001 Eastside Development Framework SPG and the 2012 Car Parking Guidelines SPD forms the policy basis of the representation.
- 6.7 Procedurally, they consider that it is impossible to positively determine the application on the basis of the flexibility sought over uses and scale of development, and that every permutation should be considered. They therefore suggest that the only option available is to consider the scheme based upon the scenario presented to the maximum parameters set out in the supporting statement.
- 6.8 Due to the lodging of multiple applications the representation argues that the cumulative effects of all applications should be considered, such as when considering multiple applications within a masterplan area and therefore contend that the information provided is insufficient to determine the application.
- 6.9 Turning to the substance of the submissions, they do not dispute that each of the uses within the submission could be acceptable within the Eastside area.
- 6.10 They hold significant concerns regarding the quantum of student accommodation, which they consider is far in excess of many other recently-approved student schemes in the city and consider that the cumulative impact of the BCU CAAD should be considered.
- 6.11 They question the need for the student accommodation and the impact upon the neighbourhood and amenity, adding that open space should be provided on site.
- 6.12 The deliverability of the quantum of residential floorspace is questioned, as is the ability to phase Block B. The uplift in scale of the scheme (compared to the past consent) in conjunction with the reduction in site area (to account for separate development of the Clayton Hotel) is noted.
- 6.13 They consider that the full affordable housing quota should be provided and included should a positive certificate be issued.
- 6.14 In respect of housing mix, they note that the scheme does not correspond to the mix set out in the BDP – specifically three and four bedroom units.
- 6.15 They consider that in the absence of onsite amenity space, the development is too dense and over-developed and civic spaces such as Eastside Park should not be relied upon. The access to outlook, daylight and sunlight is questioned, and they consider that the scheme to perform poorly against BRE guidance.

- 6.16 They do not consider that sufficient information has been provided to demonstrate the impact upon Moor Street Station and the conservation areas and point to the cumulative effects of the proposal when combined with the BCU proposals.
- 6.17 They notes that High Places does not identify the site as an appropriate location for a tall building and do not consider that exceptional circumstances for the location of a tall building outside of these designated places have been demonstrated. Adds that only limited information and views have been provided which show how the development would be perceived from locations in the conservation areas, block views of the Rotunda or more generally would work successfully as a cluster in combination with the BCU proposals.
- 6.18 They contend that an extension of the Metro to the Airport via Eastside could still have been brought forward in the absence of HS2.
- 6.19 They do not consider there to be sufficient justification for the level of parking proposed, and given the site's location this should be a location where car free development should be promoted (except for those with disabilities). Generally raises no objection to the lack of parking for the student block in principle, but considers that parking for disabled people should be provided. Considers that cycle storage provision for the student accommodation is insufficient.
- 6.20 They consider that the S106, in the event of a positive certificate, should include an obligation to extend the residents controlled parking zone and, further, that no resident of the scheme (except the disabled) are able to apply for a parking permit.
- 6.21 They conclude that there is already a clear indication of the type and amount of development that would be acceptable – being the previous outline consent, which could form the basis of the valuation. Finally they provide a list of conditions and obligations which they feel necessary should a positive certificate be issued.

RESPONSE

- 6.22 The following issues are dealt with in the body of the report:
- Policy weighting of the Eastside Development Framework
 - Degree of flexibility sought
 - Cumulative Impacts
 - Amount of student residential use proposed and the amenity offered in and around this use
 - Open space location
 - Affordable housing requirement
 - Housing mix
 - Outlook/light/amenity
 - Impact upon heritage assets

- Parking
 - Metro
- 6.23 In respect of the point about the lack of the applicant's response to the City's pre-application comments, the scheme has since been amended in response to these comments, which forms the basis of the application before you. Any further comments from HS2 will be reported to Planning Committee.
- 6.24 In terms of the level of information provided to determine this application, the application submission documents provide parameter plans and elevations and key views, which are considered sufficient.
- 6.25 If this were a standard planning application a level of wider consultation with bodies such as Historic England would typically be undertaken, however there is no legislative basis for doing such consultation for applications under the CAAD regime.
- 6.26 The deliverability of the residential floorspace is questioned, and reference is made to changes to the original permission to allow phased delivery. In response it is noted that whilst Block B contains a large number of units (a maximum of 734), there is a precedent of Exchange Square. The first phase of this development, which is ongoing, is being built as one and will deliver a total of 603 dwellings. This development shows how multiple vertical elements above a podium can be ready for occupation as the development progresses on site.

7. PLANNING HISTORY

- 7.1 A Compulsory Purchase Order was confirmed by the Secretary of State in relation to land associated with the delivery of the removal of Masshouse Circus as part of the removal of the city centre's 'concrete collar' with the highway works undertaken in 2002. Also in 2002 a planning application for a much wider area than the current application site was submitted for a comprehensive scheme including offices, residential, food store, leisure, hotel and education buildings. Land ownership was subsequently consolidated by a further Compulsory Purchase Order granted in 2004.
- 7.2 More recently, the application site forms the majority of what became the City Park Gate site that subsequently (2007) gained outline planning permission for a mixed use development of up to 93,700 sq.m (GIA). The Clayton Hotel, which is situated on the remainder of the City Park Gate site, has been built out under a separate planning permission and is excluded from this current application.
- 7.3 The original City Park Gate consent was granted on 27th November 2007 followed by a Section 73 variation to allow for plot 2 (now Block 2) to be either residential or a combination of residential offices and a hotel on the 10th April 2008. This consent gave 10 years for the submission of reserved matters and 11 years or a year from the date of the final approved reserved matter for implementation.
- 7.4 The only reserved matters consent granted pursuant to the outline was for two office buildings on what is now Block C on 23rd October 2008.

- 7.5 Therefore at the relevant date (17th July 2018) there was not an opportunity to submit further reserved matters, however the reserved matters consent for the office buildings was extant and capable of being implemented.

Details of the City Park Gate (including the Clayton Hotel site) consent as amended:

2006/07395/PA

93,700 sq.m (GIA) total development comprising:

- 1,200 sq.m minimum and 4,800 sq.m maximum retail food store
- Up to 4,400sq.m A1, A2, A3 and A5 uses
- Up to 55,000 sq.m office floorspace
- Up to 56,600 sq.m residential to provide up to 844 dwellings
- Up to 14,000 sq.m hotel (230 beds) in lieu of office or residential floorspace

S106 requirements

- £25,000 shop mobility sum index linked from 10th May 2007
- £500,000 open space sum index linked from 10th May 2007 for the first 608 dwellings beyond which a further sum of £822 per dwelling was secured
- 25% affordable housing consisting of 1/3 2 bed flats and 2/3 1 bed flats for shared ownership with a clause allowing a commuted sum (25% of market price) to be paid should they not be sold within 6 months
- Using local people during the construction of the development
- Refurbishment of the Fox and Grapes public house
- Refurbishment of the locally listed Island House
- Transfer of land to the Council for road widening on Masshouse Lane
- £100,000 of on-site landscaping works (index linked from 10th May 2007)
- Provision of an enhanced crossing on Park Street
- Provision of public art on the site

7.6 Comparison of the outline consent to the current application

Use	Current Application Maximum	Previous Outline (including the Clayton site) Maximum
Residential	910 dwellings / 70,955 sq.m	844 dwellings / 56,000 sq.m
Office	29,670 sq.m	55,000 sq.m
Student Residential	1,940 bedrooms / 52,147 sq.m	Nil
Hotel	580 beds / 20,343 sq.m	230 beds / 14,000 sq.m
Retail	5,727 sq.m	10,200 sq.m
Public House	168 sq.m	168 sq.m
Overall Total GIA	99,490 sq.m	93,700 sq.m
Total Developable Area	15,242 sq.m*	18,650 sq.m

Table 2 * excludes Albert Street

2008/04177/PA

- 7.7 Reserved Matters Approval for layout, scale, appearance and landscaping of plot 1 of city park gate pursuant to conditions A1, A2, A3, A4, of outline planning permission C/07395/06/OUT, as amended by C/00460/08/FUL, for the erection of 23,074sqm (GIA) of offices in two, eight storey, buildings with 92 parking spaces and associated public realm and landscaping – Approved 27th October 2008.

Other Sites

- 7.8 There are three further applications for Certificates of Appropriate Alternative Developments within the Eastside area currently lodged with the City. These are:
- 2018/10431/PA – Land at New Canal Street/Fazeley Street – Site of former BCU campus consent - Certificate of appropriate alternative development for a mixed use development for up to 101,703sqm (GIA) comprising A1, A2, A3, A4, A5, B1(a), C3 and student accommodation (sui-generis) uses
 - 2019/01379/PA – Curzon Gateway – Land to the south of Curzon Street behind the former Unite student accommodation which is currently being demolished by HS2 - Certificate of Appropriate Alternative Development for a mixed use development of up to 44,000 sq.m (GIA) comprising A1, A2, A3, A4, A5, B1(a), C3, D1 and student accommodation (Sui Generis) Uses
 - 2019/03402/PA – Curzon Park – Land to the south of Curzon Street west of the canal - Certificate of Appropriate Alternative Development for a mixed use development comprising buildings ranging between 7 and 41 storeys in height to

a maximum of 181,260sqm GIA floorspace, including up to 59,061sqm GIA of residential floorspace (Use Class C3), up to 37,013sqm GIA of purpose built student accommodation (Sui Generis), up to 79,748sqm GIA of office floorspace (Use Class B1(a)), up to 443sqm GIA of incubator floorspace (Use Class B1(a) and/or B1(c)) and up to 4,995sqm GIA of retail floorspace (Use Classes A1-A5), together with up to 20,909sqm GIA of basement and surface level car parking as well as public realm improvements and associated works

8. POLICY

POLICY WEIGHTING

8.1 From a policy perspective the guidance requires planning assumptions to be as per the date upon which the Secretary of State took possession of the land, which for this site is 17th July 2018. The application must be considered against this policy context assuming that the HS2 project had been cancelled in its entirety on its launch date (23rd November 2013) and it, or no alternative proposal performing a similar function, had any prospect of coming forward. There is no requirement to theorise how any policies entirely dependent upon HS2 may have been written in its absence.

8.2 In light of the above, the following is a summary of each policy's position in respect of this application.

Birmingham Development Plan 2017

8.3 Whilst conceived and adopted with a context that included the High Speed 2 project, much of the BDP remains relevant to this submission, with the majority of policies applicable in the absence of HS2. Therefore whilst, where mentioned, explicit references to the project can be discounted, the remainder of the plan has significant weight in determining this submission. Notable policies include:

- PG1 – which sets out the city's objectively assessed housing need as some 89,000 dwellings, for this the plan identifies opportunities for 51,100 within the city's administrative boundary.
- GA1.1 – this emphasises that the city centre will continue to be a focus for growth including retail, leisure and residential uses.
- GA1.2 – Identifies the Eastside area as a specific part of the city centre for growth and a wider area of change. It is worded so that this growth is not dependent upon HS2, using the wording “*Any proposals* for a HS2 station will need to be integrated into the area....”
- GA1.3 - Identifies further development of Eastside as an opportunity to maximise its role for learning and technology. Both GA1.2 and GA1.3 are built upon by text in paragraph 5.23 which identifies Eastside as an opportunity to accommodate a range of uses and densities of development to expand the city core and diversify the overall offer. The last sentence of this paragraph concerning capturing the opportunity and investment brought about by HS2 should clearly be discounted for the purposes of this submission.

- TP21 identifies the additional comparison retail floorspace needed in the City Centre between 2012 and 2026 as 160,000 sq.m although a Retail Impact Assessment is needed for proposals greater than 2,500 sq.m (gross) outside of the retail core (which this site is). In addition, the policy identifies the need for some 700,000 sq.m (gross) office floor space within the City Centre between 2013-2031.
- TP29 illustrates the projected housing delivery trajectory showing that, citywide, some 2,500 dwellings are needed per annum between 2015 and 2018 rising to 2,850 per annum thereafter until the end of the plan period.
- TP30 stipulates that housing densities of at least 100 dwellings per hectare are required in the City Centre.
- TP31 sets out the affordable housing target of 35% and breaks this down into tenure and required unit sizes.
- TP33 concerns student accommodation and requires a need for the development to be demonstrated, to be well located in relation to the educational establishment that it will serve and design and amenity requirements.

Unitary Development Plan (saved policies)

- 8.4 The Unitary Development Plan was conceived without knowledge of the HS2 project and therefore the saved policies continue to hold some weight in so far as they are consistent with more recent BDP and NPPF (2012) policy.

Eastside Development Framework 2001 & Eastside Design and Movement Framework 2003

- 8.5 Whilst these documents are of limited historic interest in the context of the previous consents in the area, they were revoked over 4 years before the 17th July 2018. Therefore they should be afforded very limited, if any, weight.

Warwick Bar Conservation Area Character Appraisal and Supplementary Planning Policies 2008 (SPD) & Digbeth, Deritend and Bordesley High Streets Conservation Area 2009 (SPD)

- 8.6 Whilst not within either conservation area, the development would have some impact on the setting of these areas. The Digbeth conservation area is more distant (northern boundary is part of Fazeley Street and Bordesley Street), with Warwick Bar extending to the southern façade of the existing rugby line railway viaduct. Both were extant policies and pre-dated HS2 so should be given full weight insofar as they are consistent with the NPPF (2012) and BDP.

Car Parking Guidelines 2012

- 8.7 This SPD provides general parking policy for the city, with maximum car parking and minimum cycle parking targets. As a general SPD it would hold some weight insofar as it is consistent with the later BDP and NPPF (2012) with supporting guidance notes.

High Places 2001 SPD

- 8.8 High Places details the policy approach towards tall buildings, stating appropriate locations for tall buildings and the approach for considering exceptions to these locations. In the context of the city centre tall buildings are 16 storeys or more.

National Planning Policy Framework 2012

- 8.9 Schemes of national significance are set out in National Policy Statements, which set out the reasoning behind the Government's strategy on various topics. The 'National Policy Statement for National Networks' (2014) outlines the growth in rail traffic and the need for improvement of existing and establishment of new rail links. The NPPF therefore does not reference the HS2 project specifically and the policy should be afforded significant weight.
- 8.10 It should be noted that both updated versions of the NPPF should be disregarded as they postdate the relevant date (24th July 2018 and 19th February 2019).

Midland Metro

- 8.11 Whilst an application has been made to the Department for Transport for a Transport and Works Act Order to construct an extension to the tramway from Bull Street to High Street Digbeth via the new HS2 station, no decision has been made. The route passes along the south façade of the Clayton Hotel then turns south along New Canal Street.
- 8.12 The applicant points out that there is no safeguarding for this particular route either from the Secretary of State or in local policy. BDP TP41 supports links to the Airport (via East Birmingham) and 'to Eastside and the Curzon Street High Speed 2 station'. Clearly the last part of this second extension can be disregarded for the current exercise; however TP41 clearly lends support to an extension of the tramway through this area to the east of Birmingham.
- 8.13 The Planning Statement argues that given the lack of specific policy, safeguarding and legislation that, for the purposes of this exercise, the specific proposals for a tramway extension affecting this site should be given no material weight in determining the certificate.
- 8.14 The supporting statement adds that the land required by the tramway extension is part of the land already acquired by HS2, with the acquisition effectively forming a dual purpose facilitating both the tram and railway. It adds that the current metro scheme is a direct response to HS2 and should be considered as part of the underlying HS2 scheme – evidenced by both land acquisition and the evolution of the route and supporting business case.
- 8.15 The report provides a summary of the route selection process, noting that 4 out of the 5 initial options considered in 2003 for an airport link did not route through the Eastside area north of the existing viaduct. The route was reconsidered after the announcement of HS2 which eventually evolved into the current TWAO application route.

- 8.16 It is clear that the BDP supports an extension through the east of Birmingham terminating at the airport. It is also clear that the final TWAO scheme is intrinsically linked to the emergence and development of the HS2 proposals. It is therefore considered that whilst an extension to the east of the City would be a relevant policy consideration, this need not necessarily directly affect the current site.
- 8.17 HS2 add that Centro's (now TfWM) comments set out in the 2007 committee report for the original application cite the prejudicial impact the City Park Gate application could have on future extensions to the airport, which pre-date the relevant date. However, as set out above, there were no changes in policy, safeguarding or legislation which justify an alternative decision made in 2007 (to not provide a dedicated passive provision for the tram). More recent changes and development of the tramway extension are intrinsically linked to the HS2 proposals.

9. Planning Considerations

USES

Residential - amount

- 9.1 Compared with the previous consent on this site the proposal represents an increase in the maximum number of residential properties of 7.25% (844 to 910) whereas by area this increase is 21.1% (56,000sq.m to 70,955 sq.m).
- 9.2 In respect of housing need the BDP states that its objectively assessed need is 89,000 across the plan period (until 2031) to meet the forecast increase in Birmingham's population of 150,000. Due to constraints across the administrative area the Plan only plans to provide 51,100 homes, with 12,800 earmarked for the city centre.
- 9.3 The policy context, irrespective of HS2, indicates that it was an aspiration to grow the city core to the east with the removal of Masshouse Circus the first stage. Policy talks about encouraging a mixture of uses in this area. The quantum of housing proposed, in the form of multi-storey apartment blocks, would not be disproportionate to the size of the site and would be in keeping with other major city centre schemes.
- 9.4 Therefore, considering the policy context, the maximum provision of 910 dwellings over 70,955 sq.m GIA would not be inappropriate in principle, subject to design, amenity and highway considerations.

Residential – Mix

- 9.5 The application submission sets out that the anticipated mix of one and two bedroom apartments would be a 60/40 split in favour of two bedroom apartments. It also states that apartments would meet the Nationally Described Minimum Sizes although no detailed breakdown of occupancy is given.

- 9.6 The BDP sets the following targets for market dwellings: 1-bedroom 13%, 2-bedroom 24%, 3-bedroom 28%, and 35% 4-bedroom. Taken together (shared ownership, affordable rent and social rent) Policy TP31 (Figure 2) shows that the tenure required for affordable housing over the plan period across the city is 1-bedroom 32%, 2-bedroom 35%, 3-bedroom 20%, and 4-bedroom 13%.
- 9.7 Although the housing mix figures are not ceilings, given the city's overall housing requirement, there is a need to ensure that the right type and mix is provided in the city as a whole. It is accepted that in the city centre a higher percentage of one and two bedroom apartments are going to be delivered. Although the development comprises wholly of 1 and 2 bedroom units, given the overall housing needs of the city it is considered acceptable, particularly given the site's location subject to 1 bedroom 1 person (1b1p) and 2 bedroom 3 person (2b3p) units being minimised in the scheme. In light of the overall mix a minimum of 80% 1b2p and 2b4p apartments would be expected and this is set out in the conditions section.
- 9.8 Given the nature of this application it should be assumed that a full provision of 35% affordable housing will be provided. A full breakdown of an assumed affordable mix is set out towards the end of this report.

Hotel

- 9.9 The proposed mixture of uses includes the possibility of either no hotel at all or provision of the whole of Block A (13,024 sq.m GIA – 400 bedrooms) and/or B3 (7,319 sq.m GIA – 180 bedrooms).
- 9.10 Relevant policy (BDP TP25) supports provision of hotel facilities in accessible locations as a necessary ancillary function to bolster the city's tourism and cultural offering. BDP GA1.1 recognises the need to continue to promote the City Centre as the focus for various uses, including retail, office and leisure, all of which can be supported by a range of hotel uses.
- 9.11 Given the accessible nature of the site with the major bus interchange of Moor Street Queensway and Moor Street railway station immediately adjacent to the application site; and other connections such as New Street and Snow Hill train stations and the tram network within a walkable distance for most, the site can be considered as being in a highly sustainable location. Whilst policy does not require the overall need for hotels to be explicitly demonstrated, it is noted that there is a current application for a 235 bedroom hotel within the immediate vicinity at Exchange Square.
- 9.12 Therefore, in summary, the proposed maximum overall provision of two hotels totalling 580 bedrooms would likely to have been supported in principle.

Student Residential

- 9.13 Compared to the previous consent on this site which did not include any student residential provision, the proposed flexible mixture of uses now includes 1,940 student bed spaces. Spatially, this could occupy all of both Blocks A and B.
- 9.14 BDP policy TP33 requires that:

- The need for student accommodation to be demonstrated
 - The accommodation to be very well located in relation to the education establishment that it will serve
 - There are no unacceptable amenity impacts
 - Scale, massing and architecture are appropriate for its location; and
 - The design will create a safe, secure and welcoming living environment
- 9.15 In terms of quantum, the proposal clearly represents a significant number of student bed spaces. Given the theoretical nature of this submission the application is not supported by an educational institution.
- 9.16 Whilst not on campus the site is well located for Aston University and Birmingham City University in particular, both being a short walk from the site. BDP GA1.3 recognises the extensive development opportunities in the Eastside and seeks to maximise its role as an area for learning (and technology).
- 9.17 Considering the period after the relevant date (17th July 2018), there have been applications for in excess of 1000 student bed spaces across the City, with one scheme approved in October providing some 556 spaces within the City Centre. Given that the development would likely be a multi-phase scheme progressing over a number of years, coupled with the City's support of the expansion of the City's universities (BDP TP36), it is reasonable to assume that significant further expansion of the student residential offer would be required. Eastside is ideally located for two of the City's key universities and its continued focus as a learning quarter is supported in policy. Therefore, subject to the amenity, design and highway considerations (below) at the relevant date it is likely that the principle of student residential could have been satisfactorily demonstrated.

Office

- 9.18 Compared to the past outline consent on this site, the current application represents a significant reduction in the quantum of office space sought (from 55,000 sq.m to 29,670 sq.m GIA). In addition, the extant reserved matters consent that could have been implemented at the relevant date approved in detail a total of 23,074sqm (GIA) of office floor space.
- 9.19 BDP TP21 outlines the City Centre's office requirements for the plan period of 700,000 sq.m GIA. BDP GA1.1 acknowledges the primacy of the office function in the City Centre and GA1.2 states that Eastside is an appropriate location for office development.
- 9.20 It is therefore a reasonable assumption that 29,670 sq.m GIA of office space would have been consented on the relevant date.

Retail

- 9.21 The proposal includes a total of 5,727 sq.m GIA of retail floorspace. The site lies outside of, but on the immediate edge of, the City Centre retail core which is situated on the opposite side of Moor Street Queensway. BDP TP21 states that the retail floorspace requirement in the City Centre is some 160,000 sq.m GIA by 2026.
- 9.22 Historic consents on this site have included a large supermarket, with the most recent outline consent including 10,200 sq.m GIA of retail floorspace. Given the substantial shift in the retail market it is debateable whether a large supermarket as previously proposed would be viable. Notwithstanding this, the desire to animate the key ground floor frontages to streets in and around the development, including Eastside City Park, would necessitate an element of retail use in the proposals. In addition, retail would help support the wider functions and growth of Eastside as an expansion of the city core. The site is close to the retail core of the City Centre which is focused on the Bull Ring, High Street and New Street.
- 9.23 To conclude, it is reasonable to assume that at the relevant date, and in the context of the previous approval, the level of retail proposed would have been supported. However, the implications of a single large food store as historically consented would need to be reviewed in light of the changed policy and real world context. The impacts of such a development on the area (highway and retail impacts in particular) would need to be further justified. It is therefore reasonable to limit the size of any single retail store to no greater than 2,500 sq.m GIA.

SCALE

- 9.24 Officers have held extensive discussions with the applicant around the scale and massing of the proposed development, which is used to justify the quantum sought by the certificate. The massing has been inputted into the digital model of the City Centre and detailed discussions akin to those undertaken for a real proposition have taken place.
- 9.25 Maximum parameters show a development that includes three buildings above the 15 storey threshold to be defined as tall buildings in a High Places SPG context, with development overall being of a 'city scale'. As reflected in the maximum parameters the overall scale generally exceeds that previously consented on this site.
- 9.26 The application includes a comparison of maximum heights of building plots between previously consented and currently proposed (above ordnance datum). Considering each Block in turn:

Block A

- 9.27 This Block was previously the site of the locally listed Island House, which the previous scheme sought to retain and extend above and behind. Since 2006 Island House was demolished (2012) and therefore would not have been a constraint on the relevant date (17th July 2018).

- 9.28 The amended proposal shows a 16 storey tower (which was 17 when originally submitted) with a one storey podium finishing off this triangular shaped plot, which has always been a counterpart (in plan) to the triangular site of the Clayton Hotel.
- 9.29 The tower, at a maximum AOD of 168.3m would be some 53.1m tall. The previously consented tallest building here was some 22.2m tall. It is noted that the Clayton Hotel, at approximately 28m, is substantially lower than the maximum parameter consented for that plot (83.6m).
- 9.30 At approximately 47m tall the recently constructed Emporium student development to the north east gives a recent example of the scale that can be successfully accommodated around Eastside City Park. Together with the Clayton and earlier phases of the Masshouse development the proposals demonstrate that 16 storeys could form an appropriate response to this part of the site. The podium space is a counterpoint to the podium on the Clayton and provides some breathing space between this plot and the hotel.

Block B

- 9.31 This block accommodates the tallest buildings on site, with, in the maximum scenario, a sequence of three towers along Moor Street Queensway ranging from 30 to 12 stories in height. These sit on top of a 2 storey maximum height podium level.
- 9.32 The location of the greatest height across the scheme on the Moor Street frontage is logical in that it acknowledges the importance of this street in terms of route hierarchy. It also is the closest part of the site to the core of the City Centre, which accommodates the highest concentration of the city's tallest structures. It is noted that the site generally rises in level up towards Moor Street Queensway.
- 9.33 The maximum scale of the 6 storey shoulder building has been given careful consideration in the context of the proportions of the overall development, with a reduction of 4 stories in comparison to the application originally submitted.
- 9.34 The overall scale of development drops to the east where Park Street Gardens was previously situated. In the scenario under consideration this area of open space and trees would most likely have been retained as an extension to the park.
- 9.35 The scheme will be visible from both the Warwick Bar / Digbeth, Deritend and Bordesley High Streets and, from more distant views, the Steelhouse conservation areas. The Digbeth Conservation Area Character Appraisal notes that "traditional scale of development in the area is set against the metropolitan scale of the city centre".
- 9.36 Views of the tall buildings from the conservation areas to the south would be layered with existing buildings and structures. From a closer distance the railway infrastructure would dominate the lower part of any view, with the taller buildings appearing above. The lower elements of Block B on Park Street are broadly similar if not lower than the previous consent on this site.

- 9.37 Overall it is concluded that the scale of the maximum parameter for Block B would not cause substantial harm to designated heritage assets and would provide a positive addition to the city core. Schemes of significant scale have been submitted along this corridor before the relevant date such as Phase 1 of Exchange Square which includes a 27 storey element (2016/01063/PA) and the Beorma redevelopment that includes a 30 storey tower (2015/06648/PA). These are representative of the growth of the city core to the east with intermediate height built beyond such as the emporium student tower which is 15 storeys (185 student bedrooms – 2016/05857/PA) and the BCU University Locks development on the Middleway which includes a 19 storey tower (625 student bedrooms – 2013/09485/PA).

Block C

- 9.38 At 159.5m, the maximum AOD previously granted at outline consent for this plot on the Moor Street frontage was some 3.8m greater than the maximum currently sought. On Park Street the maximum AOD sought is a maximum of 7.4m taller than previously consented. In addition the outline consent showed this as one complete block from Moor Street to Park Street whereas the parameters currently sought breaks this block into two parts (C1 and C2). Moving to the reserved matters consent that was subsequently granted for this plot, and was extant on the relevant date, this showed the highest part of the buildings being 160.95m AOD, which further increased the maximum approved at outline stage. This reserved matters consent resulted in two 8 storey buildings (with a storey difference between them) with the tallest element of building 2 on Park Street being 34m. The current proposal shows a 37.5m tall building.
- 9.39 As originally submitted the certificate sought a 10 storey building to Park Street and a part 10/part 8 storey building to Moor Street. The amended scheme, at 9 storeys to Park Street and 8 to Moor Street is broadly consistent with the previous consent. The proposal would not have any material additional impact upon the conservation areas, or other heritage assets within the vicinity. The amended position would have a satisfactory relationship with the surrounding buildings and railway infrastructure.
- 9.40 The proposals show the Fox and Grapes retained as existing.

LAYOUT

- 9.41 The key routes through the scheme remain as per those indicated at outline stage. Albert Street was previously consented at 12.5m wide, whereas the proposals show a minimum width of 18m. Seymour Street was centred at 12.5m, which again is widened to 18m in the current application.
- 9.42 The spaces between Blocks B and C is a generous 19-20m doglegged east/west route which opens out around the Fox and Grapes Public House. This represents a shift in where the larger spaces are provided away from Moor Street towards Park Street, which is acceptable and would have provided an improved setting to the retained listed public house.

- 9.43 The proportion of the routes in comparison to the scale of the buildings that frame them is acceptable and would deliver a successful city-scale degree of street containment without an unpleasant overbearing impact.
- 9.44 At podium level on Block B the parameters show how, influenced by indicative internal layouts, the taller elements above could achieve satisfactory separation to provide privacy, outlook and light penetration.
- 9.45 There would have been significant amenity space for the benefit of the proposed residential uses in the form of Park Street Gardens and Eastside Park. During detailed design this could be supplemented by podium, rooftop and balcony spaces.
- 9.46 Considering the scheme as a whole, the supporting documents demonstrate that the maximum parameters could deliver a high quality addition to the city, providing a quality place to live, work, shop and pass through. Supporting information shows how the development could successfully integrate into the existing city both in terms of its form together with routes, sequences of spaces and connections.
- 9.47 In respect of parking and highway impact, the principles underlying the servicing and access strategy are broadly consistent with the previous consent on this site. The site is in a highly sustainable location. In terms of the level of parking proposed, this would be considered as a maximum with further refinement at the detailed design stage once the exact amounts of each uses are known. A base minimum level of disabled parking/access would be required. On street parking could be controlled by the Transport Regulation Order regime which could be secured via condition.

CONCLUSION

- 9.48 In conclusion the application demonstrates how the range of uses and quantum of development could be successfully realised. Therefore, in the policy and legislative context of this application, it is concluded that the development set out in the application could reasonably have been expected to have gained planning permission. It is therefore recommended that a positive certificate confirming this position is issued, subject to the material conditions and planning obligations set out below.

10 **PLANNING OBLIGATIONS**

- 10.1 In respect of CIL the following charges would apply to this development
- Hotel = £27 per sq.m
 - Student Residential = £69 per sq.m
 - Retail Convenience over 2,700 sq.m = £260 per sq.m

10.2 Further details about the application of CIL in Birmingham can be found at the following website:

https://www.birmingham.gov.uk/downloads/download/307/community_infrastructure_levy

10.3 Turning to Section 106, given the context of this application it is assumed that the proposed development would be fully policy compliant in relation to planning obligations. As such the development would be expected to provide:

Affordable Housing

- 35% affordable housing. In accordance with policy TP31 of the BDP, this would take the form of an on-site provision. In the absence of any further detailed information about the development, the table at figure 2 with policy TP31 sets out the city's needs across the plan period. It would be assumed that the split between the various types of affordable homes would have a similar split to deliver the 35% required (noting that the proposed development does not propose any 3 or 4 bedroom units). A reasonable affordable housing allocation would be as follows (noting that all would have at least a 20% below local market rents/values):
 - Shared Ownership – 4.8%
 - Affordable Rent – 20%
 - Social Rent / Requires Subsidy (e.g. market rent, discounted market sales) – 10.2%
- If the development provided apartments that were wholly for the Private Rented Sector, this 35% would be expected to be in the form of affordable rent with at least 20% discount on the local market rent (including services charges where applicable)

Open Space

10.4 Provision of a commuted sum in accordance with the calculation of off-site requirements set out in Appendix B of the Public Open Space in new residential development Supplementary Planning Document (July 2007) save that the input costs are updated in accordance with the following table:

Type	Previous cost	Updated Cost (since 2016) per sq.m
Provision of new or compensation for loss of public open space	£40 sq.m	£65 sq.m
Provision of new or compensation for loss of other open space or playing field	£20 sq.m	£25 sq.m

Toddler's play area	£75,000	£90,000
Junior play area	£90,000	£105,000
MUGA	£45,000 to £95,000	£45,000 to £95,000
Youth shelter	£7,500	£7,500

Table 3

Other Measures

- 10.5 Considering the scheme in context, and referencing the previous agreement secured on the site (noting policy and legislative changes since), the following would also be likely to be required:
- 10.6 A clause requiring local employment to be targeted for the construction of the development.
- 10.7 Inclusion of public art within the project.
- 10.8 Refurbishment of the Grade II Listed Fox and Grapes public house.
- 10.9 Provision of an enhanced crossing on Park Street

11 KEY CONDITIONS

- 11.1 As required by the relevant legislation, the following are conditions that could reasonably be expected to be attached to the development that could affect the value of the site are as follows:

General

- 1. Time condition – 3 years to submit reserved matters plus a maximum of a further year from the approval of the final reserved matter for implementation.
- 2. Submission of outstanding reserved matters (layout, scale, appearance, landscaping, access).
- 3. Restricting the maximum overall GIA floor space and each of the respective use maximums
- 4. Requiring the development to be carried out in accordance with the parameters plan
- 5. No single retail store to be larger than 2,500 sq.m GIA

Highways and Accessibility

- 6. Submission and approval of Travel Plan

7. Disabled access strategy, to include minimum disabled parking provision in accordance with the Car Parking Guidelines SPD 2012
8. Review of the Traffic Regulation Orders on the surrounding streets to ensure the effective management/operation of the highway, including on street parking
9. Provision of cycle storage in accordance with the Car Parking Guidelines SPD 2012
10. Ensure new public routes through the site are maintained for public access for the life of the development
11. S278 agreement to a) identify new public highway within the application site, b) provide the detailed sign and layouts of all new vehicle access points c) detailed design of a signalised controlled junction at the Fazeley Street/Park Street junction, d) detailed design and layout of any new or enhanced pedestrian crossing on Park Street, and e) details of the repaving and lighting improvements both within the site and around the site's boundaries

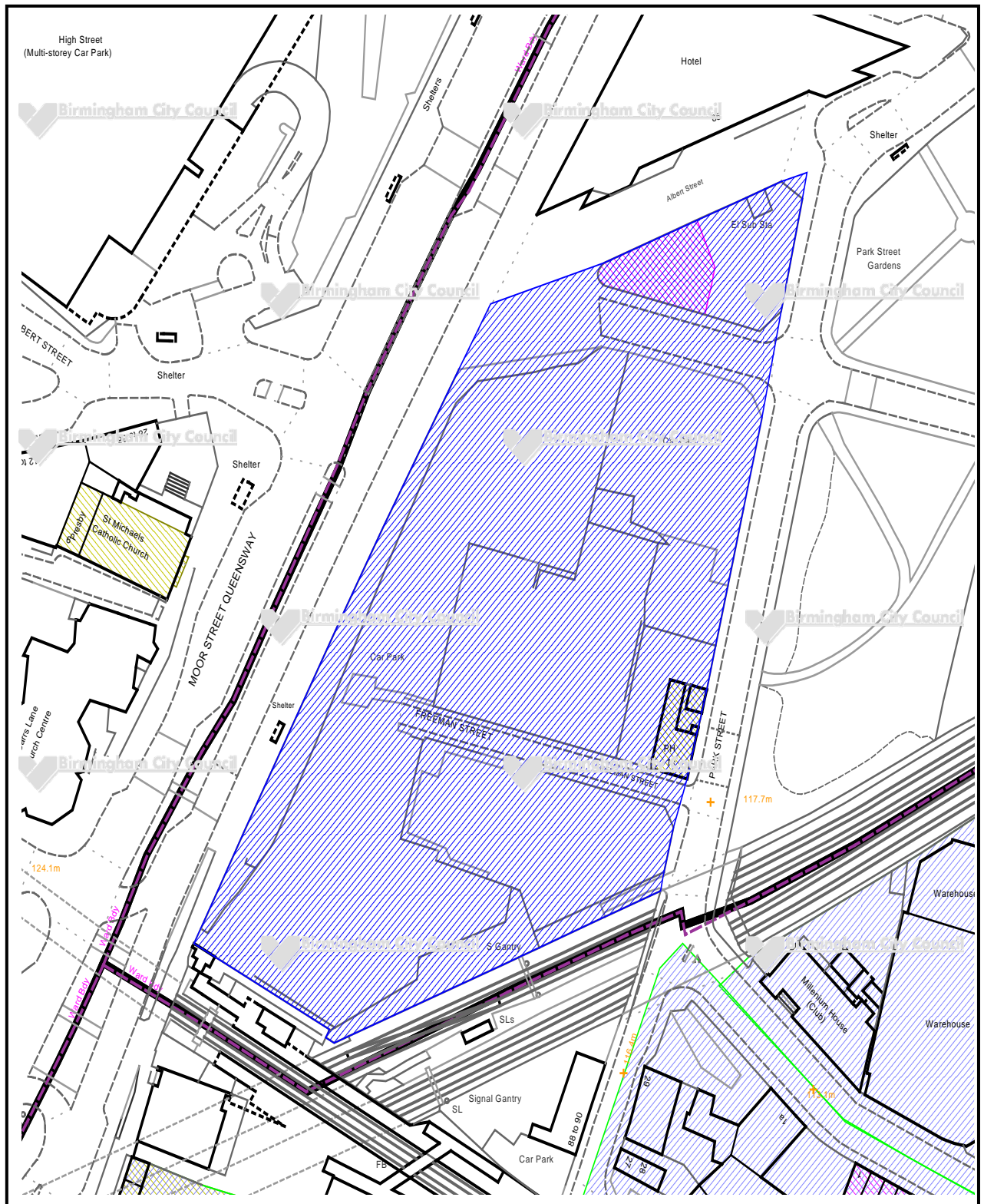
Amenity

12. Contaminated land investigation and associated remediation
13. Submission of an Air Quality Assessment and implementation of mitigation measures
14. Provision of a Noise and Vibration Assessment and implementation of mitigation measures including noise insulation between residential and commercial elements of the buildings
15. Details of balconies and shared podium amenity spaces for residential units to be provided

Other Matters

16. Sustainable drainage scheme
17. Provision of ecological mitigation and enhancement measures, to include bird and bat boxes and an intensive green roof of no smaller than 2,500 sq.m
18. Submission of a Sustainability and Energy Assessment demonstrating compliance with policies TP3, TP4 and TP5 of the Birmingham Development Plan 2017
19. Archaeological Investigation
20. Within the overall 60% two bedroom and 40% one bedroom mix, a minimum of 80% shall comprise of 1b2p and 2b4p apartments and meet the Nationally Described Space Standards as such
21. All residential units to meet the Nationally Described Space Standards
22. Submission of a wind assessment and implementation of appropriate mitigation measures

Location Plan



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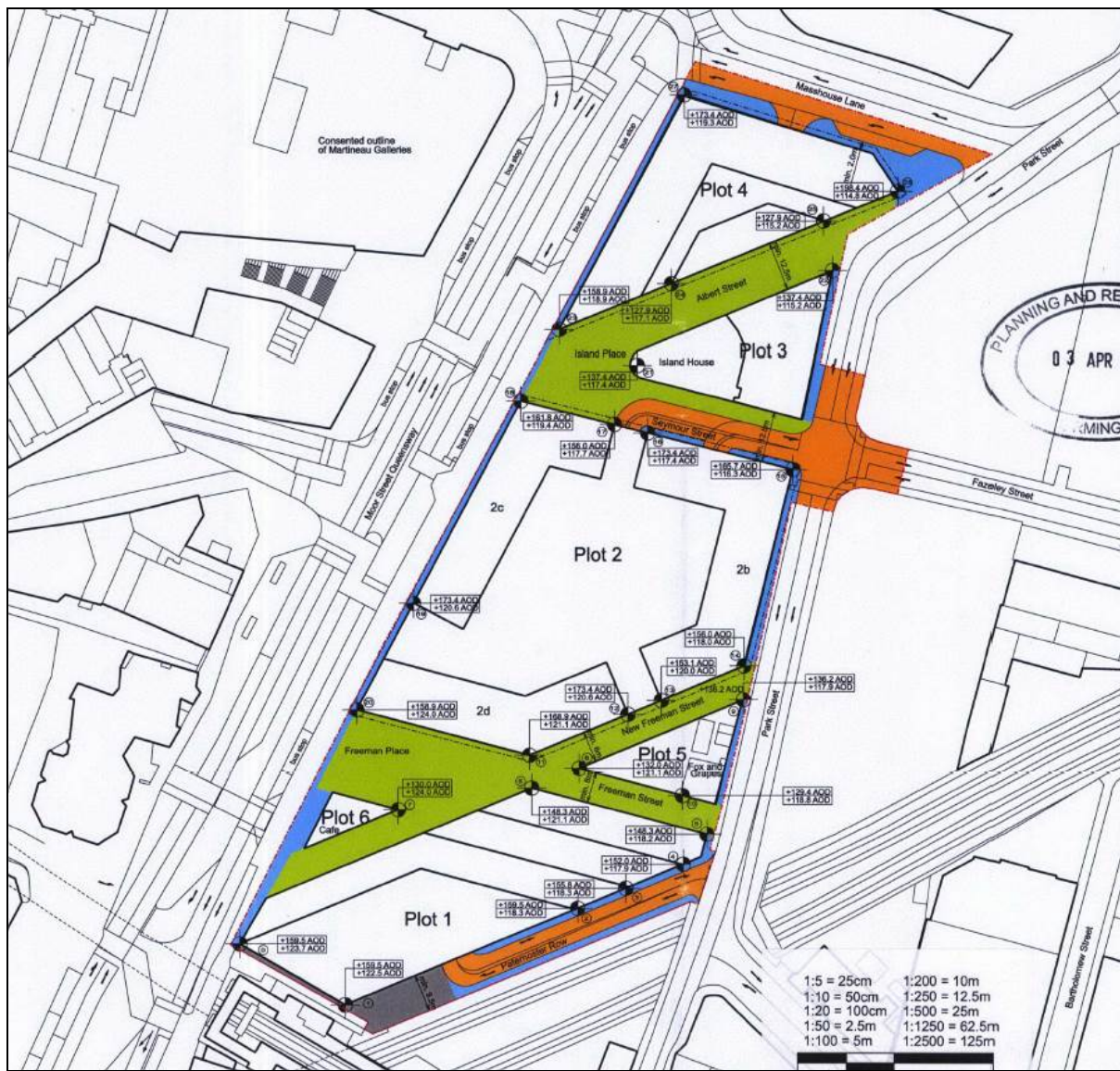


Figure 1 – Approved Parameters Plan – 2006/07395/PA

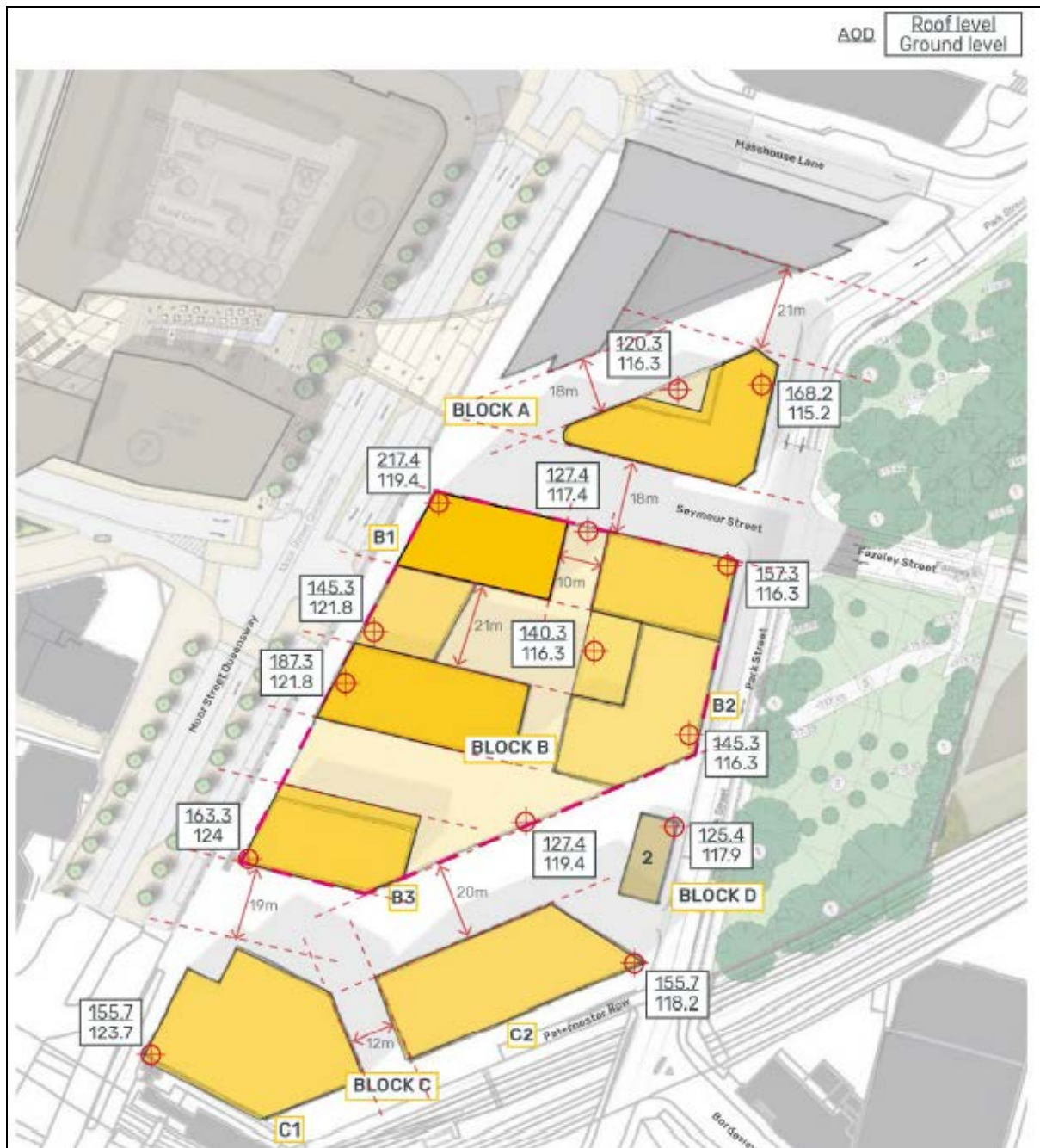


Figure 2 – Current application maximum AOD heights

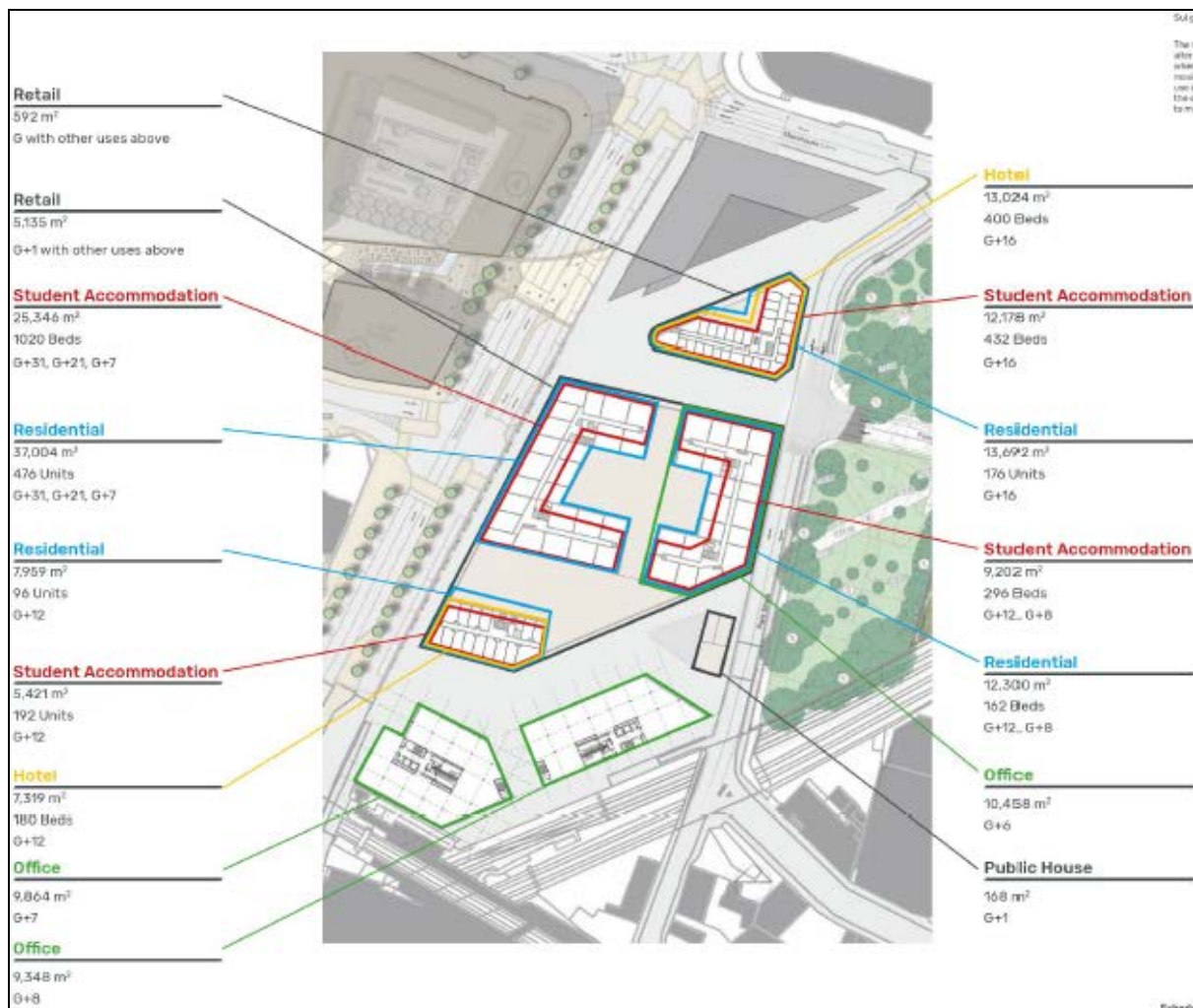


Figure 3 – Current application – layout including uses

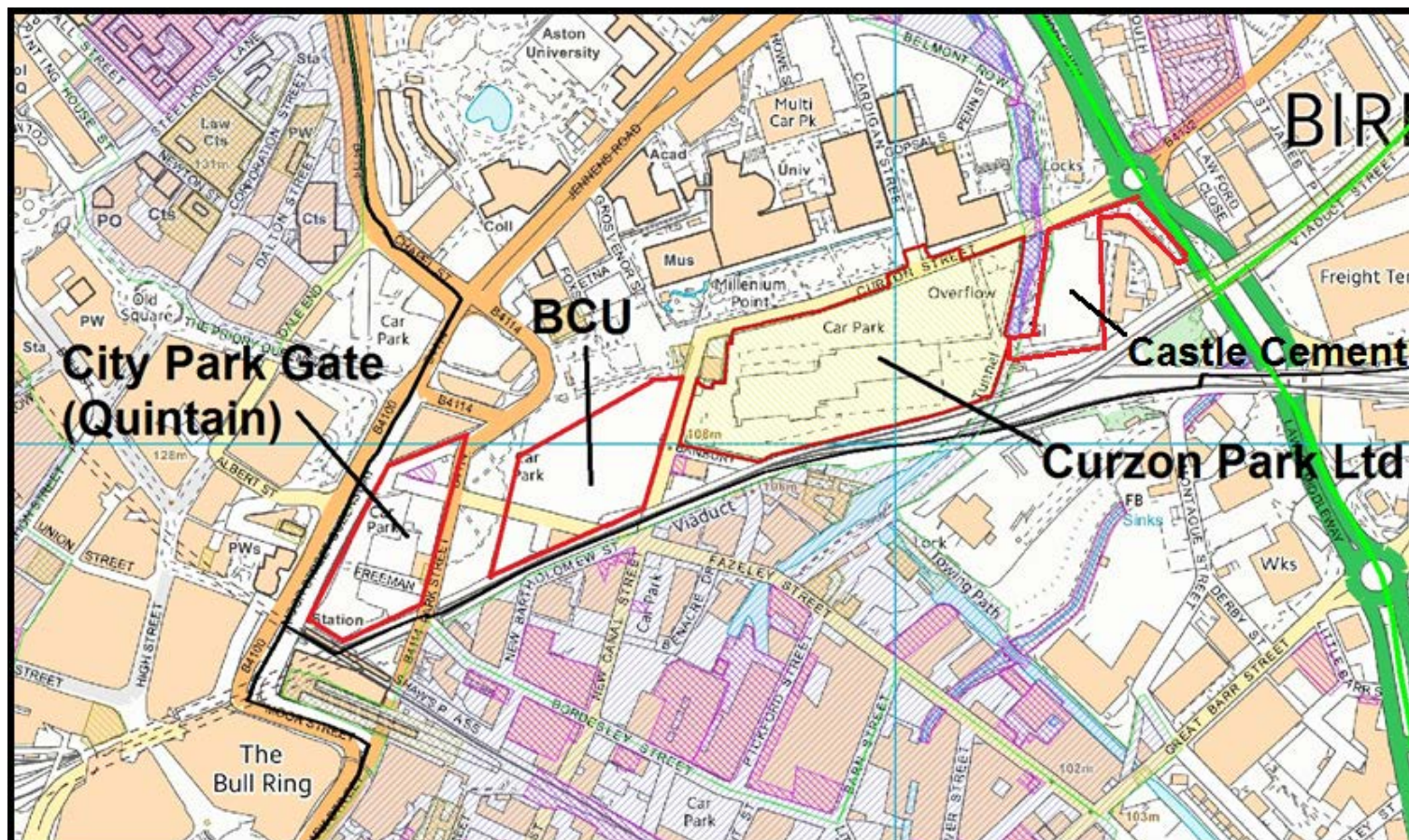


Figure 4 – Approximate location of all current applications for Certificate of Appropriate Alternative Developments

CONTACT OFFICER

Nicholas Jackson, Principal Planning Officer, Inclusive Growth, nicholas.jackson@birmingham.gov.uk

APPENDIX A – Feb 2019 Committee Report on the CAAD Regime

BIRMINGHAM CITY COUNCIL

REPORT OF THE CORPORATE DIRECTOR, ECONOMY

PLANNING COMMITTEE

14th February 2019

WARD: Nechells

High Speed 2 (HS2) (London to West – Midlands) Act 2017

Certificates of Appropriate Alternative Development

1. SUBJECT OVERVIEW

- 1.1 This report provides Members with guidance on the consenting regime for certificates of appropriate alternative development (CAAD), a mechanism for helping to establish land values where land is being acquired through compulsory purchase powers (CPO).
- 1.2 As Members will be aware, as a consequence of the High Speed Rail (London - West Midlands) Act 2017 (HS2 Act), land in the city is being compulsorily purchased by the Secretary of State for Transport, via its nominated undertaker HS2 Ltd, to make way for the construction of the new train line and railway station (HS2).
- 1.3 A number of landowners are likely to come forward seeking a certificate, and this briefing seeks to provide Members with background information on the process and purpose of this regime.

2. Recommendations

- 2.1 That Members note the contents of this report.**

3. CONTACT OFFICER

Nicholas Jackson, Principal Planning Officer, Planning and Economy
nicholas.jackson@birmingham.gov.uk

4. BACKGROUND

- 4.1 Members will be aware of the new high speed rail link connecting Birmingham to London, Manchester and Leeds. This is a major national infrastructure project that will be progressed over several years, by three Hybrid Bills through Parliament. Phase One of the network, between London and the West Midlands (including into

Birmingham City Centre), has successfully progressed through Parliament and received Royal Assent on 23rd February 2017. Within the city, HS2 Phase One will include a new rail line from Water Orton through Castle Vale, Bromford, and Saltley to a new City Centre station at Curzon Street (to be completed 2026). Phase 2A, between the West Midlands and Crewe (to be completed 2027), is currently being progressed through a further Hybrid Bill in Parliament. A third Hybrid Bill for Phase 2B between Crewe and Manchester and the West Midlands and Leeds is in its development stage and will be deposited in Parliament in 2019 (to be completed 2033).

5. DEEMED PLANNING PERMISSION

- 5.1 The HS2 Act grants deemed planning permission for HS2 Phase One and all associated works (“the Works”) between London and the West Midlands. The permission is granted subject to conditions which are set out at Schedule 17 of the Act. Those conditions require that HS2 Ltd must seek approval of certain matters from the relevant planning authority.

6. THE CAAD REGIME

- 6.1 Either the landowner or the acquiring authority (HS2 Ltd) may apply to the Local Planning Authority for a certificate which confirms that had HS2 been cancelled, a certain form of development would reasonably expect to have been granted planning permission. The certificate is helpful to the Upper Tribunal (Lands Chamber) in ruling on the value of the land being acquired.
- 6.2 The legislation providing for this regime is the Land Compensation Act 1961 as amended by the Localism Act 2011. Section 20 of the Ministry of Housing, Communities and Local Government’s guidance note ‘Guidance on Compulsory Purchase Process and The Crichel Down Rules’ (February 2018) provides detailed guidance beyond the summary set out in this brief report. This is attached as Appendix A.
- 6.3 It should be noted that the landowners are the likely applicants in this instance, rather than HS2 Ltd. Acquiring authorities such as HS2 Ltd could apply for a ‘nil’ certificate – i.e. that there is no appropriate alternative development, however there is no indication that such an application will be forthcoming in this instance. The guidance notes state that there is no practical benefit in seeking a certificate that does not attempt to maximise the value of the land, and therefore landowners will be seeking to illustrate the mixture of uses and scale of development that would yield the highest value and be reasonably expected to gain planning consent were it not for the CPO.
- 6.4 It should be noted that all of the large cleared sites within the City Centre benefitted from historic pre-HS2 consents which have since expired, with the emergence of HS2 clearly preventing the majority of these sites being delivered. The three notable

consents in the City Centre are a) the original Birmingham City University campus; b) City Park Gate; and c) Curzon Park.

- 6.5 The guidance note makes it clear that the Local Planning Authority need not concern itself that the granting of a certificate would create any precedent when determining planning applications.
- 6.6 Where a 'positive' certificate is issued, the certificate must stipulate the uses and scale (limitations on height/density) together with a broad indication of conditions that would affect the value of the land along with the likely planning obligations. The clearer the certificate is the more useful it will be in the valuation process.
- 6.7 Any decision on the application or following a failure to issue a decision within 2 months, the decision may be appealed. This right of appeal extends to the acquiring authority (i.e. HS2 Ltd can appeal any positive certificate issued). Appeals are dealt with through the Upper Tribunal process, and aside from a challenge on procedural grounds, there would be limited/no involvement in the appeal process by the City Council as Local Planning Authority.
- 6.8 It should be noted that the City has an ownership (and therefore financial) interest in two of the three sites named in 6.4, and therefore must exercise its property and planning functions independently.

7 IMPLICATIONS FOR RESOURCES

- 7.1 Applications for CAADs are a standard application type, the regime for which has been in place since the 1961 Act and is subject to the standard fee charging schedule set nationally.

8. PUBLIC SECTOR EQUALITY DUTY

- 8.1 No equality analysis has been undertaken as the content of this report is a briefing to committee members about a longstanding procedure surrounding compulsory purchase. It is noted that the Government is assessing equality issues on the HS2 scheme and line:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484618/CS439A_Final_Routewide_EqlA_Update_web.pdf

9. IMPLICATIONS FOR POLICY PRIORITIES

- 9.1 The delivery of HS2 will contribute to the Council's regeneration objectives as set out in the Curzon Masterplan, the Smithfield Masterplan and the Birmingham Development Plan.

APPENDIX A – Guidance on Compulsory Purchase Process and The Crichel Down Rules
(Section 20)

Section 20: certificates of appropriate alternative development

254. What are the planning assumptions?

[Part 2 of the Land Compensation Act 1961](#) as amended by Part 9 of the Localism Act 2011 provides that compensation for the compulsory purchase of land is on a market value basis. In addition to existing planning permissions, section 14 of the 1961 act provides for certain assumptions as to what planning permissions might be granted to be taken into account in determining market value.

Section 14 is about assessing compensation for compulsory purchase in accordance with rule (2) of section 5 of the 1961 act (open market value). The planning assumptions are as follows:

- subsection (2): account may be taken of (a) any planning permission in force for the development of the relevant land or other land at the relevant valuation date; and (b) the prospect (on the assumptions in subsection (5)) in the circumstances known to the market on the relevant valuation date of planning permission being granted, other than for development for which planning permission is already in force or appropriate alternative development
- subsection (3): it may also be assumed that planning permission for appropriate alternative development (as described in subsection (4)) is either in force at the relevant valuation date or it is certain that planning permission would have been granted at a later date
- subsection (4): defines appropriate alternative development as development, other than that for which planning permission is in force, that would, on the assumptions in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, reasonably have been expected to receive planning permission on that date or a later date. Appropriate alternative development may be on the relevant land alone or on the relevant land together with other land.
- subsection (5): contains the basic assumptions that (a) the scheme underlying the acquisition had been cancelled on the launch date; (b) that no action has been taken by the acquiring authority for the purposes of the scheme; (c) that there is no prospect of the same or similar scheme being taken forward by the exercise of a statutory power or by compulsory purchase; and (d) that if the scheme is for a highway, no other highway would be constructed to meet the same need as the scheme
- subsection (6): defines the 'launch date' as (a) for a compulsory purchase order, the publication date of the notice required under [section 11](#) of or paragraph 2 of [schedule 1](#) to the Acquisition of Land Act 1981; (b) for any other order (such as under the [Transport and Works Act 1992](#) or a development consent order under the [Planning Act 2008](#)) the date of first publication or service of the relevant notice; or (c) for a special enactment, the date of first publication of the first notice required in connection with the acquisition under section 15, planning permission is also to be

assumed for the acquiring authority's proposals

255. On what date are the planning assumptions assessed?

The main feature of the arrangements is that the planning assumptions are assessed on the relevant valuation date (as defined in [section 5A of the Land Compensation Act 1961](#)) rather than the launch date (even though the scheme is still assumed to have been cancelled on the launch date). This will avoid the need to reconstruct the planning regime that existed on the launch date, including old development plans, national planning policy and guidance. Also that the planning assumptions are based on 'the circumstances known to the market at the relevant valuation date', which would include the provisions of the development plan. This removes the need for the specific references to the development plan which were contained in the previous section 16 that had become out of date.

256. What is a certificate of appropriate alternative development?

Where existing permissions and assumptions are not sufficient to indicate properly the development value which would have existed were it not for the scheme underlying the compulsory purchase, [Part 3 of the Land Compensation Act 1961 as amended by Part 9 of the Localism Act](#) provides a mechanism for indicating the descriptions of development (if any) for which planning permission can be assumed by means of a 'certificate of appropriate alternative development'. The permissions indicated in a certificate can briefly be described as those with which an owner might reasonably have expected to sell his land in the open market if it had not been publicly acquired.

257. Who can apply for a certificate of appropriate alternative development?

[Section 17\(1\) of the Land Compensation Act 1961](#) provides that either the owner of the interest to be acquired or the acquiring authority may apply to the local planning authority for a certificate. Where an application is made for development of the relevant land together with other land it is important that the certificate sought relates only to the land in which the applicant is a directly interested party. The description(s) of development specified in the application (and where appropriate the certificate issued in response) should clearly identify where other land is included and the location and extent of such other land.

258. In what circumstances might a certificate be helpful?

Circumstances in which certificates may be helpful include where:

- a) there is no adopted development plan covering the land to be acquired
- b) the adopted development plan indicates a 'green belt' or leaves the site without specific allocation; and
- c) the site is allocated in the adopted development plan specifically for some public purpose, eg a new school or open space
- d) the amount of development which would be allowed is uncertain
- e) the extent and nature of planning obligations and conditions is uncertain

259. When does the right to apply for a certificate arise?

The right to apply for a certificate arises at the date when the interest in land is proposed to be acquired by the acquiring authority. [Section 22\(2\) of the Land Compensation Act 1961](#) describes the circumstances where this is the position. These include the launch date as defined in section 14(6) for acquisitions by compulsory purchase order, other orders or by private or hybrid Bill. For acquisition by blight notice or a purchase notice it will be the date on which 'notice to treat' is deemed to have been served; or for acquisition by agreement it will be the date of the written offer by the acquiring authority to negotiate for the purchase of the land.

Once a compulsory purchase order comes into operation the acquiring authority should be prepared to indicate the date of entry so that a certificate can sensibly be applied for.

Thereafter application may be made at any time, except that after a notice to treat has been served or agreement has been reached for the sale of the interest and a case has been referred to the Upper Tribunal, an application may not be made unless both parties agree in writing, or the Tribunal gives leave. It will assist compensation negotiations if an application is made as soon as possible.

Acquiring authorities should ensure, when serving notice to treat in cases where a certificate could be applied for, that owners are made aware of their rights in the matter. In some cases, acquiring authorities may find it convenient themselves to apply for a certificate as soon as they make a compulsory purchase order or make an offer to negotiate so that the position is clarified quickly.

It may sometimes happen that, when proceedings are begun for acquisition of the land, the owner has already applied for planning permission for some development. If the local planning authority refuse planning permission or grant it subject to restrictive conditions and are aware of the proposal for acquisition, they should draw the attention of the owner to his right to apply for a certificate, as a refusal or restrictive conditions in response to an actual application (ie in the 'scheme world') do not prevent a positive certificate being granted (which would relate to the 'no scheme world').

260. How should applications for a certificate be made and dealt with?

The manner in which applications for a certificate are to be made and dealt with has been prescribed in articles 3, 4, 5 and 6 of [the Land Compensation Development \(England\) Order 2012](#).

Article 3(3) of the order requires that if a certificate is issued otherwise than for the development applied for, or contrary to representations made by the party directly concerned, it must include a statement of the authority's reasons and of the right of appeal under section 18 of the 1961 act. From 6 April 2012, this has been to the [Upper Tribunal](#). Article 4 requires the local planning authority (unless a unitary authority) to send a copy of any certificate to the county planning authority concerned if it specifies development related to a county matter or, if the case is one which has been referred to the county planning authority, to the relevant district planning authority. Where the certificate is issued by a London borough or the Common Council of the City of London, they must send a copy of the certificate to the Mayor of London if a planning application for such development would have to be referred to him.

Article 4 should be read with paragraph 55 of [schedule 16 to the Local Government Act 1972](#), which provides that all applications for certificates must be made to the district planning authority in the first instance: if the application is for development that is a county matter, then the district must send it to the county for determination. This paragraph also deals with consultation between district and county authorities where the application contains some elements relating to matters normally dealt with by the other authority. Where this occurs, the authority issuing the certificate must notify the other of the terms of the certificate.

Article 5 of the order requires the local planning authority, if requested to do so by the owner of an interest in the land, to inform him whether an application for a certificate has been made, and if so by whom, and to supply a copy of any certificate that has been issued. Article 6 provides for applications and requests for information to be made electronically.

261. What information should be contained in an application for a certificate?

In an application under section 17, the applicant may seek a certificate to the effect that there either is any development that is appropriate alternative development for the purposes of section 14 (a positive certificate) or that there is no such development (a nil certificate).

If the application is for a positive certificate the applicant must specify each description of development that he considers that permission would have been granted for and his reasons for holding that opinion. The onus is therefore on the applicant to substantiate the reasons why he considers that there is development that is appropriate alternative development.

Acquiring authorities applying for a 'nil' certificate must set out the full reasons why they consider that there is no appropriate alternative development in respect of the subject land or property.

The phrase 'description of development' is intended to include the type and form of development. Section 17(3)(b) requires the descriptions of development to be 'specified', which requires a degree of precision in the description of development.

The purpose of a certificate is to assist in the assessment of the open market value of the land. Applicants should therefore consider carefully for what descriptions of development they wish to apply for certificates. There is no practical benefit to be gained from making applications in respect of descriptions of development which do not maximise the value of the land. Applicants should focus on the description or descriptions of development which will most assist in determining the open market value of the land.

An application under section 17 is not a planning application and applicants do not need to provide the kind of detailed information which would normally be submitted with a planning application. However, it is in applicants' interests to give as specific a description of development as possible in the circumstances, in order to ensure that any certificate granted is of practical assistance in the valuation exercise.

Applicants should normally set out a clear explanation of the type and scale of development that is sought in the certificate and a clear justification for this. This could be set out in a form of planning statement which might usefully cover the following matters:

- confirmation of the valuation date at which the prospects of securing planning permission need to be assessed
- the type or range of uses that it considers should be included in the certificate including uses to be included in any mixed use development which is envisaged as being included in the certificate
- where appropriate, an indication of the quantum and/or density of development envisaged with each category of land
- where appropriate an indication of the extent of built envelope of the development which would be required to accommodate the quantum of development envisaged
- a description of the main constraints on development which could be influenced by a planning permission and affect the value of the land, including matters on site such as ecological resources or contamination, and matters off site such as the existing character of the surrounding area and development
- an indication of what planning conditions or planning obligations the applicant considers would have been attached to any planning permission granted for such a development had a planning application been made at the valuation date
- a clear justification for its view that such a permission would have been forthcoming having regard to the planning policies and guidance in place at the relevant date; the location, setting and character of the site or property concerned; the planning history of the site and any other matters it considers relevant

Detailed plans are not required in connection with a section 17 application but drawings or other illustrative material may be of assistance in indicating assumed access arrangements and site layout and in indicating the scale and massing of the assumed built envelope. An indication of building heights and assumed method of construction may also assist the local planning authority in considering whether planning permission would have been granted at the relevant date.

262. Is there a fee for submitting an application for a certificate of appropriate development?

A fee is payable for an application for a certificate of appropriate alternative development. Details are set out in [Regulation 18 of the The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#) (as amended).

263. What should a certificate contain?

The local planning authority is required to respond to an application by issuing a certificate of appropriate alternative development, saying what planning permissions would have been granted if the land were not to be compulsorily acquired. [Section 17\(1\)](#) requires the certificate to state either that:

- a) there is appropriate alternative development for the purposes of section 14 (a

‘positive’ certificate); or

- b) there is no development that is appropriate alternative development for the purposes of section 14 (a ‘nil’ or ‘negative’ certificate)

Section 17(4) of the Land Compensation Act 1961 requires the local planning authority to issue a certificate, but not before the end of 22 days from the date that the applicant has, or has stated that he or she will, serve a copy of his or her application on the other party directly concerned (unless otherwise agreed).

Section 17(5) requires (a) that a positive certificate must specify all the development that (in the local planning authority’s opinion) is appropriate alternative development, even if it is not specified in the application and (b) give a general indication of any reasonable conditions; when permission would reasonably have been granted (if after the relevant valuation date); and any reasonable pre-condition, such as a planning obligation, that could reasonably have been expected.

Section 17(6) provides that for positive certificates, only that development specified in the certificate can be assumed to be appropriate alternative development for the purposes of section 14 and that the conditions etc apply to the planning permission assumed to be in force under section 14(3).

Local planning authorities should note that an application made under s17 is not a planning application. The authority should seek to come to a view, based on its assessment of the information contained within the application and of the policy context applicable at the relevant valuation date, the character of the site and its surroundings, as to whether such a development would have been acceptable to the Authority. As the development included in the certificate is not intended to be built the local planning authority does not need to concern itself with whether or not the granting of a certificate would create any precedent for the determination of future planning applications.

If giving a positive certificate, the local planning authority must give a general indication of the conditions and obligations to which planning permission would have been subject. As such the general indication of conditions and obligations to which the planning permission could reasonably be expected to be granted should focus on those matters which affect the value of the land. Conditions relating to detailed matters such approval of external materials or landscaping would not normally need to be indicated. However, clear indications should be given for matters which do affect the value of the land, wherever the authority is able to do so.

Such matters would include, for example, the proportion and type of affordable housing required within a development, limitations on height or density of development, requirements for the remediation of contamination or compensation for ecological impacts, and significant restrictions on use, as well as financial contributions and site-related works such as the construction of accesses and the provision of community facilities. The clearer the indication of such conditions and obligations can be, the more helpful the certificate will be in the valuation process.

264. Should a certificate be taken into account in assessing compensation?

A certificate once issued must be taken into account in assessing compensation for the

compulsory acquisition of an interest in land, even though it may have been issued on the application of the owner of a different interest in the land. But it cannot be applied for by a person (other than the acquiring authority) who has no interest in the land.

265. Should informal advice be given on open market value?

Applicants seeking a section 17 certificate should seek their own planning advice if this is felt to be required in framing their application.

In order that the valuers acting on either side may be able to assess the open market value of the land to be acquired they will often need information from the local planning authority about such matters as existing permissions; the development plan and proposals to alter or review the plan. The provision of factual information when requested should present no problems to the authority or their officers. But sometimes officers will in addition be asked for informal opinions by one side or the other to the negotiations. It is for authorities to decide how far informal expressions of opinion should be permitted with a view to assisting the parties to an acquisition to reach agreement. Where they do give it, the Secretary of State suggests that the authority should:

- a) give any such advice to both parties to the negotiation
- b) make clear that the advice is informal and does not commit them if a formal certificate or planning permission is sought

It is important that authorities do not do anything which prejudices their subsequent consideration of an application.

266. How are appeals against certificates made?

The right of appeal against a certificate under [section 18 of the Land Compensation Act 1961](#), exercisable by both the acquiring authority and the person having an interest in the land who has applied for the certificate, is to the Upper Tribunal (Lands Chamber). It may confirm, vary or cancel it and issue a different certificate in its place, as it considers appropriate.

[Rule 28\(7\) of the Upper Tribunal Rules, as amended](#), requires that written notice of an appeal (in the form of a reference to the Upper Tribunal) must be given within one month of receipt of the certificate by the planning authority. If the local planning authority fail to issue a certificate, notice of appeal must be given within one month of the date when the authority should have issued it (that date is either two months from receipt of the application by the planning authority, or two months from the expiry of any extended period agreed between the parties to the transaction and the authority) and the appeal proceeds on the assumption that a 'nil' or 'negative' certificate had been issued.

The reference to the Tribunal must include (in particular) a copy of the application to the planning authority, a copy of the certificate issued (if any) and a summary of the reasons for seeking the determination of the Tribunal and whether he or she wants the reference to be determined without a hearing. The Upper Tribunal does have the power to extend this period (under [Rule 5](#)), even if it receives the request to do so after it expires. Appeals against the Upper Tribunal's decision on a point of law may be made to the Court of Appeal in the normal way.

More information on how to make an appeal can be found on [the Upper Tribunal's website](#). Also available on the website is a form you will need to make an appeal and information on the fees payable. If you do not have access to the internet you can request a copy of the information leaflets and a form by telephoning 020 7612 9710 or by writing to:

Upper Tribunal (Lands Chamber)
5th floor, Rolls Building
7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Birmingham City Council

Planning Committee

23 May 2019

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	22	2018/00423/PA 623 Kingstanding Road Kingstanding Birmingham B44 9TA Erection of apartment block containing 30 flats together laying out of site to provide associated parking, amenity area and landscaping
Approve – Conditions	23	2019/02030/PA 19 Carlton Close Sutton Coldfield Birmingham B75 6BX Erection of two and single storey rear, first floor side and two storey front extensions.
Approve – Conditions	24	2019/02232/PA 134 Grestone Avenue Handsworth Wood Birmingham B20 1LD Erection of first floor side extension

Committee Date:	23/05/2019	Application Number:	2018/00423/PA
Accepted:	02/07/2018	Application Type:	Full Planning
Target Date:	07/06/2019		
Ward:	Kingstanding		

623 Kingstanding Road, Kingstanding, Birmingham, B44 9TA

Erection of apartment block containing 30 flats together with the laying out of site to provide associated parking, amenity area and landscaping

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. The applicant proposes the erection of an apartment block that would contain a total of 30 flats (12 x 1 bed units and 18 x 2 bed units) with associated parking, access road and landscaping. The apartment block would have a curved footprint and face onto a newly created car parking area that would serve the development. The main section of the site would be linked to Kingstanding Road through an existing route that forms part of the application site.
- 1.2. The proposed apartment block would have a largely flat roof and stand three storeys high and be rectangular in shape. Its exterior facade would be built out of facing brickwork and render which would incorporate grey UPVC frame double glazed windows and doors.
- 1.3. The ground floor would provide lobby entrances; 10 flats and store rooms. That arrangement would be repeated on the first and second floors.
- 1.4. The one bedroom flats would provide a combined living room/kitchen dining area; bathroom, store room and bedroom. The two bedroom flats would provide a similar arrangement to the one bedroom flat but also have a second bedroom with an ensuite.
- 1.5. A total of 46 car parking spaces (153%) for residents and visitors would be provided within the site's car park.
- 1.6. A pedestrian footpath would encircle the building allowing pedestrian access to and from the building and car park and around the apartment block.
- 1.7. A communal amenity area measuring approximately 900 sq.metres would be provided to the rear of the apartment block.
- 1.8. The applicant has submitted a preliminary ecological appraisal and ecological construction method statement; affordable housing statement, financial viability assessment, tree report, development appraisal, design and access planning statement and proposed drainage strategy overview with this application.
- 1.9. The site area measures 0.35 hectares which would result in a development density of approximately 86 units per hectare.

- 1.10. Following an independent appraisal of the submitted financial viability appraisal it is considered the proposed development can support 10% affordable housing in the form of either 3 no x 1 bedroom low cost affordable housing (based on 75% of MV) or the equivalent monetary sum of £67,000.
- 1.11. [Link to Documents](#)
2. Site & Surroundings
 - 2.1. The application site is situated within the boundary of Kingstanding Circle and is currently vacant land. The main part of it was previously occupied by a community centre. To the north west is the rear service lane of commercial premises that form part of the local centre. To the north and east are houses. To the south is Wheeldon Recreation Ground. To the west is the Kingstanding Road which the site links to. The service route that links the main part of the site to Kingstanding Road and has been included in the site boundary is land under the control of Leisure Services. The applicant has served notice on the Council as part their submission and I can also confirm that Leisure Services have been consulted on this application.
 - 2.2. [Location Plan](#)
3. Planning History
 - 3.1. 29.01.2016- 2015/09182/PA- Erection of 12 no. two and three bedroom dwellings with associated parking, access road and landscaping (Resubmission of planning application 2015/03716/PA)- approved with conditions.
 - 3.2. 08.09.2015- 2015/03716/PA- Erection of 15 two bedroom starter homes with associated parking, access road and amenity spaces- withdrawn.
4. Consultation/PP Responses
 - 4.1. Surrounding occupiers, local councillors, local MP, neighbourhood forum and traders association notified as well as press and site notices displayed- no response received.
 - 4.2. Transportation Development- no objection subject to conditions relating to pedestrian visibility splay; parking spaces for people with disabilities, parking spaces to be formally marked out and the provision of measures (e.g. double yellow lines etc.) along the access drive to deter vehicles parking along the access drive.
 - 4.3. Regulatory Services- no objection subject to conditions relating to secure noise insulation to windows; a lighting scheme, a construction method statement/management plan, contamination remediation scheme and verification report and vehicle charging point.
 - 4.4. Leisure Services- Request a POS / play contribution of £107,875. This would be directed towards the provision, improvement and/or biodiversity enhancement of public open space and the maintenance thereof at the adjacent Wheeldon Recreation Ground within Kingstanding Ward.
 - 4.5. Also state they would need to ensure that the applicant protect and retain any existing trees forming the boundary with Wheeldon Recreation Ground as these will screen the view of the existing play area from the proposed new apartments and

ensure that a secure robust boundary is provided and maintained to the amenity area backing onto the POS.

- 4.6. LLFA- No objection subject to conditions relating to the need to secure sustainable drainage scheme as well as sustainable drainage operation and maintenance plan.
- 4.7. Environment Agency- state that they consider the proposal has low environmental risk and therefore, they have no comments to make.
- 4.8. Severn Trent- no objection subject to a condition to secure satisfactory drainage for foul and surface water flows.
- 4.9. West Midlands Police- No objection and make recommendations to enhance security.
- 4.10. Network Rail- State they have reviewed the documentation submitted by the applicant and this proposal will not impact the railway infrastructure.
- 4.11. NHS- Request a contribution of £14,562.00.

5. Policy Context

- 5.1. Birmingham Development Plan (BDP), Saved policies of UDP (2005), SPG Places for Living, SPD Car Parking Guidelines, NPPF (2019) and the NPPG.

6. Planning Considerations

- 6.1. Principle of use- The site is situated within the boundary of Kingstanding Circle Neighbourhood Centre, but outside its primary shopping area. Other than the service route leading directly from Kingstanding Road which is still in the ownership of the City Council, on the remainder of the site, the proposal would see the establishment of a residential development on land that currently lies vacant after having being cleared of a community centre and consent having been issued in 2016 for residential development on the land for 12 houses. The site sits adjacent existing residential housing which is located to the north and east.
- 6.2. Residential consent has been previously granted on the site, and in view of its position away from the nearby retail units, it is considered that residential development is an appropriate use on the site.
- 6.3. Design and layout- The proposed development would make use of a fairly regular shaped site. The proposed layout would create a development which follows good urban design principles such as the communal amenity area backing onto existing gardens. Modifications sought from the applicant has included the provision of a direct pedestrian route from the building to the existing link route to Kingstanding Road, thereby prioritising pedestrian movement from the building to that point along that path. The general layout provides for natural surveillance of the site and the adjoining area of POS.
- 6.4. In terms of the design, scale and mass of the proposed apartment block, I raise no objection. The height of the proposed block would be similar to ridgeline of nearby properties and would provide a strong built frontage to the adjoining POS.

- 6.5. In summary, the proposed development now complies with good urban design principles in that it would create a sense of place and achieves amenity area backing onto gardens and provides for natural surveillance.
- 6.6. Parking- Transportation Development raise no objection to the proposal subject to conditions. Whilst I concur with this view and most of the conditions recommended by Transportation Development, I do not consider their request to provide measures (e.g. double yellow lines etc.) along the access drive to deter vehicles parking along the access drive meets the relevant tests of conditions in this context.
- 6.7. The submitted application provides details of 46 parking spaces. This level of parking (153%) and their positioning in the development is considered satisfactory to serve a development of this size and in this location due to factors such as a number of the flats being one bedroom, the development being situated in a neighbourhood centre and in close proximity to local bus services. The amendments to the layout now provides for a safer route for pedestrians to and from the building. As such it is considered that deterrents for vehicles parking on the access drive are not necessary.
- 6.8. For the reasons above, no adverse parking or highway impact has been identified.
- 6.9. Environmental impact- Regulatory Services raise no objection to the proposal subject to conditions to secure no objection subject to conditions to secure noise insulation to windows, any other glazed areas and external doors to habitable rooms; a lighting scheme, a construction method statement/management plan, contamination remediation scheme and verification report and vehicle charging point. satisfactory site remediation and verification of such. I concur with this view. Overall, the proposed land use is a conforming land use as it would be situated adjacent a local centre and next to existing housing whilst any environmental matters could be addressed through the aforementioned conditions.
- 6.10. Bedroom sizes- All the proposed apartments and the bedrooms contained within them would either achieve or exceed minimum size standards for such contained within Technical housing standards- nationally described space standard. In addition to this the apartments would in the main be of a regular shape whilst the applicant has demonstrated a satisfactory layout for the units that show the provision of essential furniture. I therefore raise no objection to the proposal on internal size standard grounds.
- 6.11. Amenity areas- The external communal amenity area measures approximately 900 sq metres which equates to approximately 30 sq.m per unit. Such a level of provision would comply with the requirements for amenity area for flats set out in adopted SPG Places for Living.
- 6.12. Overlooking- Adopted SPG Places for Living sets out distance separation guidance for development. It sets out a distance separation of 5 metres per storey from windows to nearby private gardens. On this basis, given the proposed development would be 3 storey high it would be expected that a distance separation of 15 metres Other than a small triangular part of the rear of 443 Kings Road which measures approximately 0.5 sq.m and would be located at its nearest point to the second floor rear window of unit 28 of the development at a distance of approx. 13.6 metres, no other shortfall in separation distance guidance identified. I do not consider this minor shortfall to a very small part of the end of the rear garden of number 443 Kings Road warrants refusal of this scheme and I raise no objection to the proposal with respect

to the distance separation of windows to private gardens and other windows of nearby dwellings.

- 6.13. Loss of light/outlook- No loss of light or outlook issue identified.
- 6.14. Trees- There is no statutory protection in place on the proposed site and a detailed tree survey has been included as part of the application. Many of the mature trees along the eastern boundary of the site would be retained. Overall, I consider the level of retained trees and indicative scope of new landscaping provides for a satisfactory level of greenery on site. Retained trees can be secured by condition which advocates tree care. A landscape condition can secure satisfactory landscaping.
- 6.15. Ecology- My ecological advisor identifies no major ecological issues with this application and raises no objections to the scheme subject to a condition that would seek to retain/accommodate wildlife on the site through a suitable landscaping scheme. It is recommended that such a condition seeks to attain the provision of a range of tree species, shrubs, herbaceous plants and spring/ summer / autumn flowering bulbs to try and attain this. I concur with this view and recommend a landscape condition is applied to try and secure such.
- 6.16. NHS request for funding- I note the request received from the NHS Trust, for a sum of £14,562. Our position is that we do not consider the request would meet the tests for such Section 106 contributions, in particular the necessity test (Regulation 122.(2)(a) necessary to make the development acceptable in planning terms). We believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to allow the Trust to plan for population growth and associated. Discussions with the relevant Trust are continuing on this matter, in order for us to understand more fully their planned investments in the City and how we might best be able to support that.
- 6.17. S106- Following an independent appraisal of the submitted financial viability appraisal it is considered the proposed development can support 10% affordable housing in the form of either 3 no x 1 bedroom low cost affordable housing (based on 75% of MV) or the equivalent monetary sum of £67,000. In this case my Housing advisor consider it would be more appropriate to secure an off site financial contribution for off site affordable housing elsewhere rather than the transfer of affordable units in the development to a Housing Association to manage as this can become costly and difficult for RSL's due to the number of units and their overlap with private rights of other owners and shared costs of maintenance. I concur with the financial evaluation appraisal and consider that the money should be put to the provision of affordable housing elsewhere rather than Public Open Space and or childrens play.

7. Conclusion

- 7.1. The proposal provides for an appropriate development which would help increase residential stock in the City and also bring forward a currently blighted site forward for development.

8. Recommendation

- 8.1. That consideration of application 2018/00423/PA be deferred pending the completion of a Section 106 legal agreement to secure:

- a) £67,000 (index linked from the date of this resolution) towards off site affordable housing to be paid upon first occupation.
 - b) Payment of a £1,500 monitoring and administration fee associated with the legal agreement.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 6th June 2019, planning permission be refused for the following reason:
- In the absence of a legal agreement to secure a financial contribution towards affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017, the Affordable Housing SPG and the NPPF
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 8.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 6th June 2019, planning permission be APPROVED subject to the conditions listed below:-

-
- 1 Requires the prior submission of a contamination remediation scheme
 - 2 Requires the prior submission of a contaminated land verification report
 - 3 Requires the prior submission of sample materials
 - 4 Requires the prior submission of hard surfacing materials
 - 5 Requires the prior submission of level details
 - 6 Requires the prior submission of a construction method statement/management plan
 - 7 Requires the submission of an amended car park layout
 - 8 Requires the prior submission of drainage plans for foul and surface water flows
 - 9 Requires the prior submission of a sustainable drainage scheme
 - 10 Requires the submission of a Sustainable Drainage Operation & Maintenance Plan
 - 11 Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures
 - 12 Requires the prior submission of boundary treatment details
 - 13 Removes PD rights for boundary treatments
 - 14 Requires the prior submission of hard and/or soft landscape details
 - 15 Requires the submission of a lighting scheme
 - 16 Requires the prior submission of cycle storage details
-

-
- 17 Requires the submission of a Noise Insulation Scheme
 - 18 Requires the provision of a vehicle charging point
 - 19 Arboricultural Method Statement - Submission Required
 - 20 Requires the scheme to be in accordance with the listed approved plans
 - 21 Implement within 3 years (Full)
-

Case Officer: Wahid Gul

Photo(s)

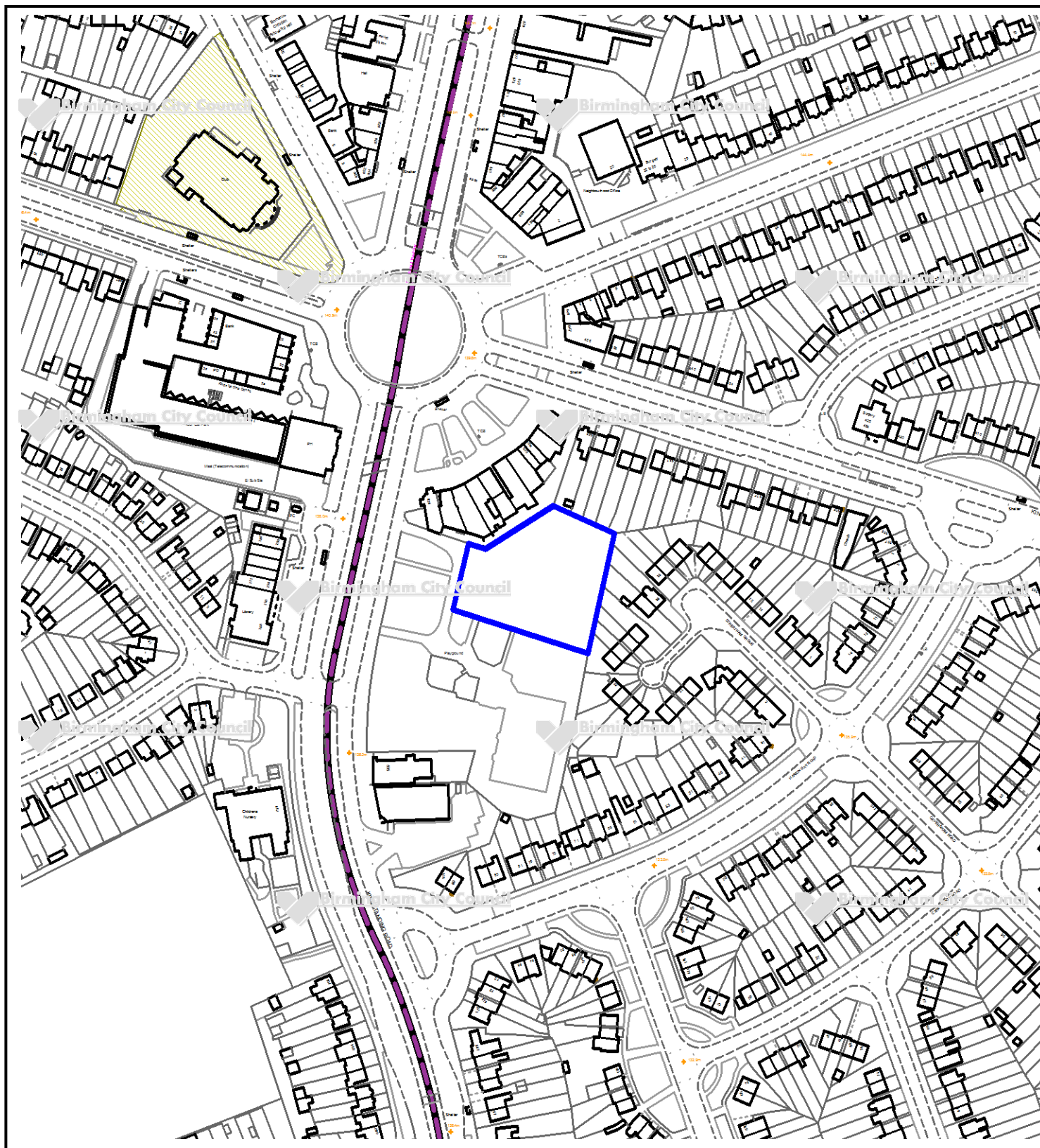


Photo 1 - Site as cleared



Photo 2 - View looking at site from the south

Location Plan



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Committee Date:	23/05/2019	Application Number:	2019/02030/PA
Accepted:	11/03/2019	Application Type:	Householder
Target Date:	06/05/2019		
Ward:	Sutton Trinity		

19 Carlton Close, Sutton Coldfield, Birmingham, B75 6BX

Erection of two and single storey rear, first floor side and two storey front extensions.

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. The proposal is to erect two and single storey side and rear extensions to create enlarged dining/kitchen facilities on the ground floor and an enlarged bedroom, and two additional bedrooms on the first floor. A two storey front gable extension is proposed to provide for an enlarged entrance and a sung, whilst another front gable extension alongside at the first floor level with enable a bedroom to be enlarged.

1.2. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site consists of a detached dwelling with a gable-end roof design and original single storey forward feature with a flat roof including an extended porch. The property has been previously extended with a side/forward double garage and a two storey rear extension.
- 2.2. The application site is located in a residential area comprising of predominately two storey detached dwellings of various architectural styles. The application site is located at the end of the cul-de-sac of Carlton Close.
- 2.3. The ground level is significantly lower at the rear of the site with the garden mainly grassed. The boundary treatment to neighbouring properties consists of dense mature hedging and trees. The rear gardens of properties along Tamworth Road are on a lower ground level than the application site.

2.4. [Site location](#)

3. Planning History

- 3.1. 29/05/1968 – 58915000 – Double garage existing garage to be dining room/study area – Approved.
- 3.2. 31/10/1996 - 1996/03114/PA - Erection of two-storey rear extension comprising extended lounge on ground floor with bedroom, bathroom and en-suite above – Approve-Conditions.

3.3. 07/11/2002 - 2002/04775/PA - Erection of temporary building to form office accommodation within rear garden – Withdrawn.

3.4. 05/12/2018 - 2018/08435/PA - Erection of first floor forward extensions with supporting pillars, erection of first floor side and two storey side & rear extensions and single storey side & rear extensions. Refused.

4. Consultation/PP Responses

4.1. Adjoining residents, and local ward councillors notified – representations have been received from the occupiers of 7 neighbouring properties, the objections are summarised as follows;

- Size and scale.
- Adverse impact on visual amenity and privacy.
- Out of keeping.
- Future commercial or business use.
- Property values.
- Over development.
- Noise and disturbance.
- Loss of light.

5. Policy Context

5.1. The following local policies are applicable:

- Birmingham Unitary Development Plan 2005 (saved policies 3.14-3.14D & Chapter 8).
- Birmingham Development Plan (2017).
- Places For Living 2001.
- Extending Your Home 2007.
- 45 Degree Code SPD.

5.2. The following national policies are applicable:

- National Planning Policy Framework.

6. Planning Considerations

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

6.2. The previous application (2018/08435/PA) for a similar development was refused on the grounds that the proposal would be harmful to the character of the existing house and area by reason of scale and design.

6.3. The current application has been revised in response to this earlier refusal. The main difference with the previous proposal is that the two storey side extension now runs flush with the existing building, and its width has been reduced by 0.5m. Furthermore, the rear dormer of the previous scheme has been replaced by a deeper two storey gable rear extension. The two storey, and first floor gable extensions have been retained from the earlier proposal.

6.4. The main issue in the consideration of this application is whether the grounds of refusal of the earlier scheme have been overcome by the revisions now proposed.

- 6.5. The principal concern with the earlier application was that the size and scale of the side and forward extensions were harmful to the character and appearance of the existing dwelling and the street scene. These concerns have been satisfactorily addressed by changes to the scheme as described above with particular reference to the reduction in the size of the side and forward projections.
- 6.6. The revised scheme has again attracted concerns from the occupiers of neighbouring dwellings, the objections are summarised above and addressed in the same order as follows:
- The size and scale of the proposed development is now not considered to be disproportionate to that of the existing building and plot.
 - As revised, the scheme now provides architectural interest and detail which will not be out of keeping with the building or the surrounding area.
 - Minimum separation distances and the 45 Degree Code are not infringed, and consequently privacy should not be adversely affected.
 - Commercial and business use may require planning permission; any application would be assessed on merit.
 - Property values are not a material planning consideration.
 - Given the size of the existing building and the plot it would not be sustainable to resist the proposal on grounds of over development.
 - Noise and disturbance beyond any construction period should not be an issue with a family home.
 - Given separation distances any significant loss of light should not arise.
- 6.7. The proposed development is considered to be acceptable. The proposed extensions would not detract from the architectural appearance of the original property and accords to the principles contained within 'Extending Your Home' Design Guide. The proposal also accords with the National Planning Policy Framework (2019) which seeks to secure high quality design.
- 6.8. The proposed development complies with the 45 Degree Code and the numerical guidelines set out in 'Places For Living' and 'Extending Your Home' Design Guide, as a result there is no detrimental impact on neighbours light, outlook or amenity.

7. Conclusion

- 7.1. The proposal complies with policy and approval subject to conditions is therefore recommended.

8. Recommendation

- 8.1. Approval subject to conditions.

1	Requires the scheme to be in accordance with the listed approved plans
2	Requires that the materials used match the main building
3	Implement within 3 years (Full)

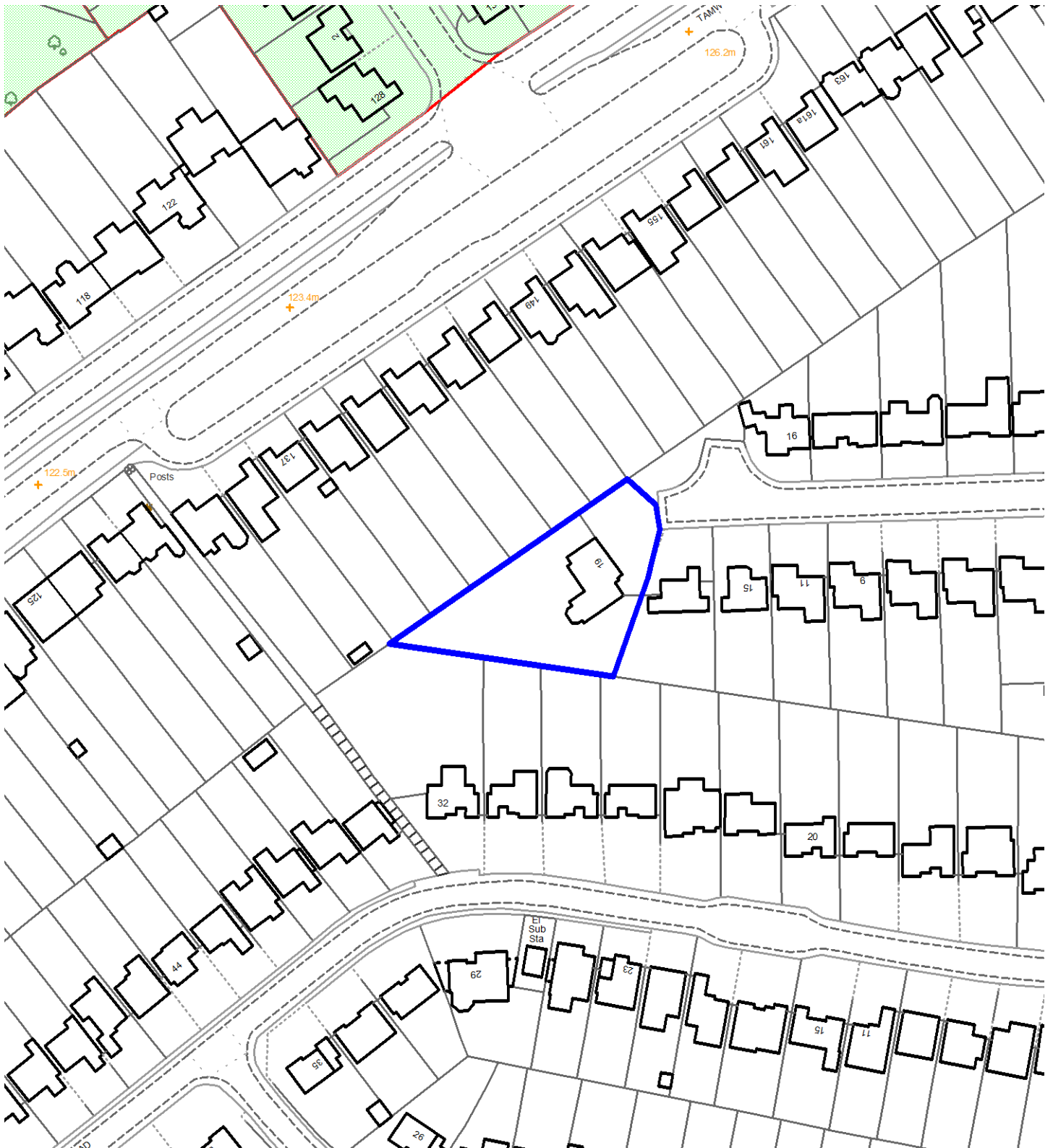
Case Officer: Satu Pardivalla

Photo(s)



Figure 1: Front View

Location Plan



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Committee Date:	23/05/2019	Application Number:	2019/02232/PA
Accepted:	15/03/2019	Application Type:	Householder
Target Date:	23/05/2019		
Ward:	Handsworth Wood		

134 Grestone Avenue, Handsworth Wood, Birmingham, B20 1LD

Erection of first floor side extension

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Consent is sought for the erection of a first floor extension to the side which would provide an extended bedroom. The resulting extension is designed with a hipped roof and would measure 4.2m in depth, 4.5m from ground level to eaves and 5.9m to the highest point.
- 1.2. The proposal also includes two new roof lights to the rear. However these can be installed using the house holders permitted development rights and do not form part of this assessment.
- 1.3. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises of a traditional semi-detached dwelling house. The main house is designed with a hipped roof which creates a cat slide roof feature to the side over the garage and a two bay window feature to the front. The street scene is largely comprised of dwelling houses of a similar age and design.
- 2.2. There are no habitable room windows to the side elevation of the neighbouring property, No. 132 Grestone Avenue
- 2.3. There are a number of examples of first floor side extensions in the wider street scene; including at the adjoining half of this semi, No 136.
- 2.4. [Site Location](#)

3. Planning History

- 3.1. There is no planning history for this property.

4. Consultation/PP Responses

- 4.1. Local ward councillors and the occupiers of neighbouring properties have been notified. No responses.

5. Policy Context

5.1. The following local policies are applicable:

- Places for Living (Adopted Supplementary Planning Guidance 2001)
- Extending your Home (Adopted Supplementary Planning Document 2007)
- Birmingham Development Plan (2017)
- UDP 2005 (saved policies 3.14 – 3.14D & Chapter 8)
- 45 Degree Code (Adopted Supplementary Planning Guidance 1996)

5.2. The following national policies are applicable:

- NPPF: National Planning Policy Framework

6. Planning Considerations

6.1. The principal matters for consideration are the scale and design of the extension, the impact on the architectural appearance of the property, general street scene and the impact upon neighbouring properties' amenities.

6.2. Amended plans have been submitted which make improvements to the overall design of the proposal. The proposed roof has been redesigned from a gable end to include a hip which reflects the design of the original dwelling. The proposal is now in keeping with other previous extensions in the street and meets the general principles contain in the design guide 'Extending Your Home' Supplementary Planning Document.

6.3. The proposal complies with your Committees 45 Degree Code as well as meeting the distance separation guidelines contained in 'Places for Living' and 'Extending your Home'. The proposal would not result in a detrimental impact on the amenities of the occupiers of the neighbouring properties by way of loss light, outlook or overlooking.

6.4. Appropriate notice has been served on the neighbouring occupier with respect to the overhang of guttering.

7. Conclusion

7.1. This amended application is recommended for approval because the proposal complies with the objectives of the policies as set out above and is of acceptable scale and design.

8. Recommendation

8.1. Approve subject to conditions

1 Requires that the materials used match the main building

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

3 Implement within 3 years (Full)

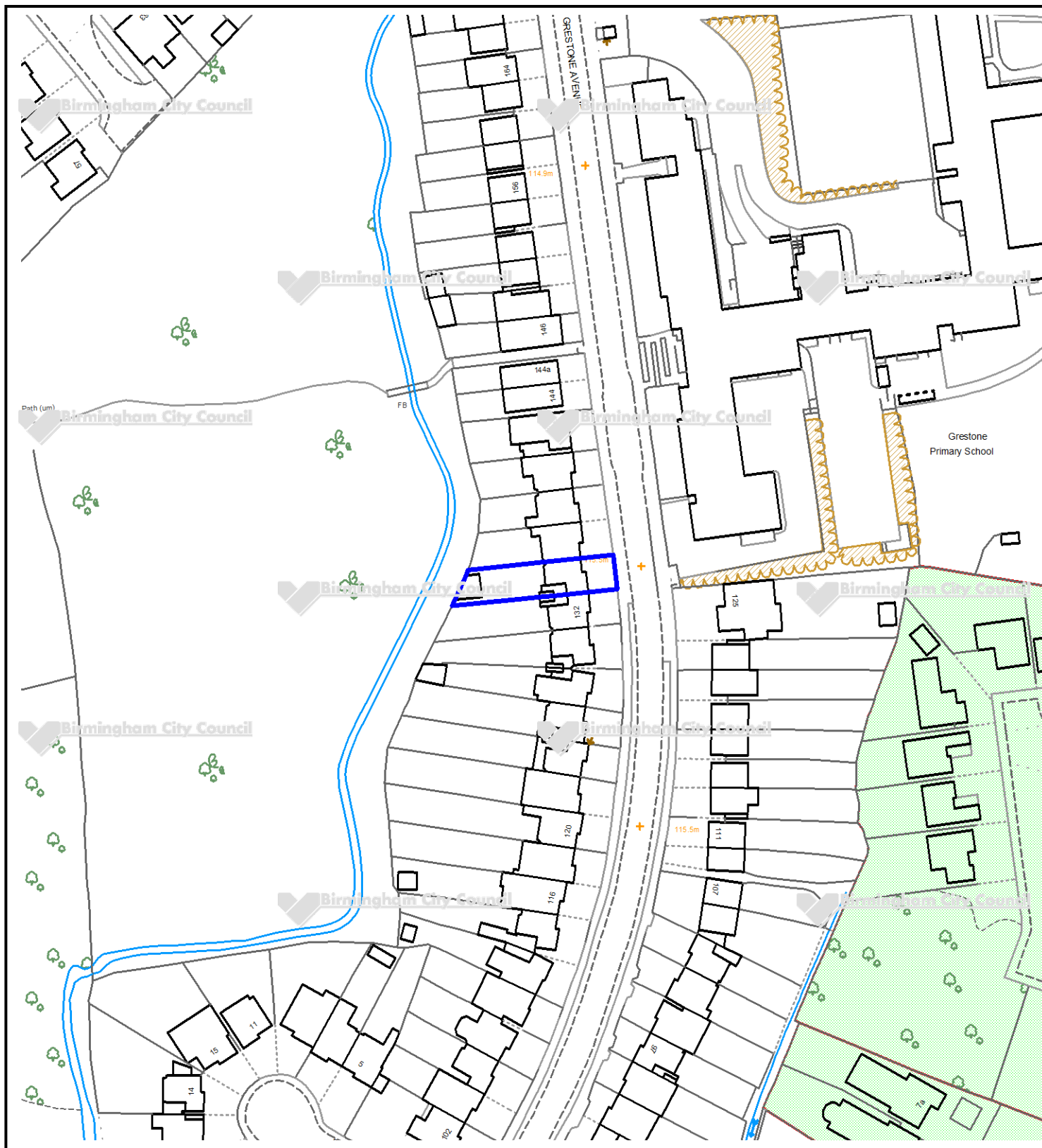
Case Officer: Philip Whittaker

Photo(s)



Photo 1: Front Elevation

Location Plan



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Birmingham City Council

Planning Committee

23 May 2019

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve-Conditions	25	2018/08855/PA Highbury Hall 4 Yew Tree Road Moseley Birmingham B13 8QG Listed Building Consent for roof repairs and chimney removal to the North Wing, asbestos removal, lead guttering valley replacement to the Main Hall and refurbishment of northern rooflights, repairs to lincrusta wallpaper and replacement of southern frieze murals in the Main Gallery
Approve - Conditions	26	2018/03911/PA Land at St Joseph's Home Tennal Road Harborne Birmingham B32 2LB Erection of 9 dwelling houses
Approve-Conditions	27	2019/01841/PA 189 Reservoir Road Selly Oak Birmingham B29 6SX Change of use from dwellinghouse (Use Class C3) to a 3 bedroom House in Multiple Occupation (HMO) (Use Class C4)

Committee Date:	23/05/2019	Application Number:	2018/08855/PA
Accepted:	31/10/2018	Application Type:	Listed Building
Target Date:	26/12/2018		
Ward:	Moseley		

Highbury Hall, 4 Yew Tree Road, Moseley, Birmingham, B13 8QG

Listed Building Consent for roof repairs and chimney removal to the North Wing, asbestos removal, lead guttering valley replacement to the Main Hall and refurbishment of northern rooflights, repairs to lincrusta wallpaper and replacement of southern frieze murals in the Main Gallery

Recommendation

Approve subject to Conditions

1. Proposal

1.1. [Link to Documents](#)

1.2. The application proposes Listed Building consent for roof repairs and chimney removal to the North Wing, asbestos removal, lead guttering valley replacement to the Main Hall and refurbishment of northern rooflights, repairs to lincrusta and white wallpaper and replacement of southern frieze murals in the Main Gallery.

1.3. The application is supported by a Design and Access Statement, Heritage Statement, and Preliminary Ecological Report.

1.4. As a result of negotiation with Historic England during the life of the application the proposal has been amended to the use of lead orterne-coated stainless steel rather than single ply to the gutter valley and rooflight detail and the omission of asbestos removal works in areas which are not supported by up-to-date bat surveys. Emergency works in the form of tarpaulins will be installed to prevent further water ingress in the immediate term.

1.5. The revised scope of works is supported by an amended Design and Access Statement and Ecological Method Statement.

2. Site & Surroundings

2.1. The property is located on the southern side of Yew Tree Road, Moseley and is an imposing Grade II* listed building set within extensive landscaped grounds which also comprise a Grade II Historic Park and Garden. It is currently on Historic England's at Risk Register. Chamberlain House to the east is also Grade II listed and in use for educational purposes. Britannic Park residential development lies to the north of the site and the Moseley Conservation Area lies further beyond that to the north.

2.2. [Site Location Map](#)

3. Planning History

- 3.1. 17/09/1998 – Listed building consent for the installation of Pulnix beam towers for external security protection. Approved subject to Conditions
- 3.2. 29/05/1998 – Listed building consent for the installation of Nine External Security Cameras on the Building and Provision of Three Monitors and a Video Recorder for the Internal of the Building. Withdrawn.
- 3.3. Various planning consents were also granted in 1983 for use of the premises for civic and private events, cultural activities and associated residential use.

4. Consultation/PP Responses

- 4.1. Local Councillors and Residents Association(s) notified. Press and site notice posted. No neighbour or public participation comments received.
- 4.2. Historic England – in relation to the initial plans supportive in principle but concerned at a number of details, including replacement of the lead valley guttering with single-ply membrane. In relation to the revised extent of works, Historic England are now content and not objecting.
- 4.3. The Gardens Trust – advise that they do not wish to comment at this stage
- 4.4. The Moseley Society – are in full support of this application and hope that the long-overdue repairs can be carried out without further delay.
- 4.5. Regulatory Services – (to initial plans) have no adverse comments to make on the proposed works, but would recommend the applicant be reminded of statutory requirements relating to the removal of asbestos in the building. An asbestos survey has been undertaken (2018) and has highlighted the presence of asbestos in various areas of the building. Proposals include "full decontamination in accordance with the report". The applicant should therefore be advised that decontamination of asbestos in buildings must be carried out by a fully licensed contractor who works in compliance with the Control of Asbestos Regulations 2012 and the Approved Code of Practice (ACOP). The Regulations set out legal duties and give minimum standards for protecting individuals from risks associated with exposure to asbestos.
- 4.6. The Chamberlain Highbury Trust (Les Sparks, Chairman of CHT) – (to initial plans) *"strongly support the application. The CHT is an independent Charitable Trust established 3 years ago to raise funds to secure the restoration of Highbury, both the building and grounds, and to manage the estate thereafter on a long lease from the City Council, the principles of which have been agreed. The Trust is currently seeking to raise over £7 million to achieve its aims. It will be two or more years before it will be in a position to commence the restoration programme. Meanwhile the fabric of the building continues to deteriorate and last year saw Highbury added to the national register of Historic Buildings at Risk compiled by Historic England. The works that are the subject of this application are URGENTLY needed to arrest some critical aspects of the building's deterioration. Any deferment is likely to result in the occurrence of more damage, decay and incidents of dry rot. These will add to the eventual refurbishment costs that the Trust will face in due course, possibly even prejudicing the viability and feasibility of the Trust's project. The selected works include urgent repairs to the rooflights to the main hall where leaks and condensation have resulted in damage to original wallpapers and unique hand-painted friezes. It is estimated that this damage will cost over £20,000 to repair, a*

figure that will increase until further water ingress and consequent damage has been prevented. This work is urgent not only to prevent further damage and repair costs but so that work within the main hall can be undertaken before it is in regular use for weddings in a few month's time. Members of the Planning Committee will be well aware that Highbury, the home of Joseph Chamberlain and his family, is one of the finest and most significant heritage properties in Birmingham and occupies a key position in the history of our city. The Trust cannot make the case too strongly that the works which are the subject of this application are both essential and urgent, and that any delays, including planning delays, will be prejudicial to the long term project that we are engaged in."

4.7. The Victorian Society – no comments received.

5. Policy Context

5.1. Birmingham Development Plan 2017; The Birmingham Unitary Development Plan 2005 (saved policies); Conservation through Regeneration SPG; Grade II* Listed Building and Grade II Historic Park and Garden; and the National Planning Policy Framework.

6. Planning Considerations

Policy

6.1. Paragraph 190 of the NPPF refers to a need to assess the significance of a proposal on any heritage asset and paragraph 192 states that in determining applications, the local planning authorities should take into account the desirability of sustaining and enhancing heritage assets. Similarly paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation and paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

6.2. Section 66 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, 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.

6.3. Policy TP12 of the Birmingham Development Plan states that great weight will be given to the conservation of the City's heritage assets.

6.4. Policy TP8 of the Birmingham Development Plan states that damage to protected species should be minimised and mitigating measures should put in place.

Impact on Heritage Assets

6.5. As a result of detailed negotiations with Historic England and the City Ecologist the extent of works has been amended to reflect alternative rooflight and guttering replacement materials/design and omission of asbestos removal (other than from the basement) from areas not currently supported by up-to-date bat surveys. Gutter and rooflight replacements are required first to stop further water ingress. Once fully dried out internal works will then include repairs to the lincrusta wallpaper, replacement of the high level southern frieze murals, repairs and replacement of the

missing and damaged white wallpaper, and repairs above stained glass window plaster work and ceiling joinery. On the basis of these revisions Historic England are no longer raising concerns.

- 6.6. My Conservation Officer similarly has no objections to the proposals subject to conditions covering replacement roof tiles for approval, replacement cast iron rainwater goods for approval, details of proposed new rooflights, details including profiles of replacement internal timber joinery such as skirtings, details of replacement internal plasterwork such as cornices, and full details of the proposed refurbishment of the rooflights in the main hall, details for the proposed conservation measures for the lincrusta wallpaper and a separate condition to cover the design, manufacture and installation of the new decorative panels. The Garden Trust also raises no objections to the application.
- 6.7. In accordance with the expectations of the NPPF and BDP Policy TP12 the revised scope of works will have a considerably beneficial effect in repairing weather damage to this important Grade II* listed building and contributes towards sustaining and enhancing the heritage asset of Highbury Hall into the future.

Ecology

- 6.8. The City Ecologist noted that the Preliminary Ecological Appraisal / Preliminary Roost Assessment (Wharton Natural Infrastructure Consultants, 8th October 2018) submitted with the application concluded that the building has high suitability for roosting bats due to its structural characteristics and condition. There are multiple access and roosting points externally and suitable roosting areas internally. As such, further bat surveys are required to provide more conclusive evidence of bats' presence / absence. In accordance with published good practice guidance, buildings with high suitability for roosting bats should be subject to three nocturnal bat surveys during the active season (May – August). The application should not be determined until these surveys have been completed and the results, together with details of any necessary mitigation and compensation measures (if the presence of roosting bats is identified), have been submitted to the Council for consideration.
- 6.9. If the presence of roosting bats is established, it is likely that a Natural England European Protected Species licence will be required. To reduce the risk of harm to bats and ensure compliance with the legal protection afforded to bats, certain aspects of the proposed works may need to be revised – eg works programmed to avoid sensitive periods when bats are present; use of breathable membranes restricted in areas where roosts are present; works in sensitive areas supervised by a licensed bat worker; replacement roost features provided (eg roof / ridge access tiles). The building is also assessed as providing suitable habitat for nesting birds. As such, works should be timed to avoid the bird breeding season (late Feb / early March – end August), or should only proceed once an experienced Ecologist has confirmed there are no nesting birds present.
- 6.10. Following the City Ecologists comments, the scope of works sought under the Listed Building Consent has been reduced.
- 6.11. Negotiation on the reduced scope of works scheme has provided opportunity for the City Ecologist and the applicant's ecological consultants to liaise on suitable bat-related revisions. No breathable roof membranes will be used in the revised scope of works and "bat-friendly" alternatives for later main re-roofing works will be sought. Accordingly the City Ecologist is satisfied that the further Ecological Method Statement (March 2019) is acceptable. A condition is recommended below to secure

implementation of the works in accordance with the approved Ecological Method Statement (Wharton Natural Infrastructure Consultants, 4th March 2019; ref. 190304 0810 EMS V10), along with a further condition to specify that no consent is given to the use of the Vapour Permeable Underlay and Metmatt Underlay referred to in the submitted specification documents. Subject to these conditions the proposal is considered to acceptably meet the requirements of policy TP8.

Other matters

- 6.12. Regulatory Services raise no objections and provide advice in relation to safe asbestos decontamination pursuant to the Control of Asbestos Regulations 2012 and the Approved Code of Practice (ACOP). This advice has been passed on to the applicant's agent.
- 6.13. The application is a City Council application for a Grade II* listed building but as Historic England are now content with the range of works proposed, and no amenity society objects, the application can now be determined by the Council without recourse to DCLG referral.

7. Conclusion

- 7.1. The revised scope of works address initial concerns by Historic England and the City Ecologist and the current proposals are considered appropriate to the restoration and enhancement of this important heritage asset, whilst securing the adequate protection of protected species. As such, the proposed works would allow the heritage assets conservation in accordance with BDP and NPPF policy.

8. Recommendation

- 8.1. That Listed building consent is granted subject to the conditions listed below.

-
- | | |
|---|---|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the submission of details/materials for roof tiles, cast iron rainwater goods, rooflights, replacement internal joinery (e.g. skirtings), replacement internal plaster work (e.g. cornices), full details of rooflight refurbishment, and proposed conservation measures to the lincrusta and white wallpaper. |
| 3 | Requires the submission of details for the design, manufacture and installation of new decorative panels. |
| 4 | Development in accordance with Ecological Method Statement (Wharton Natural Infrastructure Consultants, ref. 190304 0810 EMS V10, dated 4th March 2019) |
| 5 | No consent to the use of Vapour Permeable Underlay and Metmatt Underlay. |
| 6 | Implement within 3 years (conservation/listed buildings consent) |
-

Case Officer: Tracy Humphreys

Photo(s)



Fig 1 – Internal view of rooflights with Lincrusta wall paper below

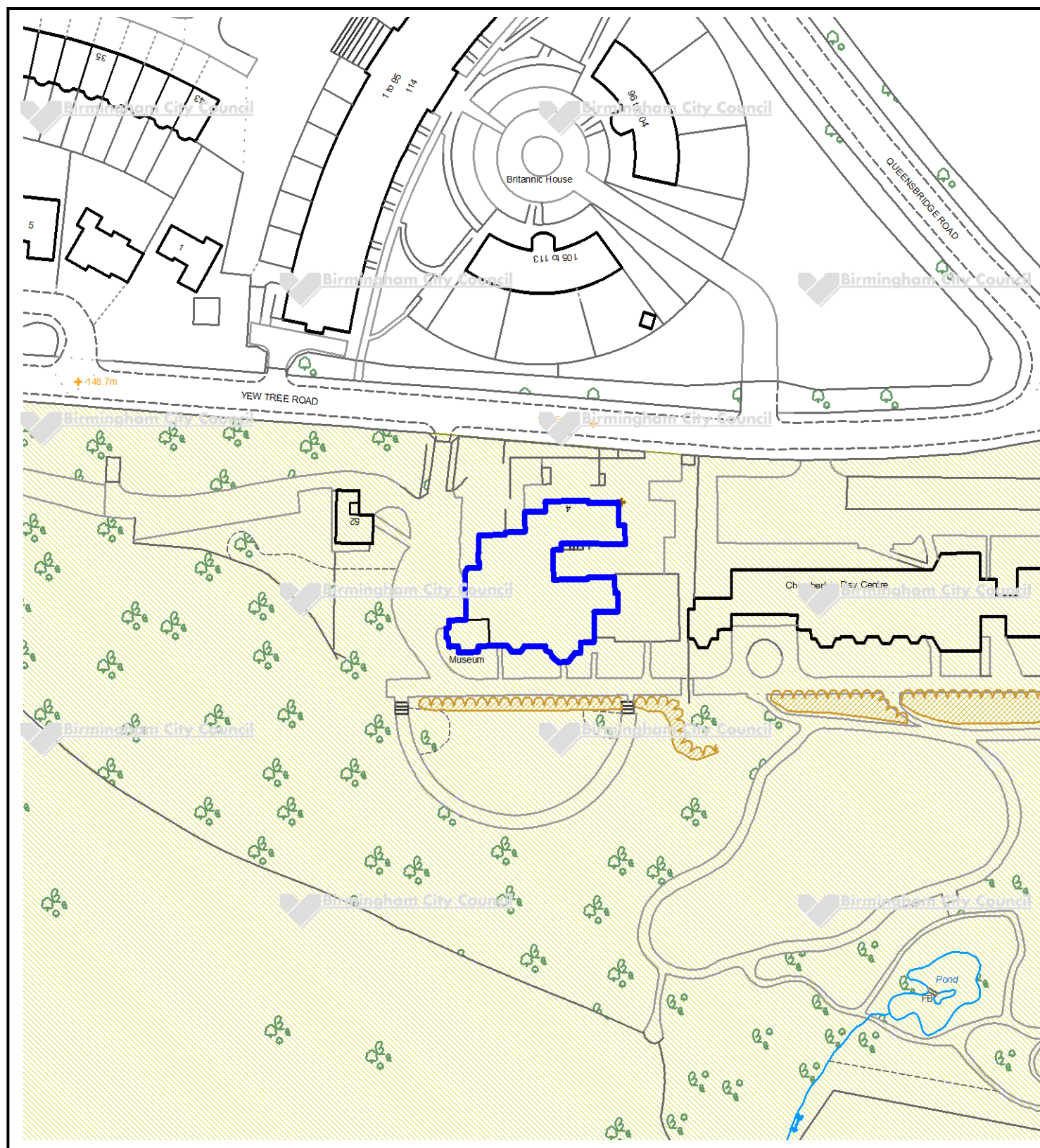


Fig 2. Main hall (internal)



Fig 3. View upwards of rooflights from Main Hall

Location Plan



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Committee Date:	23/05/2019	Application Number:	2018/03911/PA
Accepted:	24/05/2018	Application Type:	Full Planning
Target Date:	19/07/2018		
Ward:	Harborne		

Land at St Joseph's Home, Tennal Road, Harborne, Birmingham, B32 2LB

Erection of 9 dwelling houses

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Planning consent is sought for the proposed erection of nine new dwellings on a site in Tennal Road, Harborne which is located within the southern section of St Joseph's Care Home.
- 1.2. The proposed development would comprise of two rows of four terraced dwellings (Plots 1-4 and 5-8) and one detached property (Plot 9). The proposed dwellings would comprise of the following design and dimensions:
 - Two and a half storey properties.
 - The properties would have a width of 5.75m and a depth of 10.6m with a further ground floor section projecting towards the rear with a depth of 2m on Plots 1, 7 and 8 and 1m on plots 2, 3, 4, 5 and 6. Plot 9 would have a stepped design with a maximum width of 7.3m and a depth of 10.6m with a further ground floor section projecting towards the rear with a depth of 2m.
 - The properties would have a gable end roof design with the ground floor section at the rear having a flat roof design. The properties would be brick built.
 - The front elevations would be characterised by a bay window column, a canopy above the front door and a dormer window with a pitched roof design.
 - To the rear of the properties would be a flat roofed dormer window.
 - The properties would have a living room, kitchen/dining area and cloakroom on the ground floor and two double bedrooms on both the first floor and within the roof space. Each bedroom would have an en-suite and storage area.
 - Plot 1 would have a private garden area to the rear with an area of 83.1sq.m; Plot 2: 69.2sq.m; Plot 3: 68.3sq.m; Plot 4: 68.6sq.m; Plot 5: 69sq.m; Plot 6: 69sq.m; Plot 7: 68.7sq.m; Plot 8: 79.6sq.m and Plot 9: 142.3sq.m. There would be additional lawn areas to the front of the property.
 - One off street parking space would be provided to the front of the houses.
- 1.3. All of the proposed dwellings would comply with the National Technical Housing Standards both in terms of unit sizes and bedroom sizes.
- 1.4. 11 individual trees within the site are proposed to be felled as part of the proposed works, all of which are Category C trees and include Cherry, Willow, Hawthorn,

Cypress and Sycamore along with 2 Ash and 1 English Oak. A further 6 trees in group G1 would be removed all of which are also Category C Apple/Cherry trees.

- 1.5. Amended plans have been received that remove first floor rear balconies from the proposal.
- 1.6. The application is accompanied by a Design and Access Statement, Drainage Statement and Arboricultural Report.
- 1.7. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site relates to a section of land to the southern end of the plot of St Joseph's Care Home which is a large three storey building fronting on to Queens Park Road. The building operates as a nursing home. The area of land to which the proposed development relates is sited adjacent to Tennal Road. The immediate area is mainly residential in nature with a mixture of property ages and designs in the street scene. To the south east of the site are a row of inter war two storey semi-detached dwellings which are located at a higher ground level to the site. Immediately to the west of the site is a bungalow. The ground level slopes in a southerly direction down towards Copperbeech Close.

2.2. [Site Location](#)

3. Planning History

- 3.1. No relevant history.

4. Consultation/PP Responses

- 4.1. Transportation Development – No objection subject to a condition for details of the surfacing for the new driveways to be submitted.
- 4.2. Regulatory Services – No objection subject to a condition requiring the submission of a noise and vibration assessment.
- 4.3. West Midlands Police – No objection. Request condition relating to boundary treatment.
- 4.4. Severn Trent – No objection subject to a drainage condition.
- 4.5. Lead Local Flood Authority – No objection.
- 4.6. Neighbours and local Ward Councillors were consulted. Site notice posted. 7 letters of objection have been received from local residents with concerns raised in relation to the following matters:
 - Loss of privacy.
 - The proposed three storey buildings would be excessive in height.
 - The proposed development would represent an over development of the site.
 - The design of the new dwellings would not be in keeping with that of surrounding buildings in the street scene.
 - The development would not be in keeping with the character of the area.

- Inadequate parking provision.
- Traffic management – there are existing parking issues caused by visitors to Nest Nursery on Tennial Road.
- Potential drainage issues.
- There have been previous flooding issues since the building of new dwellings in Rosehead Drive.

5. Policy Context

5.1. The following local policies are applicable:

- Birmingham Development Plan (BDP) 2017.
- Birmingham Unitary Development Plan 2005 (Saved Policies).
- Places for Living SPG 2001.
- 45 Degree Code SPD.

5.2. The following national policies are applicable:

- National Planning Policy Framework.

6. Planning Considerations

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

Policy

6.2. The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development. It supports strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided by fostering a well-designed and safe built environment. Paragraph 68 states that small and medium sized sites can make an important contribution to meeting local housing requirements.

6.3. Policy PG3 of the BDP states that all new development will be expected to demonstrate high design quality, contributing to a strong sense of place. New development should reinforce local distinctiveness, with design that responds to site conditions and the local area context, including heritage assets and appropriate use of innovation in design. Policy 3.14 of the saved UDP policies echoes this, stating that a high standard of design is essential to the continued improvement of Birmingham as a desirable place to live, work and visit.

6.4. Policy TP27 of the BDP explains that new housing in Birmingham is expected to contribute to making sustainable places by offering: a wide choice of housing sizes, types and tenures; access to facilities such as shops, schools, leisure and work opportunities within easy reach; convenient options to travel by foot, bicycle and public transport; a strong sense of place with high design quality; environmental sustainability and climate proofing through measures that save energy, water and non-renewable resources and the use of green infrastructure; attractive, safe and multifunctional public spaces for social activities, recreation and wildlife; and effective long-term management of buildings, public spaces, waste facilities and other infrastructure.

6.5. With respect to the location of new housing, Policy TP28 of the BDP explains that proposals for new residential development should be located in low flood risk zones; be adequately serviced by existing or new infrastructure which should be in place

before the new housing is provided; be accessible to jobs, shops and services by modes of transport other than the car; be capable of land remediation; be sympathetic to historic, cultural or natural assets; and not conflict with any other specific policies in the BDP.

Principle

- 6.6. I consider the principle of the use of this site for residential purposes to be acceptable. The proposal would contribute towards housing demand within the City. Furthermore, the site is within an established residential area which further supports the development of the site for this purpose.

Residential Amenity

- 6.7. Any new development should not adversely affect the amenity of neighbouring dwellings. The new dwelling to be sited on Plot 9 would breach the Council's 45 Degree Code policy to the nearest ground floor window at No.143 Tennal Road by approximately 1m. However, the section of the new property which would breach the code would be at ground floor level only and would be set a distance of 6.5m away from the mid-point of the neighbouring window. It is also noted that adjacent to the location where this dwelling would be sited is a mature tree which is proposed to be felled as part of the proposed works. This tree would, as existing, limit the level of light and outlook to No.143 from this direction and therefore the proposed works would arguably allow a greater level of light in to the neighbouring property than the current situation on site. In view of these various factors, I do not consider that the proposed development would have a harmful impact upon neighbouring properties in terms of loss of light or outlook.
- 6.8. The proposed dwellings would comply with the numerical guidelines as contained within 'Places for Living' in terms of separation distances and would not result in a loss of privacy to any adjacent properties. As part of a set of amended plans submitted, the previously proposed walk-on balconies to the rear of each individual dwelling have now been omitted from the scheme. This amendment removes concerns regarding overlooking and loss of privacy to neighbouring private amenity space.
- 6.9. The private garden space to the rear of the dwelling within Plots 1, 8 and 9 comfortably exceed the minimum required garden space of 70 square metres for a family dwelling as contained within 'Places for Living'. The other 6 dwellings would have a private garden space of between 68.3sq.m and 69.2sq.m. However, this shortfall in meeting the minimum required garden area is only very minor and as such is considered acceptable. Due to the shortfall however, I recommend the removal of permitted development rights for extensions on Plots 2, 3, 4, 5, 6 and 7. The gardens also fall short of the 5m per storey guideline in Places for Living. However, as the properties would back onto parkland belonging to the adjacent care home, I consider the 10m deep gardens acceptable.
- 6.10. The National Technical Housing Standards are not adopted however; they provide a useful guide in terms of sizes for new residences. The properties proposed for Plots 1-8 would have an overall floor space of 194.35sq.m. The dwelling proposed for Plot 9 would have floor space of 225sq.m. In each case this would significantly exceed the recommended minimum floor space of 130sq.m for a three storey dwelling with 4 bedrooms and 8 bed spaces. The bedroom sizes also comfortably exceed the space standard requirements. I consider that this demonstrates that the proposed dwellings would provide a high quality level of accommodation for future occupiers.

Design

- 6.11. The scale and design of the proposed new dwellings is considered to be appropriate and would sit comfortably within the street scene. The scheme has been revised from that originally submitted and has addressed concerns which were originally raised by the City Design Team. The proposed dwellings have been revised from being three storey properties to two and a half storey. The layout of the buildings has been significantly revised so that the properties would have active frontages with habitable rooms to the front of the buildings to provide natural surveillance.
- 6.12. The proposed development would be in keeping with the residential nature of the area. The roof height of the new properties would follow through the roof height of the dwellings located to the east of the application site and therefore would not result in a dominant or visually intrusive addition to the street scene.
- 6.13. The design detail of the properties such as the bay window columns and canopies to the front would provide visual interest to the buildings. Tennal Road is characterised by properties of varying ages and architectural styles and I consider that the proposal would provide a good quality addition to the housing stock within the street scene and would enhance the visual quality of the surrounding area.

Ecology and Trees

- 6.14. A full Arboricultural Report has been submitted which has been reviewed by my Arboricultural Officer. 15 individual trees and 1 group were surveyed. 11 individual trees within the site are proposed to be felled as part of the proposed works, all of which are Category C trees and include Cherry, Willow, Hawthorn, Cypress and Sycamore along with 2 Ash and 1 English Oak. A further 6 trees in group G1 would be removed all of which are also Category C Apple/Cherry trees. The existing trees along Tennal Road to the frontage of the proposed buildings which provide the main amenity value would be retained. My Arboricultural Officer has raised no objections to the proposed development and has recommended that the works are carried out in accordance with the Arboricultural Method Statement and Tree Protection Plan which has been submitted. A suitable condition has been attached. A condition has also been attached for tree T9 (Plum), which is on Highways owned land, to be replaced.
- 6.15. The proposed scheme has been assessed by the City Ecologist. The green space within the site contributes to the local ecological network and provides suitable habitat for a range of urban/suburban wildlife species. The arboricultural survey which has been submitted indicates that the trees which are to be removed are either young stock or middle-aged trees in good condition with no structural defects recorded. On the basis of this information the tree proposed to be removed are unlikely to provide opportunities for roosting bats.
- 6.16. The Ecologist has recommended that a precautionary approach to site clearance and construction should be adopted. A condition is therefore recommended for a construction ecological management plan to be submitted prior to any works commencing. The scheme should also incorporate ecologically sensitive landscape planting and other habitat measures to mitigate the impact of habitat losses and provide alternative habitat resources. The appropriate conditions are recommended below.

Drainage

- 6.17. Severn Trent have provided comments in relation to drainage issues and have advised that they do not raise any objections to the proposed development subject to a condition being attached for the submission of drainage plans for the disposal of foul and surface water flows.
- 6.18. The applicant has submitted a Drainage Statement in support of their application. The statement concludes that through the introduction of a properly designed drainage system the proposed development would reduce the risk of uncontrolled surface water runoff leaving the application site providing betterment when compared to the existing situation. The LLFA have viewed the application and state that they welcome the contents of the drainage strategy provided. They advise that the site is located within an area of very low surface water flood risk. I consider that sufficient information has been submitted to address concerns regarding potential drainage issues and the condition recommended by Severn Trent will ensure that a suitable system is put in place.
- 6.19. I note that concerns have been raised by objectors in relation to drainage issues and potential flooding however in view of the comments received from Severn Trent and the LLFA I do not consider that the proposed development would have an adverse impact in relation to this matter.

Highway Issues

- 6.20. Transportation has advised that they do not consider that the proposed development would raise any highways related issues and I would concur with this view. One off street parking space would be provided to the front of each dwelling. The site is also within walking distance to regular bus services to Harborne High Street, the City Centre and further afield. Whilst I note that concerns have been raised by objectors in relation to potential parking issues I do not consider that the proposed development would exacerbate any current issues and there are no grounds upon which to resist the proposal in relation to this matter. Tennal Road also has no on street parking restrictions at this point.

Other Issues

- 6.21. Regulatory Services have raised no objections to the proposed scheme subject to a condition for the submission of a noise and vibration assessment. However, as the site is located in a predominantly residential area and not adjacent to any main roads, I do not consider that it would be necessary to attach this condition. An appropriate level of noise insulation would be required by Building Regulations.

7. Conclusion

- 7.1. The proposal would not result in harm to residential amenity, visual amenity, highways safety and parking or drainage and is therefore considered acceptable. The proposal constitutes sustainable development and accords with local and national planning policy. Therefore, I recommend that planning permission is granted subject to conditions.

8. Recommendation

- 8.1. That planning permission is granted subject to the conditions recommended below.

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires the prior submission of a drainage scheme
 - 3 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 4 Requires the prior submission of details of bird/bat boxes
 - 5 Requires the submission of a construction ecological management plan
 - 6 Requires the submission of hard and/or soft landscape details
 - 7 Requires the submission of hard surfacing materials
 - 8 Requires the submission of boundary treatment details
 - 9 Requires the submission of sample materials
 - 10 Arboricultural Method Statement and Tree Protection Plan - Implementation
 - 11 Requires the replacement of any trees removed during construction
 - 12 Removes PD Rights for hard surfacing of front garden
 - 13 Removes PD rights for extensions
 - 14 Implement within 3 years (Full)
-

Case Officer: George Baker

Photo(s)

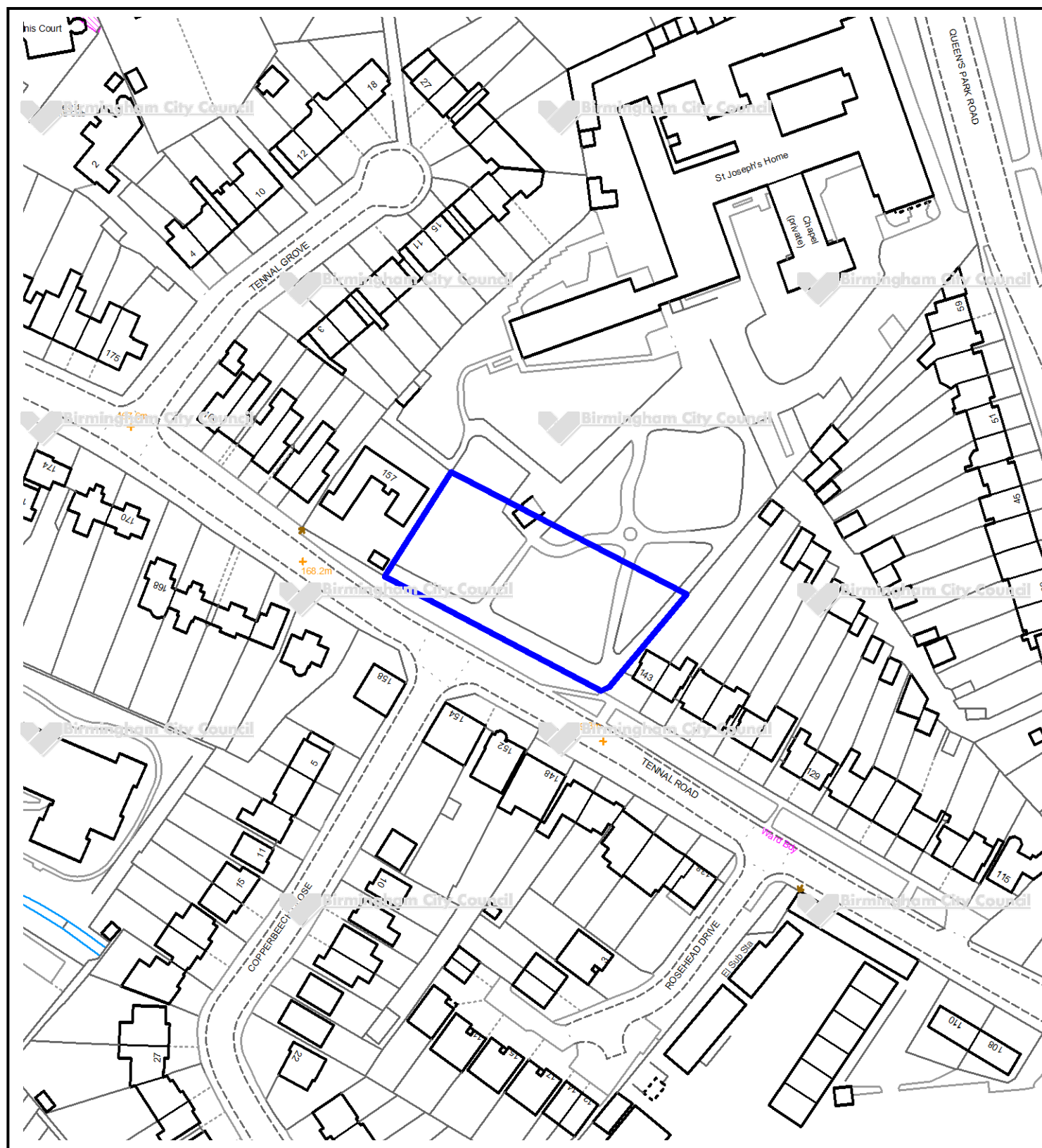


Figure 1 – Proposed application site.



Figure 2 – Application site viewed from Tennial Road.

Location Plan



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Committee Date:	23/05/2019	Application Number:	2019/01841/PA
Accepted:	15/03/2019	Application Type:	Full Planning
Target Date:	23/05/2019		
Ward:	Weoley & Selly Oak		

189 Reservoir Road, Selly Oak, Birmingham, B29 6SX

Change of use from dwellinghouse (Use Class C3) to a 3 bedroom House in Multiple Occupation (HMO) (Use Class C4)

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Planning permission is sought for the change of use of 189 Reservoir Road, Selly Oak from a 2 bedroom dwellinghouse (Use Class C3) to a 3 bedroom House of Multiple Occupation (HMO) (Use Class C4).
- 1.2. The application proposes to convert the existing lounge at the front of the property at ground floor to a third bedroom and the existing dining room to the rear would be converted to a lounge/diner. The existing hallway and kitchen at ground floor and two bedrooms and bathroom at first floor would remain the same. No external alterations are proposed.
- 1.3. The bedrooms would achieve sizes of 12.7sqm, 12.4sqm and 11.6sqm. The lounge/diner would achieve 19.1sqm and the kitchen would achieve 12.7sqm.
- 1.4. The requirement for this application has arisen due to an Article 4(1) Direction, within a defined area within which the application site is situated, which states development consisting of a change of use of a building to a use falling within Class C4 (house in multiple occupation) from a use falling within Class C3 (dwellinghouse) would require planning permission.
- 1.5. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site relates to a two storey semi-detached property located in a residential area of Selly Oak, situated within a row of similar housing. The property has a hipped roof, a characteristic bay window at ground floor on the front elevation and is set back from the road by a driveway to the front. There is a long garden to the rear and a path to the side of the property providing access to the Corisande Walkway at the rear of the site. The surrounding area is predominantly residential and the site lies approximately 1 mile from the Selly Oak Centre.
- 2.2. [Site Location](#)

3. Planning History

3.1. None.

4. Consultation/PP Responses

4.1. Transportation Development - No objection, subject to condition for secure and sheltered cycle storage.

4.2. West Midlands Police - No objection, recommend that the communal front door and the three internal bedroom doors are installed to a specified security standard (PAS24).

4.3. Neighbouring residents, local Ward Councillors and Residents Associations have been consulted and a site notice has been displayed. 3 letters of objection have been received from residents on the following grounds:

- Many two bedroom semi-detached houses in this area have been bought as 'buy to rent' by absentee landlords who have no interest in the area, put very little maintenance into the properties and cause the properties to look uncared for.
- As most of the properties have at least three separate people living in them, there are major parking issues, the proposal would worsen existing parking issues.
- Loss of light.
- Risk of increased rubbish and fly tipping.
- Proposal would have a detrimental impact on the area and long-term residents.
- The property is unsuitable for conversion to a HMO.
- There are too many HMOs in the area.
- Noise pollution and noise concerns.
- High demand on services such as water and refuse.
- Concerns about building alterations.
- Concerns about impact of HMOs on neighbouring property values.

4.4. Steve McCabe MP has objected on the following grounds:

- Reservoir Road is a residential area with a primary school located on Watermill Close, would argue that in line with the Article 4 Direction, this proposal should be refused in order to maintain balanced communities. There are many HMOs on Reservoir Road, Harborne Lane, Gibbins Road and surrounding roads, so does not feel there is demand for a HMO here.
- The developer states that parking is relevant, yet it is acknowledged that there are 2 spaces for 3 residents, which may lead to overcrowding occurring on the street. This may have an adverse effect on the residential area and local community.
- The plans show the removal of the living room in order to create room for an additional bedroom, this would leave the occupants with only a kitchen and dining room as communal areas. Concerns that developers seek to remove shared communal leisure spaces to maximise rental profits at the detriment of the tenants' wellbeing.
- The room plans are not clear if they are singles or doubles.

4.5. Councillor Tristan Chatfield has objected on the following grounds:

- There are significant public concerns in Selly Oak regarding the number of family sized residential properties being converted into HMOs.
- Concerns that the significant need for family homes in the area is not being met and this application will further reduce local capacity.
- Given the substantial numbers of HMOs in the area, this application will further undermine the character of the area, which is already under pressure from the dramatic increase in such properties in recent years.

5. Policy Context

5.1. Relevant Local Planning Policy:

- Birmingham Development Plan (BDP)
- Birmingham Unitary Development Plan (UDP) Saved Policies
- Houses in Multiple Occupation in the Article 4 Direction Area of Selly Oak, Edgbaston and Harborne Wards
- Specific Needs Residential Uses SPG

5.2. Relevant National Planning Policy:

- National Planning Policy Framework (NPPF)

6. Planning Considerations

- 6.1. This application has been assessed against the objectives of the policies set out above.
- 6.2. The main issues for consideration in the determination of this application are the principle of the development, the impact on the character of the area, on residential amenity and on highway safety and parking issues.
- 6.3. In normal circumstances, the conversion from a C3 use to a C4 use is permitted development and owners of properties would normally have no need to inform the Local Planning Authority that a dwellinghouse is changing to a small (C4) HMO. However, in November 2014, an Article 4 Direction was brought into effect that removes these permitted development rights within a designated area of Bournbrook and Selly Park, Weoley and Selly Oak, Edgbaston and Harborne wards. The application site falls within this area.
- 6.4. The decision to introduce an Article 4 Direction in this area resulted from an analysis of city wide concentrations of HMOs revealing the particularly high levels found in Bournbrook and the spread to surrounding areas.
- 6.5. The policy accompanying the Article 4 direction 'Houses in Multiple Occupation in the Article 4 Direction Area of Selly Oak, Edgbaston and Harborne Wards' which was adopted by the Local Planning Authority in September 2014 aims to manage the growth of HMOs by dispersing the locations of future HMOs and avoiding over-concentrations occurring, thus being able to maintain balanced communities. It notes that the neighbourhoods included in the confirmed Article 4 area have capacity to accommodate further HMOs in the right locations.
- 6.6. Policy HMO1 states the conversion of C3 family housing to HMOs will not be permitted where there is already an over concentration of HMO accommodation (C4 or Sui Generis) or where it would result in an over concentration. An over-

concentration would occur when 10% or more of the houses, within a 100m radius of the application site, would not be in use as a single family dwelling (C3 use). The City Council will resist those schemes that breach this on the basis that it would lead to an overconcentration of such uses.

- 6.7. Should the application not cause an over concentration, or the exacerbation of an existing over concentration, the City Council will then apply the existing policies that apply to HMOs city wide in determining planning applications for C4 HMOs, as well as large HMOs in the Article 4 Direction area. The proposal would also need to satisfy these criteria in order to be granted planning consent.
- 6.8. Using the most robust data available to the Local Planning Authority, including Council Tax records, Planning Consents and HMO Licensing information it is revealed that within 100m of 189 Reservoir Road there are 85 residential properties. Of these properties, 6 are currently identified as being HMO's, equating to 7.06%. The proposed conversion of No. 189 Reservoir Road to a HMO would take the number to 7, equating to 8.24% of houses within 100m of the application site. As such it is considered that there would not be an overconcentration of HMO's in this particular area.
- 6.9. Saved policies 8.23-8.25 of the adopted UDP 2005 advise that when determining applications for houses in multiple paying occupation the effect of the proposal on the amenities of the surrounding area, and on adjoining premises; the size and character of the property; the floor space standards of the accommodation; and the facilities available for car parking should be assessed.
- 6.10. Specific Needs Residential Uses SPG recognises that dwellings intended for multiple paying occupations have a role to play in meeting the housing needs of certain groups in society.
- 6.11. The application site is located within a predominantly residential area. Whilst there appear to be other HMO type uses near to the site, the area primarily consists of family dwellings and has a typically residential character. The application site is a semi-detached property that currently has two bedrooms with the ground floor lounge proposed to be converted to a third bedroom and no internal or external alterations to the building. I therefore consider that the proposal would have a minimal impact upon character.
- 6.12. The property would provide three bedrooms of 12.7sqm, 12.4sqm and 11.6sqm, all exceeding our standard minimum of 6.5sqm for a single bedroom. The kitchen would be retained and the dining room changed to a lounge/diner. As such, I consider suitable internal amenity would be provided. Furthermore, the internal layout as proposed would allow easy conversion back to a family dwelling, should the need arise in the future.
- 6.13. Whilst the property is semi-detached (and the UDP identifies potential for disturbance to the adjoining property), I am satisfied that the proposed HMO would not have an adverse impact on the amenities of adjoining residents given that no internal alterations are taking place and the property would most likely be lived in, in a similar manner to a family, with living accommodation at ground floor and two of the three bedrooms at first floor. I therefore consider that the proposal would have an acceptable impact on the residential amenity of future occupiers and existing neighbouring residents, and the creation of one additional bedroom would not overtly increase demand on local services.

- 6.14. The guidance in Specific Needs Residential Uses SPG advises that car parking provision for HMO applications should be treated on its own merits.
- 6.15. The City's Transportation Development Officer has been consulted on this application and raises no objection to the proposal. It is not anticipated that traffic and parking demand for a three bedroom HMO would be any greater than that of a two bedroom dwellinghouse. There is a double width driveway to the front of the site and on street parking on the southern side of Reservoir Road is unrestricted along this stretch, however a double yellow TRO prevents parking on the opposite side. There are also regular buses within reasonable walking distance of the site throughout the day. It is suggested secure and sheltered cycle storage is installed in order to encourage this alternative mode of travel. A condition to secure this is recommended.
- 6.16. The site is also noted to be in a highly accessible location, it is close to Selly Oak Centre and there are bus stops close by providing access to areas of employment including Birmingham City Centre. It is therefore considered that there would not be any detrimental impact to highway safety as a result of this change of use.
- 6.17. West Midlands Police have raised no objection to the proposal; however have requested a security condition be attached. I am not persuaded there is any evidence to justify such a condition, but I will forward the Police recommendations to the Applicant.
- 6.18. I note the other matters raised in consultation responses. Concerns relating to neighbouring property value is not a material planning consideration. With respect to the concerns raised regarding whether the bedrooms are singles or doubles, consent is sought for a three-bedroom HMO and as such, a condition to restrict the number of residents to a maximum of 3 is recommended.

7. Conclusion

- 7.1. I consider that the proposed use of the property as a C4 small house in multiple occupation would be acceptable in principle and would help to meet a need for this type of housing in a sustainable location. There would not be an overconcentration of such uses in the area and the proposal would therefore accord with the Article 4 direction policy. In addition, the proposed scheme would not have a detrimental impact on the character of the area, or upon the amenities of adjoining residents and highway safety.

8. Recommendation

- 8.1. Approve subject to conditions.

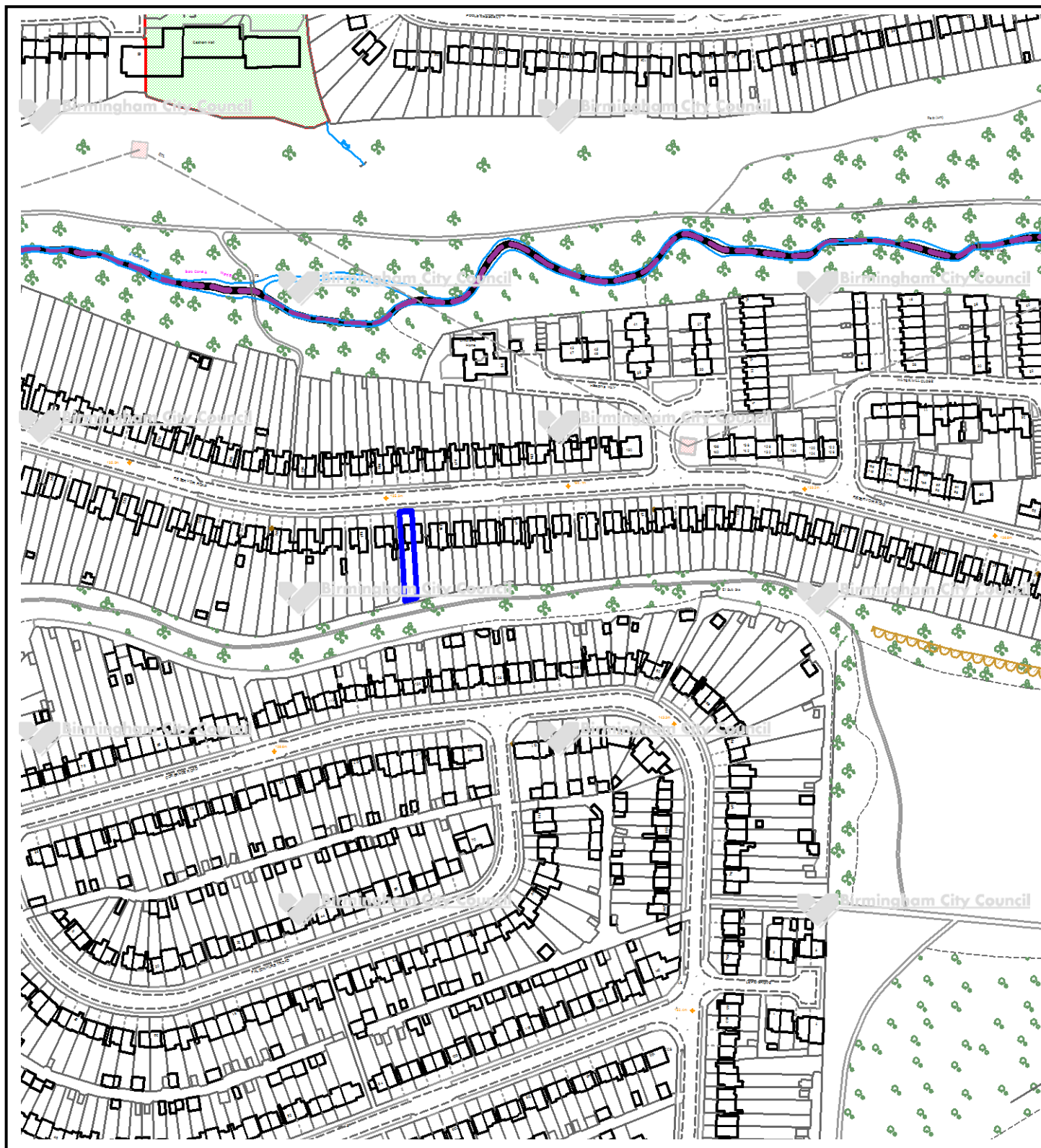
1	Requires the scheme to be in accordance with the listed approved plans
2	Limits the number of residents to 3 people
3	Requires the submission of cycle storage details
4	Implement within 3 years (Full)

Case Officer: Caroline Featherston

Photo(s)



Location Plan



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Birmingham City Council
Planning Committee 23 May 2019

Appeal Decisions Received from the Planning Inspectorate in April 2019

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
Householder	14 Kemble Croft, Balsall Heath	Erection of single storey rear extension. 2018/03008/PA	Dismissed	Delegated	Written Representations
Householder	4 Heathlands Crescent, Sutton Coldfield	Erection of two storey side extension. 2018/09317/PA	Dismissed	Delegated	Written Representations
Advertisement	Junction of Union Street / Martineau Way, City Centre	Display of 2no. internally illuminated digital LED advertisement panels. 2017/10926/PA	Dismissed	Delegated	Written Representations
Advertisement	Junction of Corporation Street / Bull Street, City Centre	Display of 2no. internally illuminated digital LED advertisement panels. 2017/10868/PA	Dismissed	Delegated	Written Representations
Advertisement	Junction of Cherry Street / Cannon Street, City Centre	Display of 2no. internally illuminated digital LED advertisement panels. 2017/10861/PA	Dismissed	Delegated	Written Representations
Advertisement	Junction of Union Street / High Street, City Centre	Display of 2no. internally illuminated digital LED advertisement panels. 2017/10924/PA	Allowed (see note 1 attached)	Delegated	Written Representations
Other	Junction of Union Street / Martineau Way, City Centre	Installation of telephone/Wi-Fi totem. 2017/10813/PA	Dismissed	Delegated	Written Representations
Other	Junction of Corporation Street / Bull Street, City Centre	Installation of telephone/Wi-Fi totem. 2017/10793/PA	Dismissed	Delegated	Written Representations
Other	Junction of Cherry Street / Cannon Street, City Centre	Installation of telephone/Wi-Fi totem. 2017/10784/PA	Dismissed	Delegated	Written Representations
Other	Junction of Union Street / High Street, City Centre	Installation of telephone/Wi-Fi totem. 2017/10812/PA	Allowed (see note 2 attached)	Delegated	Written Representations

**Birmingham City Council
Planning Committee 23 May 2019**

Appeal Decisions Received from the Planning Inspectorate in April 2019

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
Other	126 Billesley Lane, Moseley	Variation of Condition No 5 attached to approval 2014/07717/PA to allow opening hours between 0800 and 2200 hours Mondays to Sundays and Bank Holidays. 2018/06160/PA	Dismissed	Non- determined	Written Representations

Total - 11 Decisions: 9 Dismissed (82%)

Cumulative total from 1 April 2019 - 11 Decisions: 9 Dismissed (82%), 2 Allowed

Notes relating to appeal decisions received in April 2019

Note 1 (Junction of Union Street / High Street)

Application refused because the proposed development by virtue of its scale, digital nature and siting would create additional visual and physical clutter, creating barriers to pedestrian movement and an adverse impact on the character of this street. It would also undermine the aspirations of the City through its public realm programme.

Appeal allowed because the Inspector concluded that the proposal would not have an adverse effect on amenity, nor would it result in a barrier to pedestrian movement.

Note 2 (Junction of Union Street / High Street)

Application refused because the proposed development by virtue of its scale, digital nature and siting would create additional visual and physical clutter, creating barriers to pedestrian movement and an adverse impact on the character of this street. It would also undermine the aspirations of the City through its public realm programme.

Appeal allowed because the Inspector considered that the proposal would not add clutter to the street and would not have an adverse effect on the character and appearance of the area.