

# Birmingham City Council

## Planning Committee

21 January 2021

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	6	2020/07467/PA  4 Oxford Road Moseley Birmingham B13 9EH  Change of use from residential dwelling (Use Class C3) to children's day nursery (Use Class E) and associated external alterations
Approve Subject to - 106 Legal Agreement	7	2019/10502/PA  1386-1392 Pershore Road Stirchley Birmingham B30 2XS  Demolition of existing buildings and erection of a new mixed-use development consisting of 3 no. retail units at ground floor and 39 no. residential dwellings at ground and upper floors, together with associated drainage and external works

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Committee Date: 21/01/2021      Application Number: 2020/07467/PA  
Accepted: 24/09/2020      Application Type: Full Planning  
Target Date: 21/01/2021  
Ward: Moseley

4 Oxford Road, Moseley, Birmingham, B13 9EH

Change of use from residential dwelling (Use Class C3) to children's day nursery (Use Class E) and associated external alterations

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. Planning consent is sought for the proposed change of use from residential dwelling (Use Class C3) to children's day nursery (Use Class E) and associated external alterations at No. 4 Oxford Road, Moseley.
- 1.2. The application property comprises a three-storey detached dwelling consisting of seven bedrooms, four reception rooms, three bathrooms, a small basement utility room and garage, with amenity areas to the front, side and rear.
- 1.3. The boundary treatment along the perimeter of the site fronting Oxford Road and continuing around the Ascot Road frontage and connecting with existing fencing along the Ascot Road frontage comprises low level brick walling. The proposal seeks to install 1.8m high acoustic fencing, which will run part way down the Ascot Road part of the plot before turning through 90 degrees and running to the building (thus enclosing the proposed play area in its entirety). The Oxford Road frontage of the site will retain the two mature trees fronting the Oxford Road and Ascot Road junction and low level brick walling.
- 1.4. Internal alterations are proposed to the building. The proposed internal layout of each floor of the day nursery would be as follows:
  - Ground floor would accommodate two baby rooms, office, store, w/c, nappy change, milk kitchen, main kitchen and storeroom;
  - First floor would accommodate a toddlers' room, toddlers' w/c and two play rooms;
  - Second floor would accommodate a pre-school room, pre-school w/c, store room and a staff room.
- 1.5. External alterations are as follows:
  - Insertion of a small pitched roof and window at first floor to the front elevation positioned between the two existing windows at first floor level;
  - A reduction in the height of the existing chimney stack;
  - An external door to the Babies 1 room to the rear of the property;

- Signage to the front;
  - rear fire escape staircase replaced with an internal fire safety corridor;
  - Existing wooden fence that runs part way down the Ascot Road side of the plot) to be removed and replaced with acoustic fencing running 1.8m above stone wall;
  - Installation of acoustic fencing, which will run part way down the Ascot Road enclosing the proposed play area in its entirety;
  - Removal of 4 no. trees around perimeter of the site; and
  - To create a larger room for pre-school children at 2<sup>nd</sup> floor level existing dividing walls between three rooms will be removed and a dormer window would be installed to the front elevation.
- 1.6. Seven off street parking spaces are provided spread across two hardstanding area; one off Oxford Road and the other off Ascot Road.
- 1.7. The day nursery would accommodate a maximum of 63 children which will require approximately 20 staff based on a ratio of 1 per 3 babies (under 2 years of age); 1 per 4 toddlers (2-3 years of age); and 1 per 8 pre-schoolers (3-4 years of age).
- 1.8. Operating hours would be from 7:00am to 7pm Monday to Friday with three types of daily session: morning (7am – 1pm); afternoon (1pm – 7pm); and all day (7am – 7pm).
- 1.9. Accompanying the planning application are a Tree Survey, Transport Statement, Noise Impact Assessment and Planning Statement.
- 1.10. [Link to Documents](#)
2. Site & Surroundings
- 2.1. The application property is a large traditional detached Victorian double fronted property located on a prominent corner plot adjacent to the junction of Oxford Road and Ascot Road. The surrounding area is residential in character although there are a number of non-residential/commercial uses nearby.
- 2.2. Lawn gardens interspersed with mature trees border the property along Oxford Road and Ascot Road.
- 2.3. There are two vehicular access points; one to the front from Oxford Road leading onto a paved driveway. A second access from Ascot Road leads to the rear garage and yard area.
- 2.4. The boundary treatment to the Oxford Road frontage of the application site consists of a low height stone boundary wall and a number of mature trees. Boundary treatments along Oxford Road are generally open and comprise a combination of low-height walls and hedges.
- 2.5. Within the vicinity, to the north of Oxford Road is the grade II listed Calvary Church of God in Christ (90m away), an independent garden centre (155m away) and a Marks and Spencer supermarket and food hall (180m away). To the south of Oxford Road is a Church of England Primary School (86m away). The Moseley Local Centre is also located approximately 250m north-west of the application site.

2.6. [Site Location Plan](#)

3. Planning History

- 3.1. 01/10/2003 – 2003/03999/PA – Erection of a single storey rear extension – Approved subject to conditions.
- 3.2. 08/09/2011 – 2011/03820/PA – Erection of a fence to side and rear boundary. – Approved subject to conditions.
- 3.3. 05/05/2020 – 2020/01793/PA – Change of use from residential dwelling (Use Class C3) to children's day nursery (Use Class D1) and associated external alterations – Withdrawn.

4. Consultation/PP Responses

- 4.1. Local Councillors, residents associations and nearby occupiers were notified. A site notice was displayed. 22 no. responses received from local residents who objected to the application. To summarise, the stated grounds for objection are as follows:

- Day nurseries should be confined to Local Centres.
- The residential character of Oxford Road and Ascot Road has already been undermined by the conversion of residential buildings to institutional uses.
- There is already a nursery on School Road within 500 yards in a residential home. There is also a non-profit nursery attached to the church on Oxford Rd which has available spaces.
- The conversion of this family home is unjustifiable at a time when large homes in Moseley are very rare and in demand. This would be a detriment to the local area having already lost so many homes to recent flat conversions.
- Removal of existing tree(s) would be visually detrimental to the character of the area and would emphasise the institutional nature of the building. It would reduce screening and further undermine the residential character of the area.
- There is no immediate need for another nursery in the area, which is already well served by the many available.
- Noise and nuisance arising from the day nursery.
- Concerns about the opening times and choice of location. The nursery will be open from 6 am, with children starting at 7 am and leaving by 7pm. Staff will be on site for up to 30 mins after. Concerns raised about the late activities and disturbance this will cause the surrounding residents.
- The submitted Transport Statement is inadequate in terms of detail on traffic, access and parking provision.
- As part of the Transport Statement an assessment of travel demand from parents has been made which has calculated that a peak of 30 inbound vehicle trips will be generated over the AM peak hour of 7.31-8.30 and 29 outgoing trips will be made in the PM peak hour (17.01-18.00). At no point does the Transport Statement acknowledge that this will therefore result in a total of 60 two way trips in the AM and 58 two way trips in the PM peak hours. This is a high volume of traffic for a local road that requires appropriate assessment of the safety and capacity of the affected junctions.
- Concerns that the introduced volume of traffic represents a very significant relative increase in traffic over the existing context. Ascot Road, is a cul-de-sac of circa 60 residential properties, is unlikely to have an existing volume of traffic

flow that is significantly higher than 60 two way peak hour trips – a volume that the development will roughly double. In this context a full Transport Assessment should have been prepared

- Concerns that the Transport Statement carries out only a limited highway safety assessment that relies solely on the existing operation of the Ascot Road / Oxford Road network.
- Concerns that the Transport Statement does not consider actual vehicle speeds along Ascot Road and Oxford Road. While traffic calming is present further east along Oxford Road, the last physical measure restricting vehicle speed is the speed cushion approximately 50m east of the edge of the site. No further such infrastructure is present between this measure, until the junction of Oxford Road and St Mary's Row. This section of carriageway, regularly experiences speeding traffic observed by the local community.
- Concerns that the development appears to propose no mitigation measures to control the introduction of these significant hazards,
- Concerns that it is an assumption of the Transport Statement that existing parking on Ascot Road and Oxford road is adequate for the number of existing road users however no parking survey has been presented. As local residents we are well aware that parking in this area is already in high demand due to the proximity to the centre of Moseley. This parking context is now likely to be worsened by the committed development that comprises Moseley Rail station that does not include for its own car parking facility.
- Concerns that the parking arrangements at the rear of the development on Ascot Road are predicated upon the assumption that 4 vehicles would be able to park at the rear of the site, and then having conducted a 5 point turn movement within the site, exit in a forward gear. It is assumed that such parking will be preferred by parents over parking on either Oxford Road or Ascot Road however this ignores that vehicles entering and exiting the site will conflict with this movement. At peak times vehicles seeking to enter the site are likely to be found waiting in carriageway on Ascot Road for a space at time the car park is full, and also while vehicles conduct the complex exit turn manoeuvres. This is likely to limit the desirability of this facility and lead to greater parking on Ascot Road and Oxford Road, and increase the risk of illegal parking.
- Concerns that the nature of this development gives a particular rise to short duration parking (circa 10mins according the Transport Statement) which are durations in which road users are more likely to abuse parking restrictions as they are aware the chance of being caught are low.
- Oxford Road falls within tranche 2 proposals for Low Traffic Neighbourhood scheme (LTN's). The purpose of this initiative is designed to calm and reduce traffic and make the streets safer to walk and cycle.
- The proposal will increase levels of congestion in the local area and create multiple traffic hazards around Oxford Rd, Ascot Rd, Alcester Rd and Salisbury Rd - These roads are already congested heavily during school hours due to the many neighbouring schools and nurseries within 1/4 mile radius from the proposed site.
- The submitted Transport Statement relies heavily on the need for staff and parents to use on-street parking.
- The proposed development is not in keeping with the strategy for the area promoting use of alternatives to car travel.
- No thought has been given to the traffic issues that may result from the opening of Moseley train station
- Parking and highway safety concerns that the day nursery would have a reliance on unrestricted street parking for drop-offs and pick-ups, which would result in

parking on double yellow line and risk of blocking access points to neighbouring properties along Oxford Road and Ascot Road.

- The proposed day nursery will promote car use and increased traffic congestion, parking with increase risks to other road users in particular cyclists and pedestrians for example via parking limiting visibility of traffic coming round a bend and approaching the school entrance.
- A 1.8m high acoustic fence is proposed on the Oxford Road & part of Ascot Road frontage making a total height above pavement of over 2m taking into account the height of the wall. Visually this would be very unattractive and spoil the street scene in the immediate locality.

4.2. Cllr Straker Welds – Requested application be presented before Planning Committee if Officers minded to approve application.

4.3. Moseley Society – Objection. To summarise, such an intensive use would result in adverse parking and traffic impacts. Furthermore, day nursery with this large number of users would cause unacceptable levels of noise and disturbance to neighbours. The amended boundary would retain the open front garden that the property enjoys at present – but the remaining children’s play area would be severely restricted. We think that 63 children sharing such a small play area, albeit in relays, would unacceptably limit their access to fresh air and exercise.

4.4. Regulatory Services – no objections subject to conditions.

4.5. St Agnes Residents Association – Objection. *“We consider that the existing problems of car parking in Ascot Road and Oxford Road, and the congestion of traffic in particular during the morning rush, must preclude approval of this proposal.”*

4.6. Transportation Development – no objections subject to conditions requiring footway to be extended; for the provision of secure cycle storage; and for the proposed day nursery to cater for a maximum of 63 children.

4.7. Trees Officer – No objections.

## 5. Policy Context

5.1. Relevant Local Planning Policy:

- Birmingham Development Plan (BDP) 2017
- Birmingham Unitary Development Plan (UDP) Saved Policies 2005
- Places for Living SPG 2001
- Mature Suburbs SPD
- Car Parking Guidelines SPD
- Moseley SPD
- Development Management in Birmingham Development Plan Document.

5.2. Relevant National Planning Policy:

- National Planning Policy Framework (NPPF) 2019
- National Design Guide

## 6. Planning Considerations

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

- 6.2. The main considerations of this application are the principle of the change of use; the impact upon local amenity; impact on trees; and the impact on highway safety and parking.

***Principle of Change of Use:***

- 6.3. The policies for Day Nurseries are outlined within paragraphs 8.14A and 8.15 of the Birmingham UDP 2005 Saved Policies (UDP).
- 6.4. The proposed day nursery at No. 4 Oxford Road would occupy a large plot in a detached property, with an area on-site for outdoor play. The Oxford Road frontage of the site would retain its open character but the children's play area to the side and rear of the application would be bounded by 1.8m high acoustic fencing above the existing low level stone wall. The proposed acoustic fencing would replace existing wooden fencing along the Ascot Road frontage but still provide effective screening.
- 6.5. I consider the change of use of the existing residential building to a day nursery in this location is acceptable when assessed against Paragraph 8.15 of the UDP. The application site for the proposed day nursery is a large three-storey detached property set within spacious grounds. The application property is located within a predominantly residential area on a corner plot off the junction with Oxford Road and Ascot Road in Moseley. However, I consider there to be good separation distances from adjacent residential properties and the central position of the play area within the site also reduces its impact on neighbours. Furthermore, within the immediate vicinity, to the north of Oxford Road is the Calvary Church of God in Christ, an independent garden centre and a Marks and Spencer supermarket and food hall. To the south of Oxford Road is a Church of England Primary School. Therefore, on balance, I do not consider that the change of use of this property to a non-residential use would be harmful to the overall character of the area.
- 6.6. The proposed development would involve external alterations to the building and its grounds. I consider these external alterations to be minor in nature and taken cumulatively would not result in harm the character and appearance of the property itself or the wider street scene.
- 6.7. Saved policy 8.15 of the UDP advises that in residential frontages the upper floor of the building should be retained for residential purposes. Although the application site is located in a predominantly residential area there are commercial, educational and civic uses within the wider setting so in this instance I do not consider that the conversion of the entire building to a day nursery would have an adverse impact upon the character of the area.
- 6.8. Whilst not yet adopted council policy, the 'Development Management in Birmingham (DMB)' Development Plan Document, will replace the Saved 2005 Birmingham Unitary Development Plan policies. The purpose of the DMB is to provide detailed development management policies.
- 6.9. Some weight can be afforded in the decision-making process to policies within the DMB as it is emerging council policy and indicates a direction of travel in council planning policy. The DMB contains Policy DM9 (Day nurseries and early years provision), which states that proposals for development outside of the network of district and local centres will only be considered favourably where:
- (a) It is well served by means of walking, cycling and public transport;

- (b) It will not have an unacceptably adverse impact on local amenity, parking, and highway safety;
- (c) Sufficient useable outdoor play space to meet the needs of the children is provided;
- (d) The property can accommodate satisfactorily the number of children proposed; and
- (e) It does not conflict with any other policies in the Local Plan.

6.10. The objectives of Policy DM9 of the DMB are consistent with those contained within Paragraphs 8.14A and 8.15 of the UDP.

6.11. Assessed against the aforementioned policies I am satisfied that the principle of the proposed use of No. 4 Oxford Road as a day nursery is acceptable. However, this is subject to site-specific material considerations, namely, that this proposal would not have an unacceptably adverse impact on local amenity, trees, parking or highway safety.

***Impact on Local Amenity:***

6.12. The proposed day nursery at would be significant in terms of scale of activity with a maximum number of 63 children and 20 members of staff present within the building daily and with operating hours of 7AM to 7PM Monday to Friday.

6.13. Noise impacts arising from the use are a main consideration in the assessment of this application. Regulatory Services raise no objections to the proposal. They have reviewed the information provided in this application, in particular the Cole Jarman Report ref: 2020/0204/R1 and noted that *“the figures provided in the assessment are reasonable and an acoustic barrier as proposed will go some way to reducing any noise on site... It is further noted that the proposed hours of operation do not include weekends.”*

6.14. I concur that the proposed development would not result in any significant adverse impact to neighbouring uses in terms of noise and disturbance to warrant refusal of the application. It is inevitable that noise will be generated from the proposal but the application building is set within a large corner plot and the 1.8m high acoustic fencing around the proposed children’s play area would help to reduce the level of noise generated from the day nursery. The Noise Impact Assessment also identifies the barrier specification needed for any acoustic fencing product used around the perimeter of the external area of the site and again this has been accepted as suitable by Regulatory Services.

6.15. The prevailing character in the immediate locality is residential but there are commercial uses in the wider area and the application site is approximately 150 metres from Moseley Village. Therefore, the site is considered to be a sustainable location for a day nursery.

6.16. In order to protect neighbouring amenity I do consider it appropriate to attach conditions to any grant of planning permission that would stipulate the operating hours of the nursery and limit attendance of the day nursery to a maximum of 63 children.

***Impact on Trees:***

6.17. Two existing mature trees in close proximity to the frontage of the Oxford Road and Ascot Road junction would be maintained but the proposal seeks to fell four trees

within the application site to prevent future structural damage to existing boundary walls and to facilitate the provision of two parking spaces on-site. The Council's Tree Officer has been consulted on the application and raised no objection to the felling of these trees which are not considered to be suitable for statutory protection.

- 6.18. I concur with the comments of the Tree Officer and I do not consider that these trees are specimens worthy of Tree Preservation Order status and their removal would not harm the character and appearance of the area. The retention of two trees along the frontage adjacent to the Oxford Road and Ascot Road junction makes a positive contribution to maintaining the fairly open frontage characteristic of Oxford Road. There are opportunities to enhance planting on this frontage.

***Parking and Highway Matters:***

- 6.19. The site benefits from 2 existing vehicular access points. On the Oxford Road frontage the existing driveway parking is to be extended in order to provide 3 staff parking spaces. To the rear, directly off Ascot Road, parking is provided for drop off and collections, with 4 spaces offered.
- 6.20. BCC Car Parking Guidelines SPD for day nursery uses states a maximum 1 space per 8 children is expected. Therefore, based on the 63 children using the day nursery, up to a maximum of 8 parking spaces are recommended to be provided on-site. In this case 7 on-site parking spaces are offered. It is noted that whilst a double yellow line Traffic Regulation Order (TRO) surrounds the site there are unrestricted parking options within short walking distance of the site along both Oxford Road and Ascot Road. Furthermore, the site is positioned close to the local centre of Moseley which is served by regular buses throughout the day.
- 6.21. I consider that sufficient unrestricted parking options along Oxford Road and Ascot Road would be available for the anticipated off-site parking associated with the proposed day nursery and that there should be no compromise to highway safety.
- 6.22. 12 members of staff will drive to and from the site and on-site staff parking totals 3 parking spaces. The applicant has explained that the projected 12 staff drivers will not all be arriving at 7am and leaving at 7pm, as the staff work in shifts, arriving and departing during the nursery's operating hours. The Transport Statement projects that 4 staff members will arrive during the AM peak (07:30-08:30) and 4 departing during the PM peak (17:00-18:00), which is one car more than the number of spaces allocated to staff, however it is considered that 1 additional space can be accommodated on street in the vicinity of the site.
- 6.23. Transportation Development accept that there are unrestricted car parking options available locally and that the single yellow TRO on the Ascot Road side of the site is not in place until 08:00. Therefore, drop offs prior to 08:00 can take place here. Transportation Development also acknowledge the area is served by good public transport links. However, Transportation Development request some secure and sheltered cycle storage is installed in order to encourage staff and visitors to use this alternative mode of travel and reduce the number of car journeys.
- 6.24. I acknowledge concerns raised by objectors in respect to parking provision and highway safety. An objector has questioned detail within the submitted Transport Statement, including the number of anticipated 2 way trips and issues of speeding at this location and safety of the junction. In order to directly address the issues, a

further statement has been provided by the applicant and Transportation are satisfied that it deals with any concerns raised.

- 6.25. Transportation Development provided additional consultation comments and stated that in relation to safety & speeding, there is no record of accidents in a 5 year search at this location and accept the submitted Transport Statement judgement. There are no sufficient reasons to warrant resisting this proposal on Transportation grounds.
- 6.26. Overall, I concur that the proposed day nursery is acceptable in parking and highway terms subject to conditions requiring secure & sheltered cycle storage to be installed in order to encourage staff and visitors to use this alternative mode of travel; and the stated number of children, being 63, should be conditioned as a maximum

***Other Matters:***

- 6.27. Use Class E covers a wide range of non-residential institutions, such as commercial and business uses. Therefore, I consider it necessary to recommend a condition is attached to any grant of planning permission that restricts the use to a day nursery only.
- 6.28. The boundary treatments of properties along Oxford Road and Ascot Road are generally open in character and consist of low level walls and hedges. As such, I consider it appropriate to attach a condition to any grant of planning permission to remove Permitted Development Rights to change or erect boundary treatments. Furthermore, I consider it reasonable to attach conditions to any grant of planning permission to require soft and/or hard landscaping details and the erection of the acoustic fencing prior to permission the first use of the day nursery.
- 6.29. The proposed development does not attract a CIL contribution.

7. Conclusion

- 7.1. In conclusion, I consider that the proposed change of use of the existing residential dwelling to a day nursery and associated works is appropriate in this location and would have an acceptable impact on the visual appearance and character of the host building and wider setting. Likewise, I am satisfied that subject to conditions the proposed development would not result in unacceptable impacts on local amenity or compromise highway safety. As such, the proposal accords with national and local planning policy and constitutes sustainable development. Therefore the recommendation is that planning permission is granted.

8. Recommendation

- 8.1. Approval subject to the following conditions.

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1	Implement within 3 years (Full)
2	Requires the scheme to be in accordance with the listed approved plans

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- 3 Requires that the materials used are in accordance with the submitted application form and approved plans.
  - 4 Limits the hours of operation to 07:00 - 19:00 Monday to Friday
  - 5 Limits the number of children able to attend the day nursery to 63 in total
  - 6 Prevents the use from changing within the use class
  - 7 Requires the prior submission of hard and/or soft landscape details
  - 8 Requires acoustic fencing installation prior to first use of day nursery
  - 9 Removes PD rights for boundary treatments
  - 10 Requires the submission of cycle storage details
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Case Officer: Richard Bergmann

**Photo(s)**



Photo 1. View towards site from junction of Oxford Road and Ascot Road.



Photo 2. View towards application site from Ascot Road.



Photo 3. View towards application site from Oxford Road.



Photo 4. View towards application site from Oxford Road.

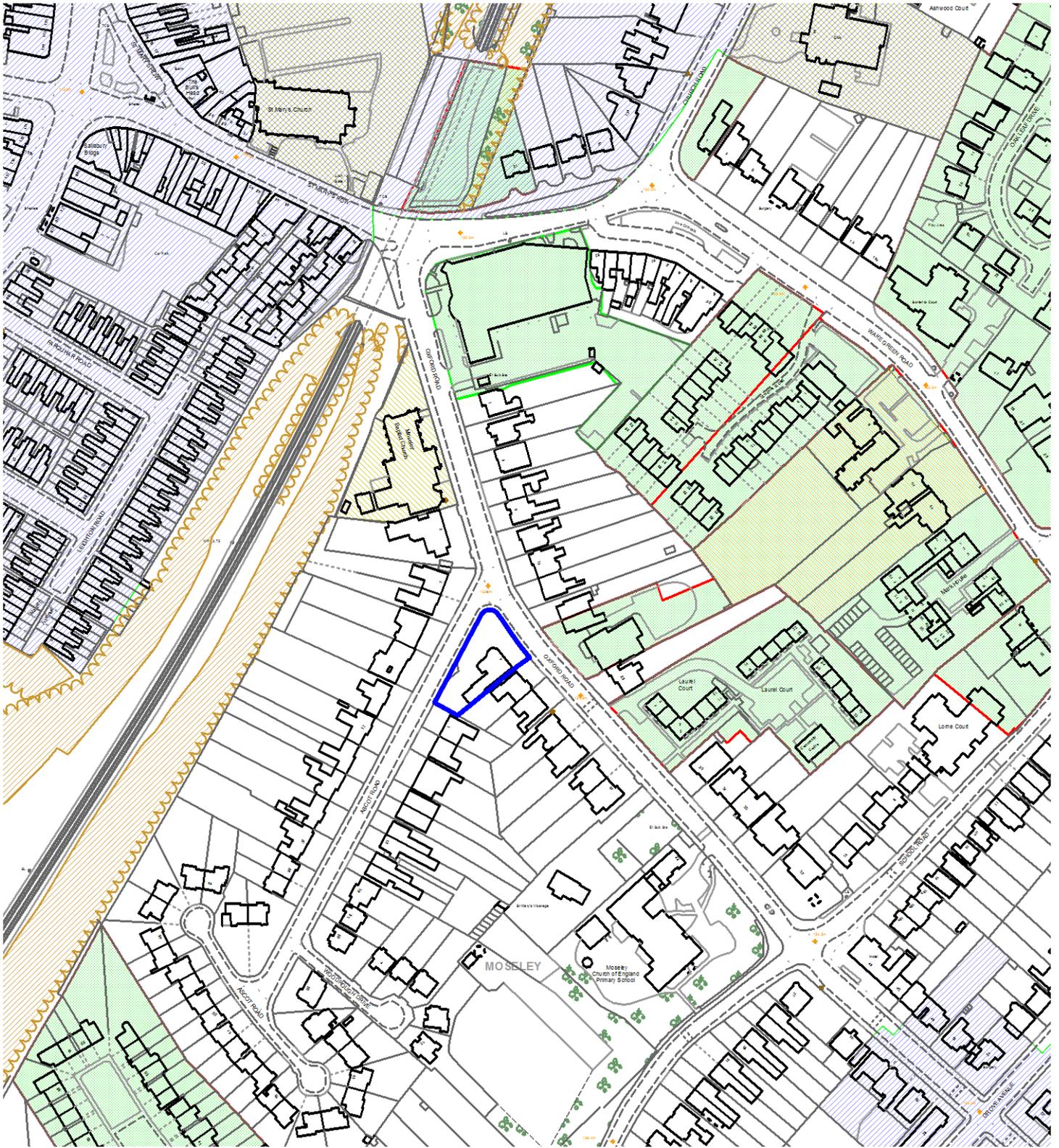


Photo 5. Street scene view along Oxford Road.



Photo 6. Street scene view along Ascot Road.

# Location Plan



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Committee Date:	21/01/2021	Application Number:	2019/10502/pa
Accepted:	13/03/2020	Application Type:	Full Planning
Target Date:	18/12/2020		
Ward:	Stirchley		

1386-1392 Pershore Road, Stirchley, Birmingham, B30 2XS

Demolition of existing buildings and erection of a new mixed-use development consisting of 3 no. retail units at ground floor and 39 no. residential dwellings at ground and upper floors, together with associated drainage and external works

Recommendation

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

1. Proposal

- 1.1. Planning permission is sought to demolish the existing vacant buildings on site and erect an L-shaped building that is 3 storeys high with frontages provided onto both Pershore Road and Hunts Road with a height of 11.9m. The building has a maximum depth of 22.4m. The building 57m wide on Pershore Road and 39.6m wide on Hunts Road. The external material proposed is two colours of rockpanel cladding, cream and black. Polished concrete is used between the largely glazed frontages at ground floor level.
- 1.2. The application has been bought forward by the Stirchley Co-operative Development who are a Stirchley based group of five housing and worker co-operatives. The ground floor would be utilised for retail purposes with existing local businesses that form part of the Co-operative filling the 3 units. They consist of a bakery which includes a cookery school, art shop with café and studio and bike shop with bike repair facility.



Front (Pershore Road) Elevation



Side (Hunts Road) Elevation

Figure 1: Street Elevations

- 1.3. The upper storeys would contain 39 apartments consisting of the following mix:
  - 29 x 1bed;
  - 8 x 2bed; and
  - 2 x 3bed
- 1.4. The apartments would all be for affordable rent with Accord Housing being the Registered Social Landlord. The apartments contain all the facilities required for fully self-contained living. However the apartments are supplemented by a communal lounge, kitchen diner and laundry room. A roof top garden is provided for residents as well as a communal courtyard at the rear of the building.
- 1.5. No car parking is provided but 128 cycle parking spaces are provided within the internal courtyard. The site would be serviced from Hunts Road. The site layout is shown in figure 2.

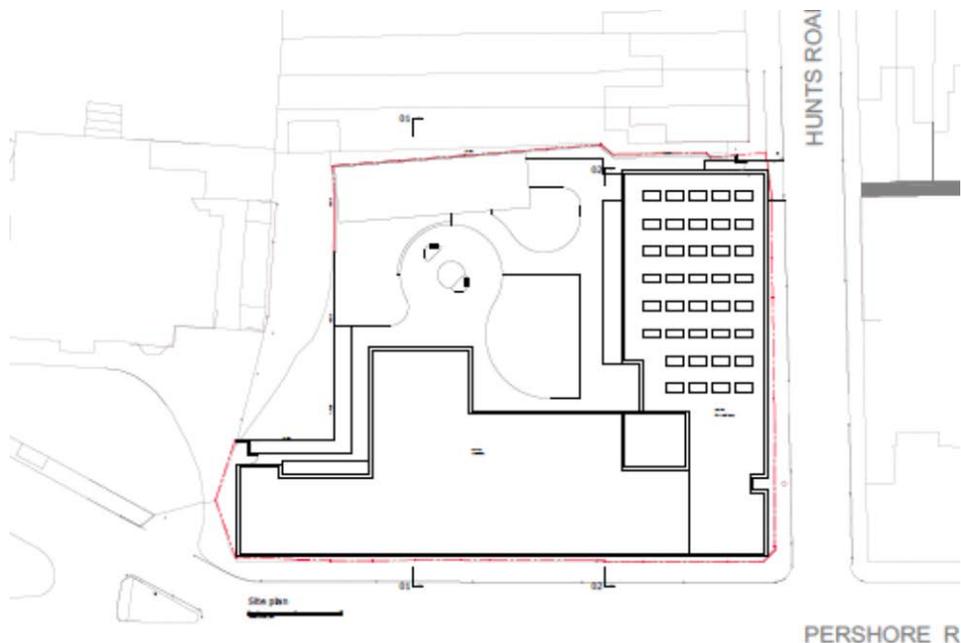


Figure 2: Site layout

- 1.6. The application was due to be presented to Planning Committee on 4<sup>th</sup> June 2020 with a recommendation of refusal. However, the item was removed from the agenda to allow time for further negotiation between the applicant and Council Officers to try and reach a positive resolution. These negotiations with the applicant have resulted in the following key changes to the scheme:
  - Reduction from 4 storeys to 3 storeys in height;
  - Changes to external materials proposed;
  - Removal of ground floor set back so the development is now built up to the High Street; and
  - Reduction in the number of residential units from 42 to 39.
- 1.7. This application is supported by a Planning Statement, Design and Access Statement, Noise Survey, Site Investigation Report, Transport Statement, Travel Plan, Sustainable Drainage Assessment and Arboricultural Report.
- 1.8. [Link to Documents](#)

## 2. Site & Surroundings

2.1. The application site is located within Stirchley Local Centre and the Primary Shopping Area. The majority of the site was cleared of buildings a number of years ago however; a traditional terrace of properties is located on the corner of Hunts Road and Pershore Road. It is understood that the buildings have previously been in commercial use but have been vacant for a number of years.

2.2. The British Oak Public House (Grade II listed) is located to the north of the site with terraced residential properties located to the east. Commercial premises are located to the west of the application site with a mix of residential and commercial properties located to the south.

## 2.3. [Site Location Plan](#)

## 3. Planning History

3.1. 29 June 2004. Application No. S/01752/02/OUT. Demolition of commercial, leisure, residential and retail premises, construction of Class A1 retail superstore, additional retail units with residential accommodation above, surface level car park, replacement community facilities, replacement social club, alterations to Pershore Road and Hazelwell Street, landscaping and associated works at Hazelwell Lane, Pershore Road, Hunts Road and Hazelwell Street. Outline application submitted on behalf of Tesco - approved.

3.2. 12 December 2006. Application no. S/00260/03/OUT. Non-food retail, community and leisure facilities, restaurant, residential development, car parking, servicing and highway works at Hazelwell Lane/Pershore Road, Hunts Road/Hazelwell Street. Outline application with siting and access for consideration submitted by Helical Retail Ltd. - approved.

3.3. 29 September 2008. Application no 2007/03727/PA. Renewal of S/01752/02/OUT for; Demolition of commercial, leisure, residential and retail premises, construction of Class A1 retail superstore, additional retail units with residential accommodation above, surface level car park, replacement community facilities, replacement social club, alterations to Pershore Road and Hazelwell Street, landscaping and associated works at Hazelwell Lane, Pershore Road, Hunts Road and Hazelwell Street. Application submitted on behalf of Tesco - approved.

3.4. 30 April 2010. Application no 2009/05456/PA. Renewal of S/00260/03/OUT for; Non-food retail, community and leisure facilities, restaurant, residential development, car parking, servicing and highway works at Hazelwell Lane/Pershore Road, Hunts Road/Hazelwell Street. Outline application with siting and access for consideration submitted by Helical Retail Ltd. - approved.

3.5. 22 December 2010. Application No. 2010/05404/PA. Application for a new planning permission to replace permission 2007/03727/PA demolition of commercial, leisure, residential and retail premises, construction of Class A1 retail superstore, additional retail units with residential accommodation above, surface level car park, replacement community facilities, replacement social club, alterations to Pershore Road and Hazelwell Street, landscaping and associated works at Hazelwell Lane, Pershore Road, Hunts Road and Hazewell Street. Application submitted on behalf of Tesco - approved.

- 3.6. 28 November 2013. Application No. 2013/03997/PA. Proposed superstore, offices, shops (Use Class A1), apartments, public spaces, highway alterations - including the stopping up of part of Hazelwell Lane - demolition, and associated works (outline application with consideration of access and siting). Approved.
- 3.7. 26 June 2014. Application No. 2014/02160/PA. Reserved matters application for consideration of appearance, scale and landscaping for Phase 2 of outline approval 2013/03997/PA for construction of a proposed superstore with associated parking & external works and public realm improvements. Approved.
- 3.8. 28 November 2016. Application No. 2016/06335/PA. Minor material amendment to planning application 2013/03997/PA for the erection of a smaller store providing 5697sqm (gross)/4034sqm (net) of floorspace rather than the previously approved 8,359sqm (gross)/4,600sqm (net) floorspace, with associated alterations to layout, including position of access. Approved subject to conditions.
- 3.9. 2 February 2017. Application No. 2016/09029/PA. Reserved Matters application for consideration of appearance, scale and landscaping for Phase 2 of outline approval 2016/06335/PA for construction of proposed superstore with associated parking and external works and public realm improvements – approved
- 3.10. 22 May 2018. Application No. 2018/02978/PA. Application for prior notification of proposed demolition of existing buildings – Prior approval required and approved with conditions

#### 4. Consultation/PP Responses

- 4.1. Transportation Development – No objection subject to conditions requiring submission of Travel Plan, Construction Management Plan, installation of bollards and footway crossing.
- 4.2. Regulatory Services – Acknowledge that noise levels will be acceptable for the proposed occupiers when windows are closed but are concerned about noise levels for occupiers when windows are open.
- 4.3. West Midlands Police – No objection subject to conditions requiring the provision of CCTV, lighting scheme, secure access system and appropriate boundary treatment for rooftop garden.
- 4.4. Severn Trent Water – No objection subject to drainage condition.
- 4.5. Lead Local Flood Authority (LLFA) – No objection.
- 4.6. Adjacent occupiers, Councillors, M.P. and residents associations notified and site/press notices posted. 306 letters of support were received to the original consultation raising the following points:
  - Site has lay derelict for a number of years;
  - Co-operative businesses are great for Stirchley;
  - Project will regenerate Stirchley High Street;
  - Allows successful local businesses to expand;
  - Encourages community living;
  - Development will boost community spirit;
  - Reduces reliance on car;
  - Increased opportunities for cycling;

- Future proofed housing;
- Affordable housing is much needed;
- Increased pedestrian space;
- Increased trade for other local businesses;
- Ecologically sustainable development;
- The building will not look out of place and will complement its surroundings;
- The density is necessary;
- Use of sustainable materials; and
- Local developments such as this should be supported;

4.7. 79 letters of objection received to the original consultation raising the following concerns:

- Scale of the building is excessive;
- Out of character with surrounding terraced properties;
- Natural light would be blocked;
- Loss of privacy;
- Increased pressure on local services;
- May lead to noise complaints from future occupiers about adjacent pub;
- Insufficient parking;
- Increased noise and anti-social behaviour;
- Family housing needed instead;
- It will become increasingly difficult to park in surrounding streets;
- Such substantial residential scheme should be located outside of local centre;
- Site should be used for commercial development only;
- Harmful to existing businesses;
- Co-operative businesses do not benefit Stirchley;
- No amenity space for occupiers;
- Greater housing mix needed;
- Development should be set back further from the High Street;
- May be utilised as a HMO; and
- No opportunity for public meeting to discuss scheme

4.8. A letter of support has been received by Councillor Mary Locke raising the following matters:

- The development is needed;
- There is a need for this type of affordable housing;
- It is designed and built environmentally;
- Cycle storage is an asset; and
- The height is acceptable in this location

4.9. Following the submission of amended plans a further 3 week consultation was undertaken. 4 further letters of support were received that raised no new issues.

## 5. Policy Context

5.1. The following local policies are applicable:

- Birmingham Development Plan (BDP) 2031
- Birmingham Unitary Development Plan (UDP) Saved Policies 2005
- Places for Living SPG
- Car Parking Guidelines SPD
- Shopping and Local Centres SPD
- Stirchley Framework SPD

## 6. Planning Considerations

- 6.1. The key planning issues are: the principle of the development; the impact on character; the impact on residential amenity; the impacts on traffic and highway safety; the impact on ecology; the impact on Landscape and Trees; drainage; impact on the public house; and planning contributions.
- 6.2. Principle of Retail Development
- 6.3. There is an extensive planning history to the site which indicates there has been a number of approvals for retail led mixed use developments.
- 6.4. The site is situated within the Primary Shopping Area (PSA) of Stirchley District Centre. The local policy framework therefore supports a retail led redevelopment of the site.
- 6.5. Principle of Housing Development
- 6.6. Policy TP24 of the BDP encourages residential development within local centres on upper floors where it provides good quality, well designed living environments. Policy TP28 of the BDP, requires new housing to be; outside flood zones 2 and 3; served by new or existing infrastructure; accessible to jobs, shops and modes of transport other than the car; capable of remediation; sympathetic to historic, cultural or natural assets; and not in conflict with other specific policies of the plan. In summary this brownfield site is located within flood zone 1. The site is well situated within a local centre and therefore the principle of residential development is supported on the site.
- 6.7. Character Impact
- 6.8. Paragraph 193 of the NPPF indicates that when local planning authorities are 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. The more important the asset, the greater the weight should be. In this case there is a grade II listed building (The British Oak PH) directly adjacent to the northern boundary of the application site.
- 6.9. Buildings in Stirchley are predominantly two-storey; red brick buildings with pitched roofs covered in slate interspersed with larger civic type buildings like churches and schools.
- 6.10. The proposal requires the demolition of traditional terraced properties on the corner of Pershore Road and Hunts Road. These properties have been vacant for a number of years and are therefore starting to deteriorate. Their loss cannot be resisted as prior approval has already been granted for their demolition under reference 2018/02978/PA.
- 6.11. A reduction in the height of the building from 4 to 3 storeys means that it fits more comfortably within its surroundings. The British Oak is taller than the proposed development and the proposal is a similar building height to the adjacent terraced properties on Hunts Road. A street scene is provided in figure 3 below.



Figure 3: Pershore Road street scene

- 6.12. The building has a flat roof with the external material being two colours of rockpanel cladding which is primarily cream in colour. To provide visual interest black is utilised adjacent to the windows. Polished concrete is used between the largely glazed frontages at ground floor level. The glazed frontage provides both natural surveillance and welcoming entrances to the commercial units. The design of these shop fronts accords with the guidance contained with the Shop Fronts Design Guide SPG ensuring that the character of this traditional High Street is maintained.
- 6.13. The light cream colour is quite subtle and doesn't appear obtrusive next to the listed building. The Conservation Officer is now satisfied that the reduced scale and change in materials will mean that the development sits comfortably next to the listed pub and not harm its setting.
- 6.14. The latest set of plans indicates that the ground floor will be closer to the public highway. This is more characteristic of the traditional properties along the High Street.
- 6.15. The reduction in the scale and changes to the design ensures that the proposal has no harmful impact on the setting of the adjacent listed building and maintains the character of the wider street scene.
- 6.16. Residential Amenity
- 6.17. The closest existing residential properties are the terraced houses adjacent to the east boundary of the site on Hunts Road. A distance of 3.3m is retained between the side elevation of the proposed development and the side elevation of No. 1 Hunts Road. As there are no main habitable windows on these side elevations there is no loss of privacy or loss of light to No. 1.
- 6.18. There are 3 new residential terraced properties located opposite the application site on Hunts Road. No's 2A, 2B and 2C have windows at ground and first floor level that look towards the application site. A distance of approximately 13m is retained between the front elevation of the proposal and the existing terraced properties. This falls below the 21sqm set within Places for Living SPG. However, the SPG does indicate that greater flexibility should be applied to front elevations where overlooking is less of a concern.
- 6.19. Previously a large roof top garden was proposed above the Hunts Road wing of the development which raised substantial concerns of overlooking into private rear garden of No. 1 Hunts Road. However the amended plans indicate that the roof top garden will now be restricted to above the Pershore Road frontage with solar photovoltaics (PV) proposed above the Hunts Road wing where access would be

restricted to maintenance only. The rooftop garden now retains a distance of 21.5m to the shared boundary with No. 1 Hunts Road ensuring that a loss of privacy would not occur.

- 6.20. The application site is located next to the British Oak Public House. The pub is open all day and evening 7 days a week. It also has a substantial beer garden that is well used late into the evening. The applicant has undertaken a noise survey which has been updated and now indicates that all proposed dwellings will have acceptable internal noise levels in the worst case scenarios if windows are closed. Regulatory Services have still maintained an objection to the development in relation to the noise impact on the proposed occupiers of the new properties from the British Oak Public House. They consider that external noise levels will force occupiers to keep windows closed. However, a scheme of mechanical ventilation is now incorporated into habitable rooms within the scheme. This will ensure that rooms do not overheat and remain comfortable for residents. Residents also have the choice of opening a window if they desire but it is not essential for them to experience an acceptable living environment.
- 6.21. It is important to note that the beer garden is directly adjacent to the private residential gardens of properties on Hunts Road and is 35m from the rear elevation of No. 1 Hunts Road. These dwellings and the public house have co-existed in close proximity for a long period of time. Furthermore, outline planning permission has recently been granted for 87 dwellings under reference 2018/10368/PA directly adjacent to the rear boundary of the beer garden further highlighting the acceptability of residential development in close proximity to the public house. The closest part of the proposed development is 24.5m from the beer garden. At this closest point the ground floor use is commercial, the first floor is a communal area and the second floor is flat No. 35 meaning that the majority of accommodation is sited further from the noise source. Taking into account the noise mitigation to be provided and the close proximity of both existing and proposed residential development it is considered the scheme will create an acceptable living environment for the proposed occupiers.
- 6.22. A communal area for the flats is provided within a courtyard at the rear of the site measuring 660sqm. In addition a roof top garden is provided measuring 670sqm. Places for Living SPG requires 30sqm per flat which equates 1330sqm. This means that the minimum space requirements have been met. The ground floor communal space does not appear to be private with the commercial units opening onto this space. However, the scheme is designed around the premise of sharing and creating a sense of community. On balance, the level and layout of the amenity space is acceptable.
- 6.23. The Nationally Described Space Standards are not yet adopted in Birmingham but they do provide a good yardstick against which to judge proposals. The scheme proposes a mix of 1, 2, 3 properties.
- 6.24. There is a shortfall against the NDSS for each of the property types between 0.8sqm and 7sqm. Whilst the properties are entirely self-contained additional communal accommodation is provided through the provision of a lounge (35.2sqm), kitchen/dining area (25.8sqm) and laundry room (24.1sqm) on the first floor. Taking into account the additional communal facilities the size of the accommodation is considered to be acceptable in this instance.

- 6.25. In summary it is considered that the proposal will not unduly impact on the amenity levels experienced by the occupiers of nearby properties and the scheme will create an acceptable living environment for the proposed occupiers.
- 6.26. Traffic and Highway Safety
- 6.27. The site is in a sustainable location within Stirchley District Centre. There are regular bus routes on the Pershore Road that provide direct access to the City Centre and the site is 450m from Bournville Train Station. No car parking spaces have been provided on site however Transportation accept that car ownership would be lower than average on this 100% affordable housing scheme based on the evidence provided within the Transport Statement. Furthermore 128 cycle spaces have been provided within the court yard ensuring that every occupier could safely store a bike. Taking into account the highly sustainable location Transportation raise no objection to the scheme subject to conditions.
- 6.28. Impact on Ecology
- 6.29. The Council has a duty to consider the impact of any proposal on protected species. A Preliminary Ecological Appraisal (PEA) and bat surveys has been submitted in support of the application. On the basis of the bat emergence and re-entry surveys, bats do not currently present a constraint to development. There is no evidence of roosting bats in any of the site's buildings, and the site is sub-optimal for foraging due to the limited extent of vegetated habitats. The Council's Ecologist considers the scheme can have a positive impact on species through conditions requiring ecological enhancements and the provision of bat and bird boxes.
- 6.30. Landscape and Trees
- 6.31. The application site has no landscape features of note. Subject to the inclusion of appropriate conditions there are opportunities to deliver enhancements to this site in terms of tree and hedge planting and the provision of grassed areas.
- 6.32. Impact on the British Oak PH
- 6.33. The British Oak is a popular public house with a large beer garden that is often busy at weekends until late into the evening. However, the latest noise survey has identified that acceptable noise levels will be achieved within all habitable rooms and with mechanical ventilation proposed, the opening of windows is not essential for occupiers. On this basis sufficient evidence has been provided to demonstrate that the proposal could be integrate effectively with the British Oak Public House.
- 6.34. Drainage
- 6.35. Sufficient information has been provided to demonstrate that the proposal does not increase the risk of surface water run-off in accordance with policy TP6 of the BDP.
- 6.36. Planning Contributions
- 6.37. Due to the size of the scheme contributions towards both affordable housing and public open space are required. A 100% affordable housing scheme is proposed which comfortably exceeds the 35% requirement within Policy TP31 of the BDP.
- 6.38. A contribution of £116,860 has been requested by Leisure Services to improve and maintain open space facilities at Hazelwell Recreation Ground. The applicant

submitted a viability appraisal that indicates any financial contribution towards open space provision makes the scheme unviable. The appraisal has been reviewed independently and the Council's Consultants have indicated that even if 35% affordable housing is provided there is no scope for further contributions. Based on the evidence provided, the lack of a public open space contribution is considered to be acceptable in this instance.

## 7. Conclusion

- 7.1. Following the submission of an amended scheme it is considered that the proposal maintains the character and appearance of the area and has no adverse impact on the setting of a listed building. Furthermore the proposal has no undue impact on adjoining occupiers of adjoining properties, creates an acceptable living environment for proposed occupiers and raises no concerns in relation to transportation, drainage or ecology matters. The proposed development would be in full accordance with the BDP and the NPPF. The proposal constitutes sustainable development and it is recommended that planning permission is approved.

## 8. Recommendation

- 8.1. That the consideration of planning application 2019/10502/PA should be approved subject to the completion of a planning obligation agreement to secure the following:
- a) The provision of a 35% affordable housing; and
  - b) Payment of a monitoring and administration fee associated with the legal agreement of £1,500.
- 8.2. In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 26<sup>th</sup> February 2021 or such later date as may be authorised by officers under delegated powers the planning permission be refused for the following reason:
- a) In the absence of any suitable legal agreement to secure the provision of affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 26<sup>th</sup> February 2021 or such later date as may be authorised by officers under delegated powers favourable consideration be given to this application subject to the conditions listed below.

- 
- 1 Requires the scheme to be in accordance with the listed approved plans
  - 2 Requires the submission of sample materials
  - 3 Implement within 3 years (Full)
  - 4 Requires the prior submission of a contamination remediation scheme
  - 5 Requires the submission of a contaminated land verification report
-

- 
- 6 Limits the noise levels for Plant and Machinery
  - 7 implementation of Environmental Noise Survey Report recommendations
  - 8 Requires the submission of a residential travel plan
  - 9 Requires the prior submission of a construction method statement/management plan
  - 10 Requires the submission of hard and/or soft landscape details
  - 11 Requires the submission of a lighting scheme
  - 12 Requires the submission of boundary treatment details
  - 13 Requires the prior submission of level details
  - 14 Requires the submission of a landscape management plan
  - 15 Requires the submission of hard surfacing materials
  - 16 Requires the submission of a CCTV scheme
  - 17 Requires the prior submission of an additional bat survey
  - 18 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 19 Requires the prior submission of details of bird/bat boxes
  - 20 Requires the submission of extraction and odour control details
  - 21 Requires the prior submission of noise insulation scheme
  - 22 Requires the prior submission of a sustainable drainage scheme
  - 23 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
- 

Case Officer: Andrew Fulford

**Photo(s)**



Photo 1: View from Pershore Road with British Oak in background



Photo 2: View from Hunts Road

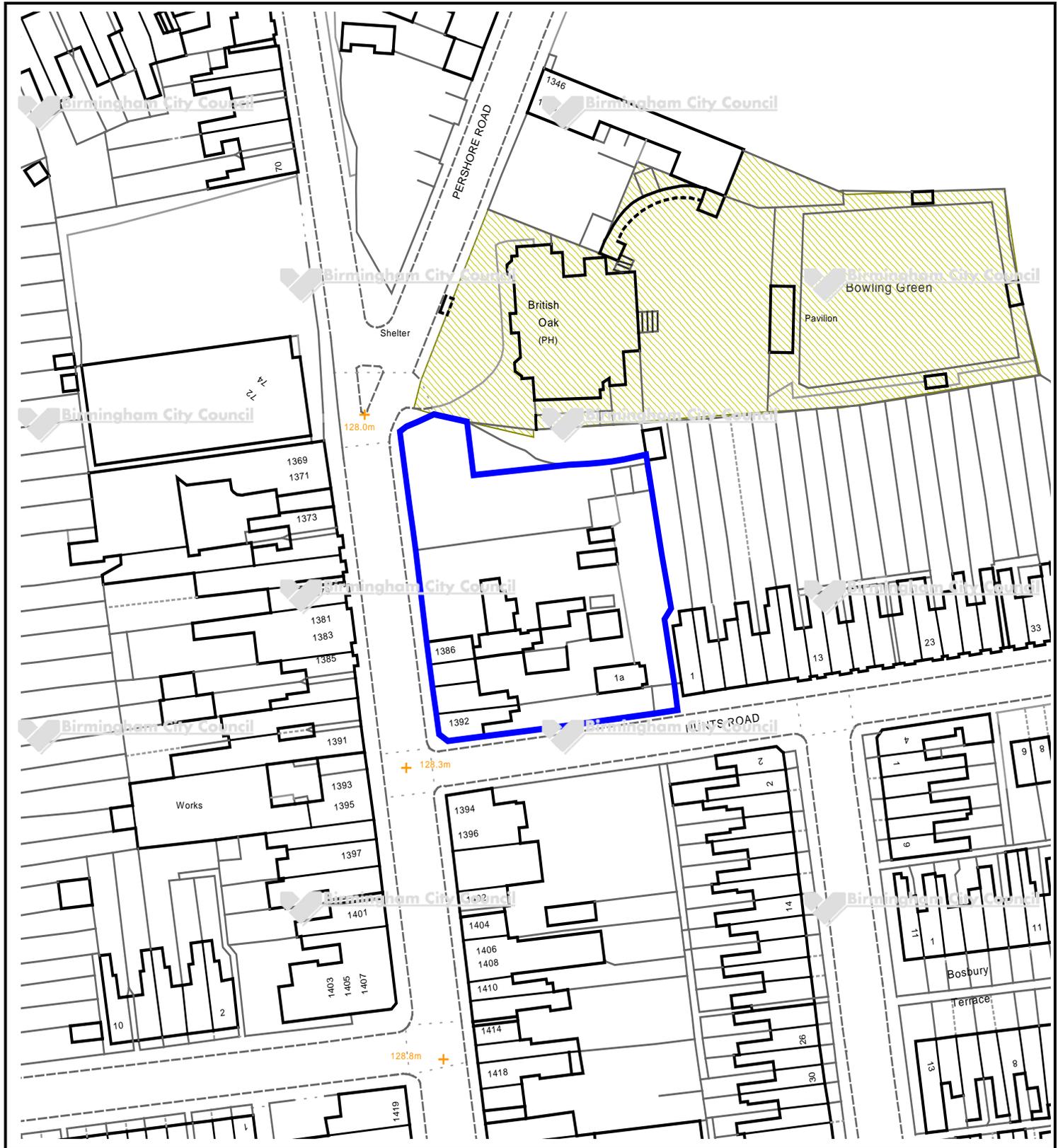


Photo 3: View from Pershore Road showing junction with Hunts Road



Photo 4: Properties on Hunts Road adjacent to application site

# Location Plan



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# Birmingham City Council

Planning Committee

21 January 2021

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>
Determine	8	2017/10551/PA  Land at former Monaco House site Bristol Street Birmingham B5 7AS  Erection of new mixed use development of between 5 and 10 storeys high plus two towers of 29 + 26 storeys to include 1009 residential units (C3), a residential hub (705sqm) , 1513sqm of retail/commercial use (A1-A5,D1), car parking, new public walkway, landscaping and all associated works

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Committee Date:	21/01/2021	Application Number:	2017/10551/PA
Accepted:	19/12/2017	Application Type:	Full Planning
Target Date:	19/02/2021		
Ward:	Bordesley & Highgate		

Land at former Monaco House site, Bristol Street, Birmingham, B5 7AS

Erection of new mixed use development of between 5 and 10 storeys high plus two towers of 29 + 26 storeys to include 1009 residential units (C3), a residential hub (705sqm) , 1513sqm of retail/commercial use (A1-A5,D1), car parking, new public walkway, landscaping and all associated works

Applicant: Orchidtime Ltd  
c/o Agent  
Agent: Pegasus Planning Group  
5 The Priory, Old London Road, Canwell, Sutton Coldfield, B75 5SH

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Recommendation

**Determine**

Report Back

- 1.1 The Committee will recall that you last considered this application on 30th July 2020 as negotiations with regard the S016 Agreement required the resolution to be amended. However, since that time there has been a letter of objection received 3rd August 2020 and a Pre-Action Protocol Letter (PAPL) 1st October 2020 on behalf of Benacre Properties (who have an interest in 96-104 Bristol Street), which is issued prior to the issuing of a claim for judicial review of a decision. Subsequent to these letters additional reports/information has also been submitted on behalf of both the applicant and the potential Claimant. An objection has also been received, 7<sup>th</sup> January 2021, from the Victorian Society. The PAPL has been discussed with Counsel and it is considered that the most appropriate way to proceed is to allow Members to carefully consider the application in light of the PAPL and additional objections/information. However, for the avoidance of doubt it should be noted that the Council does not accept that any of the grounds identified within the PAPL have merit which would have led to the planning decision being quashed. This matter is being reported back to your Committee so that Members can consider the points made in the PAPL alongside all relevant considerations. I would therefore invite Members to consider the original report from August 2018, the Report Back of 30th July 2020 together with this Report Back before reaching an overall judgement on the acceptability of the proposed development.
- 1.2 The PAPL identifies 5 grounds of challenge which will be considered in turn alongside additional information submitted by the Claimant with regard the sunlight/daylight assessment, Heritage Statement and their legal argument. Additional information from the applicant in respect sunlight/daylight and heritage will also be considered alongside the Victorian Society's objection.

Ground 1 – No delegated authority

- 1.3 The claimant contends that the resolution considered on 30th July 2020 gave authority to officers to issue a planning permission on or before 30th August 2020 and that as a satisfactory legal agreement was not reached by that point in time there is no longer any delegated authority to grant permission and therefore the application must be refused.
- 1.4 The Council's scheme of delegation gives officers authority to agree further extensions of time in order to complete legal agreements and there is therefore no merit in this ground. Notwithstanding this, as a satisfactory legal agreement has now been drafted. I recommend that the resolution is amended to allow completion of this agreement, following your Committee's consideration of this report, no later than 31st January 2021.

#### Ground 2 – None compliance with High Places SPG

- 1.5 The claimant contends that, as the site does not fall within the identified city centre ridge zone, it would need to either fall within other appropriate locations (as defined by maps 3 and 4 of the policy) or for exceptional circumstances to be demonstrated. They do not consider it falls within the defined circumstances of the policy and do not consider that exceptional circumstances have, or can be, demonstrated.
- 1.6 The Council does not accept this ground has merit. A planning report is a summary of the principal issues with key information put forward to enable you, the Planning Committee, to make a lawful decision upon fair reading of the report as a whole. S.38(6) Planning and Compulsory Purchase act 2004 identifies decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.
- 1.7 The Birmingham Development Plan (2017) is the statutory development plan, and principal policy framework, against which applications are assessed, supported by supplementary planning guidance/documents which are material considerations against which Members determine the weight to be attached.
- 1.8 High Places was adopted in 2003 as Supplementary Planning Guidance before the adoption of the previous UDP in 2005. The policy document comprises 30+ pages and, considered as a whole, provides advice as to where the City would expect to see towers located with the overall objective being to ensure that the City is not subjected to uncontrolled tower growth which could detract from the character of an area, adversely impact on the environment or on the success of the City's regeneration and development plan aspirations. Since this SPG was adopted there has been considerable change, growth and development of the City Centre townscape and an increased interest in the erection of tall buildings, not least due to the encouragement of increased densities within urban centres. This policy is currently under review and whilst its overall aim remains relevant an awareness of the emerging City Centre townscape and wider policy changes are also entirely relevant considerations. Therefore given the changes since adoption of this policy, including the adoption of the BDP, I consider less weight, with particular reference to its restrictive locational requirements should be attached to the SPG
- 1.9 Therefore, within this context, your original Officer's report clearly identifies that the site is outside the defined City ridge zone. Furthermore, and for the avoidance of doubt, it is clear that the planning application site is positioned immediately to the north of an approximate location marker as shown on map 4 of the SPG and the site is therefore considered to fall within the defined circumstances of the policy. As such, for the reasons summarised across para 6.5 – 6.11 of the original report, the

development is acceptable and considered to be compliant with both the SPG and BDP.

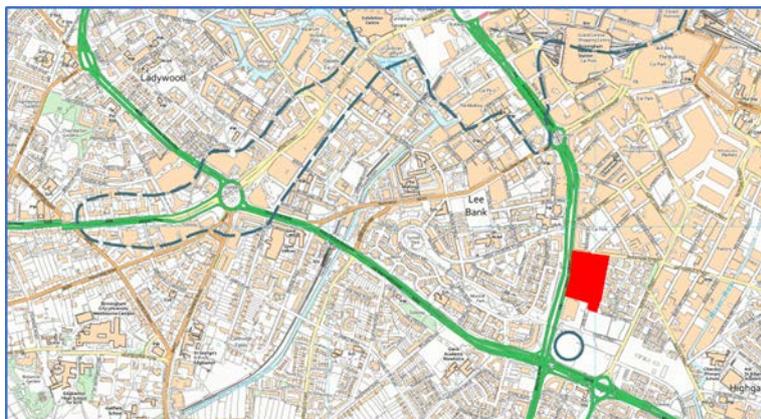


Image a: An extract from High Places SPG showing approximate location marker and application site.

1.10 However, in the alternative, and without prejudice to the above conclusion that the development complies with the SPG and BDP, I consider the site could also be justified by virtue of “exceptional circumstances”. “Exceptional circumstances” are not defined within the SPG but I consider that it requires a judgement to be made as to whether one or more factors in the planning balance outweighs the harm caused by non-compliance with the policy. As noted in para 1.8 the policy’s intention is to ensure high quality towers in appropriate locations in order to support the continued success of the City’s redevelopment/regeneration commitments. For the reasons summarised 6.5-6.11 in the original report the proposed development is consistent with these policy’s aims. Furthermore it would regenerate an existing vacant, brownfield and highly sustainable site, introduce a strong building line on a currently fragmented street, on a strategic highway network whilst also providing landmark towers. The proposed development would also provide significant social, economic and environmental benefit not least by providing on-site affordable housing, much needed new housing and public highway improvements including the infilling of the existing vehicular and pedestrian subway off Bristol Street and public realm improvements. In addition, the site’s redevelopment will generate economic benefits such as indirect and direct construction jobs, approx. 31 (FTE) on site operational jobs post development, household generated expenditure of approx. 23.8m, increased Council Tax contributions of approx. 1.4m and a new homes bonus of approx. 6.2m. Consequently the social, environment and economic benefits associated with this development would significantly outweigh any harm caused by any technical non-compliance of the policy and comfortably satisfy an “exceptional circumstances” test.

1.11 In summary therefore:

- The High Places SPG is not part of the development plan. It is a material consideration which Members must take into account;
- Given its age and the changes in the character of the City in the 18 years since the SPG was adopted, it may reasonably be concluded that reduced weight can be attached to the guidance;
- The application site conforms with an appropriate location as shown on Map 4 of the SPG; but if not

- There are exceptional circumstances in this case that would justify a departure from the strict application of the locational requirements of the SPG.

### Ground 3 – Impact on Historic Environment

- 1.12 The Claimant contends that your Officers' report has failed to adequately assess the impact of the proposed development on the locally listed 74-104 Bristol Street (immediately to the north). The original report identifies that there are no statutory listed buildings within the site that it is not within a conservation area and clearly identifies and considers the non-designated heritage asset. However following the receipt of a Heritage Statement from the applicant, a Heritage Statement, legal arguments from the claimant and notification from Historic England that the Wellington Pub has been Grade II listed this matter has been reconsidered and more detail is provided below.
- 1.13 The Victorian Society have also raised an objection and, in summary, consider the tall buildings will completely overwhelm the neighbouring and nearby historic buildings and harm their character and appearance. As such they consider the development to be unsuitable for this prominent location. Further they consider the cumulative effect of these proposed towers along with the tower recently approved on the corner of Essex Street would cumulatively be inappropriate next to the historic streetscape.
- 1.14 Section 66 Listed Building Act 1990 identifies the need to give special regard to the desirability of preserving designated assets including its setting or any features of special architectural or historic interest which it possesses. The NPPF identifies the importance of the historic environment, and how this should be dealt with and in particular states that the more important the asset, the greater the weight that should be attached to the planning balance. Further, in line with the NPPF, TP12 of the BDP is clear that the Council will give great weight to the conservation of heritage assets and will seek to protect and where appropriate enhance their setting and will determine applications in accordance with the NPPF.
- 1.15 My Conservation Officer has considered information submitted by both the applicant and the Claimant and provided a detailed assessment of the proposed development in relation to the heritage assets and their significance. The Conservation Officer has also considered the Victorian Society comments.
- 1.16 There are 3 non-designated heritage assets and the recently listed Wellington Pub (Grade II) in close proximity to the site. The proposal would not result in the loss or change to the physical appearance of any heritage asset as there are none within the application site boundary. Further it is not considered that the proposal would impact on the locally listed Church of Catholic Sienna or 99-101 Bromsgrove Street which fronts Bromsgrove Street due to positioning/distance from the site. However, the Wellington Pub (Grade II listed) and 74-104 Bristol Street (locally listed grade A) are clearly viewed when travelling north and/or south along Bristol Street, and the proposed development would therefore be viewed within their settings. Notwithstanding this, my Conservation Officer generally agrees with the applicant's Heritage Statement and its addendum (9th December) that any changes to views north and south along Bristol Street are not harmful to either asset as although visible, the proposed development would be clearly read as part of the modern evolution of Bristol Street beyond, and separate from, the historic built form surviving in the locality.



Photo 1: 74-104 Bristol Street, taken Jan 2021

- 1.17 However, the Conservation Officer disagrees with the applicant's assessment in relation to the impact of the height of the nearest tower and its footprint, and considers that this element of the proposed development will cause some low level harm to the locally listed range of shops at 74-104 Bristol Street.
- 1.18 In respect of a non-designated heritage assets para 197 of the NPPF requires that a balanced judgement is taken with consideration of the scale of any harm to the non-designated heritage asset being considered against the public benefits that the development brings.
- 1.19 As noted in para 1.10 above, the proposal would provide significant social, economic and environmental benefits not least by providing on-site affordable housing, much needed new housing and public highway improvements including the infilling of the existing vehicular and pedestrian subway off Bristol Street and public realm improvements. In addition, the site's redevelopment will generate economic benefits such as indirect and direct construction jobs, approx. 31 (FTE) on site operational jobs post development, household generated expenditure of approx. 23.8m, increased Council Tax contributions of approx. 1.4m and a new homes bonus of approx. 6.2m. Therefore the impact of the proposed development upon the non-designated heritage assets and its settings is considered to be outweighed by the identified public benefits resulting from the development and the proposal is therefore considered acceptable and entirely consistent with policy.
- 1.20 For the avoidance of doubt, given that there is no harm to the statutorily listed Wellington Pub and that the low level harm to other non-designated heritage assets is outweighed by the public benefit, there is therefore no breach of national or local policy on heritage assets.

#### Ground 4 – Impact on Amenity

- 1.21 The Claimant contends that advice contained within the original report with regard the loss of sunlight/daylight to 96-104 Bristol Street, identified as 86 Wrentham Street

by the Sunlight/Daylight report, (and incorrectly referred to as being to the north east at para 6.18 of the original officers report) was seriously inadequate, inaccurate and misleading as such Members would be unable to accurately assess the impact on amenity.

1.22 As for the other grounds this is simply not accepted as arguable. The report is explicit in identifying that “harm” would be caused and identified reasons why on balance this was considered acceptable regardless of whether it was occupied or not. However, as noted in para 1.1 above, additional representations (3rd August email from the potential Claimant, the pre-action protocol letter and additional information in November) have raised specific and direct points about the loss of amenity for existing occupiers at this property by virtue of loss of sunlight/daylight.

1.23 In summary, the Claimant considers that the proposed development would be very oppressive and

- criticises the fact there has been no design attempt to set the building back or mirror the massing levels of 96-104 Bristol Street,
- claims that a site survey hasn't been used to inform the assessment,
- states that the VSC assessment “pass” rate is 33% rather than the 35% highlighted by the applicant's supporting information,
- states that a No Sky Line (NSL) test or Daylight Distribution (DD) test should also have been done to assess daylight,
- considers that as the raw data for Annual Probable Sunlight House (APSH) has not been included the loss of sunlight cannot be assessed sufficiently and whilst acknowledging that student accommodation can be assigned a quasi-residential use, which may not be considered as sensitive to light reductions as private use, they consider the applicant's report identifies a huge loss of natural light to the rooms to such an extent some would be left with almost no natural light.
- They cannot therefore agree with the assessment in the original officer's report that the proposal would not harm the amenities of existing occupiers sufficient to warrant refusal.

1.24 In response the applicant has submitted further comments essentially noting

- their assessment was done in accordance with industry guidelines,
- that BRE guidelines are just that as they are neither adopted national legislation or local planning policy,
- that the BRE guidelines offer no pass or fail criteria,
- that every site has to be assessed on its own merits and
- that the guidelines refer primarily to dwellings but 96-104 Bristol Street is student accommodation which is generally less sensitive to loss of light.

1.25 High Places identifies the need for a sunlight/daylight report to be submitted in support of any ‘tall’ building however it does not subsequently identify any specific standards that have to be met. There is also no planning policy within the BDP which quantifies how the level of sunlight/daylight should be assessed. Consequently the nationally recognised BRE guidelines are used as an indicator as to whether or not a development is likely to have such an adverse impact on all existing /proposed resident's sunlight/daylight and it therefore falls to planning to consider whether the impact is to such an extent that it would adversely impact on resident's amenity sufficient to warrant refusal of the scheme in line with the policy context.

- 1.26 However in using BRE guidelines to inform the planning decision it must also be recognised that the consideration of natural light is only one of many considerations and as such it is essential that all matters including design, density and site constraints, the limitations of BRE Guidelines and the wider policy context are also fully considered. It should also be noted that local and national planning policies encourage the high quality redevelopment of sustainable brownfield sites and, in particular, para 123 NPPF states that “local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).” I also note 96-104 Bristol Street is the only site within the surrounding area identified by the applicant’s supporting Sunlight/daylight assessment to be more than negligibly affected by loss of sunlight/daylight when considered in relation to BRE guidelines, that Bristol Street is built to the back of pavement itself, that it currently benefits from a cleared site to its south and that it is occupied by commercial uses and 75 student beds.
- 1.27 Therefore, given all of the above, I consider sufficient information has been submitted to reach a decision and whilst recognising there will be an adverse impact on some of the existing student residents at 96-104 Bristol Street, on balance, I consider the uses of both sites, the site’s location within an urban area, the site’s development context including the need to consider optimisation of its development potential, the flexibility provided by the BRE Guidelines for urban locations, wider policy requirements such as the need for sustainable brownfield development and the wider public benefits of the scheme would, collectively, outweigh the impact to existing occupiers’ amenity as such it would be insufficient to warrant refusal of the scheme. This is an overall planning judgement taking into account the various factors identified in this section of the Report.



Photo 2: From objector’s Heritage statement showing 74-104 Bristol Street including rear extension to Wrentham Street



Photo 3: Rear extension to Wrentham Street, taken Jan 2021

#### Ground 5 – Failure to acknowledge the Council's interest in the application

- 1.28 The Claimant states that the report failed to mention the fact that the Council owns the freehold of the majority of the site and contends therefore, that in failing to warn members not to allow this to influence their decision it is reasonable to conclude that there is at least a real risk that it may have infected the decision.
- 1.29 The Council does not accept this ground is arguable. At the time of the original committee report the only information available to the local planning authority in terms of land ownership was that provided by the applicant on the planning application form in terms of notices served on other parties with an interest. BCC was one of three other parties served with a notice by the applicant and details of the extent of their ownership were not provided. Birmingham Property Services have confirmed they are Freeholders of the site with a long leasehold interest granted to a tenant. However, as land ownership is not a material planning consideration in the determination of a planning application it would not be necessary, relevant or routine to make reference to Council land ownership in planning reports to committee. Consequently, failures to report the City's interest does not in any way mean it is a reasonable assumption that there is risk that the matter of ownership has infected the decision. Members, however, are now aware of the City Council's ownership interest in the site and should ensure therefore that determination of the application is made on the basis of the planning merits of the case only.

#### Other matters

- 1.30 The Claimant made representations about the proposed development at the time of the application, as reported and acknowledged within the report. Since then additional concerns have been raised by email on the 3rd August, by the submission of the PAPL and more recently additional information submitted at the beginning of November. The specific matters raised by way of these additional comments, and in particular their pre-action protocol letter are dealt with in turn above with any other points being previously addressed within the main body of the report.
- 1.31 There has been a considerable passage of time since your Committee considered this planning application. Despite that however there have been only minor

adjustments to the national policy framework (NPPF 2019) and whilst local policies such as the Planning Management DPD and Parking (2019) SPD have been progressed, no new policies have been adopted that are relevant to this application. As such I am satisfied that there are no policy changes which would materially affect the determination of this application. I do however note that the implementation of the Clean Air Zone has now been confirmed as June 2021 but consider that this will serve to improve air quality in the area and would not therefore necessitate a change in the assessment of the application in this respect.

- 1.32 Finally, I have removed the S278 condition as it would not meet the NPPF condition tests and attached the information requested by Transportation as an informative instead. I have also added a condition requiring an additional wind survey the reason for which was identified within the original report but the condition had been omitted from the initial list.

#### Recommendation

- 1.33 That the content of the above report is noted and that the resolution is amended to reflect the time frame changes and that planning application 2017/10551/PA should be approved subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) 92 one and two bed Affordable Private Rent units. These units shall be split 50/50 and pepper potted across the site. 25% of the units shall be provided by 50% of the private rental units, 50% at 50% occupancy and 100% provided by 90% occupancy and rental levels (including service charges) shall be retained at 20% below open market rent value in perpetuity. Eligibility will be determined in line with local incomes.
  - b) A review mechanism that requires a financial appraisal shall be submitted for assessment at 75% occupation of each phase. If that financial appraisal identifies a greater surplus then the additional profit shall be split 50/50 between the developer and Local Authority up to a maximum financial contribution of 35% affordable housing. Any additional financial contribution would be spent on affordable housing.
  - c) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.

and subject to the conditions listed below.

- 1.34 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 19<sup>th</sup> February 2021, or such later date as may be authorised by officers under delegated powers, the planning permission be refused for the following reasons:
- a) In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 1.35 That the City Solicitor be authorised to prepare, seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 1.36 That no objection be raised to the stopping-up of Section of footway on Bristol Street and pedestrian subway that runs beneath Bristol 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.

Report back (30<sup>th</sup> July 2020) (verbal updates added in bold)

- 1.1 Your Committee previously considered this application in August 2018 when you resolved that it should be approved subject to a satisfactory legal agreement being entered into.
- 1.2 As detailed at para 8.1 – 8.5 of the original report below the resolution your Committee agreed required the legal agreement to include;
  - the provision of 92 one and two bed Affordable Private Rent units (split 50/50) across the site.
  - that 25% of these would be provided prior to first occupation of the private rental units, another 25% prior to 50% private rent occupation, with the remaining 50% prior to 75% private rent occupancy.
  - a review mechanism requiring further financial assessments at 30 and 60 months from implementation and if any unit was to be sold.
- 1.3 Since your Committee considered this application there has been considerable negotiation between your Officers and the applicant over the specific wording content of the legal agreement to ensure it doesn't deter or prevent funding investment and render the development undeliverable. Some alterations to the resolution are therefore sought to ensure it accurately reflects the proposed legal agreement.
- 1.4 The offer of 92 one and two bed, on site, Affordable Private Rent unit's remain as originally agreed but due to the site and infrastructure investment required to bring this site forward the applicant seeks to revise the affordable housing triggers as follows;
  - 25% affordable housing to be provided prior to 50% private rent occupancy, 50% prior to 75% and 100% prior to 90% private rent occupancy.
- 1.5 In addition, a change from 'timed' review mechanism or at a point of market sale, to the submission of a revised financial appraisal at 75% **occupation** of each phase is sought.
- 1.6 The proposed development is a PRS scheme and as such low yields are expected over a much longer period of time when compared to a build to sell scheme and this has a significant impact on a schemes viability. I therefore consider the request to slightly delay the delivery trigger for the provision of on-site affordable units, when compared to a market sale scheme, to support a more evenly balanced cash flow through the initial delivery period, would be entirely reasonable. All 92 affordable private rent units would still need to be provided prior to 90% occupancy of the site.
- 1.7 Further I consider that a revised review mechanism trigger requiring a financial appraisal when each phase has reached 75% **occupation**, instead of two periods in time, would ensure that the City is able to accurately assess the site's value and better reflect and capture any increased development value, including if any units were to be sold. I therefore consider this change to be appropriate, consistent and fair with regard the interests of both the developer and the City. The legal agreement would also remain entirely in accordance with guidance and legislation in this respect. Provisions within the proposed legal agreement would remain as originally identified to ensure that if any additional profit was generated it would be split 50/50

between the developer and the City and be provided either as additional on-site units or as an off-site commuted sum.

### Recommendation

- 2.1 That the original resolution is amended to reflect the above changes. As such planning application 2017/10551/PA should be approved subject to the completion of a planning obligation agreement to secure the following:
- 2.2 92 one and two bed Affordable Private Rent units. These units shall be split 50/50 and pepper potted across the site. 25% of the units shall be provided by 50% of the private rental units, 50% at 50% occupancy and 100% provided by 90% occupancy and rental levels (including service charges) shall be retained at 20% below open market rent value in perpetuity. Eligibility will be determined in line with local incomes.
- 2.3 A review mechanism that requires a financial appraisal shall be submitted for assessment at 75% **occupation** of each phase. If that financial appraisal identifies a greater surplus then the additional profit shall be split 50/50 between the developer and Local Authority up to a maximum financial contribution of 35% affordable housing. Any additional financial contribution would be spent on affordable housing.
- 2.4 Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 2.5 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 30<sup>th</sup> August 2020 the planning permission be refused for the following reasons:  
  
In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 2.6 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 2.7 That no objection be raised to the stopping-up of Section of footway on Bristol Street and pedestrian subway that runs beneath Bristol 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.
- 2.8 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 30<sup>th</sup> August 2020, favourable consideration be given to this application subject to the conditions listed below.

### **Original Report**

1. Proposal
- 1.1. This application is for a residential led mixed-used development incorporating 1009 residential units and 2,218 sqm of non-residential floorspace. The proposed development is based upon the Build to Rent (BTR)/Private Rented Sector (PRS) model. This concept is based around a mix of units, managed by a single company that can be leased on long or short-term contracts whilst providing good facilities to create thriving communities, with the variety of apartment sizes enabling residents to

move and stay within the development as their needs change. Consequently 1009 new residential units are proposed in a mix of 1, 2 or 3 bed apartments and 3 bed split level units. In addition a residential hub area would be provided within the north western corner block fronting Bristol Street and Wrentham Street. Facilities within this 'hub' area could include, a gym, café, cinema room, function room and car club. Access to these facilities would be included as part of the residents' rent payments.

- 1.2. The remaining 1513 sqm non-residential floor space would be accommodated within 4 ground floor units, 3 of which would front Bristol Street and 1 of which would front Wrentham Street. There are currently no end users for these units and a flexible A1-A5, D1 use is therefore sought.
- 1.3. The site layout has been designed as a series of individual apartment blocks in two perimeter group blocks positioned onto Bristol Street with a further row of apartment blocks to the east fronting onto the proposed new north south public walkway. The blocks would provide active frontages to public facing areas and would be connected by a hierarchy of public realm, private courtyards, gardens and new pedestrian routes.



The blocks would be of the following heights:

- |                      |  |
|----------------------|--|
| A – 8 storeys        | G – 7 storeys  |
| B1 – 10 storeys      | H – 6-7 storeys  |
| B2 – 29 storeys      | J- 3-5 storeys   |
| C – 10 storeys       | K – 4-5 storeys  |
| D – 6 storeys        | L – 4-5 storeys  |
| E – 26 and 7 storeys | M – 4-5 storeys  |
| F – 7 storey         | Blocks J-M would sit above 1-2 storeys of car parking (indicated by the dashed line) |

- 1.4. The architectural concept splits the site into two main styles that address the location of the blocks relative to the external boundaries, defined as the 'hard edge' and the 'soft internal edge'. The hard edge, fronting Bristol Street and Wrentham Street, would provide a buffer to the more private 'softer internal edge' behind and this would be reflected in the design and materials used. The 'hard edge' element would consist of a regular and rhythmical framework of vertical and horizontal elements, with the towers featuring a more complex composition of bays and features and a greater vertical emphasis than the simpler, and more horizontal, emphasis of the shoulder blocks. The towers would be constructed using a light brick, stone/ceramic, and dark black profiled surrounds interspersed by full height glazing, balconies and winter gardens whilst the shoulder blocks would comprise black brickwork, metal panels and glazing. The 'softer internal edge' would be constructed using natural tone buff brick, tiles and metal panels and whilst similar proportions to the 'hard edge' would be used, this would be on a much less regular basis than the 'hard edge'. Specific materials would be controlled by condition.



- 1.5 The scheme consists of 4 typical units; 1, 2 and 3 bed apartments and 3 bed split level units. They would all consist of 1, 2 or 3 en-suite bedrooms and an open plan kitchen/living area. They are primarily single aspect and have no internal corridors. They would range in size from 44-123sqm and would comply with national space standards. The scheme would provide 35% 1 bed units, 52% 2 bed units and 13% 3 bed units. 351 units would have balconies, 71 would have terraces and 129 would have winter gardens (56%). 92 of the units would be private affordable rent units at 20% less than the market rent units.
- 1.6 335 underground car parking spaces (33%) would be provided alongside 35 motor cycle spaces and 1010 covered bicycle spaces (100%). Servicing arrangements for both the commercial and residential elements have been identified.
- 1.7 The development will require the closing off of the vehicular and pedestrian subway off Bristol Street, the footpaths immediately adjacent the site would be widened and resurfaced, provision of two way cycle lane along Bristol Street and a new public pedestrian route would be introduced from Wrentham Street south to Vere Street and east to west from the proposed new walkway to Bristol Street.

- 1.8 Hard and soft landscaping would be provided across the site and would include feature trees, raised planters, seating areas and feature paving in a pallet of materials, the specific details of which would be conditioned.
- 1.9 1450 sqm storage area at the lower ground floor would be retained for Bristol Street Motors with pedestrian and vehicular access separate to the proposed residential redevelopment.
- 1.10 A Planning Statement (including statement of Community Engagement and Energy Statement), Design and Access Statement, Townscape and Visual Impact Assessment, Transport Assessment, Noise Impact Assessment, Air Quality Assessment, Preliminary Ecological Appraisal, Sustainable Urban Drainage Assessment, Ground Condition Survey, Landscaping Scheme, Economic Statement, Wind Assessment Report, Daylight, Sunlight and Overshadowing Report, Viability Assessment and Fire Safety Strategy have been submitted in support of the application.
- 1.11 A screening request was considered prior to the formal application submission which concluded an ES was not required.

1.12 [Link to Documents](#)

2 Site & Surroundings

- 2.1 The application site is located to the south of the City core on the east side of Bristol Street (A38), which is one of the main arterial roads into the City. The site is approx. 2.4 hectares and is bounded by Wrentham Street to the north, Vere Street to the east, and Bristol Street to the west. St Luke's Church and public open space are to the south.
- 2.2 The site is situated within the Southside and Highgate Quarter of the City Centre. There is a mix of commercial and residential uses, including student accommodation, surrounding the site which has an increasing residential focus.
- 2.3 There are significant level changes across the site sloping down from west to east and north to south.
- 2.4 The existing buildings on site have now been demolished but previously the site comprised Monaco House (6 storeys), a multi-storey car park, small scale industrial units and a petrol filling station. There is currently no soft landscaping on the site.
- 2.5 There are no listed buildings within the immediate vicinity although adjacent to the north of the site is 74-104 Bristol Street which is locally listed Grade A. The nearest conservation area is Lee Crescent Conservation Area, approx. 450m to the west/south west.

2.6 [Site location](#)

3 Planning History

- 3.1 23rd October 2013 Application 2013/05460/PA Hybrid application for the demolition of all existing buildings and a mixed use redevelopment to include detailed consent for a large retail store (A1), additional A1-A5 retail/D1 non-residential/D2 assembly and leisure units, associated car parking, highways, landscaping and other works and

outline consent (access only) for a hotel (C1). Approved subject to conditions and S106.

- 3.2 21st November 2016 Application 2016/07612/PA Application for prior notification of proposed demolition of Monaco House. Prior approval required, but granted with conditions.

St Luke's, to the south

- 3.3 November 2017 Application 2017/01721/PA Demolition of existing buildings (St Luke's Church and the Highgate Centre) and redevelopment of site to provide 772 one, two and three bed houses and apartments with associated internal access roads, parking, open space, associated infrastructure. Withdrawn.

- 3.4 Application 2017/10448/PA Demolition of existing buildings (St Luke's Church and The Highgate Centre) and redevelopment of site to provide 778 one, two and three bedroom houses and apartments with ground floor retail unit for A1/A2/A3/A4 use, with associated internal access road. Approved subject to conditions and S106.

Former Kent Street Baths, to the north

- 3.5 Application 2017/09434/PA Clearance of site and erection of a residential mixed use development comprising of 504 dwellings (C3), 955sqm of flexible retail, restaurant, leisure and office uses, car parking and associated developments. Approved subject to conditions and S106.

Wrentham Street, to the north

- 3.6 16th March 2016 Application 2015/10323/PA Erection of 3-6 storey building comprising 141 residential apartments, ground floor commercial unit (A1, A2, B1(a) and D2) together with associated parking and landscaping. Approved with conditions and S106.

74-102 Bristol Street, to the north

- 3.7 17th August 2012 Application 2012/03213/PA Conversion of upper floors to create 12 clusters (81 bed spaces) of student accommodation (SG) with ground floor management office and laundry, ground floor refurbishment including new shop fronts and extension of ground floor uses to include A1-A5 and D1-D2 uses with parking to the rear. Approved with conditions.

- 3.8 11th December 2015 Application 2015/07682/PA Conversion and new build to provide 2 ground floor commercial units (A1-A5, D1, D2) and student accommodation (75 beds) (SG) comprising 12 five bed clusters, 1 four bed cluster, seven double studios and 2 twin studios. Approved with conditions.

#### 4 Consultation/PP Responses

- 4.1 Education – A financial contribution of £3,505,553.62 is required for the provision of places at local schools.

- 4.2 Heart of England Foundation Trust (now part of University Hospitals Birmingham NHS Foundation Trust) - A financial contribution of £42,112.00 is required which would be used to provide additional services and capacity to meet patient demand. The representation states that the Trust is currently operating at full capacity in the

provision of acute and planned healthcare. It adds that contracts (and therefore budgets) are set based upon the previous year's activity and due to delays in updating tariffs and costs the following year's contract does not meet the full cost impact of the previous year's increased activity. They consider that without such a contribution the development is not sustainable and that the proposal should be refused.

- 4.3 Highways England – no objection.
- 4.4 Leisure – The proposed public realm and amenity space within the development would not compensate for off-site POS contribution. The Ward has an under provision of POS in comparison to the BDP policy and an off-site financial contribution of £2,342,600 to be spent on the creation of new POS in the Southern Gateway or extension/improvement of Highgate Park is required.
- 4.5 LLFA – accept the principles within the submitted FRA and associated drainage strategy subject to conditions.
- 4.6 National Grid – no objections.
- 4.7 Regulatory Services – No objections subject to conditions to secure additional information/appropriate mitigation with regard land contamination, air and noise.
- 4.8 Severn Trent – no objection subject to drainage condition.
- 4.9 Transportation Development – no objection subject to conditions including s278 Agreements, stopping up resolution, car park management plan, delivery and service plan, cycle parking, pedestrian visibility splays, construction management plan and delivery management plan.
- 4.10 West Midlands Fire – no objection subject to the details within the D and A and Warrington fire strategy are observed. A water scheme plan will need to be agreed with the Fire Service and relevant water company prior to development.
- 4.11 West Midlands Police – Various security comments ultimately noting that the key to the success of this scheme will be controlling the different uses and that the compliance with various “secured by design” documents should be achieved. In addition, secure access to the undercroft car parking will be required as will cctv across the site.
- 4.12 Local residents' associations, neighbours, Ward Cllrs and the MP have been notified. Site and press notices have also been displayed. 1 letter of comment has been received which generally identifies support for the redevelopment of the site but questions the locality of the 29 storey tower on the corner of Bristol Street/Wrentham Street and also comments/notes;
  - Why has the Conservation Officer not been involved?
  - Contents of supporting document statements questionable particularly with regard the relationship between the locally listed buildings and the 29 storey tower
  - Site is outside area identified for tall buildings within High Places, SPG
  - Adverse impact on street scene and daylight/sunlight paths

## 5 Policy Context

5.1 Birmingham Development Plan 2017, Birmingham UDP 2005 saved policies, High Places SPG, Places for Living SPG, Places for All SPG, Access for People with Disabilities SPD, Car Parking Guidelines SPD, Lighting Places SPD, Public Open Space in New Residential Development SPD, Affordable Housing SPG, Planning Policy Guidance and the National Planning Policy Framework.

## 6 Planning Considerations

### Background

6.1 An issues report about this application was considered at the Planning Committee meeting on 18<sup>th</sup> January 2018. In response to the issues identified Members largely welcomed the proposal. Members were content with the scale of development and mix of uses and apartment mix but made the following comments;-

- The failure to make a S106 offer is unacceptable given the scale of the proposal
- The level of community facility is not clear.

6.2 Significant negotiations have taken place in an attempt to address these concerns and are referred to in more detail in consideration of the issues set out below.

### Principle

6.3 The Birmingham Development Plan (BDP) which was formally adopted on 10 January 2017 sets out a number of objectives for 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 a safe and attractive environments. Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well-designed high quality environments with the majority of new housing expected to be delivered on brown field sites within the existing urban area. Whilst Policy GA1.3 and Policy TP27 emphasise the importance of supporting and strengthening the distinctive characteristics, communities and environmental assets of each area and the need to make sustainable neighbourhoods.

6.4 The application site is located within the Southside and Highgate Quarter within the City Centre Growth Area, it is well connected to amenities and facilities, and is an existing brownfield site. The provision of a residential development with ground floor commercial uses, which would complement and supplement the existing amenity provision in the immediate locality, is therefore acceptable in principle subject to detailed matters.

### Design and layout

6.5 Local planning policies and the recently revised NPPF (July 2018) highlight the importance of creating high quality buildings and places and that good design is a key aspect to achieving sustainable development.

6.6 There have been no significant changes to the design of the proposed development since your Committee considered this application as an Issues report as no issues of concern were raised. The proposed development would range in height from 3 to 10 storeys with two towers of 26 and 29 storeys. Policies PG3 and TP27 state the need for all new residential development to be of the highest possible standards which

reinforce and create, a positive sense of place as well as a safe and attractive environment. Supplementary documents also provide further guidance for the need for good design including the City's 'High Places' SPG which provides specific advice for proposals which include elements in excess of 15 storeys. It advises that, generally, tall buildings will be accommodated within the City Centre ridge zone and only permitted outside this zone in defined or exceptional circumstances. It further advises that tall buildings will:

- Respond positively to the local context and be of the highest quality in architectural form, detail and materials;
- Not have an unacceptable impact in terms of shadowing and microclimate;
- Help people on foot move around safely and easily
- Be sustainable
- Consider the impact on local public transport; and
- Be lit by a well-designed lighting scheme

- 6.7 The layout has been designed as a series of individual apartment blocks in two perimeter group blocks positioned to front onto Bristol Street with a further row of apartment blocks to the east fronting onto the proposed new north south public walkway. Block D has been stepped into the site to improve future occupiers outlook and in order to prevent overlooking and sterilisation of the adjacent site should it come forward for redevelopment in the future. Active frontages would be provided across the site and buildings have been positioned to improve pedestrian connectivity in the area and link into, and improve, the existing transport networks, including provision of the City's strategic cycle network.
- 6.8 The scale of the proposed buildings range from 3 to 10 storeys with two towers of 26 and 29 storeys. The site is outside the "central ridge zone". However the towers would be located to the back of pavement on Bristol Street which is part of the strategic highway into and out of the City. The applicant has provided comprehensive supporting information within their Design and Access Statement and a Townscape and Visual Impact Assessment which demonstrates that the proposed towers would not have an adverse impact on the street scene or the City's longer range views. I therefore concur with the Head of City Design who considers that the provision of the greater scale, including the towers, to Bristol Street emphasises its importance as part of the strategic highway network. It also allows the scale and mass of the other buildings to reduce moving east across the site and enable the development to 'knit' into the existing, lower, scales in the vicinity. I therefore consider the proposed layout and scale to be acceptable.
- 6.9 As noted in para 1.4 the architectural concept splits the site into two main styles that address the location of the blocks relative to the external boundaries. The hard edge, fronting Bristol Street and Wrentham Street, would provide a buffer to the more private 'softer internal edge' behind and this would be reflected in the design and materials used. The 'hard edge' element would consist of a regular and rhythmical framework of vertical and horizontal elements, with the towers featuring a more complex composition of bays and features and a greater vertical emphasis than the simpler, and more horizontal, emphasis of the shoulder blocks. The towers would be constructed using a light brick, stone/ceramic, and dark black profiled surrounds interspersed by full height glazing, balconies and winter gardens and topped with a 'crown' whilst the shoulder blocks would comprise black brickwork, metal panels and glazing. The 'softer internal edge' would be constructed using softer natural tone buff brick, tiles and metal panels and whilst similar proportions to the 'hard edge' would be used this would be on a much less regular basis than the 'hard edge' thereby

creating a much 'softer' identity. The use of a horizontal podium and colonnade along Bristol Street frontage seeks to reference the lower linear design of the adjacent traditional building and detailed consideration has been given to areas such as the rear of the retail units and green walls to such areas are also proposed. I therefore consider the design concept, coupled with the proposed materials and the use of details such as recessed balconies, deep reveals and projecting winter gardens help create interest within the buildings elevations, break up its mass and create an identify and sense of place within the development itself.

- 6.10 I also note that the site is not in a conservation area and that it is not close to any statutory listed building. It is immediately adjacent a locally list building but I do not consider the proposal would have an adverse impact on their significance.
- 6.11 The Head of City Design has been intensely involved with this application and he considers the positioning of the towers to Bristol Street will provide a prominent landmark building in an appropriate position on a strategic highway network into the City Centre. He also considers that the layout, scale and mass is justified and appropriate to the site and that the proposal would result in a well-designed, high quality development, subject to detailed conditions. Consequently I consider the proposed development would accord with the aims and objectives of both local and national planning policy in this respect. It is not considered that the development would have a detrimental impact on the locally listed buildings on Bristol Street to the north.

#### Housing mix

- 6.12 Policy TP30 states that proposals for new housing should deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. It also identifies that high density schemes will be sought in the city centre. The redevelopment of the site would deliver additional housing on a brownfield site close to the City Centre Core and within the Southern Gateway Quarter. The proposal is identified as a PRS scheme, and although this isn't recognised within the BDP as being different to traditional C3 housing, the overall concept (as noted at para 1.1.) relies on a mix of units, with a variety of apartment sizes enabling residents to move and stay within the development as their needs change, facilitate and create a 'community'. Your Committee previously raised no concerns in terms of the housing type/mix.
- 6.13 The City's housing evidence base indicates that there is a need for larger properties but this is with reference to Birmingham's strategic housing area as a whole. It does not take account of demand in more localised locations such as the City Centre where there is significantly less land available, housing densities are expected to be higher and detailed data analysis suggests demand for smaller units is more likely. I also note policy PG1 and TP29 which identify housing need/delivery and consider that this scheme would positively contribute towards the achievement of these figures. All the units comply with the National Space Standards and delivers 13% 3 bed units. I therefore consider the proposal is acceptable and in line with policy.

#### Amenity

- 6.14 Places for Living (SPG) provides detailed advice about the City's design standards and the importance of design in protecting the amenity of existing residents from the effects of new development. Appendix A, includes a series of numerical distance separation requirements including that 27.5m distance separation is required for 3

storeys from any proposed and existing facing elevations and that 5m per storey set back is required where main windows would overlook existing private space.

- 6.15 Block J, K, L and M would be positioned to the eastern side of the application site, front onto the proposed new walkway and 'back' onto existing residential properties. The facing elevations of these buildings would be between 21 and 29m from existing windowed elevations and the distance separation between the proposed new build and private amenity of these existing dwellings would range between 12.5m and 14, below the 25m that Places for Living gives as guidance. However, as Places for Living also notes great emphasis is given to careful design rather than a "blanket application of numerical standards....".
- 6.16 Consequently, I note that the proposed new development would result in the removal of an unrestricted access road, improve the appearance of the physical boundary between the sites, including landscaping, and introduce a compatible residential use. I also note that both existing and proposed buildings would be at a slight angle and there would not be direct face to face views, that a number of the existing garden areas are communal and that there have been no objections raised on the basis of loss of privacy or overlooking. I therefore consider the position and proximity of Block J, K, L and M would not adversely affect the amenities of existing residents sufficient to warrant refusal.
- 6.17 56 % of the proposed accommodation would have private terrace, balcony or winter garden areas and there would be 4 private, communal areas (approx. 3100 sqm) for future residents in addition to hard and soft landscaping across the site (over 5000 sqm). Given the sites Bristol Street frontage and the nature of the development including the potential additional on site facilities i.e. cinema and gym and the proximity of nearby parks, including the emerging park to St Luke's to the south, I consider the amenity provision for future occupiers would be appropriate. I also note that the applicant has confirmed that the facilities in the 'hub' would be available to the wider public subject to a membership fee.
- 6.18 A sunlight/daylight/overshadowing assessment has been submitted in support of the application. It concludes that the levels of daylight and sunlight to the majority of the proposed apartments and amenity areas comply with BRE requirements. Further, it confirms that the impact of the proposed development would be negligible to existing buildings with the exception of 86 Wrentham street (to the north east), which would experience a greater adverse impact. However I note this is a new development under construction and that I have received no objections on the basis of loss of light.
- 6.19 Therefore, given the sites location within an urban area, the existing site situation, the need to consider optimisation of a site's development potential and the flexibility provided by the BRE Guidelines for urban locations I do not consider the proposal would have an adverse impact on existing residents amenity sufficient to warrant refusal.
- 6.20 Following the initial wind assessment, mitigation including building canopies and landscaping have been added across the site to break up the flow of air and reduce wind speeds as far as possible. However I note the assessment is a desktop assessment only, has been carried out for the prevailing wind direction only and that there is no direct comparison to the industry wide recognised Lawson Comfort Criteria. Therefore in order to safeguard the future comfort and safety of pedestrian and cyclists within the vicinity I consider a more detailed wind study, including consideration of the need for any further mitigation, should be submitted prior to any above ground development and I recommend a condition to secure this accordingly.

## Transportation

- 6.21 Policies TP38-41 encourages developments where sustainable transport networks exist and/or are enhanced. In addition to supporting sustainable transport networks the Car Parking SPG identify a maximum car parking provision of 1.5 car parking spaces per dwelling.
- 6.22 The proposal would include provision of 335 underground car parking spaces, 35 motor cycles' spaces and 1010 covered bicycle spaces. Car parking would be provided at approx. 33% and the bicycle provision would be in excess of 100% for the residential element of the scheme. A Transport Assessment has also been submitted which concludes that the proposed residential redevelopment would result in a significant net reduction in predicted traffic flows in the peak periods, compared to the previous and consented schemes, and that the proposed uses generate a much less significant demand. Further I note that the site is excellently located for public transport close to bus and train stops and within walking distance of a wide range of facilities. I therefore raise no objection to the proposal, subject to conditions which I attach accordingly.
- 6.23 In addition I note that the development includes provision for the infilling of the existing vehicular and pedestrian subway off Bristol Street, widening and resurfacing of the footpaths immediately adjacent the site, the provision of a two way cycle lane along Bristol Street and that a new public pedestrian route from Wrentham Street south to Vere Street and east to west from the proposed new walkway to Bristol Street. These works would require the stopping up of public highway across/adjacent the site. However, no objections have been received on this basis and the highway works are necessary as part of the development. Further the provision of a north south, and an east west, pedestrian route through the site and 2 way cycle lane would ultimately result in significant improvements to pedestrian and cycle networks across the site in accordance with policy.

## Planning obligations

- 6.24 The proposed development does not attract a CIL contribution but given the level of development proposed Policy TP9, which requires new public open space to be provided in accordance with the Public Open Space in New Residential Development SPD, and Policy TP31, which requires 35% affordable housing unless it can be demonstrated that this would make the development unviable, are applicable. When the issues report was considered members commented that the original zero offer was unacceptable given the density of the site, particularly as there would be no CIL payment.
- 6.25 Following the Issues report the applicant's financial appraisal has been independently assessed and there have been extensive negotiations by your officers. I am therefore satisfied that the scheme cannot support a fully policy compliant contribution. However the scheme will generate a surplus of £3.27 million and an offer on this basis has now been agreed with the applicant.
- 6.26 The revised NPPF (July 2018) emphasises that affordable housing should be provided on site and updates the definition of affordable housing to reflect recent market development/trends. In so doing it identifies "Affordable Private Rent" to be a form of affordable housing. Affordable Private Rent is accommodation provided by the landlord within a Build to Rent scheme (PRS scheme) at least 20% below local market rents (including service charges). Further, National Planning Guidance

identifies that “For build to rent it is expected that the normal form of affordable housing provision will be affordable private rent”. Consequently, the applicant has agreed that their financial contribution should be provided in the form of on-site affordable rent units – this would equate to 92 units (9.1%), split 50/50 between one and two bed apartments, be provided across the site, be provided for the lifetime of the development and be provided at a 20% discount to local market rent. Eligibility for these units would be considered in line with local incomes. This would mean there was no financial contribution to public open space. However, I note the proximity of a number of existing/emerging green spaces/parks including St Luke’s immediately to the south of the site and I consider affordable housing, currently, to be the City’s greater priority. I consider this would accord with policy and comply with the CIL Regulations 2010.

- 6.27 The previous and revised NPPF and PPG are clear that the assessment of viability for decision-taking purposes should be based on current costs and values. However previous NPPF guidance, RICS guidance and case law have also supported the view that on larger, multi phase projects that take longer to build out that are likely to be subject to changing economic conditions could be appropriately considered for review mechanisms. The revised NPPF and PPG (July 2018) consider that the approach to this matter should remain unchanged and therefore whilst the City has not yet agreed a policy approach for review mechanisms, given the size and scale of this development and the understanding that it will be built in a series of phases (to be controlled by condition) over a longer period of time, I consider it would be appropriate to safeguard the City’s position and require a S106 review mechanism. I consider it would be appropriate to require a S106 review at 30 months and 60 months with any surplus greater than that identified by the submitted, and agreed, financial appraisal being split 50/50 with the Local Planning Authority up to the maximum equivalent value of the 35% affordable housing policy.
- 6.26 I note the request received from the NHS Trust, for a sum of £42,112. 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 plan for population growth. 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.
- 6.27 Education have also requested a financial contribution however I note education is identified on the CIL 123 list and it would not therefore be appropriate to request a further contribution in this instance.
- 6.28 The site is located in a low value residential area and does not therefore attract a CIL contribution.

Other

- 6.29 The site currently has minimal ecological value and the proposals provide an opportunity to create new green infrastructure in a highly urbanised area and enhance local biodiversity. My Ecologist therefore welcomes the provision of green roofs and landscaping across the site as part of this proposal subject to safeguarding conditions which I attach accordingly.

- 6.30 West Midlands Police have made various observations regarding specific security details. Their comments have been forwarded to the applicant and conditions with regard cctv and gates/secure access to the undercroft parking are recommended.
- 6.31 Regulatory Services have raised no objection to the proposed development subject to conditions with regard to air quality, noise and land contamination which I attach accordingly. Suitable mitigation measures can be incorporated into the design.
- 6.32 The Lead Local Flood Authority raises no objections to the proposed drainage strategy which primarily relies on tanks. However they consider that features such as the proposed green roofs could also be successfully incorporated into the proposed drainage strategy and this should be considered as the design detail is progressed.

## 7 Conclusion

- 7.1 The proposal would provide a well-designed development and result in a high quality brownfield development on a prominent and sustainable City Centre location delivering a significant number of new homes. It would provide 92 on-site "affordable private rent" units, provide significant on and off-site highway works and have wider regeneration benefits. It would not have an adverse impact on the adjacent highway and can be accommodated without having an adverse impact on its surroundings. The proposal would therefore be in accordance with the aims and objectives of both local and national planning policy and should be approved.

## 8 Recommendation

- 8.1 That consideration of planning application 2017/10551/PA be deferred pending the completion of a planning obligation agreement to secure the following:
- a) 92 one and two bed Affordable Private Rent units. These units shall be split 50/50 and pepper potted across the site. 25% of the units shall be provided by first occupation of the private rental units, 25% at 50% occupancy and remaining 50% provided by 75% occupancy and rental levels (including service charges) shall be retained at 20% below open market rent value in perpetuity. Eligibility will be determined in line with local incomes.
  - b) A review mechanism that requires that at 30 months and 60 months, or if any of the units are sold rather than rented, a revised financial appraisal shall be submitted for assessment. If that financial appraisal identifies a greater surplus then the additional profit shall be split 50/50 between the developer and Local Authority up to a maximum financial contribution of 35% affordable housing. Any additional financial contribution would be spent on affordable housing.
  - c) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 8.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 26<sup>th</sup> September 2018 the planning permission be refused for the following reasons:
- a) In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.

- 8.3 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4 That no objection be raised to the stopping-up of Section of footway on Bristol Street and pedestrian subway that runs beneath Bristol 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.
- 8.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 26<sup>th</sup> September 2018, favourable consideration be given to this application subject to the conditions listed below.

- 
- 1 Requires the prior submission of a sustainable drainage scheme in a phased manner
  - 2 Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
  - 3 Requires the provision of cycle parking prior to occupation
  - 4
  - 5 Requires the prior submission of details of a delivery vehicle management scheme
  - 6 Requires pedestrian visibility splays to be provided
  - 7 Requires the submission of a car park management plan for disabled spaces
  - 8 Requires the provision of a vehicle charging point
  - 9 Requires bollards/controlled access to shared space
  - 10 Requires the commercial windows not to be obscured
  - 11 Requires the submission of a CCTV scheme
  - 12 Requires the scheme to be in accordance with the listed approved plans
  - 13 Requires the submission of a landscape management plan
  - 14 Requires the submission of details of green/brown roofs
  - 15 Requires the prior submission of a construction method statement/management plan
  - 16 Requires the submission of a lighting scheme
  - 17 Requires the prior submission of boundary treatment details
  - 18 Requires the submission of hard and/or soft landscape details
  - 19 Requires the submission of shop front design details
  - 20 Requires the prior submission of a construction ecological mitigation plan on a phased basis
-

- 
- 21 Requires the prior submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis
  - 22 Requires an employment construction plan
  - 23 Requires the prior submission of a contamination remediation scheme
  - 24 Requires the submission of details of refuse storage
  - 25 Requires the submission of extraction and odour control details in a phased manner
  - 26 Requires the prior submission of noise insulation (variable)
  - 27 Limits the noise levels for Plant and Machinery
  - 28 Requires further internal sound levels
  - 29 Limits the hours of use 0700-2300 and 0700-2400
  - 30 Limits delivery time of goods to or from the site
  - 31 Requires the submission of a contaminated land verification report
  - 32 Requires the prior submission of a phasing plan
  - 33 Requires the submission of sample materials in a phased manner
  - 34 Requires access road to be provided
  - 35 Requires secure access to undercroft parking
  - 36 Implement within 3 years (Full)
  - 37 Requires submission of further wind assessment
- 

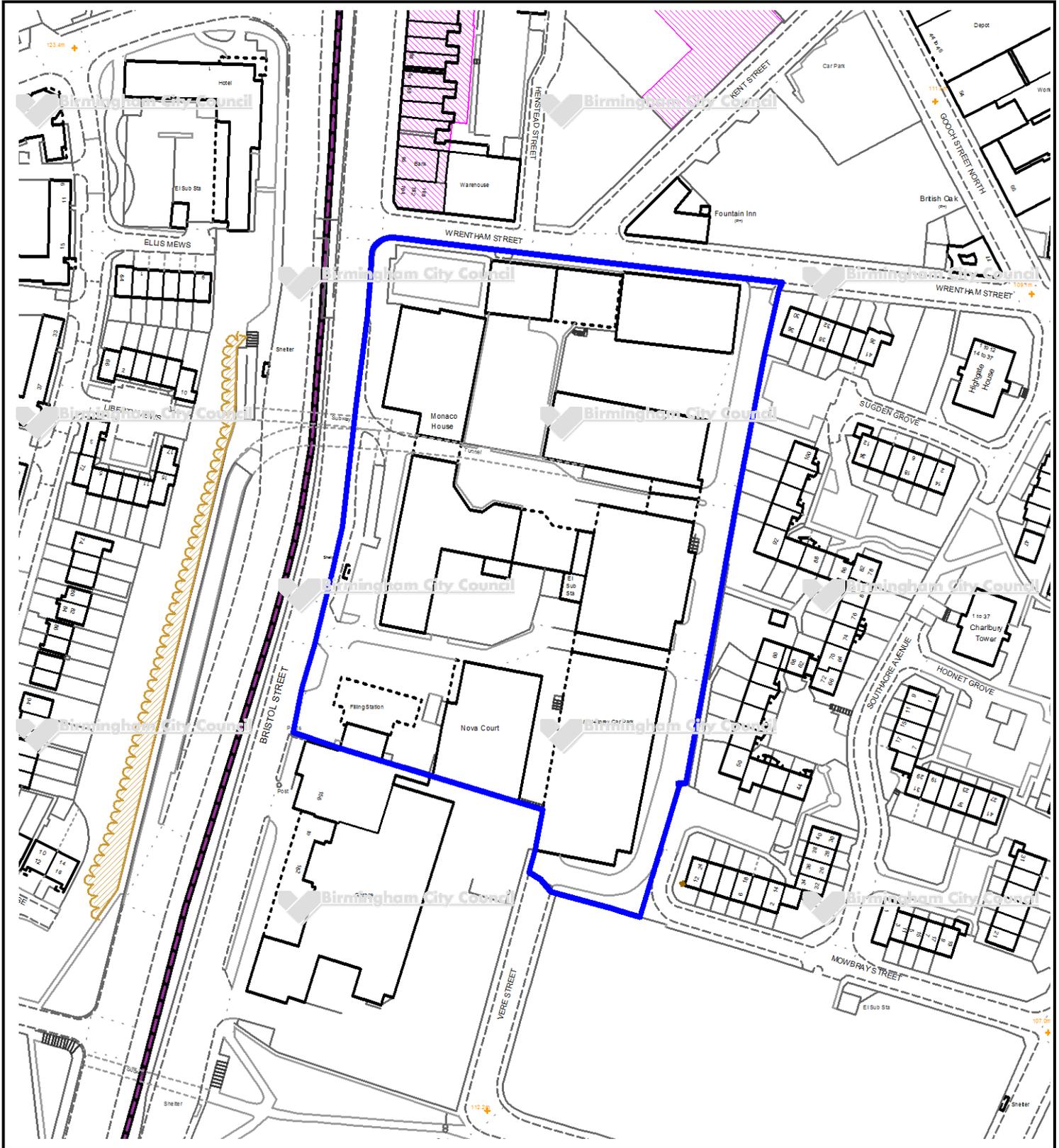
Case Officer: Joanne Todd

**Photo(s)**



Photo 1: site being cleared

# Location Plan



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# Birmingham City Council

## Planning Committee

21 January 2021

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	9	2020/02868/PA  Land at Junction of Aston Lane and Wellhead Lane Perry Barr Birmingham B20 3BW  Relocation of existing bus depot from Wellhead Lane site and development of new bus depot with associated works.
Approve - Conditions	10	2020/09241/PA  Aston Hall Trinity Road Aston Birmingham B6 6JD  Listed building consent for removal of rotten timber roof ladders, repairs to damp damage in cellar and re-roofing of rear yard area of south lodge
Approve - Temporary	11	2020/09329/PA  Jockey Road/College Road/Maxstoke Road Roundabout Sutton Coldfield Birmingham B73 5XJ  Display of three non-illuminated, freestanding, post mounted signs

Committee Date: 21/01/2021      Application Number: 2020/02868/PA  
 Accepted: 22/04/2020      Application Type: Full Planning  
 Target Date: 25/09/2020  
 Ward: Aston

Land at Junction of Aston Lane and Wellhead Lane, Perry Barr,  
 Birmingham, B20 3BW

Relocation of existing bus depot from Wellhead Lane site and  
 development of new bus depot with associated works.

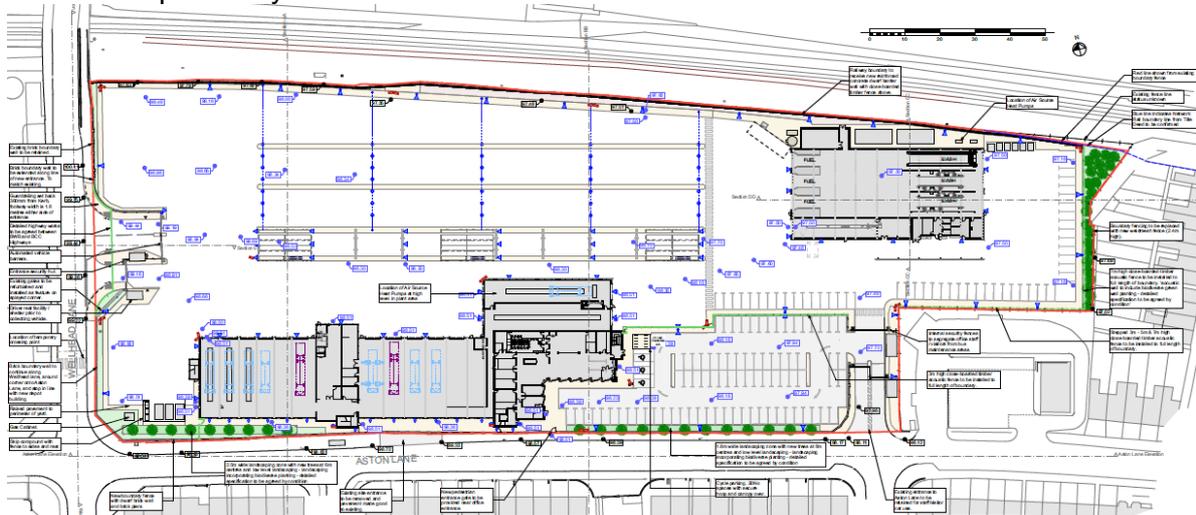
Recommendation

**Approve subject to Conditions**

1. Proposal

1.1. The application is for the erection of a three storey maintenance depot, office and administration building and a two storey bus servicing building. Associated hardstanding for bus and staff parking, electric bus charging gantries, landscaping and site boundaries and two vehicle accesses.

1.2. Proposed layout:

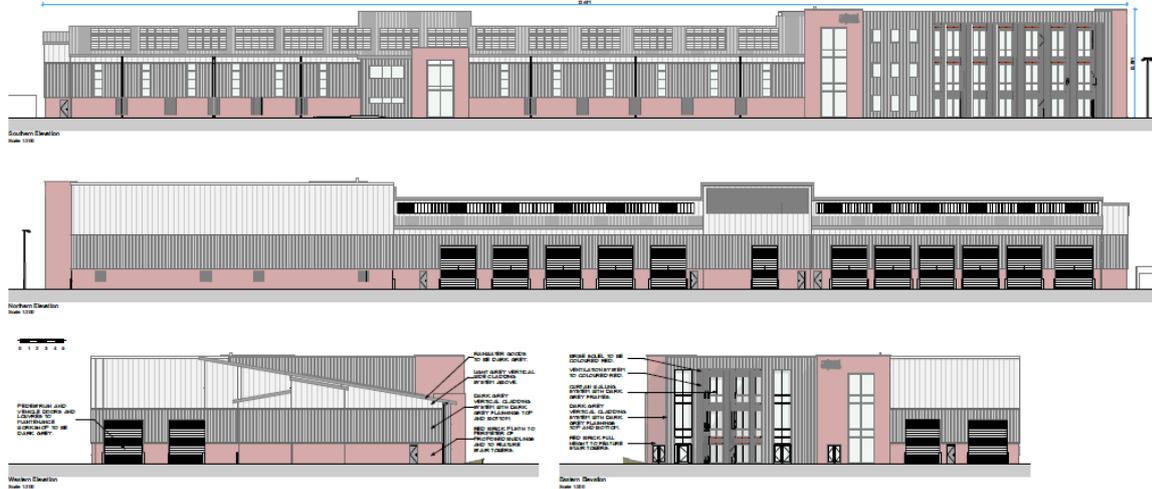


1.3. Consent has already been granted for the demolition of the existing buildings, reclamation of the land, removal of the TPO tree (ref 1397) and the erection of 2.4m high site hoarding. This application is for the redevelopment of the site as a bus depot for National Express, which is relocating from its current site on Wellhead Lane to enable that site to be redeveloped as part of the wider regeneration linked to the 2022 Commonwealth Games.

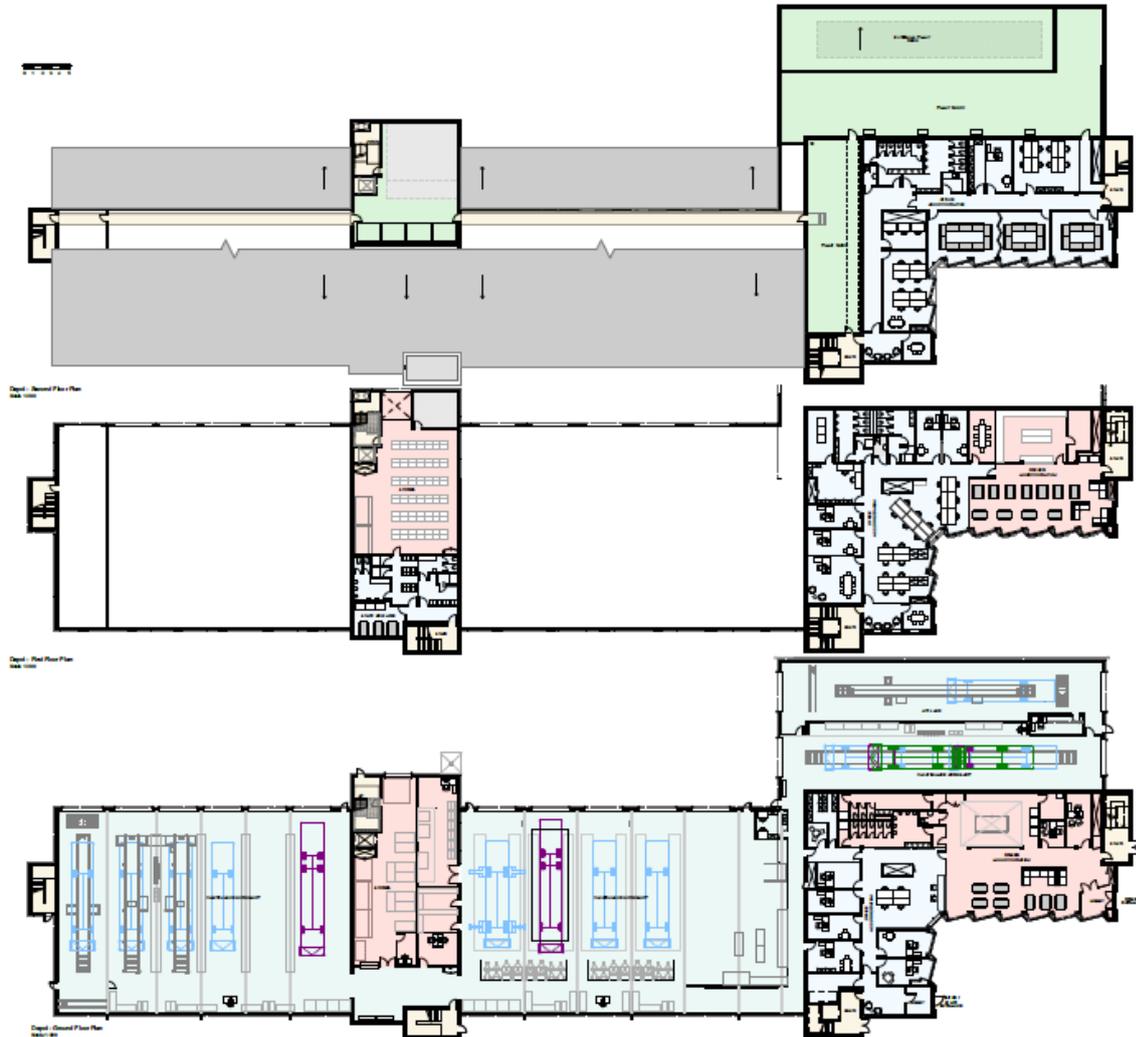
1.4. The larger building is in two parts. The first part is a rectangular bus maintenance depot providing 10 bus bays with a two storey store and welfare facility in the centre. The elevation facing the bus parking area has folding doors for bus access and only pedestrian escape doors on the other elevations. The second part is an 'L' shaped three storey office, administration and welfare building which provides 2 further

maintenance bays, offices and driver rest space on the ground floor and offices, driver rest space and training spaces on the upper two floors. The maximum width of the building is 43m and the length is 124m. The maintenance bays are 10.5m high with a mono-pitched roof and the office building is 12.5m high with a flat roof.

1.5. Proposed elevations (maintenance/ office building):

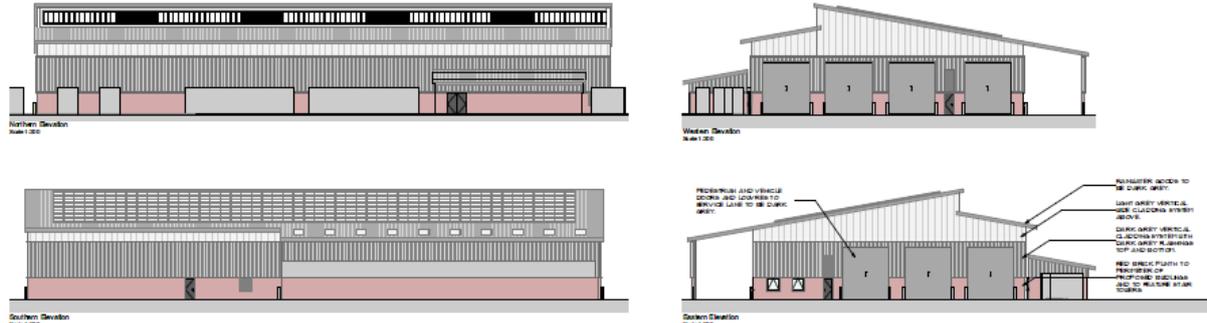


1.6. Proposed floor plans:

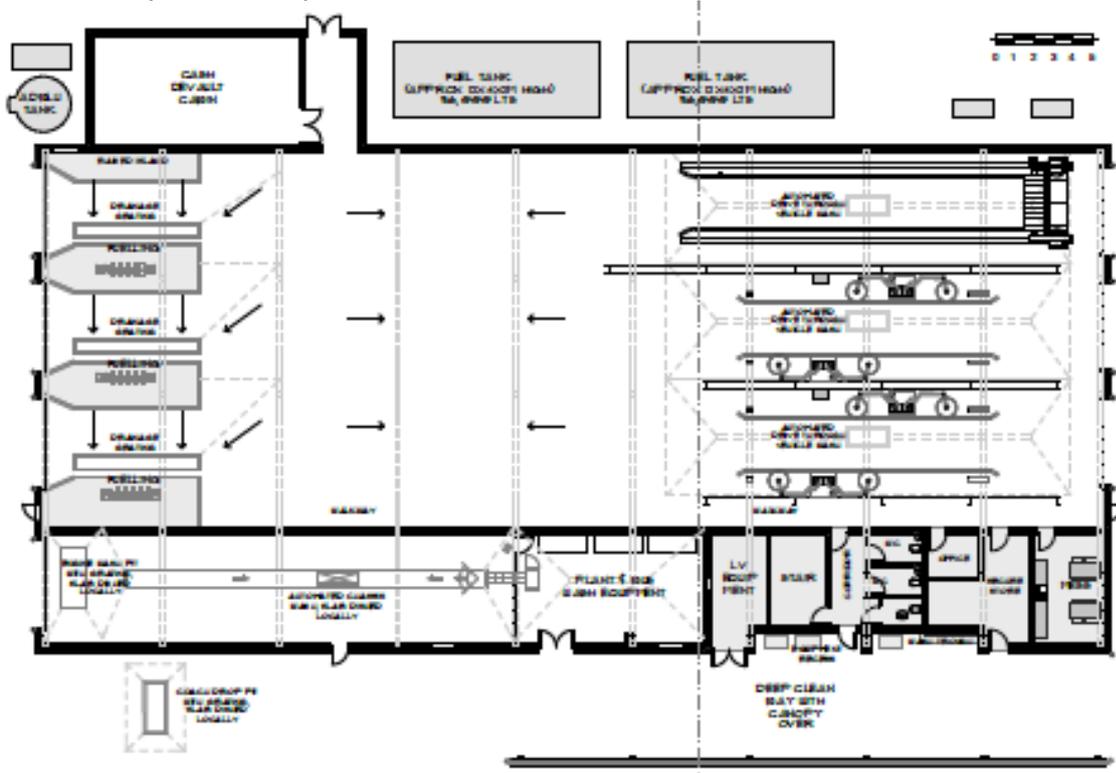


1.7. The second building is the servicing building and provides three bus wash bays and three fuelling stations, a chassis wash bay, plant and equipment store and ancillary facilities. In addition, on the outside of the building are two fuel tanks, an Adblu tank and a rainwater storage tank. A canopy is proposed on the southern elevation to provide an external area for deep cleaning. This building is 55m by 36m (including the canopy) and 10.5m high, with a mono-pitched roof. Within the bus parking area there are also 3 structures of 15m by 10m raised 5m off ground level (10m to top) with solar panels on the roof to provide facilities for electric bus charging and biodiverse planting around the panels to provide additional habitat mitigation.

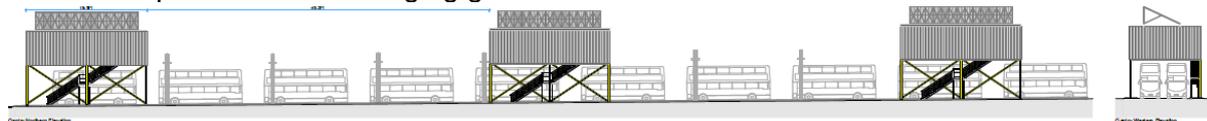
1.8. Proposed elevations (service building):



1.9. Proposed floor plans:



1.10. Proposed electric charging gantries:



1.11. The application has been submitted with the following supporting documents; Planning Statement, Design and Access Statement, Transport Statement,

Sustainability Statement, Air Quality Assessment, Noise Assessment, Ground Investigation Report, Ecology Survey, Arboricultural Report, Flood Risk Assessment, Drainage Report and Lighting Details. During the consideration of the application a revised Drainage Report, revised Air Quality Assessment and revised Noise Assessment, and an Archaeology Report were submitted.

- 1.12. The scheme falls under Schedule 2, 10b “Urban Development Projects” of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. However, as the site is within an urban environment and previously development land the Council have screened the application as not requiring an Environmental Impact Assessment.

- 1.13. [Link to Documents](#)

## 2. Site & Surroundings

- 2.1. The 2.55ha application site is bounded by Aston Lane to the south, railway line to the north, rear boundaries of residential properties located along North Road to the east and Wellhead Lane to the west. The site currently comprises of the Jobcentre building, a car wash and car sales buildings and parking areas. The western part consists of art deco style gateposts, lanterns, gates and walls along Wellhead Lane. The area to the north and west is cleared, which was formerly the Perry Barr Switchgear Works, and includes scattered trees, dense and scattered scrub, ruderal vegetation, one small stand of Japanese knotweed and rubble piles. The site also features a sycamore tree which is subject to a Tree Preservation Order 1397. Permission has previously been granted to clear the site and remove the protected tree.
- 2.2. The surrounding area is mixed residential and commercial with residential properties located along Aston Lane and North Road and commercial units along Aston Lane and Wellhead Lane. Eden Boy’s School as well as Birmingham Wholesale Market are located further north, behind the railway line with Broadway Academy located further south off Aston Lane. The site is located within the Aston, Newtown and Lozells Area Action Plan.

- 2.1. [Site Location](#)

## 3. Planning History

- 3.1. 2019/10609/PA – Demolition of existing Jobcentre, IMO car wash and Leacy Motor Group Buildings and associated car parking areas, reclamation of land, removal of TPO 1397 tree and erection of 2.4 metre high boundary hoarding – Approved subject to conditions 09/04/2020
- 3.2. 2015/01779/PA – Outline application for residential development with details of proposed access and with all matters reserved – Refused 03/09/2015 – Appeal dismissed 28/10/2016
- 3.3. 2007/06426/PA – Erection of warehouse and use of site for storage of building materials to include sales to trade only (Sui Generis Use) – Approved subject to conditions 18/01/2008

- 3.4. 1997/04172/PA – Construction of warehouse with ancillary car restoration and MOT bay, associated offices and trade counter with car parking (Class B8 – storage and distribution) – Approved 12/02/1998
- 3.5. 1992/03846/PA – Formation of car park and security fence – Approved 22/10/1992
- 3.6. 1990/01431/PA – B1 business estate with associated roads, access to Aston lane – Approved 23/08/1990
- 3.7. 03300037 – Erection of petrol filling station together with associated shop/control room and car wash – Approved 02/11/1989

#### 4. Consultation/ PP Responses

- 4.1. Surrounding occupiers, local councillors, MP and neighbourhood forums have been notified. A site notice and press notice has also been displayed.
- 4.2. One letter has been received raising the following issues:
  - Potential damage to residential properties from work
  - Impact of bus drivers parking on limited on-street parking available
- 4.3. Transport Development – No objection subject to conditions requiring a RSA, controlling the use of the accesses, a S278/TRO agreement, visibility splays and secure/ covered cycle parking.
- 4.4. Regulatory Services – Following revisions to the noise survey and noise mitigation, no objection subject to conditions relating to contamination, noise from operations within the site, the hours of noisy repair works and low emission buses and EV charging.
- 4.5. LLFA – No objection subject to conditions requiring details of the surface water drainage and a sustainable drainage operation and maintenance plan.
- 4.6. Severn Trent – No objections subject to a condition to require drainage plans for the disposal of foul and surface water. Also advise that there may be a public sewer located within the application site.
- 4.7. Environment Agency – No objection. Additional work to deal with unsuspected contamination is required by condition.
- 4.8. Network Rail – holding objection due to encroachment from the applicant's red line boundary onto railway land. The developer/applicant must ensure that their proposal does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.
- 4.9. West Midlands Police – No objection. Advice on gates, boundary treatment, access control and lighting.
- 4.10. West Midlands Fire Service – Provided requirements for access and facilities for fire service and questioned what provision will be made for access by the fire service given the barrier across the access road.

- 4.11. Employment Access – Request employment condition (or S106) to secure a construction employment plan to include local new entrants.

## 5. Policy Context

- 5.1. The following policies are applicable:
- Birmingham Development Plan (2017)
  - Birmingham Unitary Development Plan Saved Policies (2005)
  - Places for All SPG
  - Car Parking Guidelines SPD
  - Aston, Newtown and Lozells Area Action Plan
  - Birmingham Connected (2014)
  - National Planning Policy Framework 2019

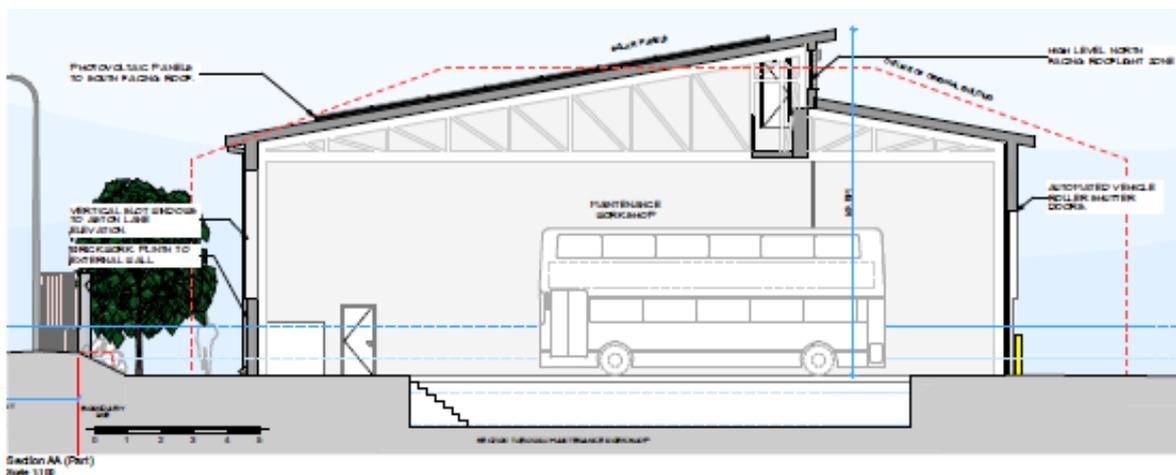
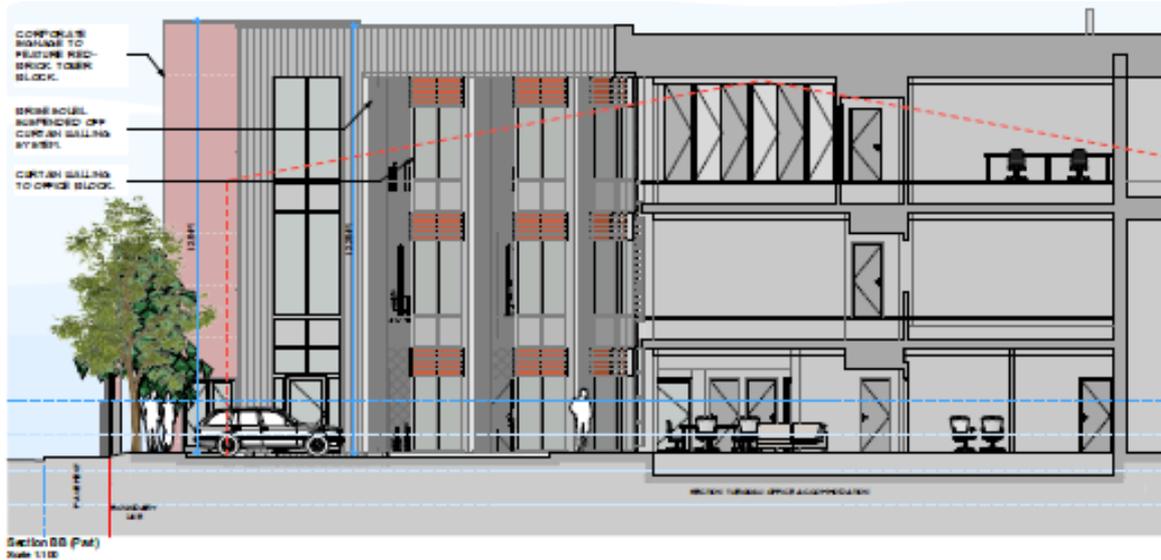
## 6. Planning Considerations

- 6.1. The site is considered to be previously developed land. As noted above consent has already been granted for demolition of the existing buildings and restoration of the site. The land to the north previously contained a large engineering premises but is now cleared of buildings, disused and unkempt open land. This application is a direct result of other works required for the Games on the existing bus depot.

- 6.2. The current application proposes development which is both employment generating and also the provision of public transport facilities. As such the principle of the proposed development is acceptable and in accordance with the NPPF, the BDP and the Aston, Newtown and Lozells Area Action Plan (AAP). The key issues are whether the siting, scale and design are appropriate, the sustainability of the scheme, the impact on neighbouring properties and uses, highways, ecology, trees and drainage.

### *Siting, scale and design of buildings*

- 6.3. The larger of the two buildings, containing the maintenance depot bays and offices, is positioned along Aston Lane in a similar position to the existing building, close to the junction of Aston Lane with Wellhead Lane. Staff car parking is provided to the east of this building with vehicular access to the car park off Aston Lane. Behind this building is the vehicular access off Wellhead Lane leading to the large bus parking and storage area. The second building is in the northeast corner of the site, on the northern edge with the railway line. Manoeuvring space and a line of parking spaces is provided around the second building.
- 6.4. The City Design Officer considers that the layout of the larger building, generally set back about 4 – 6m from the street, creates a strong built frontage that relates well to its urban context and screens residents and users of Aston Lane from the large open area of hardstanding used for bus parking and servicing at the rear. The position of the service building is visually contained by buildings and site boundary treatment. I concur with this assessment and consider the layout is appropriate for the intended uses, the site and the surrounding area.
- 6.5. The following two diagrams show the proposed building in comparison to the height of the previous buildings on site (shown as a red outline):

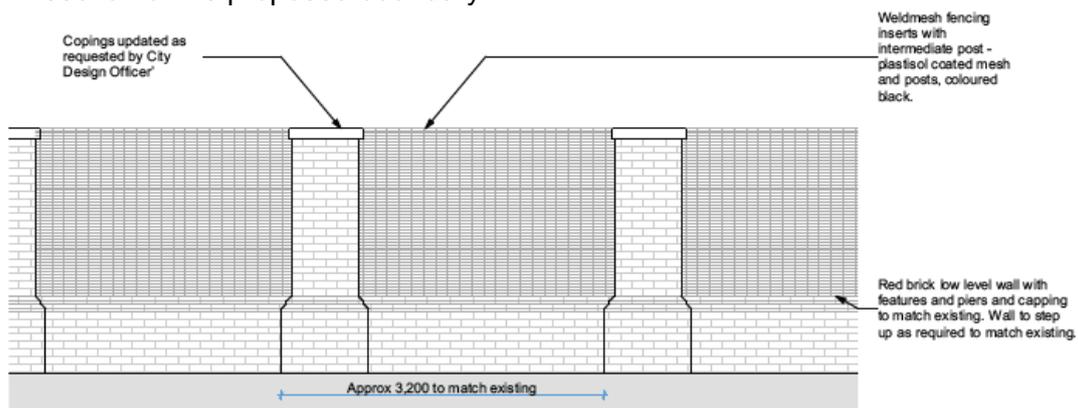


- 6.6. The second, smaller, servicing building (providing bus wash bays, fuelling bays and ancillary spaces) to be brick and cladding which the Design and Access Statement suggests respects the local heritage and modern function of the proposal. The scale of the Aston Lane frontage is reduced by the use of a mono pitched roof. City Design advise that the red brick plinth on the building complements the character of local buildings and the grey panel cladding above, with regularly spaced vertical slot windows and a central access/ facilities core, articulates the facade. The shallow mono-pitch roof helps to minimise the scale of the building as well as providing a south-facing platform for PV panels and north-facing windows to allow natural light into the workshop. The building is true to its function whilst providing visual interest to the Aston Lane street scene.
- 6.7. The offices/ main staff facilities block is a well-proportioned building of vertical dark grey cladding framing large windows of vertical glazing panes in a saw-tooth alignment along the facade, with a feature red brick stairs tower and red brick to the elevation at the eastern end of the building. Further architectural interest is created by red brise-soleil shading windows and red ventilation system around windows.
- 6.8. The service building is a utilitarian structure set well back from the road in the eastern part of the site and the recharging gantries, with 5m clearance for electric

buses to pass underneath, and PV panels on the roof are of a function which creates inherent visual interest. The gantries are largely screened from surrounding areas and the residential properties by the other buildings within the site.

6.9. The proposal includes an area of landscaping along the Wellhead Lane boundary and turning into Aston Lane. Following initial comments from my Landscape Officer the width of the planting has been widened to a minimum of 1.8m but with sections that are 2.5m wide. The scheme also includes a 2m wide landscaped buffer on the eastern boundary between the service building and the neighbouring dwellings and also includes climbing plants on this boundary. The Design and Access Statement comments that the majority of the site is taken up with the functional requirements of the bus depot. To increase the landscaping would reduce the available land for the depot. This site is just big enough for the requirements of the applicant, any reduction would make the site un-suitable. The written response with the amended plans has confirmed that there is insufficient space for more landscaping. Full details of the landscaping proposals for the site can be dealt with through a condition.

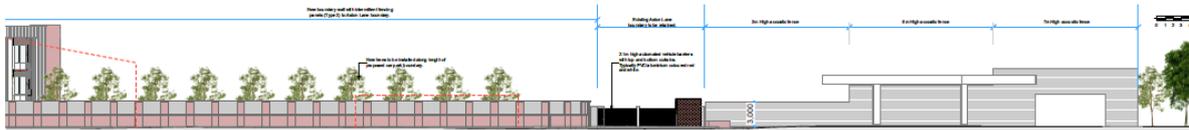
6.10. Site boundaries are also shown on the submitted plans. Along Aston Road the design proposes a dwarf wall and brick pillars with weldmesh fence above up to a height of 2.4m. My City Design Officer considers this is appropriate, subject to detailed design which can form part of a condition. The following diagram shows a section of the proposed boundary:



6.11. The existing 2.4m brick wall along Wellhead Lane is to be retained as far as possible, but the gateway has to be widened to accommodate bus movements and as such a replacement wall, to match the existing is proposed. The historic gates, piers and lanterns are to be relocated to the visibility splay for the Wellhead Lane access. Both City Design and Conservation Officers support this part of the proposal and a condition is recommended requiring a method statement for the dismantling and re-erection of these non-designated heritage assets. The following image shows the proposed relocation of the gates, piers and lanterns:



- 6.12. At the eastern site boundary a very tall, 7m, close-boarded timber fence is proposed as an acoustic barrier protecting the houses on North Road, which back on to the site, and the houses on Aston Road, adjacent to the petrol filling station. A fence of this height will have significant visual impact but is mitigated in this case by retention of existing trees and shrubs between the fence and the houses. This vegetation will need to be carefully protected during construction and the fence will need to be appropriately treated to minimise its impact. A condition requiring landscape management is therefore recommended.
- 6.13. Acoustic fencing is also required behind the petrol filling station and between the proposed car park and the main yard of the bus depot. The fence behind the petrol station will be 5m high (stepping down from the 7m behind the houses) and reducing again to 3m between the car park and the yard. The visual impact of the 5m section will not be able to be screened as there is insufficient space, however the 3m section will be screened by the wall and railings on Aston Road and the car park between as can be seen in the boundary elevation below:



- 6.14. In summary I consider that the scheme has been well designed to provide an operational bus depot that also complements local character and respects the amenity of nearby residents. Existing heritage features at the Wellhead Lane entrance have been integrated within the development and the architecture of the new buildings will make a positive contribution to the local area. The following images are visuals submitted with the application to show the proposed development in its context and a visual of the office building from Aston Lane.

6.15. 3D view from Aston Lane:



6.16. 3D view from Wellhead Lane:



6.17. Image of office block from Aston Lane:

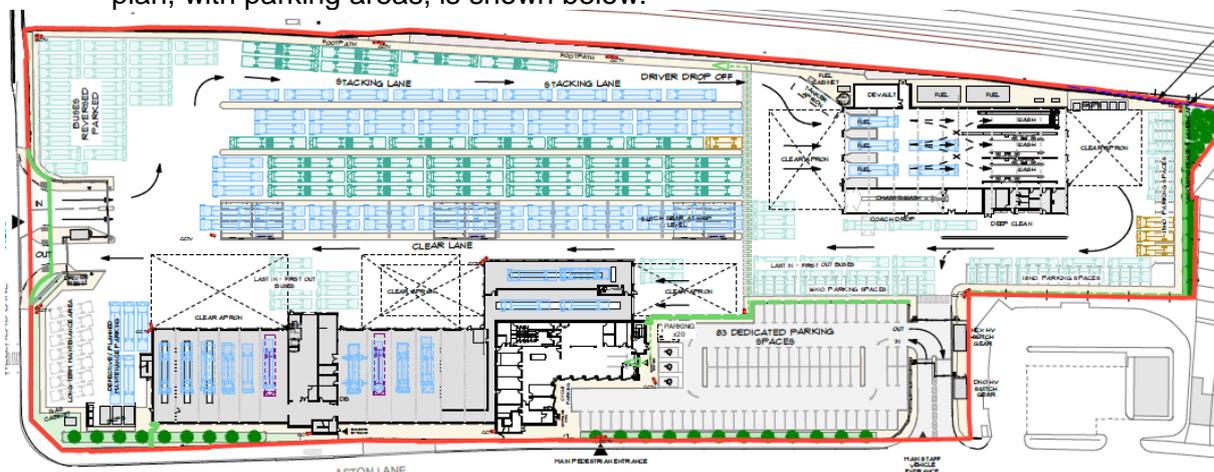


*Sustainability and energy*

- 6.18. A sustainability statement has been submitted to consider the proposal against BDP policies TP1-TP5 which seek to maximise energy efficiency, minimise the use of carbon and be resilient and adapt to the effects of climate change.
- 6.19. The development proposes sustainable development through the building envelope, the orientation on the site, use of natural daylight, solar PV panels and an air source heat pump. All other systems have been discounted through technical assessments due to technical feasibility or economic viability. The statement concludes that the proposed development will have a reduced CO2 output and energy demand in comparison to the current site.
- 6.20. The agent has also commented that the proposed relocation of the facilities to this site will enable the creation of a modern working environment for the staff, improved training facilities and staff safety. The relocation to this site retains the existing staff, supports the Commonwealth Games development and supports carbon reduction. Furthermore, due to the wider operation of the site as a bus depot BREEAM is difficult to measure. Overall the agent considers that sustainability measures have been incorporated where possible and I consider that it is reasonable to balance the requirements of the applicant and the need to provide this facility against the shortfall of the BREEAM.

*Access, parking and highway impact*

- 6.21. The NPPF, Birmingham Connected 2014 and local policy all support growth in public transport. Birmingham Connected sets the vision for transport up to 2031 and introduces SPRINT. As already noted, the principle of developing a new site for the existing bus depot is supported in principle. The key issues are whether the accesses are acceptable, whether sufficient parking and manoeuvring space is provided and whether the development will have an impact on the wider highway network. A Transport Statement (TS) has been submitted with the application and tracking plans and visibility splays have been shown on the plans.
- 6.22. Two accesses are proposed one from Wellhead Lane and one from Aston Lane. As amended, during negotiations, the Wellhead Lane access will be for bus traffic and will have automated vehicle barriers which will open for recognised vehicles and a small security building. This entrance serves the bus parking area. Space is provided for 180 buses made up of 30 spaces for SPRINT buses, 72 double decker bays, 24 single decker bays, 50 electric bus bays (increased from 20 in the original submission) and 4 midi bus bays. In the north east corner of the site, around the service building, 49 spaces are provided for bus driver parking. The revised layout plan, with parking areas, is shown below:



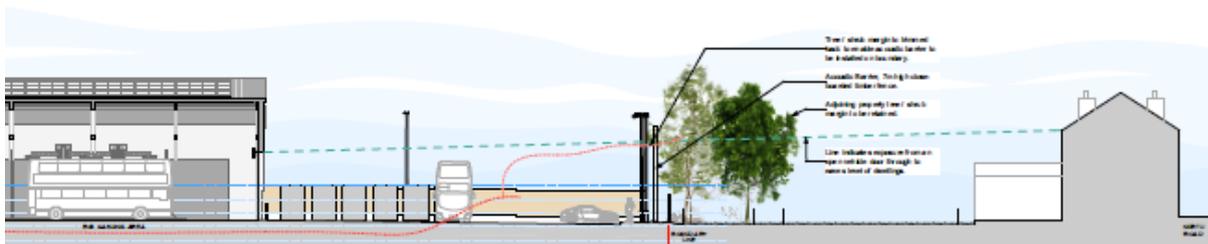
- 6.23. Transportation Development initially raised concerns about the width of the access to Wellhead Lane. The access, with three lanes, resulted into approx. 29m long crossing without any pedestrian refuge between and the proposed use of middle lane was for either incoming or outgoing traffic (as originally submitted).
- 6.24. As noted above the applicant has submitted amended plans for the Wellhead Lane access, this continues to show 3 lanes which the agent advises allow for peak bus returns and also for emergency and service vehicle entrance to the site but has altered the scheme so that the two lanes are for entry and one for exit rather than the previously proposed flexible approach. The amended plan also includes tactile paving at the pedestrian crossing point, signage to advise pedestrians to look both ways, 0.5m high guardrails around the radii of the junction and a pedestrian refuge between the two in-bound lanes and the one out-bound lane. In addition the amended plans also now show the recently installed pedestrian crossing on Wellhead Lane, just south of the proposed access, to ensure that there is no conflict with this crossing.
- 6.25. Additional supporting justification for the three lane access has been submitted. This advises that the existing bus depot works with a two lane access as there is a length of driveway between the highway and the access gate which allows for buses to wait off the highway. This is not possible on the new site and as such the three lane entrance provides for greater capacity. The three lanes also allow for delivery and service vehicles to wait to be checked in at security without impacting on buses entering the site and provides access for emergency vehicles.
- 6.26. A Road Safety Audit has been carried out assessing the potential issues with the existing roads and pedestrian footways around the site. Recommendations are made within the report which can be secured by condition. These include works to resurface the vehicle entrances, visibility splays, dropped kerbs at the junction bell mouths of the development and replacement manhole covers. Other issues have been noted with the surface of the footway outside of the site, however, these are existing and not for the applicant to resolve.
- 6.27. Transportation Development, on receipt of the amended plans and Stage 1 Road Safety Audit (RSA), have confirmed that the RSA has justified the width of the access onto Wellhead Lane and the Local Engineer and BCC Traffic Management Services have no objections. As such, the additional information has justified the access width and the amended plans have provided additional safety features such as the pedestrian refuge and the guardrails. Transportation Development no longer raise any objections and have recommended conditions which I consider are wholly reasonable and relevant.
- 6.28. Access off Aston Lane will be for staff and visitor car parking to an area of 83 spaces, including 3 disabled spaces. Cycle parking has been increased from 10 spaces originally submitted to 20 spaces. Transportation Development have confirmed that this increase is acceptable and, subject to a travel plan, can be monitored.
- 6.29. The application site is in a sustainable location with a large residential area within walking distance and a greater area within cycling distance. It is 250m from the existing bus depot site. There are bus stops 60m and 70m from the site and Perry Barr train station is 500m from the site.

- 6.30. Within the planning statement the agent has confirmed that National Express has operated a depot on Wellhead Lane since 1932. The business employs 520 people – 450 drivers, 40 engineering staff and 30 back office workers. The staff work shifts and are not all on site at any one time. The existing staff will relocate to the new site. As such it is the applicant's opinion that traffic movements will not alter substantially. The new site is close to the existing and travel patterns are unlikely to alter. Bus routes are not planned to be changed at present.
- 6.31. The TS notes that existing traffic movements at and around the existing depot have been assessed. Neither the existing, nor the proposed site, generate significant vehicle trips during the peak hours. Staff work shifts with the first bus leaving the site at 03:47 and the last bus returning at 01:52. The majority of buses depart the site between 05:00 and 07:30 and return between 18:00-19:30 and are therefore outside peak hours for highway traffic. The TS has also considered accident records. Of 16 accidents 4 have been serious and all the accidents have been related to people ignoring signal controls or not signalling at junctions. The road conditions and traffic volumes have not been influential over the accidents.
- 6.32. The site is in an area which is a mix of residential and commercial but also a major regeneration area due to the up-coming Commonwealth Games. The roads immediately leading to the site are 30mph. Aldridge Road is a dual carriageway whereas Aston Lane and Wellhead Lane are single carriageway. Most of the surrounding roads have TROs limiting parking, pedestrian footways and crossing points.
- 6.33. The concerns of the local resident are noted however, Transportation Development do not have any objections to the predicted traffic levels, the level of parking on site and do not raise any issue with the capacity of the local highway network to accommodate the relocation of the bus depot. The site is in a sustainable location and, subject to the resolution of the Wellhead Lane access issues raised by Transportation Development, the scheme is considered to be acceptable.

*Impact on amenity of neighbouring properties*

- 6.34. The nearest residential properties are the mixed detached, semi-detached and terrace houses on the opposite side of Aston Lane. They are two storey and set back from the road. There are similar residential properties beyond the adjacent business to the west and terrace houses on North Road which have back gardens sharing the boundary with the application site.
- 6.35. To consider the impact on these properties the application was submitted with Noise Assessments, an Air Quality Assessment and Lighting details. The neighbouring houses all exceed the required separation distance from the proposed building to not result in any overlooking or loss of light issues. The existing site is part disused, overgrown and subject to anti-social behaviour issues. The proposal will enclose the whole of the site in new fencing and provide a 24 hour operation with associated security.
- 6.36. Several revisions of the noise assessment and mitigation were submitted by the applicant and considered by Regulatory Services. The final version notes that the site operates 24 hours a day, 7 days a week with 3 peak periods of activity - 05:00-07:30 (mostly outgoing), 18:00-19:30 (mostly incoming) & 01:00-03:00 (night bus return). The nearest noise sensitive receptors are the houses on North Road which are approximately 10m from the eastern boundary of the site and the houses adjacent to the petrol filling station on Aston Lane.

- 6.37. Without mitigation the noise levels would be 62dB which would be 13dB above daytime background levels with the dominant noise source being the movement of buses. Mitigation is therefore proposed along the east boundary with the gardens of the houses on North Road, the section of the southern boundary which adjoins the petrol filling station and between the proposed car park and the main bus yard. The proposal is to provide an acoustic fence on these boundaries which is 7m at its highest, reducing to 5m and then 3m. The fence is intended to reduce the noise levels to 3dB above background levels during day-time and not above background noise levels during night-time.
- 6.38. The fence on the eastern boundary will be behind a 2m buffer of landscaping and biodiverse climbing plants. A 7m high fence will be visible to these residential properties, however it will be on the site side of the 2m wide existing mature landscape buffer and, at least, 17m away from the rear elevations of these houses. The cross section below shows the service building and fence in relation to the rear of the houses:



- 6.39. The fence between the site and the petrol filling station and is proposed to be 7m for the first part, reducing to 5m and then 3m between the car park as shown on the diagram below. This fence will be visible from beyond the site but I consider that it is necessary to ensure the amenities of the residential properties around the new bus depot site and the visual impact will not be substantial as the fence is not against the road edge. The petrol filling station canopy, the car park and proposed new wall and railings on Aston Road will help to reduce the impact of the acoustic fence. This is a case of balancing the visual harm against the harm that would arise to the amenities of the residents if the acoustic fence was not in place.



- 6.40. Conditions are recommended to require the installation of the acoustic fence and to control the noise levels during night-time hours. A condition is also recommended to require a construction management plan to be submitted which will deal with hours and noise during construction. The recommended conditions allow the operator to carry out their business providing it does not result in noise levels which would be considered as harmful to the amenities of the neighbouring residential properties.

- 6.41. The site layout has been designed to reduce vehicle reversing movements and therefore reduce the impact from reversing alarms but that all the fleet vehicles are fitted with white noise reversing as standard. The southwest corner of the site, on the junction of Aston Road and Wellhead Lane, will be used for non-running buses/ those undergoing long-term maintenance and access off Aston Lane will not be used by buses and therefore reduces the noise impact in these two areas. Furthermore, the agent considers that the layout of the proposed buildings assists in screening the bus parking area and results in the openings for the maintenance depot facing into the site rather than facing towards the residential properties.
- 6.42. 80 buses will be zero carbon by 2022 and 100% of the fleet is intended to be within ten years. There is also a focus on moving to electric or hydrogen fuels. The introduction of these vehicles will reduce both noise and emissions from the site.
- 6.43. The submitted Air Quality Assessment notes that the site is within the BCC air quality management area and that construction dust and road traffic are potential air quality impacts. Nearby receptors include residential properties, Eden Boys School, Broadway Academy and the Commonwealth Games Village. However, the assessment also notes that there are no increases in vehicle trips compared to the existing site.
- 6.44. The Council air quality monitoring shows that the area already exceeds the annual mean for NO<sub>2</sub> but the report advises that the predicted changes are less than 0.5%. The report advises that through dust management, complaints recording, event recording, inspection/ monitoring, the installation of screens, vehicle management, a Travel Plan and construction management methods the impact can be mitigated. Construction impact is considered, in the report, to be “not significant” and the air quality impact of construction “negligible”.
- 6.45. Following negotiations a revised Air Quality Assessment was submitted. This revised report includes consideration of the recent monitoring data put in place for the redevelopment of the area and consideration of emissions from the buses on site. Regulatory Services have confirmed that the revised report adequately assesses construction impacts and the revised modelling suggests a slight increase in NO<sub>2</sub> at receptors but this is negligible in terms of air quality impacts from the development and also that the development will not result in breach of the air quality objectives. Overall the revised report is acceptable and Regulatory Services have advised on conditions to mitigate for both construction and operational phases. These conditions include a construction management plan, the requirement for 10% EV spaces in the car park, and 10% ultra-low/ zero emission bus bays and all buses to be of Euro 6/VI standards within 12 months.
- 6.46. Members should also note that the AQA includes a commitment to driver education on fuel efficient driving, fleet improvements and deployment of hydrogen and electric buses. The agent has also advised National Express publish, on their website, aims towards carbon reductions such as aiming to have zero emissions bus fleet by 2030 and never buy a diesel bus again. These changes to the fleet have not been fully explored in the AQA but the changes would further reduce the emissions of the proposal.
- 6.47. The lighting details have assessed the potential options for lighting the site. Three schemes are proposed for the development providing a mix of types of lights and lux levels across the site depending on need. The lights include column lighting, building lighting and lights on wires (supported by columns). The following diagram shows the proposed lighting scheme. The latest amended plans incorporates

baffles along the solid fence line with the railway so as to reduce the impacts on ecology (considered later in this report).

6.48. Lighting scheme layout:



*Contamination*

6.49. Site investigations have been carried out and a detailed report submitted with the application. As noted above consent has already been granted for the demolition of the existing buildings and the remediation of the site. The submitted report notes the potential for asbestos and polychlorinated biphenyls and potential receptors of construction workers, residents off-site and the future employees on site. However, in most samples the asbestos was less than 0.1% and therefore not considered to be hazardous. The report advises that construction workers following correct hygiene and using PPE will not be affected and appropriate safety measures can be implemented to ensure there is no impact to off-site receptors.

6.50. Post development the hardstandings and buildings will provide an effective barrier from the contamination for the employees on site. The landscaped areas will need to be covered with 300mm of clean topsoil and ground gas protection measures will be required. Foundation designs will need to take account of made ground and the report recommends suspended floor slabs.

6.51. Regulatory Services response in regard to contamination notes that the report submitted with the application for demolition and site clearance works was limited in detail and conditions were therefore imposed on that consent. The conditions have not yet been dealt with and this current application should be considered on its own merits. This application is not reliant on the previous demolition consent and as such the standard contaminated land conditions are required.

*Ecology and trees*

6.52. The railway line along the northern boundary forms part of Wolverhampton to Gravelly Hill railway line Potential Site of Importance (PSI). These are identified by EcoRecord as sites that are known to contain or potentially contain biological or geological interest, but are yet to be evaluated against Birmingham and Black Country Local Site criteria and/or are yet to be formally adopted as a SINC or a SLINC. Together with formally designated sites (SSSIs, SINCS and SLINCS) they form part of the City's ecological network.

6.53. An Ecological Impact Assessment has been submitted in support of the application. This has been informed by a records search and extended Phase 1 habitat survey of the site completed in November 2019. As part of the separate site clearance and demolition planning application (2019/10609/PA), the site was also subject to an

extended Phase 1 habitat survey earlier in the year; a single dusk emergence bat survey of the Job Centre was also completed in July 2019.

- 6.54. The Council Ecologist initially raised concerns that there were discrepancies between the assessment for the current application and the previous consent in regard to bats. However, the Job Centre building was subject to a single dusk emergence survey in July 2019. No bats were recorded emerging from the building during this survey and I am therefore satisfied that no further surveys for bats are required in support of the current application.
- 6.55. The current proposal does not include demolition and site clearance. Ecological mitigation measures pertinent to site clearance and demolition have been secured through the imposition of the following conditions attached to the 2019 consent:
- Additional bat survey if demolition of the buildings has not commenced by 1<sup>st</sup> July 2020 (condition 9)
  - Method statement for removal of Japanese knotweed (condition 10)
  - Construction Ecological Management Plan (CEcMP) (condition 11)
  - Implementation of development in accordance with Ecological Appraisal recommendations (condition 12)
- 6.56. The Ecology report submitted with the current application includes additional recommendations for mitigation, compensation and enhancement for which implementation will need to be secured by condition and an informative can be used to remind the applicant of the conditions on the previous consent.
- 6.57. As the majority of the site needs to be hard surfaced, there is limited scope to accommodate significant new planting to compensate for loss of the scrub and grassland habitats, to maintain ecological connectivity along the rail corridor, or to achieve a biodiversity net gain. The proposed layout includes a narrow strip of screen planting along the eastern boundary, new tree planting along part of the Aston Lane frontage, and some back of pavement soft landscaping. The Council Ecologist has raised concerns that this new planting will not compensate for loss of habitat and ecological connectivity, nor will it deliver a biodiversity net gain.
- 6.58. In response the agent has amended the scheme to include biodiverse planting on the roofs of the three gantries within the bus parking area. These will therefore be biosolar roofs as the roof will provide both biodiverse planting and solar panels. In addition the planting along Aston Lane has been widened as much as possible (varying between 1.8m and 2.5m wide). The acoustic wall on the boundary with the adjacent dwellings is to also include green wall planting, which will therefore provide both biodiversity habitat and additional acoustic protection. To compensate for loss of habitat resources for the nesting birds, the installation of building and tree-mounted nest boxes is recommended. Further details should be secured by condition.
- 6.59. The Council Ecologist has advised that these improvements are a welcome step in the right direction and provides some compensation for habitat loss and the size of the biosolar roofs should be secured by condition. The Ecologist remains concerned that there will still be a net loss and I acknowledge that this is the case. However, the applicant has sought to achieve as much as is possible within the constraints of the site and the proposed development and this impact needs to be balanced against the other benefits of the development and the wider need for this development.

- 6.60. Consideration can also be given to other ecological improvements being gained through other developments which are being carried out/ proposed for the Commonwealth Games. Phase 1 of the Perry Barr Residential Scheme will provide approximately 31,800sqm of formal and informal public space, including a village green, football pitch, play park, woodland track, and soft landscaping. The scheme includes a 150% increase in on-site trees, and the use of green/brown roofs. Phase 2, which has outline consent, retains hedgerows and trees with ecological value, as well as creating a new green public open space incorporating SUDs, and improving green links and corridors in conjunction with Phase 1. These are just two examples and I am therefore confident that the shortfall on the proposed bus depot site will be more than made up across other sites within the Perry Barr area.
- 6.61. Concerns were also raised regarding the lighting levels along the northern boundary. The scheme has been amended to reduce the lighting where possible but there remain areas above 1 lux near the boundary and any further changes would impact on the deliverability of the site and the available land for bus parking. On balance I consider that the scheme has been designed so as to cause the least impact possible whilst still providing for the operational needs of the user. The final details of the lighting scheme can be controlled by a suitably worded condition.
- 6.62. An Arboricultural report has been submitted in support of this application which notes that there are 4 individual trees within the site, 1 alder and 3 sycamores, and some groups of small birch saplings, goat willow and butterfly bushes within the site. The largest tree, a Sycamore, has been assessed as category B and is covered by the blanket TPO. However, as noted in section 1 above removal of this tree has been agreed as part of the previous consent for demolition of the buildings and remediation of the site. Some, limited, tree planting is proposed as replacement for the loss of existing landscaping. As noted above, the details of the landscaping can be controlled by condition to ensure that it results in a planning gain.
- Drainage and flood risk*
- 6.63. The site is within flood zone 1 and part within flood zone 2. A Drainage Report and Flood Risk Assessment have been submitted with the application and updated during the determination of the application. The site is 2km from Aston reservoir and as such there is a low risk of flooding from this source. The site is at risk of pluvial flooding (from surface water) but this will be limited to the road and low points of the site. The proposed development has been designed to ensure flooding is kept away from the buildings.
- 6.64. There are existing foul and surface water sewers immediately adjacent to the site, beneath Aston Lane. Due to the risk of groundwater contamination from the proposed use, infiltration of surface water would not be appropriate. The nearest river is the Thame which is 550m northwest and therefore discharge to the river is not viable. As such discharge to mains is the only available means of dealing with the surface water. Both foul and surface water drainage are to be connected to the mains and the applicant has advised that Severn Trent Water have confirmed there is capacity within the system for both.
- 6.65. As the site is brownfield the greenfield rate has been calculated. The discharge rate of the surface water, to mains, is to be as close to greenfield rate as is reasonably practicable. The scheme proposes to use sustainable urban drainage to reduce the surface water outflow fitted with trap and oil separators to reduce the risk of pollution. Rainwater harvesting is also proposed on the service building and the water will be used for the bus washing. Below ground attenuation tanks are

included to control the outflow to the mains and a maintenance schedule has been submitted.

- 6.66. As noted above additional information was received which included applying a climate change factor, reducing the discharge rate to 12.5% and detailing the attenuation features proposed. As such final response from the LLFA confirms they have no objections, subject to conditions. Severn Trent have no objections and recommended a condition to require drainage plans for the disposal of foul and surface water. The Environment Agency also have no objections.

*Other matters*

- 6.67. I note the comments received from West Midlands Police and the agent has confirmed that the gates and building doors/ windows will be fitted with security measures.
- 6.68. The comments of West Midlands Fire Service can be attached as advisory. The agent has advised that the final design of the gate operation will ensure access for fire vehicles.
- 6.69. The comments from Network Rail are matters between the developer and Network Rail. The red edge of the application site has been amended to remove the land Network Rail have advised is within their ownership.
- 6.70. I also note the comments from the Employment Team and consider the requested condition is appropriate and complies with the policy requirements to encourage making use of local employment opportunities set out in ES1 of the AAP and TP27 of the BDP. The concern raised by the local resident regarding the potential for damage during the development is a civil matter in that any damage will be the responsibility of the developer.

7. Conclusion

- 7.1. The application proposes the development of this previously developed site for a relocated National Express bus depot, to enable their existing site to be developed as part of the wider Commonwealth Games scheme. The layout, scale and design of the development is considered to be appropriate providing visual interest to Aston Lane. The amended layout has increased the amount of landscaping to maximise what can be available without impacting on the operational requirements of the development.
- 7.2. The historic gate, piers and lanterns will be relocated, the development aims for greater sustainability and the constraints of the site and the use are balanced against the BREEAM requirements of the adopted policies. The impact on the neighbouring residents and other land users can be mitigated through the provision of the scheme as amended, ecological enhancements are proposed and can be secured by condition and an appropriate drainage system, which will not increase flood risk off-site, can be secured by condition.
- 7.3. The additional information and amended plans have justified the width of the vehicular access onto Wellhead Lane and there are no other highway objections, sufficient parking and manoeuvring space is available and the cycle parking has been increased to an appropriate level. As such, the scheme as amended complies with the adopted policies in regard to highway access.

7.4. Overall the scheme is considered to comply with the requirements of the Birmingham Development Plan, the saved policies of the Unitary Development Plan, the relevant supplementary planning guidance and documents and the National Planning Policy Framework.

8. Recommendation

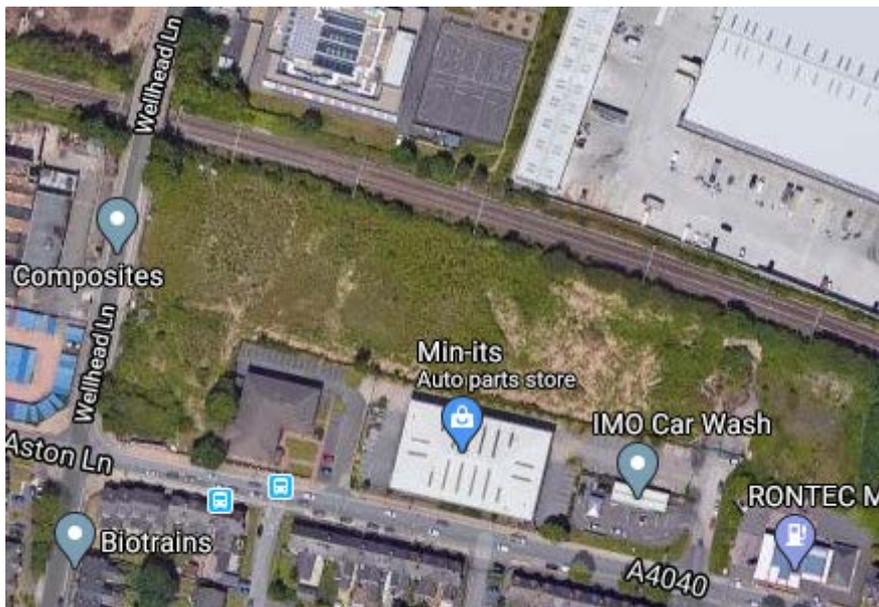
8.1. That planning permission be granted subject to the following conditions:

- 
- 1 Requires the prior submission of a contamination remediation scheme
  - 2 Requires the submission of a contaminated land verification report
  - 3 Requires the submission of unexpected contamination details if found
  - 4 Requires the prior submission of a construction/ demolition method statement/management plan
  - 5 Requires the prior submission of a construction employment plan.
  - 6 Requires the submission of a stage 2 Road Safety Audit
  - 7 Requires a package of highway measures
  - 8 Requires vehicular visibility splays to be provided
  - 9 Requires pedestrian visibility splays to be provided
  - 10 Requires the dedicated use of access and egress points
  - 11 Requires details of dismantling, refurbishment and re-erection of the art-deco gates
  - 12 Requires the prior submission of a drainage scheme
  - 13 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
  - 14 Requires the prior submission of level details
  - 15 Requires the submission of sample materials
  - 16 Requires the submission of materials and details of windows, external doors, building facades (inc brise soleil and ventilation system), roof and rainwater goods details
  - 17 Requires the submission of hard and/or soft landscape details
  - 18 Requires the submission of boundary treatment details
  - 19 Requires the submission of a landscape management plan
  - 20 Requires noise monitoring of 144-147 Aston Lane
-

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- 21 Requires the submission of details of the sound insulation for plant/machinery
  - 22 Limits noise during daytime and nighttime hours
  - 23 Requires noise mitigation scheme
  - 24 Requires noise monitoring
  - 25 Requires the buses to be Euro 6 within 12 months
  - 26 Panel beating and paint spraying within buildings and limit of repair noise
  - 27 Requires white noise reversing alarms
  - 28 Requires the submission of a commercial travel plan
  - 29 Requires the submission of a lighting scheme
  - 30 Requires the submission of cycle storage details
  - 31 Requires the prior submission of details of bird/bat boxes
  - 32 Requires the submission of a scheme for ecological/ biodiversity enhancement measures including 432sqm of biosolar roofs and green wall
  - 33 No fewer than 10% of car parking spaces for staff and visitor parking shall be provided with electric vehicle charging points. No fewer than 10% of the bus bays shall be made available for ultra-low emission or zero emission buses.
  - 34 Requires the scheme to be in accordance with the listed approved plans
  - 35 Implement within 3 years (Full)
- 

Case Officer: Karen Townend

## Photo(s)



Aerial photograph of site (Google 2020)



Corner of Wellhead Lane and Aston Lane



Aston Lane frontage



Aston Lane frontage cont.



Historic gates, piers and lanterns



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Committee Date:	21/01/2021	Application Number:	2020/09241/PA
Accepted:	20/11/2020	Application Type:	Listed Building
Target Date:	22/01/2021		
Ward:	Aston		

Aston Hall, Trinity Road, Aston, Birmingham, B6 6JD

Listed building consent for removal of rotten timber roof ladders, repairs to damp damage in cellar and re-roofing of rear yard area of south lodge

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. Listed building consent is sought for the removal of rotten timber roof ladders, repairs to damp damage in the cellar and re-roofing of the rear yard roofs of the South Lodge at Aston Hall, Trinity Road, Aston.
- 1.2. The proposed works are essential for the durability of the building and the external appearance of the building will remain unchanged.
- 1.3. The application is supported by a Design and Access Statement and a Heritage Statement.

1.4. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises Aston Hall, which is a Grade I listed Jacobean-style building. Aston Hall was constructed in 1618-1635 for Sir Thomas Holte, to the designs of the celebrated Jacobean surveyor John Thorpe. Aston Hall is a community museum managed and owned by Birmingham City Council and is open to the public.
- 2.2. Aston Hall and associated buildings are located within Aston Park, which is a designated Grade II historic park and garden. The site also falls within Aston Hall and Church Conservation Area. The building is situated on a raised land level to Trinity Road, which is situated to the north of Aston Park. The site is also adjacent to Aston Villa Football Club.
- 2.3. The surrounding area comprises a mixture of residential, commercial and industrial uses.

2.4. [Site location](#)

3. Planning History

- 3.1. There is an extensive planning history for Aston Hall with the most recent applications including:

- 3.2. (2010/00787/PA) - Listed building consent for the replacement of a temporary steel door with new oak door to the basement of the former Banqueting hall; removal of a modern plasterboard partition to form a large single room within the attic level; replacement of a modern screen to the turret landing; raising of ceiling within attic to expose fanlight window above door; and other minor internal works – Approved subject to Conditions – 21/09/2010
- 3.3. (2007/05462/PA) - Proposed alterations to the Grade 1 listed stable buildings to include internal repairs, re-roofing, rainwater goods repair and works to east elevation windows – Approved subject to Conditions – 11/03/2009
4. Consultation/PP Responses
- 4.1. Site and press notice displayed. Residents' Associations and local Councillors notified. No responses received.
- 4.2. Historic England – support the application on heritage grounds.
5. Policy Context
- 5.1. The following local policies are applicable:
- Birmingham Development Plan (BDP) 2017
  - Birmingham Unitary Development Plan (UDP) 2005 (Saved Policies)
- 5.2. The following national policies are applicable:
- National Planning Policy Framework (NPPF) 2019
  - National Planning Practice Guidance
  - Planning (Listed Buildings and Conservation Areas) Act 1990
6. Planning Considerations
- 6.1. This application has been assessed against the objectives of the policies as set out above.
- 6.2. The proposed works consist of the removal of timber access ladders from the roof of the Hall; repairs to the pillars in the basement and associated outside works; and re-roofing the yard buildings of the south Lodge.
- 6.3. The submitted Design and Access statement states that the existing timber roof ladders are in place to assist maintenance of the roof, but are now unsafe. Due to the height of the roof; cherrypickers and drones are now required to inspect and maintain the roof. The ladders are now in a decayed state and no longer suitable for use and as such would be removed.
- 6.4. The pillars in the Hall north cellar have been damaged by an extensive damp and bricks have eroded and as such it is recommended that the brickwork is repaired. Narrow handmade red clay plain tiles would be used to fill voids, they would be set in lime mortar and limewash finishes reinstated. Externally, some minor repointing to low level brickwork would be undertaken using a lime mortar and a low point in the landscaping would be infilled.

- 6.5. The existing roofs at the ground floor yard at the rear of the South Lodge are all in poor condition and need to be re-roofed. The existing roofs comprise mixture of Welsh slates to pitches and felt to flat roof and had been previously installed with what appears to be a polycarbonate sheeting over the passageway. The proposal would see the roof being re-roofed in materials to match existing with the polycarbonate being removed.
- 6.6. My Conservation Officer has assessed the proposal and raised no objections. It is considered that the ladders, which are early 20<sup>th</sup> century, are no longer usable and do not contribute to the significance of the Hall. The use of tile inset to replace the decaying brickwork in basement is also considered to be acceptable and the re-roofing of the yard buildings would prevent the deterioration of this area. The works and the proposed materials are well specified within the submitted Heritage Statement and this has been conditioned accordingly. I consider that the proposed works would not harm the historic and architectural interest of this Grade I Listed building.
- 6.7. Historic England support the application on heritage grounds as the proposed works would prevent further decay of historic fabric relating to water ingress and damp.
- 6.8. The proposed development does not attract a CIL contribution.

7. Conclusion

- 7.1. The proposal accords with local and national planning policy and would not adversely affect the architectural or historic character of this Grade I listed building. I therefore recommend that Listed Building Consent is granted.

8. Recommendation

- 8.1. Approve subject to Conditions.

- 
- 1 Implement within 3 years (conservation/listed buildings consent)
- 2 Requires the scheme to be in accordance with the listed approved plans
- 3 Requires any damage to the listed building to be made good
- 4 Requires the scheme to be in accordance with the submitted Heritage Statement
- 

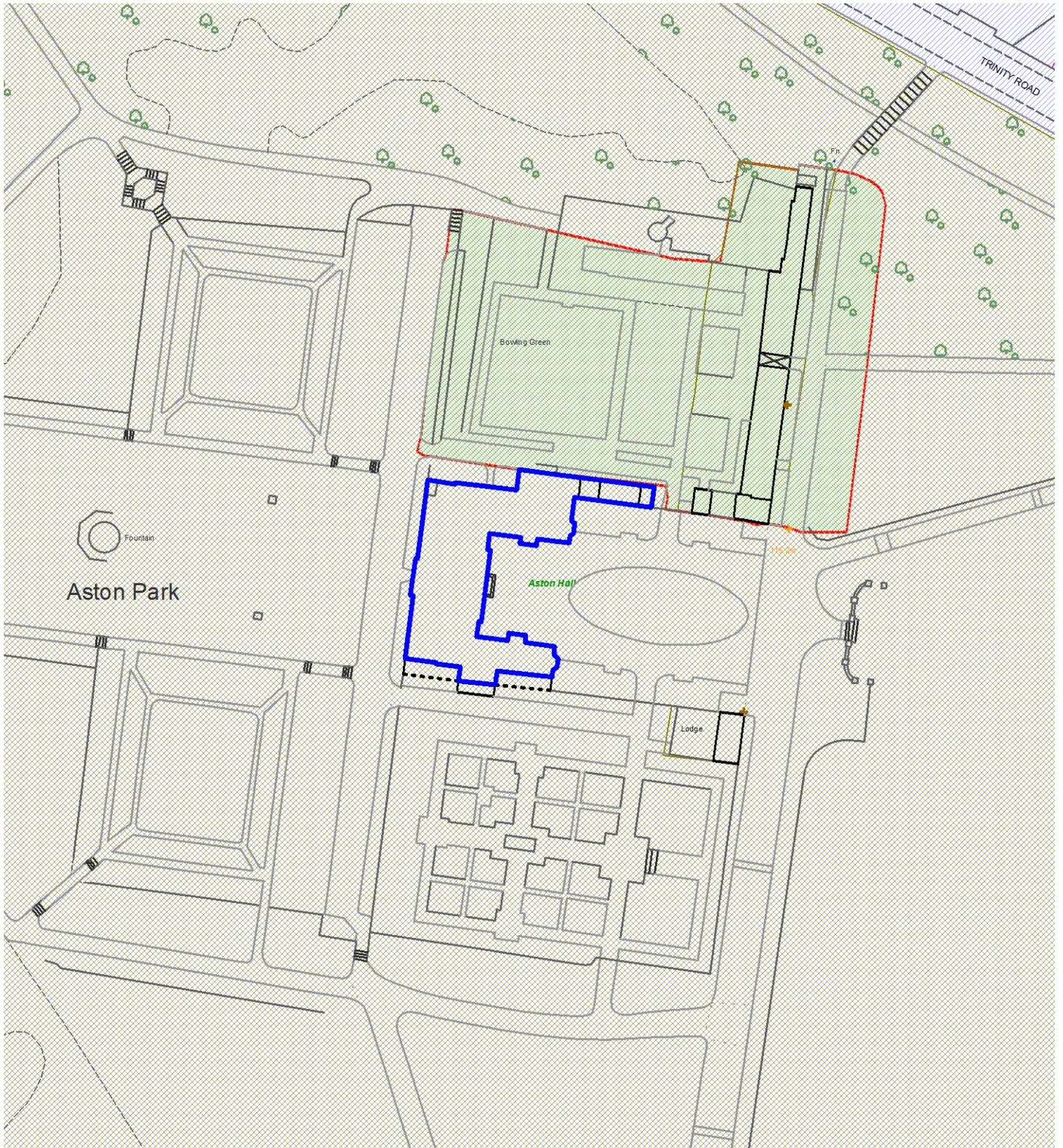
Case Officer: Lucia Hamid

## Photo(s)



Picture 1: Aerial view of the Hall and grounds

## Location Plan



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Committee Date:	21/01/2021	Application Number:	2020/09329/PA
Accepted:	24/11/2020	Application Type:	Advertisement
Target Date:	25/01/2021		
Ward:	Sutton Vesey		

Jockey Road/College Road/Maxstoke Road Roundabout, Sutton Coldfield, Birmingham, B73 5XJ

Display of three non-illuminated, freestanding, post mounted signs

Recommendation

**Approve Temporary**

1. Proposal

1.1. Advertisement consent is sought for the display of three non-illuminated, freestanding post mounted signs to be sited within a roundabout approaching the entrance with Jockey Road/College Road/Maxstoke Road, Sutton Coldfield, B73 5XJ.



1.2. The proposed advertisement signs would measure 1m in width x 0.5m in height with the maximum projection of 0.05m and would be fixed into the ground with aluminium posts (2 per sign) at approximately 0.35m above ground level. The posts would be fixed into the ground at a depth of 0.05m using postcrete. The proposed adverts would be oriented to direct displays to face an entrance to the roundabout.

1.3. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site relates to a roundabout facing the entrance to Jockey Road/College Road/Maxstoke Road. There is an existing sign which would be

replaced as part of this proposal. The surrounding area is predominately residential in nature.

## 2.2. Site Location

## 3. Planning History

3.1. No relevant planning history.

## 4. Consultation/PP Responses

4.1. Transportation Development – No objections subject to the following condition;  
- There must be a 2m buffer from roundabout edge to sign & no higher than 1.05m above carriageway.

## 5. Policy Context

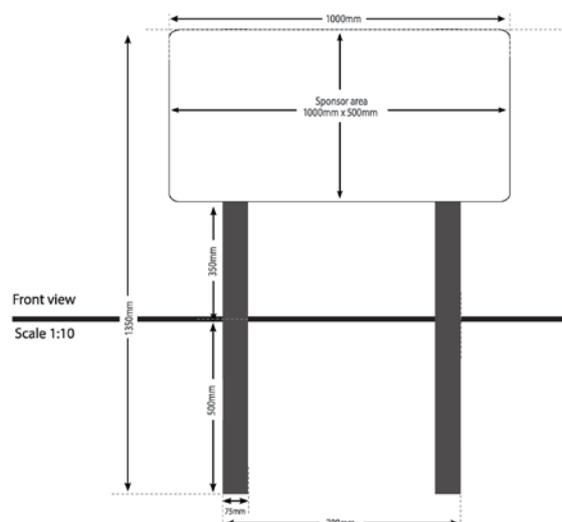
5.1. National Planning Policy Framework (2019); Birmingham Development Plan (2017); Birmingham Unitary Development Plan (UDP) Saved Policies 2005; The Town and Planning (Control of Advertisements) (England) Regulations 2007.

## 6. Planning Considerations

6.1. In accordance with paragraph 67 of the NPPF advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impact.

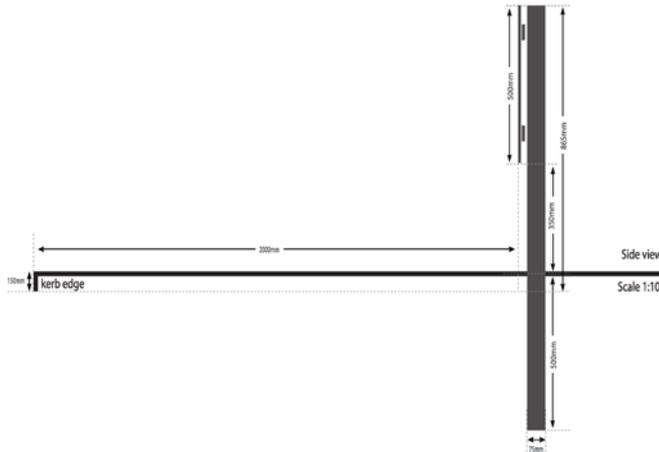
### *Visual amenity*

6.2. The three freestanding signs would be sited within the existing roundabout. The proposed signage would not have any adverse implications on the visual amenity of the surrounding residential area. The proposed advertisement would be non-illuminated and would not appear as a dominant feature on this section of highway land. I consider that the size, shape and position of the proposed signs are appropriate and the area remains uncluttered by existing advertisements. As such, the proposed signage is acceptable in terms of design with no harm to visual amenity.



*Public safety*

- 6.3. The proposed advert will be oriented to direct displays to pedestrians and vehicles approaching the entrance with Jockey Road/College Road/Maxstoke Road. Transportation Development raise no objections subject to a condition requiring that there must be a 2m buffer from roundabout edge to sign and no higher than 1.05m above carriageway. The proposed signage would be set well back from the public highway and would not encroach any pedestrian or vehicular visibility splay. As such, it is considered that the development will not have an adverse impact on highway safety and the recommended condition is not relevant in this case.



7. Conclusion

- 7.1. I consider that the proposed signage would not have an adverse impact on visual amenity or public safety. As such, I recommend that the application is approved for a temporary period of time, subject to the conditions detailed below.

8. Recommendation

- 8.1. Approve temporary subject to Conditions.

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1	Requires the scheme to be in accordance with the listed approved plans
2	Limits the approval to 5 years (advert)

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Case Officer: Chantel Blair

## Photo(s)

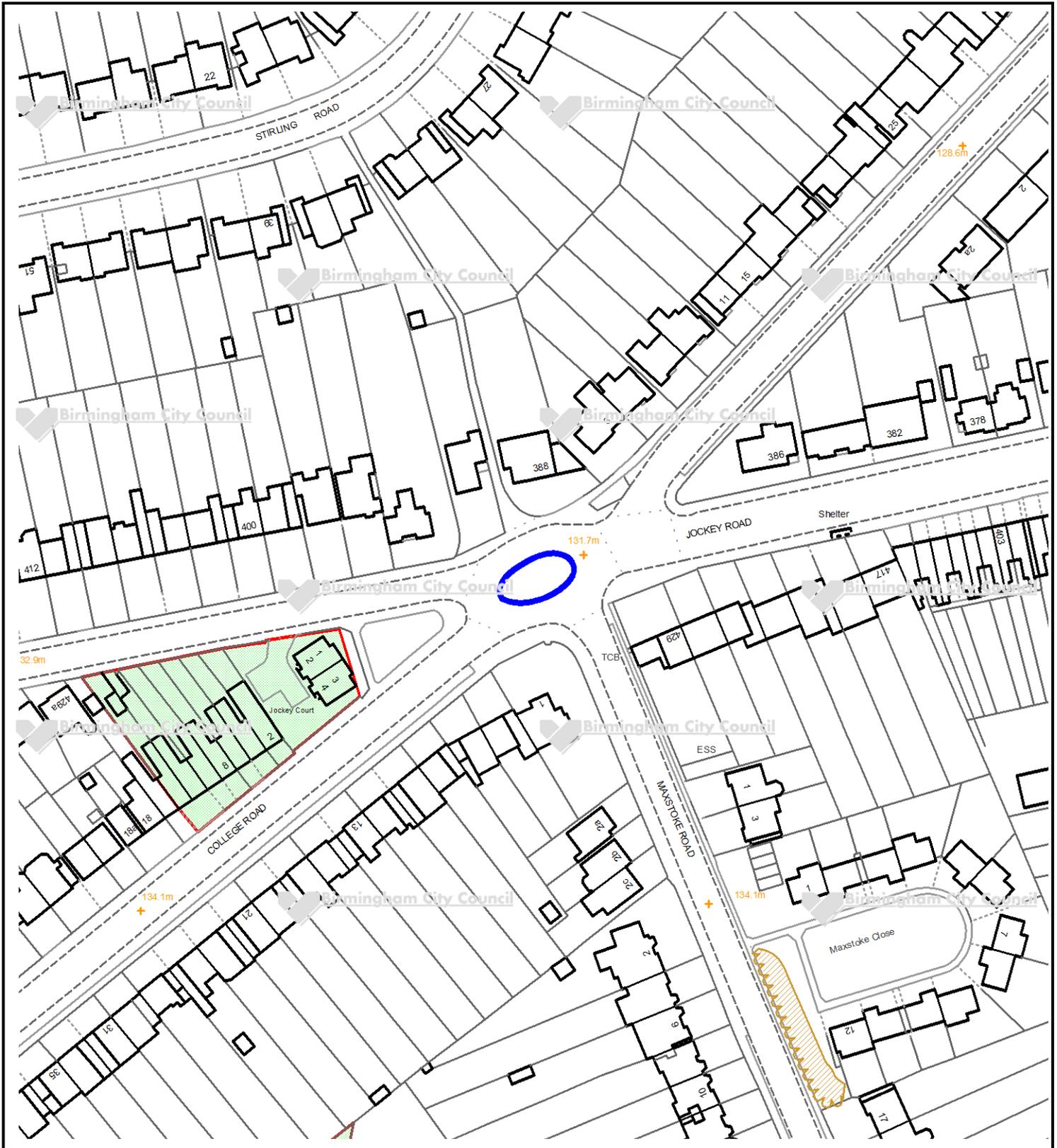


Figure 1: Jockey Road entrance



Figure 2: Maxstove Road and College Road entrance

# Location Plan



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# Birmingham City Council

## Report to Planning Committee

21<sup>st</sup> January 2021

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**Subject:** Planning Improvement Peer Challenge

**Report of:** Acting Director, Inclusive Growth

**Report author:** Sean Hannaby, Interim Assistant Director Planning

Email Address: [sean.hannaby@birmingham.gov.uk](mailto:sean.hannaby@birmingham.gov.uk)

Does the report contain confidential or exempt information?  Yes  No

If relevant, provide exempt information paragraph number or reason if confidential :

### 1. Executive Summary

To review the recommendations of the Planning Peer Review, what actions have been taken as a result and consider next steps.

### 2. Recommendations:

- 2.1. That the contents of the report be noted and that a further update report be considered in 6 months.

### 3. Background:

- 3.1. In November 2019 a planning improvement peer challenge was carried out, organised by the Local Government Association (LGA) in cooperation with the Planning Advisory Service (PAS).

- 3.2. The main focus of the peer challenge was to review Planning Committee's role in decision making and public engagement and examine the role of Development Management in delivering growth and regeneration. These two areas were examined across four themes covering:

- Vision and Leadership;
- Development Management Decision Making;
- Planning Committee; and
- Community, Partners and Outcomes.

- 3.3. The Peer Review Team was also asked to specifically look at the level of deferrals and abstentions at Planning Committee and Planning Committee site visits.

## **Methodology:**

- 3.4. The peer challenge was carried out over three days by trained peers who included three Local Government Directors, two Councillors who are familiar with planning services, an Improvement Manager from PAS and a Peer Challenge Manager from the LGA.
- 3.5. The team met with a wide range of people both inside and outside the Council, including senior politicians and managers, planning staff, community groups, agents and developers, as well as observing the staff and Planning Committee in action.
- 3.6. The Peer Challenge identified a number of areas where we are demonstrating a number of positive characteristics in service delivery, which includes the quality of many completed schemes that are being delivered, but it also identified a number of areas of concern where we can do better.
- 3.7. The Peer review recognised that the Council's growth plans and aspirations to create a world class city are ambitious and challenging and in order to continue to deliver both the pace of growth and quality of development required, the Council needs a Planning Committee that is modern and strategic in its outlook and a planning service that exudes credibility, confidence and certainty.
- 3.8. However, at the time of the inspection, the Council's Planning Committee was considered to fall short and the Peer review team identified poor quality decision making resulting in a serious loss of trust and confidence from major investors and developers. They considered that the Committee does not understand its role in delivering the vision for the City and delays and refusals are weakening the delivery of homes, jobs and necessary infrastructure for current and future generations. Whilst the quality of development and investment in the growth and regeneration of the city was considered to be very impressive, radical changes to the Planning Committee were identified to address reputational damage.
- 3.9. The Peer Review team were encouraged that the Chair of the Planning Committee, senior politicians and managers recognised the need to improve the way the Planning Committee works.
- 3.10. Operationally, the review team concluded that the planning service deals with a high workload and possesses highly competent and committed staff with a good skill range. However the team also identified concerns about a lack of performance management and the performance results were worryingly close to the designation threshold for Non-Major applications.
- 3.11. The peer team concluded that success will only be achieved through joint member/officer working and improved trust and confidence. Key recommendations included modernising Planning Committee working arrangements including earlier member engagement, training and learning opportunities, reinstating the Head of Planning Management role and creating a greater focus on managing performance.
- 3.12. The main recommendations from the Peer Review are summarised below:

1. *Modernise the Planning Committee working arrangements.*
2. *Officers and members must work together to rebuild trust and confidence.*
3. *Ensure earlier member engagement in a restructured pre application process and at subsequent stages before reports are presented to Planning Committee following a review of best practice.*
4. *Thoroughly modernise and update the scheme of delegation.*
5. *Re introduce officer presentations at committee*
6. *Urgently review the operation of the Planning Committee site visits and nominate a lead officer to manage this process in order to tighten the current protocol and to reduce the risk of accusations of unfairness and judicial review.*
7. *Create a structured programme of training and development for Planning Committee and officers.*
8. *Urgently provide more wrap around support for the Chair of Planning Committee to enable her to focus on the key role of chairing the meeting.*
9. *Create a facilitated workshop between Planning Committee members and officers to co-design the modernisation of Planning Committee processes and procedures.*
10. *Reinstate a Head of Development Management role.*
11. *Develop a clear and focused service improvement and performance management plan. This is vital if the service is to improve performance on speed of decision making and avoid Government ‘designation’.*
12. *Replace the Design Review Panel with an independent external panel.*
13. *Review the approach to the management and monitoring of Section 106 and CIL receipts.*

3.13. The following table lists the actions taken in relation to the above recommendations:

<b>Peer Review Recommendation</b>	<b>Proposed Action</b>	<b>Comments/ Action Taken</b>
<i>1. Modernise the Planning Committee working arrangements.</i>	1. Create a workshop with Planning Committee members and officers to: <ol style="list-style-type: none"> <li>a. Review the Committee size &amp; frequency of meetings</li> <li>b. Review the arrangements for Committee meetings - seating and attendance</li> <li>c. Adopt a new committee procedures protocol</li> </ol>	A virtual ‘workshop’ took place on the 10 <sup>th</sup> June 2020 to consider all the Peer Recommendations.  A temporary Committee Procedures Protocol and Public Speaking Protocol was adopted for use during the pandemic and

	<p>d. Review public speaking and adopt a new protocol</p> <p>2. Adopt the PAS '10 characteristics of a good Planning Committee as a model for improvement.</p>	<p>experiences using a revised protocol will help inform consideration at a future workshop.</p> <p>The 10 characteristics of a good Planning Committee were discussed at the workshop and will be reconsidered when a permanent revised Committee Procedures Protocol is considered in 2021.</p>
<p><i>2. Officers and members must work together to rebuild trust and confidence.</i></p>	<p>To be achieved by jointly working on modernisation programme, joint training and earlier engagement on major development schemes.</p> <ol style="list-style-type: none"> <li>1. Introduce Committee briefings for major/controversial proposals early in the process</li> <li>2. Introduce joint officer/member training</li> <li>3. Introduce political awareness training for officers</li> </ol>	<p>Both officers and members attended the 10<sup>th</sup> June workshop and have been involved in meetings to discuss pre-app presentations and jointly attended training sessions.</p> <p>A member &amp; officer training plan was produced in June 2020 setting out training topics that addresses all of the relevant training points extracted from the Planning Service Improvement Plan.</p>
<p><i>3. Ensure earlier member engagement in a restructured pre application process and at subsequent stages before reports are presented to Planning Committee following a review of best practice.</i></p>	<ol style="list-style-type: none"> <li>1. Review the pre-application advice process to enable major/controversial schemes to be presented to Planning Committee, to improve officer/member relationships and improve engagement by members</li> <li>2. To include a review of best practice elsewhere.</li> <li>3. Introduce Committee briefings for major/controversial proposals early in the process.</li> <li>4. Ward members to be encouraged to: <ol style="list-style-type: none"> <li>a. actively monitor the weekly list to stay up to date with new applications</li> <li>b. be encouraged to engage with residents, applicants and planning</li> </ol> </li> </ol>	<p>Interim briefings on City Centre developments arranged for early March - cancelled due to lack of attendance by members.</p> <p>A new pre-app protocol was adopted in July 2020 to allow major/controversial schemes to be presented to Planning Committee. The results of the 1<sup>st</sup> 6 months of presentations will be reviewed in February 2021.</p>

	officers.	
<i>4. Thoroughly modernise and update the scheme of delegation.</i>	<p>There are an excessive number of committee items dealing with minor applications (including Certificates of Lawful Development) and Committee do not focus on dealing with the most strategic and controversial applications.</p> <p>Revise the scheme of delegation to reduce the number of applications that are considered by committee.</p> <p>Review the call in process to ensure that planning reasons are given and an assessment made of whether a referral is appropriate.</p>	<p>A temporary change in delegated powers during the pandemic has been adopted and experiences during this time will help inform further consideration of this issue.</p> <p>A temporary revision to the call in procedure has been agreed during the pandemic which requires a planning reason. The decision is made by the Director in consultation with the Chair and experiences during this time will help inform further consideration of this issue..</p>
<i>5. Re introduce officer presentations at committee</i>	<ol style="list-style-type: none"> <li>1. Adopt a new committee procedures protocol</li> <li>2. Project plans/photos onto screen during presentation and debate</li> <li>3. Training for officers where needed</li> <li>4. Ensure presentations include key policy considerations</li> </ol>	<p>A temporary Protocol has been adopted during the pandemic and experiences during this time using a revised protocol will help inform further consideration.</p> <p>Additional plans and photographs are being included within reports whilst virtual meetings are being held. Initial officer presentations are being made on an ad hoc basis.</p>
<i>6. Urgently review the operation of the Planning Committee site visits and nominate a lead officer to manage this process in order to tighten the current protocol and to reduce the risk of accusations of unfairness and judicial review.</i>	<p>Advice re site visit procedure was implemented immediately following the Peer Review report.</p> <p>Remaining actions are to adopt a revised protocol and to nominate lead officer for Committee site visits.</p>	<p>Committee site visits are not taking place during the pandemic and additional plans and photographs are being included within reports whilst virtual meetings are being held.</p> <p>A revised Site Visit Protocol will be considered by Committee prior to site visits being reintroduced, likely to take place in February 2021.</p>

<p><i>7. Create a structured programme of training and development for Planning Committee and officers</i></p>	<ol style="list-style-type: none"> <li>1. Engage with Planning Advisory Service on future training programme.</li> <li>2. Introduce joint training for Members and officers.</li> <li>3. Explore opportunities for external providers to undertake training.</li> <li>4. Make training a mandatory requirement of being a member of Planning Committee.</li> </ol>	<p>PAS has provided a list of appropriate courses.</p> <p>A member training plan has been produced containing all relevant training points referred to in the Planning Service Improvement Plan.</p> <p>Member training relating to robust decision making and heritage issues has been delivered.</p> <p>Links to further self-learning resources have been provided to Committee members.</p>
<p><i>8. Urgently provide more wrap around support for the Chair of Planning Committee to enable her to focus on the key role of chairing the meeting.</i></p>	<p>Training and support for the Chair is required.</p>	<p>Mentoring support to the Chair has been identified by PAS.</p> <p>The Interim AD is providing ongoing support for the Chair.</p> <p>The Chair has received PAS training relating to managing planning committee meetings.</p>
<p><i>9. Create a facilitated workshop between Planning Committee members and officers to co-design the modernisation of Planning Committee processes and procedures.</i></p>	<ol style="list-style-type: none"> <li>1. Create a workshop with Planning Committee members and officers to: <ol style="list-style-type: none"> <li>a. Review the Committee size &amp; frequency of meetings</li> <li>b. Review the arrangements for Committee meetings - seating and attendance</li> <li>c. Adopt a new committee procedures protocol</li> <li>d. Review public speaking and adopt a new protocol</li> </ol> </li> <li>2. Adopt the PAS '10 characteristics of a good Planning Committee as a model for improvement.</li> </ol>	<p>A virtual 'workshop' took place on the 10<sup>th</sup> June 2020 to consider all the Peer Recommendations.</p> <p>A temporary Committee Procedures Protocol and Public Speaking Protocol was adopted for use during the pandemic and experiences using a revised protocol will help inform consideration at a future workshop.</p> <p>The 10 characteristics of a good Planning Committee were discussed at the workshop and will be</p>

		reconsidered when a permanent revised Committee Procedures Protocol is considered in 2021.
<i>10. Reinstate a Head of Development Management role.</i>	This recommendation identifies a need for a senior officer within the management team who has sufficient DM experience to provide leadership for the DM area teams rather than a specific need for a Head of Service. There is a need to review reporting arrangements for area planning teams and have single senior officer responsible for planning management and performance.	Clarity of DM leadership is required. Until such time as a new Chief Executive is appointed, ad hoc organisational structural changes are not being implemented. In the meantime, an Interim Assistant Director of Planning was appointed in February 2020 to provide guidance and support for the DM teams.
<i>11. Develop a clear and focused service improvement and performance management plan. This is vital if the service is to improve performance on speed of decision making and avoid Government 'designation'.</i>	<ol style="list-style-type: none"> <li>1. Carry out a wider review of the service area and identify further opportunities for improvement to service delivery</li> <li>2. Develop a service improvement plan</li> <li>3. Review performance reporting arrangements to enable greater ownership by officers and Planning Committee.</li> <li>4. Review DM performance management processes and targets.</li> </ol>	<p>An Interim Assistant Director of Planning was appointed in February 2020 to Lead on service improvement.</p> <p>A Planning Service Improvement Plan (PSIP) was presented to EMT on 18/2/20 that incorporated all of the PAS/LGA recommendations.</p> <p>A further review by the Interim AD has identified additional improvements in terms of quality and speed of decision making and customer service.</p> <p>The PSIP has been further developed to incorporate these additional improvements and will be considered by management and members in February/March 2021.</p>
<i>12. Replace the Design Review Panel with an independent external panel.</i>	<ol style="list-style-type: none"> <li>1. Review the DRP in terms of its composition and operation to ensure that it is truly independent, experienced and professional to deal with the significant scale of development in the city.</li> <li>2. Consider developing a charged</li> </ol>	<p>The future of Design guidance is under review.</p> <p>A paper considering the provision of heritage guidance will be considered by members in January</p>

	<p>for service that forms a clear part of the pre-application advice process</p> <p>3. Review role of panel and consider options for either creating new panel which has independent chair and has a wider remit to look at issues such as sustainable construction. Alternatively consider whether panel is necessary with advice on design already provided by officers.</p> <p>4. Review role of conservation organisations.</p>	2021.
<p><i>13. Review the approach to the management and monitoring of Section 106 and CIL receipts.</i></p>	<p>1. Review the approach to prioritisation of Section 106 receipts</p> <p>2. Review the transparency of how the spending of S106 contributions is managed and reported.</p> <p>3. Review how S106 contributions are monitored and reported to demonstrate how the Planning Service is delivering tangible benefits for local people.</p> <p>4. Review process and learn from best practice elsewhere.</p>	

- 3.14. As a result of the Peer Review it became clear that a further operational review of the Development Management service and the decision making process was required at a finer grain than the Peer Review which, by its nature, was more high level.
- 3.15. An Interim Assistant Director of Planning was appointed in February 2020 to carry out this further review to identify any additional improvements that can be made in terms of quality and speed of decision making and customer service. The Interim AD was also tasked with producing a Planning Service Improvement Plan to identify what improvements are necessary and actions to tackle them.
- 3.16. The pandemic and subsequent working from home has had an impact upon on the ability to carry out on the job observations but the Interim AD has continued to work with the service area since February to identify and implement various improvements and create a focus on performance management to improve speed and quality of decision making. As a result a Planning Service Improvement Plan (PSIP) has been drawn up that identifies all the improvements that have been identified via both the Peer and further review, together with actions that have been taken.

3.17. The PSIP will be considered by management and members in February/March 2021. It lists the identified improvements in the following themes and has RAG rated the various issues:

- Planning Committee
- Committee Site Visits
- Development Management Decision Making/Performance Management
- Pre-application advice
- Personnel Matters
- S106 and CIL income
- Processes
- Budget Control and Fee income
- Strategic Planning
- Enforcement

*Ian J. MacLeod*

Ian McLeod  
Director of Inclusive Growth (Acting)

Contact Officer: Sean Hannaby Interim Assistant Director Planning  
E-Mail: [sean.hannaby@birmingham.gov.uk](mailto:sean.hannaby@birmingham.gov.uk)

# Birmingham City Council

## Report to Planning Committee

21<sup>st</sup> January 2021

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**Subject:** Proposed Heritage Panel

**Report of:** Acting Director, Inclusive Growth

**Report author:** Sean Hannaby, Interim Assistant Director Planning

Email Address: [sean.hannaby@birmingham.gov.uk](mailto:sean.hannaby@birmingham.gov.uk)

Does the report contain confidential or exempt information?  Yes  No

If relevant, provide exempt information paragraph number or reason if confidential :

### 1. Executive Summary

To consider the establishment of an advisory panel that will provide guidance for officers and the Planning Committee in relation to planning applications that include a heritage issue.

### 2. Recommendations:

- 2.1. Approve the creation of the Birmingham Heritage Panel (BHP); to be made up of experienced professionals with heritage skills and experience from both the public and private sector.
- 2.2. Approve the Director of Inclusive Growth to seek expressions of interest to become a member of the Birmingham Heritage Panel, appoint its members and chair, specify the terms of reference and the arrangements for Panel meetings, in consultation with the Chair of Planning Committee.

### 3. Background:

- 3.1. In November 2019 a planning improvement peer challenge was carried out, organised by the Local Government Association (LGA) in cooperation with the Planning Advisory Service (PAS). The peer challenge was carried out by trained peers who included three Local Government Directors, two Councillors who are familiar with planning services, an Improvement Manager from PAS and a Peer Challenge Manager from the LGA.
- 3.2. The main focus of the peer challenge was to review Planning Committee's role in decision making and the role of Development Management in delivering growth and regeneration.

- 3.3. The team met with a wide range of people both inside and outside the Council, including senior politicians and managers, planning staff, community groups, agents and developers, as well as observing the staff and Planning Committee in action.
- 3.4. The Peer Review recognised that the Council's growth plans and aspirations to create a world class city are ambitious and challenging and identified a number of areas where we are demonstrating positive characteristics in service delivery, including the quality of many schemes that have been delivered, but it also identified a number of areas of concern where we can do better.
- 3.5. These included the former Birmingham Design and Conservation Review Panel, which the Peer Review considered caused delays and additional bureaucracy and was not providing a truly independent input into development proposals. The BDCRP was formed following a review in 2017 and merged the former Heritage Panel into the new BDCRP as a multi-disciplinary panel providing heritage advice as well as design guidance. It included elected members; including members of the Planning Committee and, as such, also created role confusion.
- 3.6. The Peer Review recommended that the Design Review Panel be replaced with an independent external panel, advocating that its membership and terms of reference be revamped to ensure that it is professional, experienced and independent. This report only addresses how heritage matters will be considered.

#### 4. **Evaluation**

- 4.1. The Peer Review recognised that the range of heritage skills inside the planning service is impressive. In addition there are a number of statutory and non-statutory heritage bodies that regularly provide the Local Planning Authority with their opinion. By their nature the various amenity bodies have a specific area of interest and as such offer very specialised opinions. As such, it could be argued that a panel is not required as case officers and members of the Planning Committee have a range of advice available to them already.
- 4.2. However, heritage is a very important planning issue because the Council has a statutory duty to give special regard to the desirability of preserving historic assets, their setting or any features of special architectural or historic interest and the impact that development proposals will have upon heritage assets and their settings. This is particularly important when dealing with proposals that will potentially continue to transform the City.
- 4.3. The National Planning Policy Framework (NPPF) also identifies the importance of the historic environment and how it should be dealt with in the planning balance by giving great weight to the conservation of heritage assets and seeking to protect and, where appropriate, enhance their setting.
- 4.4. The various heritage groups often have a different opinion regarding planning applications, which is not altogether surprising as they have different interests and focus on specific eras or issues. Whilst understandable, it can leave officers and Committee Members with competing recommendations that make assessment and decision making more difficult.

Although your officers have a good level of experience and skills in heritage matters it is important that officers and members have sufficient information available to them to be able to analyse these various responses and opinions.

- 4.5. The main reason for creating a Heritage Panel is because it will provide added value to the assessment process and improve the quality of decision making by providing additional relevant guidance for the Council to take into account before reaching a decision that may affect heritage assets or their settings. It is important therefore that a panel does not simply repeat opinions that the Council would receive anyway as part of its consultation process.
- 4.6. In view of the complexity of the issues and the statutory responsibilities upon the Council it is considered important that a separate advisory panel be set up to consider heritage matters rather than have no panel at all or have heritage matters included in a multi-disciplinary panel that considers other issues as well. The danger in the latter option is that the heritage issues are then balanced with, or subsumed by, other matters.
- 4.7. If a panel is to be set up the next issue is to consider its membership. Potentially members could include officers of the Council, elected Ward Members, Members of the Planning Committee, members of heritage amenity bodies, heritage academics and heritage practitioners.
- 4.8. There is no requirement or benefit in Officers attending Heritage Panel meetings, other than to possibly record the outcome of the discussions. Case Officers or Conservation Officers could influence the views of the panel by conveying their own opinions on specific applications and if the panel is to be truly independent to provide objective professional opinions, its independence needs to be protected. Once a panel has been set up it will require some organisational support, which may include an officer attending in a support role.
- 4.9. In view of the observations by the Peer Review team it is also considered that a Heritage Panel should not include elected members either. Members have various other roles to play and will continue to play their respective roles separate to the Heritage Panel; whether that be as a Ward Member, Planning Committee Member or Heritage Champion.
- 4.10. The various amenity bodies have a specific area of interest and, as such, their members may not wish to comment on applications that fall outside of their remit. Because of their specific areas of interest we sometimes receive different responses from different amenity bodies to the same proposal. In addition, as we will already receive comments from the relevant amenity bodies as part of the consultation process we would not obtain any additional input by having them represented on the Heritage Panel. Therefore it is considered that the Heritage Panel should not include representatives of amenity bodies.
- 4.11. The remaining category of potential members are practitioners with heritage experience and skill that do not work for the Council in a role which has any dealings with planning applications; which could include individuals from both the public and private sector who either currently work in a heritage related role or who have a strong personal interest in the matter coupled with appropriate skills and experience. They could work for other local

authorities, professional practices, be employed in academia or be retired individuals with proven experience. This could include employees of the Council but only those in a non-planning related role.

- 4.12. A Heritage Panel made up of experienced professionals would be a powerful tool that could help provide a fully rounded assessment of developments that include a heritage dimension to them and provide the Council with additional valuable input that is currently missing.
- 4.13. If the recommendation is agreed then further details will have to be considered about the numbers of members that should sit on a panel, obtaining a list of interested candidates, its terms of reference, the scope of applications that it will consider and the arrangements for its meetings. It is recommended that these details be delegated to the Director in consultation with the Chair.
- 4.14. Members of the Heritage Panel will be volunteers but will be paid reasonable expenses to cover travel and subsistence, where appropriate, in line with Council policy.

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