

Birmingham City Council

Planning Committee

07 July 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	6	2021/02131/PA Primrose Estate Phase 3 Land off Foyle Road and Land off Redditch Road Kings Norton Birmingham B38 The erection of 52 dwellings (46 houses/6 apartments) (Site A) and 30 apartments (Site B) with landscaping and associated works
Approve - Conditions	7	2022/01606/PA The Former Binding Site Warstock Road Kings Heath Birmingham B14 4RT Demolition of existing buildings and erection of three buildings to provide 10 no. commercial units for Use Class B2, B8, E(g)(iii)) with ancillary offices alongside access landscaping, parking and associated works

Committee Date:	07/07/2022	Application Number:	2021/02131/PA
Accepted:	14/04/2021	Application Type:	Full Planning
Target Date:	27/05/2022		
Ward:	King's Norton South		

Primrose Estate Phase 3, Land off Foyle Road and Land off Redditch Road, Kings Norton, Birmingham, B38

The erection of 52 dwellings (46 houses/6 apartments) (Site A) and 30 apartments (Site B) with landscaping and associated works

Applicant:	Birmingham City Council 1 Lancaster Circus, Queensway, Birmingham, B4 7DJ
Agent:	BM3 Architecture Ltd 28 Pickford Street, Birmingham, B5 5QH

Recommendation

Approve subject to Conditions

1. Proposal:

Site A - Land off Redditch Road (52 dwellings (46 houses/6 apartments))

- 1.1 The Site A proposal seeks the construction of 52 dwellings and an apartment block of six flats. The site would be accessed from Tunnel Road to the north-east, which also serves the adjacent supermarket. There would be a mixture of two storey and two and a half storey dwellings. The open market element would consist of (with gross internal floor area):

- 10 two-bedroom houses (80.8 sq.m)
- 9 three-bedroom houses (93.8 sq.m)
- 5 four-bedroom houses (114.8 sq.m and 118.3 sq.m)

The affordable housing element would consist of (with gross internal floor area):

- 9 two-bedroom houses (80.8 sq.m)
- 6 two-bedroom apartments (67.1 sq.m)
- 7 three-bedroom houses (93.8 sq.m)
- 5 four-bedroom houses (114.8 sq.m and 118.3 sq.m)
- 1 five-bedroom house (143.6 sq.m)

- 1.2 The properties would have a modern appearance with pitched roofs to the houses and a flat roof to the block of apartments. Materials include red brick with a dark grey roof tile and dark grey uPVC windows and doors.

- 1.3 Car parking would mainly be to the front of the properties and would be broken up with short areas of grass, hedging and trees.



Site A - Land off Redditch Road Site Plan

Site B - Land off Foyle Road (30 apartments)

- 1.4 The Site B proposal seeks the construction of 30 apartments over three blocks. Block A would contain nine flats, Block B would contain twelve flats and Block C would contain nine flats. The site would be accessed from Foyle Road to the north-east, which also serves the adjacent Ark Kings Academy. Each of the blocks would be three storeys high, with a mixture of flat and inverted, mono-pitch roofs. All of the apartments would be affordable and would consist of (with gross internal floor area):
 - 12 one-bedroom apartments (50.4 sq.m)
 - 18 two-bedroom apartments (63.1 sq.m and 62.2 sq.m)
- 1.5 Each of the blocks would be constructed in a mixture of red, light grey and dark grey brick with an aluminium standing seam roof. The windows would be grey uPVC and the balconies would be finished with black metal vertical railings.
- 1.6 Block A would have 9 car parking spaces to the front of the building accessed directly off Foyle Road. Block B would have 19 car parking spaces to the rear of the building and accessed off the internal road, and Block C would have 8 car parking spaces to the side of the building and would also be accessed off the internal road. In addition to this, 6 public car parking spaces would be provided adjacent to the school entrance.
- 1.7 Trees and new areas of planting would be introduced across the site, with several new trees along Foyle Road across the frontage.



Site B - Land off Foyle Road Site Plan

1.8 [Link to Documents](#)

2. **Site & Surroundings:**

2.1 The Primrose Estate is situated in Kings Norton, a suburb on the southern edge of Birmingham. It is located off the Redditch Road (A441) which provides access to Birmingham City Centre to the north and the M42 motorway to the south. The development area is 1/2 a mile from Kings Norton Green and nearly 1 mile from Kings Norton train station.

Site A - Land off Redditch Road (52 dwellings (46 houses/6 apartments))

2.2 Site A is an 'L' shape situated between Phase 1 of the Primrose Estate redevelopment to the south-east and south-west and the Aldi Supermarket to the north. It was previously cleared as part of the earlier phases and has not been utilised since. There are significant levels differences across the site, with a drop from the north-western boundary, adjacent to the Redditch Road, down to the recently constructed properties along Teviot Grove. The Aldi store is also within a significant cutting and sits on a much lower level than the application site.

2.3 The A441 Redditch Road is directly adjacent to the north-western boundary of the site but would only be directly accessible by pedestrians and cyclists.



Site A – Land off Redditch Road (source: Google Earth)

Site B - Land off Foyle Road (30 apartments)

- 2.4 Site B is located on an area of scrub land to the front of the Ark Academy school. The site was previously occupied by three, four storey apartment blocks, which were demolished around 2013. Tees Grove, a small access road which serves the school and has some informal parking, runs through the middle of the site.
- 2.5 To the north of the site, across Foyle Road, are some existing, two storey dwellings and to the north-west are further new dwellings which form part of the redevelopment of the Primrose Estate.

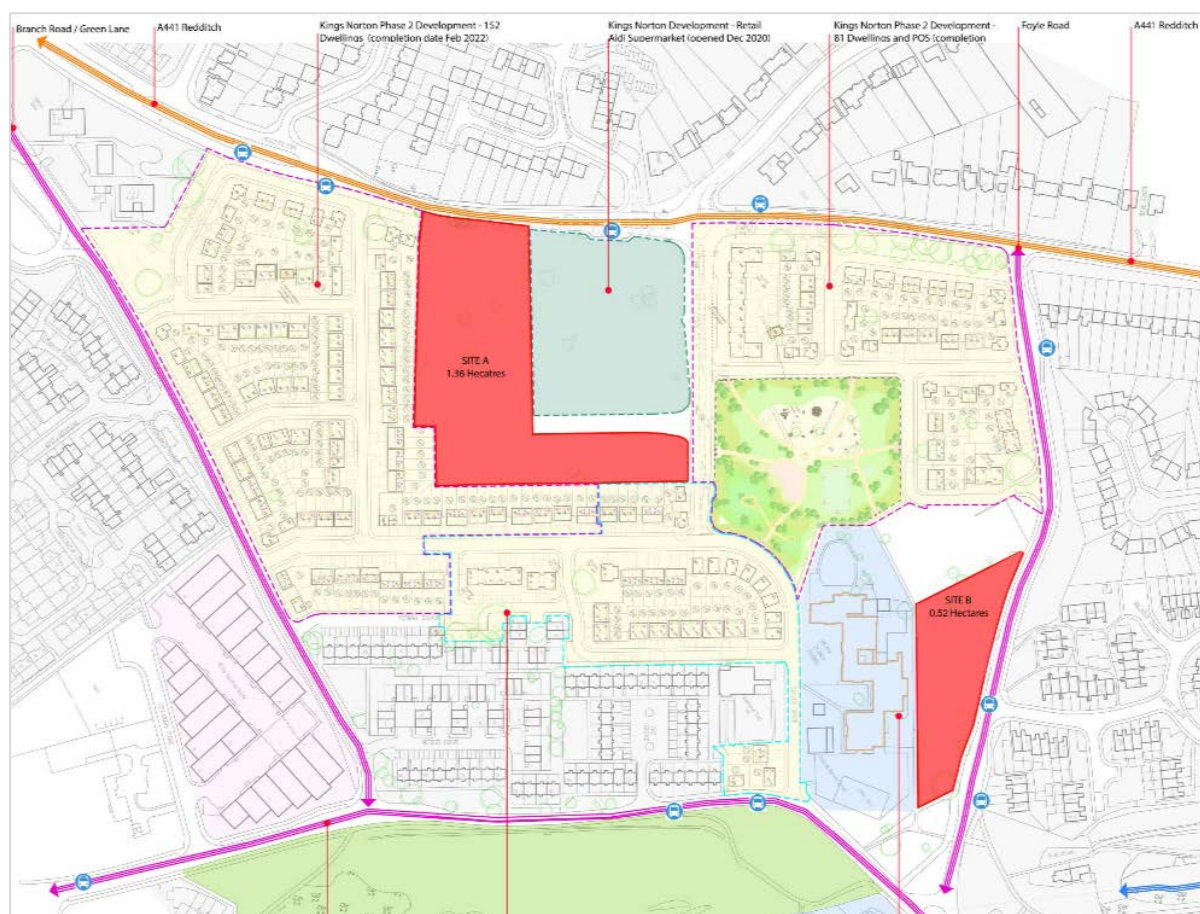


Site B – Land off Foyle Road (source: Google Earth)

- 2.6 Link to sites [A](#) and [B](#)

3. **Planning History:**

- 3.1 2018/03162/PA 'Erection of new Class A1 food retail store with associated car parking, servicing and landscaping' – Granted (28/02/2019).
- 3.2 2016/09139/PA 'Reserved matters submission for appearance, landscaping, layout and scale pursuant to outline planning permission 2014/09196/PA for the erection of 232 dwellings (Phase II)' – Approved (03/02/2017)
- 3.3 2016/06463/PA 'New signalised junction, widening of Redditch Road and the formation of new access road to serve retail and residential development.' – Granted (28/02/2019).
- 3.4 2015/09999/PA 'Reserved matters approval granted for the erection of 58 dwellings comprising 18, 2 bedroom apartments; 4, 2 bedroom houses; 16, 3 bedroom houses; 19, 4 bedroom houses and 1, 5 bedroom house (Phase 1 development) in accordance with outline approval 2014/09196/PA' – Approved (03/03/2016)
- 3.5 2014/09196/PA 'Outline planning application (All matters reserved - except access) for mixed use development to include a maximum of 295 dwellings (2, 3, 4 and 5 bedrooms), a neighbourhood park, and 468sqm (GIA) retail space (Class A1/A2/A3)' – Approved (06/03/2015).
- 3.6 2013/05009/PA 'Demolition of 95 Shannon Road, 174 and 230 Redditch Road, 25, 65, 75 and 85 Foyle Road' – Prior Approval Required and Approved (09/08/2013)



Site Context Plan

4. **Consultation Responses:**

- 4.1 Highways England – No objection.
- 4.2 Canal & River Trust – No objection subject to conditions for wayfinding signage to the canal towpath and the inclusion of orchard/fruit trees on the landscaping plans.
- 4.3 Environment Agency – No comments.
- 4.4 Transportation – No objections subject to conditions for a Construction Method Statement, mud on the highway, site access, services roads, turning area, a Residential Travel Plan, laying out of parking, cycle storage, and EVCPs.
- 4.5 Environmental Pollution Control - No objections subject to conditions for a Contamination Remediation Scheme, Contaminated Land Verification Report, Construction Management Plan, Lighting scheme, and Electric Vehicle Charging Points (EVCP).
- 4.6 City Design – No objection subject to conditions for sample materials, earthworks details, site levels, retaining walls, bays studies and architectural details.
- 4.7 LLFA – No objections subject to conditions for a sustainable drainage scheme and Operation and Maintenance Plan.
- 4.8 Severn Trent – No Objection subject to a condition for drainage plans for the disposal of foul and surface water flows.
- 4.9 West Midlands Police – No objection.
- 4.10 West Midlands Fire Service – Development should be in accordance with Approved Document B: Fire Safety of the Building Regulations.
- 4.11 Education – No objection. As there is no net increase in dwelling numbers in the area, a contribution towards additional educational places in the area is not required.
- 4.12 Employment – No objection.
- 4.13 Ecology/Trees – No objection subject to conditions for works to be in accordance with the Arboricultural Method Statement and Tree Protection Plan; bat boxes; and the submission of a scheme for ecological/biodiversity enhancement measures. Reinstatement of the roadside hedge to the Redditch Road should be undertaken.
- 4.14 Landscape – No objection subject to conditions for hard and soft landscaping to Site A, hard surfacing, landscape management plan, green roofs, cycle storage, refuse storage, earthworks and level details.
- 4.15 Leisure Services – Support the latest phases of the development. Would like to see clear links through to the new neighbourhood park from Site B. Compensation for loss of open space is encompassed in the development of the park as a significant and necessary part of this neighbourhood regeneration programme.

5. **Third Party Responses:**

- 5.1 The application has been publicised through a press notice, site notices and neighbour letters.
- 5.2 31 letters of objection have been received, including 10 from Ark Kings Academy, making the following comments, which have been summarised by the case officer:
- Overlooking of school grounds and buildings.
 - Pedestrian safety due to increased traffic around the school entrance.
 - Lack of a drop-off parking area for school children.
 - Flats would obstruct views of the school.
 - Unsuitable location for housing.
 - Restricted access for emergency vehicles to the school.
 - Increased noise from flats.
 - Area is congested and there should be more green space.
- 5.3 Five letters of comment were also received. Comments relate to the finished floor level of the new houses and the boundary treatments, as well as some non-planning related issues.

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

National Planning Policy Framework

- 6.1 Chapter 2: Achieving Sustainable Development – paras. 7, 8, 10, 11
Chapter 4: Decision-making – paras. 38, 55, 56, 57
Chapter 5: Delivering a sufficient supply of homes – paras. 63, 65
Chapter 8: Promoting healthy and safe communities – paras. 92, 98
Chapter 9: Promoting sustainable transport – para. 110
Chapter 11: Making effective use of land – paras. 120, 124
Chapter 12: Achieving well-designed places – paras. 126, 130, 131
Chapter 14: Meeting the challenge of climate change, flooding and coastal change – paras. 152
Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180, 183, 185, 186

Birmingham Development Plan 2017

- 6.2 PG1 Overall levels of growth
PG3 Place making
TP1 Reducing the City's carbon footprint
TP2 Adapting to climate change
TP3 Sustainable construction
TP4 Low and zero carbon energy generation
TP6 Management of flood risk and water resources
TP7 Green infrastructure network
TP8 Biodiversity and Geodiversity
TP9 Open space, playing fields and allotments
TP21 The network and hierarchy of centres
TP24 Promoting a diversity of uses within centres
TP27 Sustainable neighbourhoods
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP31 Affordable housing
TP37 Heath

TP38 A sustainable transport network
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development
TP46 Digital communications
TP47 Developer contributions

Development Management in Birmingham DPD

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

Supplementary Planning Documents & Guidance

- 6.4 Places for All SPG (2001)
Places for Living SPG (2001)
Birmingham Parking SPD (2021)
Public Open Space in New Residential Development SPD (2007)
Affordable Housing SPG (2001)

7. Planning Considerations:

- 7.1 The main material planning considerations for this application are the principle of the development, layout, scale, appearance, landscaping, sustainability, residential amenity, highway safety, parking, drainage/flood risk, and planning obligations.

Five Year Housing Land Supply

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

Principle of Development

- 7.4 The application sites are located within established residential areas with easy access to a variety of shops, services and facilities, as well as good public transport links into the city centre. They are also located outside of Flood Zones 2 and 3. Both sites were previously occupied for residential purposes and have since been cleared to make way for more sustainable, quality affordable local housing. The proposal is therefore considered to accord with the aims of Policy TP28 of the Birmingham Development Plan (BDP).
- 7.5 The principle of the residential development of these brownfield sites in sustainable locations is considered acceptable, subject to the assessment of all other material planning considerations below.

Neighbouring Amenity

Site A - Land off Redditch Road (52 dwellings (46 houses/6 apartments))

- 7.6 The proposed dwellings would share a back-to-back relationship with the earlier phases of residential development now located along Teviot Grove to the south-east and Legging Road to the south-west. Separation distances between the proposed and existing dwellings would meet or exceed those required by the Places for Living SPG.



Figure 1: Redditch Road Streetscene (incl. part of adjacent site)



Figure 2: Internal Streetscene

Site B - Land off Foyle Road (30 apartments)

- 7.7 The proposed apartments blocks to Site B would be located to the front of the existing Ark Rose Primary Academy, with both being accessed from Tees Grove, which divides the application site.
- 7.8 Block A, to the north-western end of the site, would have an 'L' shaped footprint, with the nearest elevation facing towards the school grounds having two upper floor windows serving kitchens. These would overlook one of the school's car parking areas, with the nearest building some 41m away.



Figure 3: Block A Elevation facing school

- 7.9 Block B, the central block to the south-east of the access road, would have an 'L' shaped footprint, with the nearest elevation facing towards the school grounds being windowless. The further setback elevation facing towards the school grounds, behind the internal car park to the block, would have a number of primary windows and balconies; however, these would be approximately 32m away from the school building and would not overlook any primary outdoor space for schoolchildren. The separation distance would also be beyond the minimum prescribed in the Places for Living SPG, which identifies a distance of 27.5m for a three-storey building.



Figure 4: Block B Elevation facing school

- 7.10 Block C, to the south-eastern end of the site, would have a smaller 'L' shaped footprint than the other two blocks, with the nearest elevation facing towards the school grounds being windowless. The further setback elevation facing towards the school grounds, would have kitchen windows to the first and second floors, as well as some secondary windows to lobbies and bathrooms. These would overlook another one of the school's car parking areas, with the nearest building some 34m away.
- 7.11 The side elevation of Block C which would face in a south-easterly direction towards the junction of Foyle Road and Shannon Road, away from the school grounds, would have some metal vertical screens installed to prevent any sideways overlooking of the school playground. Whilst I don't consider this to be necessary in planning terms

given the juxtaposition and relative angles, they would further limit any intervisibility, which has been raised as a concern by several third parties.



Figure 5: Block C Elevation facing school

- 7.12 Given the above, I consider that both development sites would accord with the amenity and separation requirements set out within Policies DM2 and DM10 of the Development Management in Birmingham (DMB) DPD and the Places for Living SPG.

Future Residents' Amenity

- 7.13 All the proposed houses and apartments would comply with the nationally described space standard for apartment and bedroom sizes set by the DCLG (now DLUHC).
- 7.14 For Site A, the rear garden private amenity spaces would exceed 52sq.m for the two-bedroom properties and 70sq.m for the three plus bed properties, which are the minimum size requirements as set out in the Places for Living SPG. For Site B, all the apartments would have private terraces/balconies, as well as communal green spaces around each of the blocks. In addition to the on-site provisions, as part of the redevelopment of the wider site, a new community park is also being created in close proximity to the sites, which will provide a children's equipped play area and formal parkland.
- 7.15 Overall, given the stated floor areas, private outdoor spaces and wider communal provisions in the vicinity, I consider that the proposed development would accord with Policies DM2 and DM10 of the DMB DPD.

Character of the Area, Visual Amenity and Design

Site A - Land off Redditch Road (52 dwellings (46 houses/6 apartments))

- 7.16 The proposed development at Site A would infill an area of land between an earlier phase of residential development and a recently constructed supermarket. The land was originally set aside for a larger supermarket; however, not all the land was required when the operator acquired and developed the site.
- 7.17 The proposed dwellings and block of flats would utilise the same design and form as the surrounding residential buildings which have already been constructed and

occupied in the vicinity. In this respect, the proposed development would successfully integrate and read as a whole with the wider area.

- 7.18 The buildings would have a simple, modern appearance with a mixture of red brick walls, cladding and dark grey roof tiles and would range from two to three storeys in height. Secondary elevations to public areas have some articulation and detailing to allow for passive surveillance and interest in the streetscene, although are not truly dual-fronted.

Site B - Land off Foyle Road (30 apartments)

- 7.19 The proposed apartment blocks to Site B would have a modern architectural appearance, with butterfly roofs and a mixture of red and light and dark grey brick facades. Walls would also be enhanced through recessed brick detailing to add balance and continuity. They would be sited on a key through road in the area, with unobstructed public views available to the three main elevations.
- 7.20 Concern has been raised from third parties, particularly those representing the adjacent school, with regards to the obscuring of the school building from Foyle Road. Since the demolition of the previous tower blocks, the school building, although well setback from the main road (approximately 46m), has become more of a prominent feature in the streetscene. The land between the school and Foyle Road is, however, very scrubby and unkept and does not present a welcoming entrance to the area. The introduction of high-quality architectural buildings in this area is considered to be a significant betterment and a fulcrum to improve the standards of design more generally in the area. Whilst the loss of views of the school is considered to be a negative of the proposal, on balance, the introduction of high-quality buildings, which would provide much needed affordable housing for the area, is considered to outweigh this harm.



Figure 6: Site B Visualisations

- 7.21 Taking all of the above considerations into account, the proposed development would successfully integrate with its surroundings, improving the general standard of design in the area and would, therefore, accord with policies PG3, TP27 and TP30 of the BDP.



Figure 7: Site B Visualisations

Landscaping

Site A - Land off Redditch Road (52 dwellings (46 houses/6 apartments))

- 7.22 Presently, given the previous demolition and clearance, the site has little green space and planting apart from some shrubs and trees towards the periphery of the site. Prior to this, the Redditch Road boundary had a mature edge of trees and hedgerow on a central reservation between the Redditch Road and a service road into the wider estate (see Figure 7 below). The proposed landscaping would reinstate a hedgerow and trees along this boundary, which is supported both in visual terms, in softening the edge of a prominent boundary of the site, as well as in improving the overall biodiversity of the site.



Figure 7: Historic Google Streetview from July 2016 from the Redditch Road

- 7.23 As well as the north-western site boundary, internment planting between and to the rear of car parking spaces would also be introduced, which would include several trees and shrub borders. This, along with hedgerows at key corners, would help create a leafier and more welcoming streetscene.

Site B - Land off Foyle Road (30 apartments)

- 7.24 The landscaping to Site B would include green spaces around each of the buildings, intermixing new and existing trees with hedgerows, shrubs and lawned areas. The access road through the site would have extra heavy standard Whitebeams and Merrill trees, helping create an attractive entry to the site at an early stage.
- 7.25 In conclusion, with the imposition of the conditions, the proposal is considered to accord with Policy DM4 of the DMB DPD.

Housing Mix and Density

- 7.26 The housing mix for the proposed development would amount to 12 one-bedroom dwellings (15%); 43 two-bedroom dwellings (52%); 16 three-bedroom dwellings (20%); 10 four-bedroom dwellings (12%); and 1 five-bedroom dwellings (1%). Whilst slightly skewed towards smaller sized properties, the proposed housing mix would provide a cross section of dwelling types that would serve the local community and, in particular, those seeking affordable accommodation.
- 7.27 Site A has an area of 1.36ha and would have a housing density of 38dph and Site B has an area of 0.52ha and would have a housing density of 58dph. These would sit either side of the prescribed target density of 50 dwellings per ha in areas well served by public transport within Policy TP30 of the BDP and, therefore, on balance is considered acceptable.

Highways and Parking

- 7.28 The application sites are located within Zone C of the Birmingham Parking Standards, which requires one space per one and two bed dwelling, two spaces per three plus bed dwelling and one unallocated space per 10 dwellings (on developments of 10+ dwellings). Notwithstanding this, the SPD states that *'the parking standards will not apply to any detailed or reserved matters planning applications that are already registered prior to the adoption of the SPD'*. As the application was validated in April 2021 and the SPD was adopted in November of the same year, I consider this to be applicable in this case. The Transportation Officer has assessed the parking provision in light of this and considers the provision to be acceptable.
- 7.29 Concern has been raised by Ark Kings Academy with regards to the facilities for vehicular pick-up and drop-offs for the school at Site B. Currently, the school utilises the parking areas along Tees Grove, which were previously associated with the demolished residential tower blocks. This is an informal arrangement rather than a dedicated space associated with the school. As part of the redevelopment of Site B, in addition to the allocated parking areas for each of the apartment blocks, ten unrestricted parking spaces along Tees Grove would be provided. On balance, this is considered satisfactory and would not unacceptably impact on highways safety in the area.
- 7.30 Proposed development would have good visibility onto Tunnel Road and Foyle Road, respectively, and would not unacceptably impact on the surrounding highways network. The sites are well situated for access to sustainable travel modes and would

also provide facilities for secure cycle storage and EVCPs. The Transportation Officer has raised no objection on this basis subject to conditions securing the above requirements. With the imposition of these conditions, I consider that the proposed development would accord with Policy TP44 of the BDP and Policies DM14 and DM15 of the DMB DPD.

Drainage and Flooding

- 7.31 The application site falls within Flood Zone 1, where there is a low probability of flooding. The submitted Flood Risk Assessment (FRA) confirms the low fluvial flood risk and proposes measures to manage surface water flows by giving priority to a sustainable urban drainage system (SuDS), details of which would be secured by condition. The LLFA and Severn Trent have confirmed that this is acceptable and have raised no objection on this basis. The proposal is therefore considered to accord with Policy TP6 of the BDP.

Ecology

- 7.32 Given the previous uses of the sites, there is limited biodiversity that would be affected by the proposal. Notwithstanding this, the reinstatement of the hedgerow and trees which previously lined the Redditch Road along with the integration of the proposed landscaping with the SuDS would make a meaningful contribution towards establishing a net gain. The demolition of the previous buildings resulted in the loss of bird and bat nesting opportunities and rooting features and these should be reinstated and secured by condition. With the imposition of suitable conditions, the proposal would accord with policy TP8 of the BDP.

Sustainability and Energy Efficiency

- 7.33 The Council's overarching requirement in Policy TP3 of the BDP is for new development to be designed and constructed in ways that maximise energy efficiency and the use of low carbon energy, consider the type of and source of materials used, minimise waste and maximise recycling, and are flexible and adaptable to future occupier needs.
- 7.34 In addition, Policy TP4 requires new developments to incorporate low and zero carbon forms of energy generation or to connect into low and zero carbon energy generation networks where they exist.
- 7.35 The submitted Energy Statement identifies a number of measures that would aid in the Council's response to the climate emergency, including triple glazing, air source heat pumps (ASHP), electric vehicle charging points (EVCP) and sustainable processes instigated during the construction phase. The below table details the significant carbon dioxide savings that would be made solely from the use of ASHPs over conventional gas boilers for each of BMHTs house types.

House Type	Gas Boiler CO ₂ Emissions (tonnes per year)	ASHP CO ₂ Emissions (tonnes per year)
2 Bed Walmey	1.20	0.22 (82% ↓)
3 Bed Harborne	1.30	0.24 (82% ↓)
4 Bed Northfield	1.58	0.27 (83% ↓)
5 Bed Aston	1.91	0.39 (80% ↓)

- 7.36 With the imposition of a condition to ensure that these measures are implemented, I consider that the proposed development would accord with Policies TP3 and TP4 of the BDP.

Affordable Housing

- 7.37 Policy TP31 of the BDP requires 35% affordable dwellings on residential developments of 15 dwellings or more. The proposed development would provide 58 affordable dwellings (70%) for social rent, double the amount required under Policy TP31. These additional affordable dwellings would make a significant contribution to the Council's shortfall in affordable accommodation and, therefore, their provision is given significant weight in the planning balance. If permission is forthcoming, these affordable dwellings would be secured by condition.

Public Open Space

- 7.38 Policy TP9 of the BDP states that new residential developments will be required to provide new public open space broadly in line with the standard of 2ha per 1,000 population. It goes on to say that, in most circumstances, residential schemes of 20 or more dwellings should provide on-site public open space and/or children's play provision. As part of the earlier phases of development, a new public park is to be created. This park is considered to provide sufficient green space for the entirety of the development site and, therefore, no additional requirement is considered necessary in this case.

Other Issues

- 7.39 The application site is previously developed land and, as such, has the potential for contamination. The Environmental Pollution Officer has raised no objections to proposal and is satisfied that the development can be adequately conditioned to ensure that the site can be utilised for residential purposes without any adverse impacts on future residents' health in accordance with Policy DM3 of the DMB DPD.
- 7.40 In terms of waste management, for Site A each of the houses would have allocated space within the rear garden for three wheelie bins for green waste, refuse and recycling and the apartments would have three 1,100l bulk waste bins. For Site B, there would be a secure and covered bin storage for each block with a 50/50 split of refuse and recycling, 26 360l bins.

Community Infrastructure Levy (CIL)

- 7.41 The proposal is liable for CIL; however, as the proposed development is within Value Zone 4, which is deemed a Low Value Area, the charge per sq./m is £0. Therefore, no payment would be required.

Planning Balance

- 7.42 As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. In this case, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.43 The NPPF gives three dimensions to sustainable development: social, economic and environmental. These should not be assessed in isolation because they are mutually

dependant. Assessing the planning balance against these three strands, I consider that the likely **benefits** from the proposals would be:

Economic

- Employment generation during construction and subsequent operation
- On-going expenditure by households purchasing and occupying the dwellings
- Greater utilisation of local shops and services by residents
- House building supports economic growth

Social

- Supply of affordable accommodation which is in short supply
- Provision of a mixture of affordable housing types

Environmental

- Some ecological enhancements through new planting
- Redevelopment of brownfield sites

7.44 With regards to the potential **harm** arising from the development these are considered to be:

- Environmental effects of noise, disturbance, dust etc. during construction phase (this would be controlled through a condition for a CMS)
- Obstruction of views from Foyle Road of Ark Rose Primary Academy

7.45 As well as the above considerations, considerable weight is given to the Council's lack of a 5YHLS.

7.46 When weighing the identified harm against these benefits, I find in this case that the benefits of the proposal do outweigh the harm and, therefore, the development is, on balance, sustainable development. I therefore consider that the presumption in favour does apply in this case and that Planning Permission should be granted.

8. **Conclusion**

8.1 The proposed development of the application site for residential purposes is considered acceptable in principle and would make a meaningful contribution towards the Council's 5YHLS and affordable housing. The design and scale of development would accord with the pattern and style of development in the vicinity and would establish a net biodiversity gain on the site through new landscape and SuDS. On this basis, I have concluded that the proposal is sustainable development and recommend permission is granted without delay subject to conditions.

9. **Recommendation:**

9.1 Officers have made a recommendation on the basis of the Development Plan and other material considerations. It is for the Committee to weigh and balance these in coming to a decision, based on their judgement of the available evidence.

9.2 It is therefore recommended that the application be GRANTED subject to the following conditions, the detailed wording and numbering of which is delegated to officers:

1	Implement within 3 years (Full)
2	Requires the scheme to be in accordance with the listed approved plans
3	Requires the submission of sample materials
4	Requires the submission of wayfinding signage to canal towpath
5	Arboricultural Method Statement and Tree Protection Plan - Implementation
6	Requires the submission of details of bird/bat boxes
7	Requires the submission of a scheme for ecological/biodiversity enhancement measures
8	Implementation and replacement of hard and soft landscaping
9	Requires the submission of hard surfacing materials
10	Requires the submission of a landscape management plan
11	Requires the submission of earthworks details
12	Requires the submission of details of green/brown roofs (in relation to the design of any external cycle and bin stores)
13	Requires the submission of level details
14	Requires the submission of a lighting scheme
15	Requires the submission of architectural details
16	Requires the submission of annotated bays studies
17	Requires the submission of retaining wall details
18	Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
19	Requires the submission of foul & surface water drainage details
20	Requires the prior submission of a contamination remediation scheme
21	Requires the submission of a contaminated land verification report
22	Requires the prior submission of a construction method statement/management plan
23	Requires the provision of a vehicle charging point
24	Requires the submission of cycle storage details
25	Requires the submission of details of refuse storage
26	Requires the provision of the affordable homes
27	Requires the submission of details to prevent mud on the highway
28	Requires the submission of a residential travel plan

-
- 29 Prevents occupation until the service road has been constructed
 - 30 Requires the prior submission of a Construction Method Statement
 - 31 Requires the prior installation of means of access
 - 32 Prevents occupation until the turning and parking area has been constructed
-

Case Officer: Eddie Wrench

Photo(s)



Photo 1: Site A – View from within site looking east with the supermarket on the left



Photo 2: Site A – View from within site looking south-east. Rears of Phase II dwellings.



Photo 3: Site A – Site access from Tunnel Road



Photo 4: Site B – View from Tees Grove looking north-east across the application site

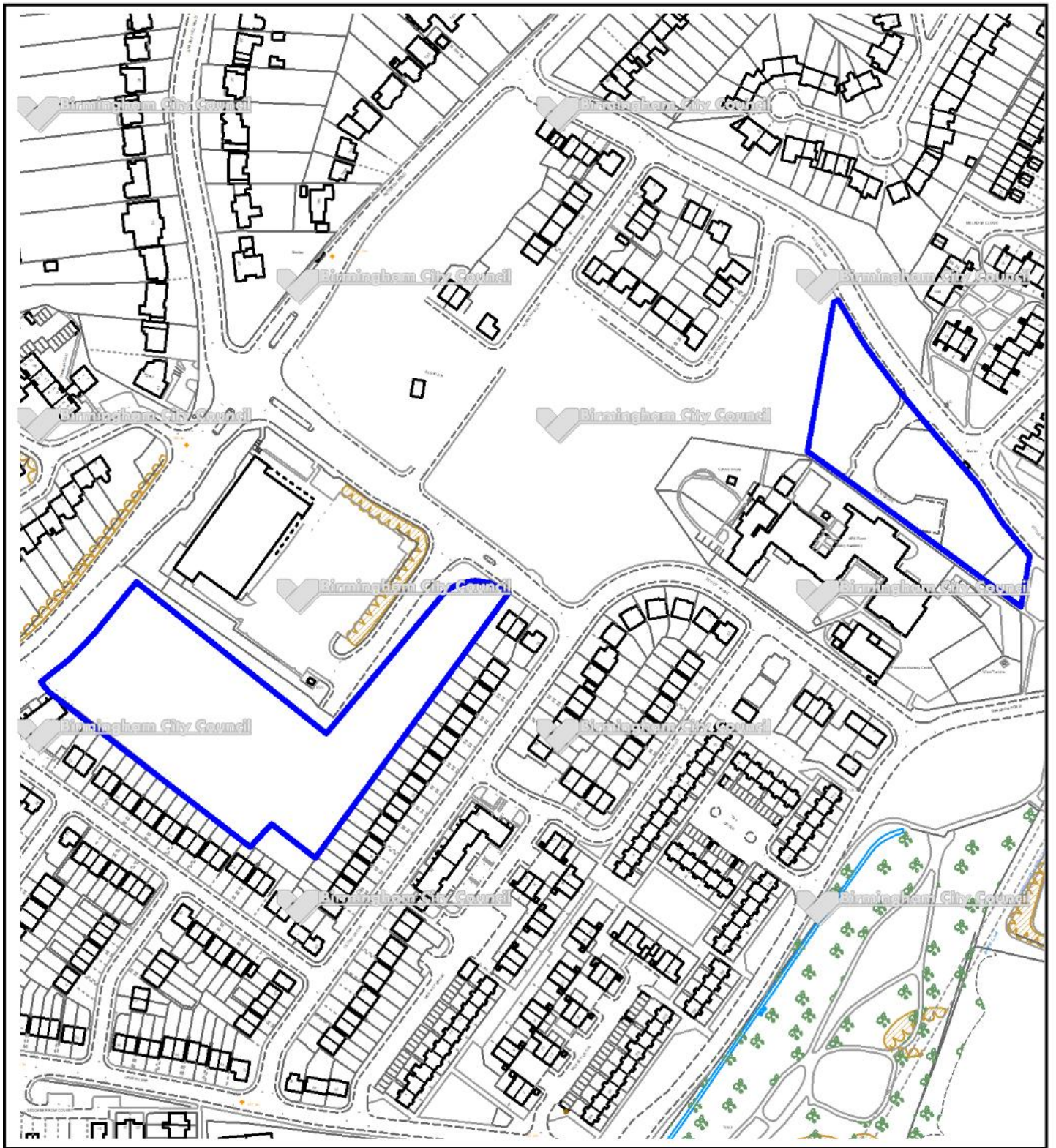


Photo 5: Site B – View from Foyle Road looking westwards. Ark Kings Academy in the background.



Photo 6: Site B – View from Foyle Road looking south-west. Ark Kings Academy in the background.

Location Plan



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Committee Date:	07/07/2022	Application Number:	2022/01606/PA
Accepted:	07/03/2022	Application Type:	Full Planning
Target Date:	08/07/2022		
Ward:	Highter's Heath		

The Former Binding Site, Warstock Road, Kings Heath, Birmingham, B14 4RT

Demolition of existing buildings and erection of three buildings to provide 10 no. commercial units for Use Class B2, B8, E(g)(iii)) with ancillary offices alongside access landscaping, parking and associated works

Applicant:	DV4 Coltham (Kings Heath) Ltd
	C/o Agent
Agent:	BHP Design
	St Pauls Place, 40 St Pauls Square, Birmingham, B3 1FQ

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application is on the Planning Committee agenda as the proposal exceeds the delegated threshold of 5,000sqm of development. Planning permission is sought for the demolition of some former industrial units and erection of 3 buildings which would be used for general manufacturing and storage with ancillary offices incorporated. Buildings 1 and 2 have a ridge height 9.3m and each provide for a total of 1,997m² GIA single volume units. Building 1 contains 4 no. subunits, whilst Building 2 has 5 no. subunits. All units are provided with toilets, including disabled, together with shower facilities and the option of a notional office and these are located at the main entrance to the unit.
- 1.2 Building 3 has a ridge height of 11.5m and provides for a total of 2,787m² GIA single volume unit with 279m² of office space at ground and first floor. A 35m deep service area provides access to 1 level and 2 dock type sectional overhead doors.
- 1.3 White micro rib cladding laid horizontally is the main external material across all 3 buildings. With the low pitched roofs constructed of light grey panels. A greater level of glazing is included within Building 3, specifically within the area where the office is located.

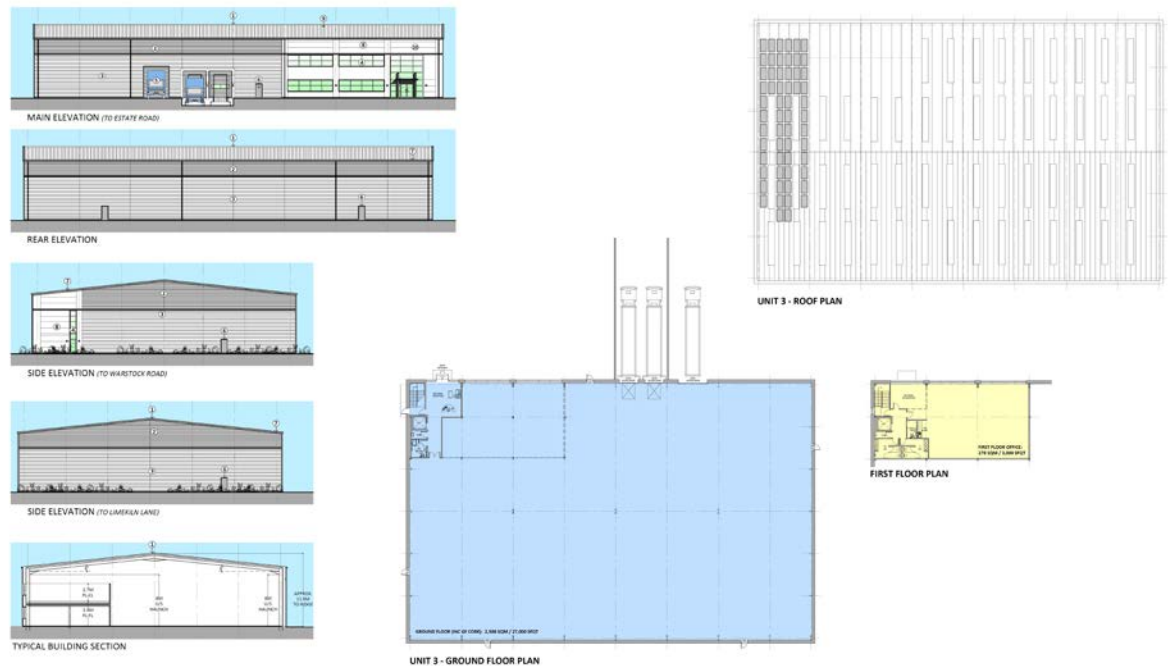


Image 1: Building 3 elevations and floor plans

- 1.4 The site is served via an existing access from Warstock Road. A total of 120 car parking spaces will be provided with 68 spaces for buildings 1 and 2 and 52 provided for building 3. All of the subunits within buildings 1 and 2 would be provided with 1no. disabled and 1 no. electric vehicle charging space directly adjacent to their main entrance. Each subunit would have between 5 and 10 spaces. 3 parking spaces for building 3 would be allocated for use by disabled persons and 5 spaces for this building will include electric vehicle charging points.

- 1.5 The application has been supported by a Design and Access Statement, Planning Statement, Contaminated Land Report, Transport Assessment, Tree Survey, Ecological Appraisal and Drainage Report.

- 1.6 [Link to Documents](#)

2 **Site & Surroundings:**

- 2.1 The application site covers approximately 1.71 hectares. The site contains a vacant plot of land following the demolition of the previous industrial uses and some existing low profile industrial units. The site is located in a small parade of commercial units with a tyre shop located to the east and a clothing manufacturer to the west. The site is accessed from Warstock Road to the south with the Startford Upon Avon Canal located to the north beyond Limekiln Lane.

- 2.2 [Site Location](#)

3 **Planning History:**

- 3.1 21/06/2017. Application No. 2017/04639/PA. Application for Prior Notification of proposed demolition of former offices and industrial buildings – Prior Approval Required and approved with conditions

4 **Consultation Responses:**

- 4.1 Lead Local Flood Authority – No objection subject to conditions requiring the submission of sustainable drainage scheme and Sustainable Drainage Operation and Maintenance Plan
- 4.2 Severn Trent – No objection subject to drainage condition
- 4.3 West Midlands Police – No objection subject to the installation of CCTV.
- 4.4 West Midlands Fire Service – No objection
- 4.5 Regulatory Services – No objection subject to conditions requiring a contamination remediation scheme, contaminated land verification report, noise levels for plant and machinery, hours of operation and provision of EVCP's.
- 4.6 Transportation – No objection
- 4.7 Canals and Rivers Trust – No objection subject to condition requiring the submission of a statement assessing the risk to the structural integrity to the canal.
- 4.8 Tree Officer – No objection subject to tree protection plan
- 4.9 Ecologist – No objection
- 4.10 Environment Agency - No objection

5 Third Party Responses:

- 5.1 Adjacent occupiers, residents associations, M.P, Councillors notified and site/press notices posted. 3 letters of objection have been received raising the following matters:
 - Increased noise, light and air pollution;
 - Increased traffic;
 - Increased highways safety concerns;
 - Increased risk of flooding;
 - Impact on vehicular access for adjoining property;
 - Impact on access to adjoining property;
 - Loss of light to adjoining unit;
 - Decrease in quality of life for local residents;
 - Insufficient consultation;
 - Redline boundary is not accurate;
 - Increased pressure on utilities;
 - Increased crime and anti-social behaviour;
 - Clarification needed over proposed occupiers and specific uses;
 - Noise surveys are inaccurate; and
 - Disruption during construction phase;
- 5.2 An objection has been received by Steve McCabe MP raising the following concerns:
 - Insufficient information about proposed uses;
 - Increased traffic;
 - Increased noise and air pollution;
 - Adverse structural impact on adjacent occupier;
 - Impact on existing shared access with adjacent occupier;
 - Loss of light to adjacent building; and
 - Insufficient consultation.

6 Relevant National & Local Policy Context:

6.1 National Planning Policy Framework:

Chapter 2 – Achieving Sustainable Development
Chapter 7 – Ensuring the Vitality of Town Centres
Chapter 8 – Promoting Healthy & safe Communities
Chapter 9 – Promoting Sustainable Transport
Chapter 11 – making effective Use of Land
Chapter 12 – Achieving Well Designed Places
Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

6.2 Birmingham Development Plan 2017:

PG3 – Place Making
TP3 – Sustainable Construction
TP4 – Low and Zero Carbon Energy Generation
TP6 – Management of Flood Risk and Water Resources
TP20: Protection of Employment Land

6.3 Development Management DPD:

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

6.4 Supplementary Planning Documents & Guidance:

Places for All SPG
Birmingham Parking SPD

7 Planning Considerations:

7.1 The key planning issues are; the principle of the use; the siting, scale and appearance of the proposed building; impact on parking and highway safety; impact on neighbouring residential amenity; impact on trees and landscape; and ecology.

7.2 Principle of the use

7.3 The site is located outside of any designated area but forms part of number of units located between Limekiln Lane and Warstock Road that have been historically used for employment purposes. The continuation of employment uses on the site is therefore supported in principle. Furthermore, the site has been vacant for a number of years and therefore the redevelopment of this brownfield site for employment purposes is considered to be a major positive creating jobs and boosting the local economy.

7.4 Design and Layout

7.5 Three buildings are proposed which vary between 2 and 3 storeys in height and consequently the scale fits comfortably within its surroundings with large commercial units either side. The buildings have been logically laid out with all units facing onto the parking area.

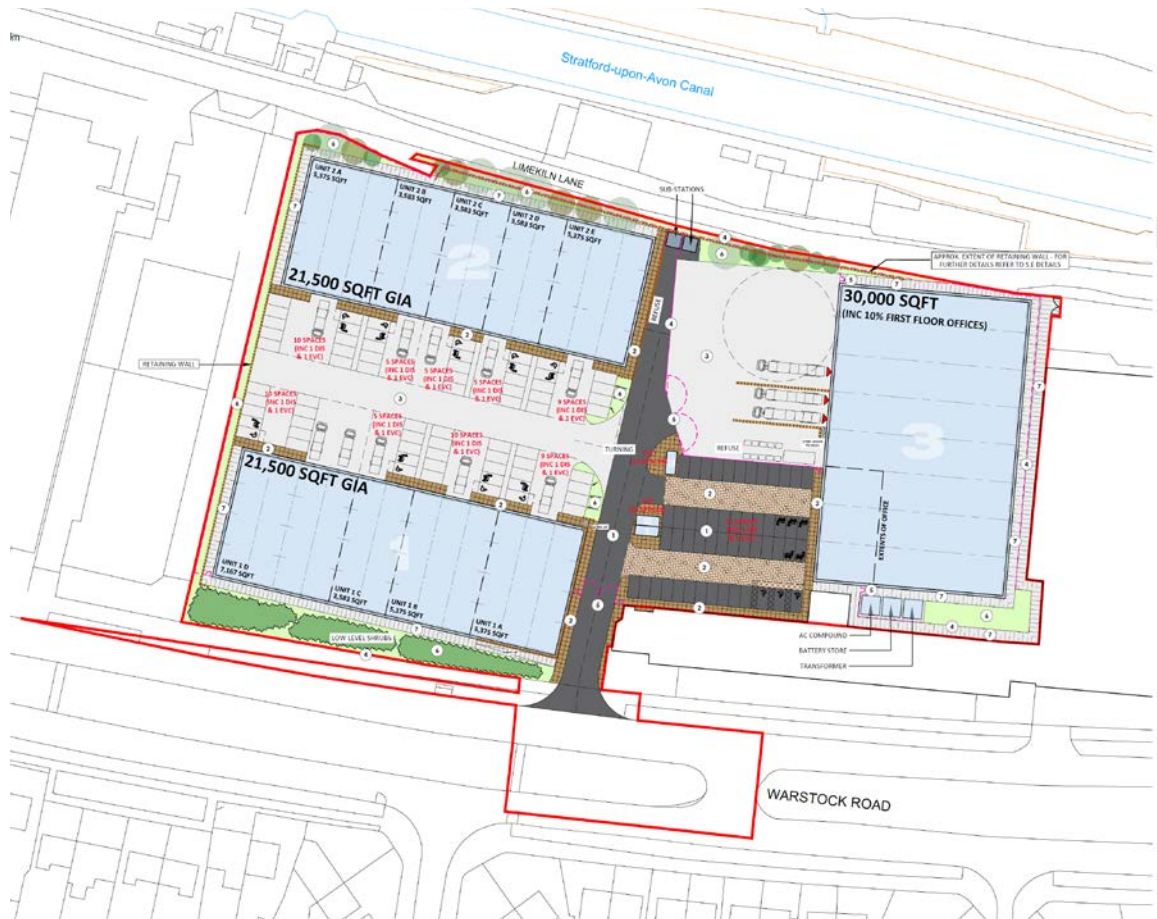


Image 2: Site layout

- 7.6 The building has a functional design that is reflective of the proposed use. The building would be primarily metal clad. However, brick work and smooth gloss cladding panels are incorporated on the long side elevations of unit 1 which fronts onto Warstock Road which adds visual interest. The Urban Designer considers the design to be acceptable.



Image 3: Warstock Road Street Scene

- 7.7 In summary it is considered that the proposed layout, scale and appearance adequately addresses the urban design imperatives set out in the NPPF and BDP Policy PG3.
- 7.8 Residential Amenity
- 7.9 The closest residential properties are the houses on the opposite side of the Warstock

Road which are approximately 46m from the front elevation of the proposed units. Taking into account the 3 storey nature of the buildings it is considered that the level of separation will ensure that there is no undue impact in terms of a loss of light or overbearingness.

- 7.10 Concerns have been raised over the impact on the adjacent commercial property currently occupied by TyreCom Autos in terms of both overbearingness and a loss of light. However, this is an open plan building with windows on both the front and rear. Therefore whilst the close proximity of the side elevation of building 3 may impact on the level of light received by some windows on the rear of the adjacent building the dual aspect provided on each floor would ensure that the impact would not be significant. It is also important to bear in mind that the amount of development in close proximity to the rear of the TyreCom Autos building would be reduced with the demolition of a number existing structures. Furthermore, as the TyreCom Autos building is not in residential use there are no amenity standards which need to be met.
- 7.11 Concerns have been raised over increased levels of noise and disturbance. It is accepted that noise levels are likely to increase to some modest degree when considering that the site has been vacant or derelict for at least 7 years. However, there is a long history of industrial uses on this and adjoining units located between Warstock Road and Limekiln Lane so this is not a quiet location. Regulatory Services have reviewed the submitted Noise Assessment and have raised no concerns from a noise perspective and requested conditions to control noise levels from plant and machinery and hours of operation. However, in light of the low impact arising from noise in both the day and night that is identified in the Noise Assessment it is considered that an hours of operation condition is not necessary.
- 7.12 In summary it is considered that the proposal will not unduly impact on the amenity levels experienced by the occupiers of nearby properties.
- 7.13 Transportation
- 7.14 The Birmingham Parking SPD requires 1 parking space per 60sqm of which 6% of the total spaces should be disabled access parking bays, 1 cycle storage space per 10 employees and one in 5 spaces should also include an electric vehicle charging point (EVCP).
- 7.15 In this instance a total of 120 car parking of which 12 are disabled spaces and 14 include an EVCP. The total level of parking provision exceeds the SPD requirement which is 113 spaces, but the level of disabled provision has also been exceeded. Despite the slight over-provision Transportation are supportive of the level of parking proposed. It is considered that the slight over-provision will have no noticeable impact on traffic generation arising from the proposal. A total of 36 cycle storage spaces are proposed which is considered to be a good level of provision.
- 7.16 The site is proposed to be accessed via the existing access point from Warstock Road. It is proposed that the junction will be upgraded to a formal kerbed bellmouth junction. The site access road will be 7.3m wide and incorporate large (c.10m) radii to sufficiently allow for lorry and HGV access. It has been agreed that the kerb line of the central reservation will be adjusted on the southern side of Warstock Road to allow for HGVs to egress the development site access and perform a u-turn manoeuvre within this area without overrunning and damaging the kerb/verge. This work will be undertaken with the upgrade to the site access and the applicant is aware that a S278 agreement will be required.
- 7.17 The Transport Assessment assesses trip generation arising from both the previous development (prior to demolition) and also the proposed development. The previous

industrial use (B2) had a total floor area of 9,500sqm and was forecast to generate a total of 48 and 32 two-way vehicle trips in the AM and PM peaks respectively. In terms of assessing the proposed development a worse-case scenario was tested, which would be if an entirely B8 development came forward and this shows no notable difference in vehicular movements. Specifically, there would be a decrease of 14 vehicles and an increase of 9 movements in the AM and PM peak hours, respectively. Transportation are therefore satisfied that even in a worst-case traffic generation scenario there would be no detrimental impact on the local highway network and there would be no undue highway safety concerns.

- 7.18 The site is in a sustainable location and is in close proximity to bus routes that provide direct access to the City Centre. Employees will therefore have the opportunity to travel by sustainable modes. It is therefore considered that the proposal will have no undue impact on the highway network.
- 7.19 Landscape and Trees
- 7.20 The site is covered in hardstanding and buildings and consequently contains no trees of note. The submitted landscaping scheme will increase tree coverage of the site, specifically along the site frontage on Warstock Road. The minor works required to the central reservation are in close proximity to a street tree however the Tree Officer is satisfied that there would be no undue impact on this tree.
- 7.21 Ecology
- 7.22 An ecological appraisal and bat activity survey have been undertaken by the applicant. The remaining buildings has no real potential for bat roosting and there are no habitats on site that are suitable for protected species. Consequently, the Council's Ecologist has raised no objection subject to the imposition of a condition requiring the submission of an ecological enhancement strategy. Subject to the imposition of the proposed conditions the application will have no harmful impact on protected species.
- 7.23 Drainage
- 7.24 Objections have been raised over the potential for increased flooding with objectors indicating that there is insufficient network capacity with evidence provided of previous flooding in the adjacent building (TyreCom Autos) in 2018 and earlier this year. The LLFA have reviewed the submitted Drainage and Flood Risk Assessment and also the objections received regarding flooding. They acknowledge that surface water flooding is an issue in this location however they consider that the site layout has been designed to manage potential overland flow routes and will not divert them towards third party land. The site is currently brownfield with uncontrolled surface water discharges to the sewer network. Post development the site will contain 1,060m³ of surface water attenuation primarily through the implementation of two geocellular storage units which will limit surface waterflows to greenfield discharge rates. This results in a discharge rate which will be capped to a maximum of 8.3 l/s from the development site which is restricted to 4.8 l/s and 3.5l/s within the two drainage catchments. Within the catchment this will reduce flood risk to third party land by reducing flows into the 900mm surface water drain from the development. Consequently the development raises no concerns from a drainage or flood risk perspective and the LLFA raise no objection subject to conditions.
- 7.25 Sustainability
- 7.26 The application has been supported by Sustainability and Energy Statements. It has been demonstrated that BREEAM 'excellent' can be achieved by the development and exceed the minimum standards of Buildings Regulations by at least 30%. The Planning

Policy Officer has therefore requested a condition requiring the submission of a BREEAM certificate.

- 7.27 The proposed energy strategy involves the installation of Photovoltaic Array and the provision of an energy efficient air source heat pump, which will allow the development to reduce CO2 emissions. These measures are considered to significantly boost the sustainability credentials of the scheme in accordance with TP3 and TP4 of the BDP.
- 7.28 Other Matters
- 7.29 Concerns have been raised over the position red line boundary which cuts across an adjacent building however this reflects the actual landownership of the applicant as shown on land registry plans.
- 7.30 Concerns have also been raised over the existing shared vehicular access, access to the rear of adjacent building and disruption caused during the build process. Land Registry plans indicate that the adjoining occupier/owner has a right to use the vehicular access and with access remaining in the same location the proposals do not prevent this continuing in the future. Some of the buildings to be demolished are attached to the rear of the TyreCom Autos. There is no evidence suggest that the demolition would damage the retained building but such matters would be covered under the Party Wall Act. The proposals do not prevent access to the rear of the adjacent building and whilst there would be some disruption during the build phase this would only be temporary in nature. A condition requiring the submission of a construction management plan will help minimise any disruption.
- 7.31 Concerns have been raised over the extent of public consultation. However, a site and press notice has been posted and adjoining occupiers have been directly consulted in full accordance with the Development Management Procedure Order. It is acknowledged that one adjoining occupier was not initially consulted however this was rectified with them still having a full 21 days to respond.

8 Conclusion

- 8.1 I consider the redevelopment of this site for industrial purposes would be acceptable in principle, given this is a brownfield site surrounded by similar uses and would boost the local economy. The siting, scale and appearance of the proposed development would be acceptable and would sit comfortably in the streetscene. There would be no adverse impact on the amenity of neighbouring occupiers, no undue impact on the local highway network and will not exacerbate surface water flooding in the local area. Therefore I consider the proposal would constitute sustainable development and I recommend that planning permission is granted.

9 Recommendation:

- 9.1 Approval subject to conditions

-
- 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 | Requires the prior submission of a sustainable drainage scheme |
| 7 | Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 8 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 9 | Limits the noise levels for Plant and Machinery |
| 10 | Requires the submission of hard and/or soft landscape details |
| 11 | Requires the submission of a landscape management plan |
| 12 | Requires the submission of hard surfacing materials |
| 13 | Requires the prior submission of level details |
| 14 | Requires the submission of boundary treatment details |
| 15 | Requires the prior submission of a construction method statement/management plan |
| 16 | Requires the submission of a CCTV scheme |
| 17 | To ensure energy and sustainability measures are delivered in accordance with statement |
| 18 | To ensure that the development achieves BREEAM rating level |
| 19 | Prevents occupation until the turning and parking area has been constructed |
| 20 | Requires the provision of cycle parking prior to occupation |
| 21 | Requires the provision of vehicle charging points |
| 22 | Prior submission of assessment of risk to the canal and construction method statement |
| 23 | Requires the completion of works to the public highway |
| 24 | Limits the development to use classes B2, B8 and E(g) |
-

Case Officer: Andrew Fulford

Photo(s)

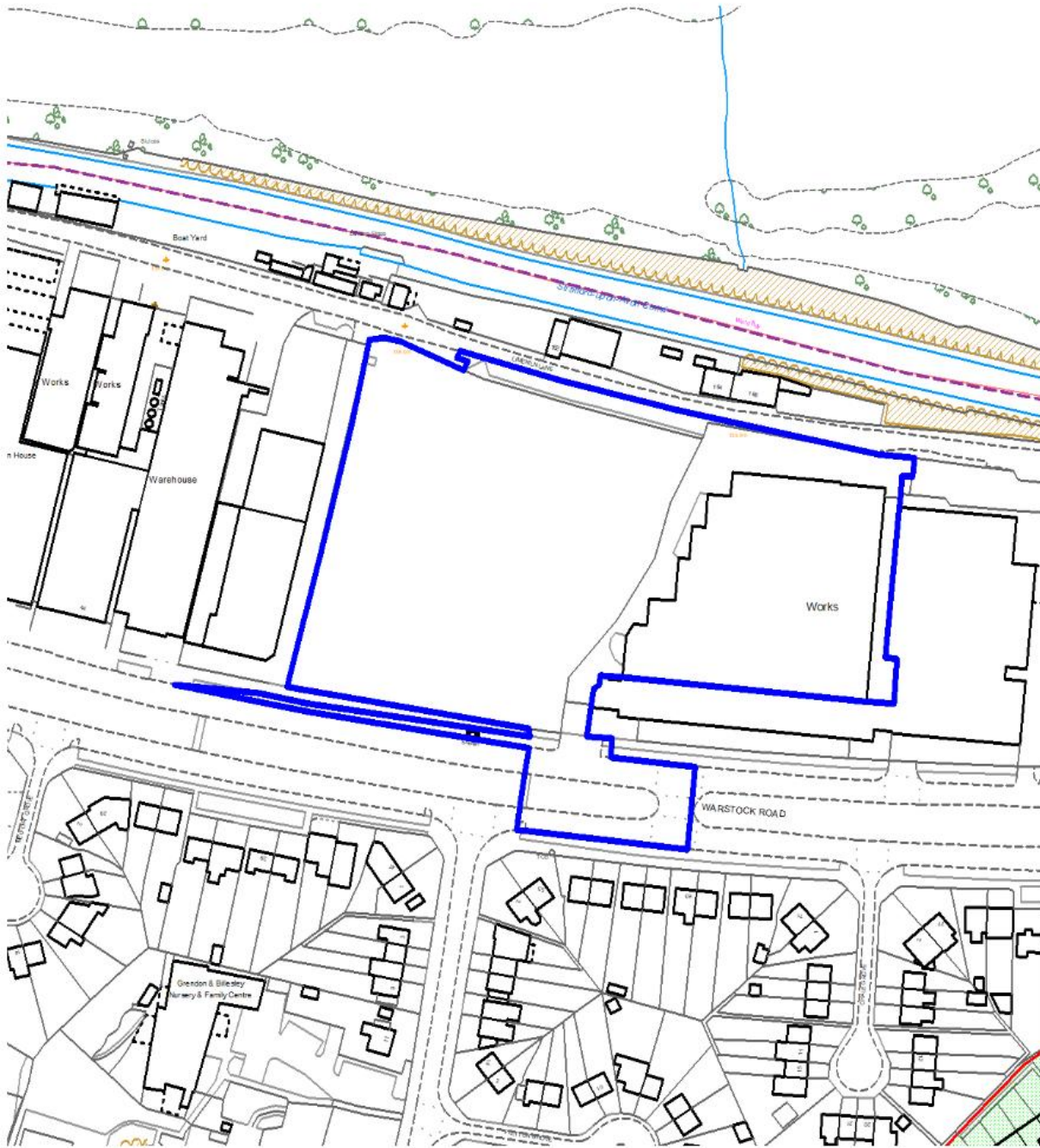


Photo 1: Application site as viewed from Warstock Road



Photo 2: Warstock Road street scene with application site visible in the distance

Location Plan



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Birmingham City Council

Planning Committee

07 July 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	8	2021/05399/PA Site Bordered by Gooch Street North, Kent Street and Lower Essex Street Birmingham Demolition of all buildings and construction of 7 to 12 storey buildings (excluding basement) comprising 456 apartments (1 & 2 bed) (Use Class C3); 517sqm commercial floorspace (Flexible Use Classes E(a)/E(b)/E(c)/E(e)/E(f)/E(g)(i)); landscaped private courtyard and private garden terrace; new public thoroughfare
Approve – Subject to 106 Legal Agreement	9	2021/10788/PA Corner of Essex Street and Bristol Street City Centre Birmingham Demolition of existing buildings and site clearance for the erection of 30 storey tower to include 166 apartments (Use Class C3), ground floor commercial/retail unit (Use Class E), with ancillary resident amenity space and all associated works..

Committee Date:	07/07/2022	Application Number:	2021/05399/PA
Accepted:	05/07/2021	Application Type:	Full Planning
Target Date:	30/04/2022		
Ward:	Bordesley & Highgate		

Site Bordered by Gooch Street North, Kent Street and Lower Essex Street, Birmingham

Demolition of all buildings and construction of 7 to 12 storey buildings (excluding basement) comprising 456 apartments (1 & 2 bed) (Use Class C3); 517sqm commercial floorspace (Flexible Use Classes E(a)/E(b)/E(c)/E(e)/E(f)/E(g)(i)); landscaped private courtyard and private garden terrace; new public thoroughfare

Applicant:	Oasis Southside Ltd 31 Homer Road, Solihull, West Midlands, B91 3LT
Agent:	PJ Planning Cradley Enterprise Centre, Box No 15, Maypole Fields, Cradley, B63 2QB, United Kingdom

Recommendation

Approve Subject to a Section 106 Legal Agreement

Report Back

1. This application was originally reported to Planning Committee on 9th December 2021 and on 3rd February 2022 when members resolved to approve subject to a Section 106 Agreement. The Agreement secured the following:
 - a) £1.041m public realm works to provide a new throughfare known as The Avenue; and
 - b) 20 affordable housing units on site.
2. The site lies within an area known for its noisy night life and LGBTQ+ venues. Specifically, this application site lies on the opposite side of Lower Essex Street to The Fox public house and on the opposite side of Kent Street to the Nightingale club. The former has a beer garden to the rear of the pub and it is proposed that the noise would be mitigated via the provision of sealed windows to the proposed façade facing the venue. The latter would require noise mitigation measures to be undertaken to the Nightingale club building.
3. When the current application was previously reported to committee there was another application at 16 Kent Street, again located very close to the Nightingale, where it was provisionally agreed that the noise mitigation works would be achieved via an Agent of Change Agreement. This type of Agreement, encouraged by the NPPF, seeks to ensure that where the operation of an existing business, in this case the Nightingale, would have a significant adverse effect on a new development in its

vicinity the applicant, or the agent of change should be required to provide suitable mitigation before the development has been completed.

4. The Agent of Change Agreement required the applicant to pay for noise mitigation works that the club operator would implement. However whilst a draft Agent of Change Agreement was produced it was never signed and the previous application at 16 Kent Street has now been dismissed at appeal. Therefore it is highly likely that the current proposals will be the next development that would be adversely affected by noise from the Nightingale to be implemented and thus another Agent of Change Agreement is required.
5. The current applicant is aware of previous protracted negotiations between the developers of 16 Kent Street and the Nightingale. Therefore, rather than enter such an agreement, they would prefer to secure the noise mitigation works at the Nightingale via an alternative mechanism; a holding fund held by the City Council from which monies are drawn down by the club operators. In 2021 the noise mitigation works were estimated to cost £661,000. They include improvements to fire exit doors and windows, new wall linings and a new acoustic barrier. It is acknowledged that the cost of the works will increase and there are additional costs that include those associated with drawing up a detailed specification of the works, project managing the works, professional and legal fees and obtaining the necessary regulatory consents. Therefore it is proposed that the applicant deposit £1,305,000 into the holding fund, which is equivalent to the full monetary value of the previously proposed 20 units of affordable housing on site. This sum would then be drawn down by the Nightingale operators with any residual amount to be spent by the City Council on off site affordable housing.
6. Such a process requires two Section 106 Agreements. The first between the applicants and the City Council to secure;
 - expenditure of £1,041,000 on the implementation of The Avenue, and
 - a deposit of £1,305,000 in a holding fund.
7. The second would be signed by the City Council and the Nightingale to require the implementation of the noise mitigation works and for any residual monies to be used to provide off site affordable housing including First Homes. Whilst the principle of this approach has been agreed by both the developer and the Nightingale operators the application would not be approved until both S106 Agreements had been signed.
8. Paragraph 63 of the NPPF expects and Policy TP31 favours the provision of affordable housing on site. This would not be the case, however it is considered that improving residential amenity for the future occupiers in accordance with Policies GA1.1, PG3 and DM6 should be given greater weight.
9. A review of the previously proposed conditions has also taken place to remove conditions relating to noise mitigation works at the Nightingale that also required an Agent of Change Agreement and noise testing post implementation, again at the Nightingale. These conditions will form part of the holding fund Section 106 Agreement between the City Council and the Nightingale.

Conclusions

10. Policy DM6 of the Development Management DPD and the NPPF seek to ensure that new development is integrated effectively with existing businesses, which in this case is dominated by late night entertainment venues. Securing noise mitigation works at the Nightingale and sealing a proportion of apartments facing the Fox is considered would achieve the aims of this Policy. As stated previously it is acknowledged that sealing windows reduces the quality of the living environment for occupiers of those apartments contrary to Policy GA1.1 of the BDP. However as stated in the main report the scheme would make an efficient use of this brownfield site in accordance with national policy and Policies GA1.1 and TP28 contributing to the City's need for residential accommodation, a consideration that is to be given increased weight now that the Council cannot demonstrate a five year supply of deliverable housing sites. In addition it is anticipated that the proposed mitigation would help to maintain the night time economy within Southside in accordance with Policies TP24 and TP25.
11. To repeat, on balance greater weight is given to these latter policies that support residential uses and promote a diversity of uses within in the City Centre. These public benefits in addition to the economic benefits during and after construction and social benefits of creating a place with good connectivity continue to outweigh the low level of harm to the setting of the Fox, an undesignated heritage. The proposed detailed design of the scheme remains acceptable and in accordance with Policy PG3.
12. The NPPF states that local planning authorities should approach decisions on proposed development in a positive and creative way, use the full range of planning tools available and work proactively with applicants to secure developments that will improve economic, social and environmental conditions of the area. A holding fund secured by a Section 106 Agreement is a new concept for the City Council within the realms of a planning application. It must be acknowledged that it puts more onus on the Nightingale to project manage the mitigation works and more risk to the City Council should the works not go to plan, however it is considered an appropriate approach to bringing development forward on the application site without prejudicing the operation of a notable longstanding premises in Southside.

Updated Recommendation

13. Approve subject to the prior completion of a two planning obligations.
- 13.1 The first S106 Agreement between the applicants and the City Council to secure;
 - a) The delivery of The Avenue with a minimum expenditure of £1,041,000 upon those items listed in the External Works – S106 cost plan (Rev. 5 dated 1st June) prior to the first use or occupation of the development;
 - b) a deposit of £1,305,000 in a holding fund index linked; and
 - c) a monitoring fee up to a maximum of £10,000.
- 13.2 The second S106 Agreement between the City Council and the Nightingale to:
 - a) require the implementation of the noise mitigation works; and
 - b) provide for any residual monies to be used for off site affordable housing.

14. That the City Solicitor be authorised to prepare, seal and complete the planning obligations.
15. That, in the event of the above legal agreements not being completed to the satisfaction of the Local Planning Authority on or before 1st September 2022, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:
 - (a) That in the absence of any suitable legal agreement to secure the provision of affordable housing and improvements to the public realm the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
 - (b) In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, Policy DM6 Noise and Vibration of the Development Management in Birmingham Development Plan Document, the Revised National Planning Policy Framework and Public Sector Equality Duty.
16. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 1st September 2022 or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the updated conditions listed at the end of the report (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

End of report back

Report Back 3rd February 2022

1. This application was previously reported to the meeting of 9th December 2021 when it was deferred to allow further discussions regarding a potential additional agent of change with the Fox public house. The Fox hosts live music and is located opposite the application site in Lower Essex Street that has a beer garden to the rear. Members considered that relying on noise mitigation via the proposed building envelope whilst allowing residents to open their windows would not be adequate in terms of safeguarding this important LGBTQ+ venue, and that the applicants should endeavour to agree noise mitigation at source as per the approach taken in respect of the Nightingale via an agent of change agreement.

Response to Publicity

2. The day before the application was reported to Planning Committee two objections were received. Both were reported verbally during the meeting. The first was from Kings Chambers on behalf of the operators of the Nightingale Club and The Fox. In summary it raised concerns regarding:

- The City Council has been involved in facilitating Agent of Change discussions between the Nightingale and the developer of 16 Kent Street. Those negotiations are now well advanced and involve planning conditions precluding occupation until the satisfactory resolution of noise mitigation measures not only at the new development but also in the form of works at the Nightingale itself which will be reflected in a Section 106 Agreement, currently under consideration. Any derogation from these commitments by the Council would be likely to result in a legal challenge by The Nightingale.
- Regulatory Services response reflects that non-opening windows is not considered to be a satisfactory resolution of noise issues, in light of the impact it has upon residential amenity. Numerous previous Council decisions attest to this approach, and the Council is expected to act consistently. The mitigation at the Nightingale will have no effect on noise from the Fox. Regulatory Services recommended refusal and The Fox is clearly referenced. These are matters that need to be discussed and resolved as between the Nightingale, the Fox, the developer at 16 Kent Street and the current applicant. These matters must move to a satisfactory resolution that could be reflected in conditions, and a Section 106 agreement, possibly together with a deed of easement, to safeguard the same interests that the City Council has already committed to with regard to the Nightingale.
- The City Council is now establishing an impressive reputation in using the Agent of Change principle to protect its valuable community assets and harmonise new development in continued beneficial co-existence with new residential development. The Committee is respectfully invited to act in accordance with the commitments already given and to facilitate the Agent of Change principle, which depends upon finding an acceptable solution to the protection of these entertainment premises, before any planning permission can be granted.

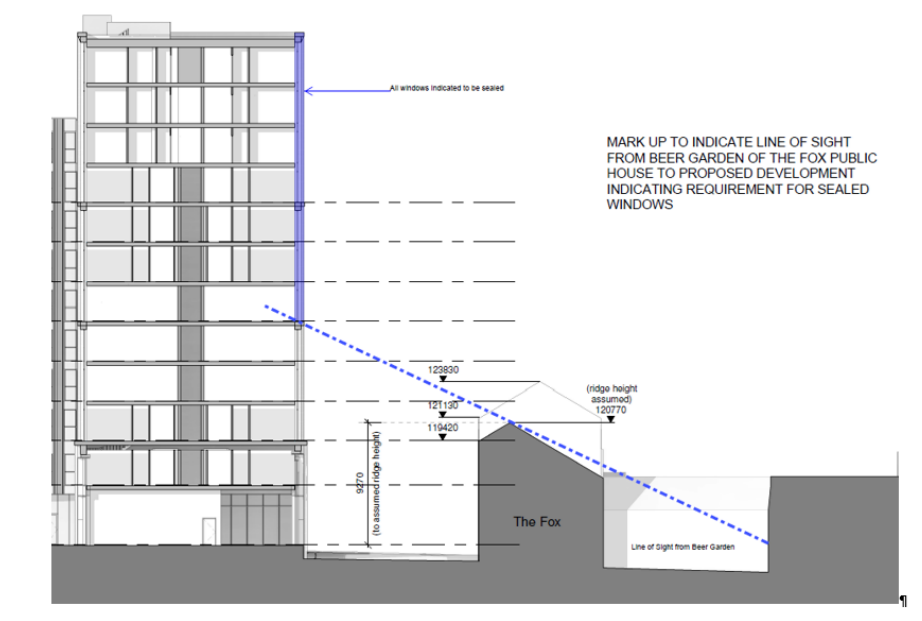
The second objection received was from Councillor Gareth Moore (in summary):

- Object due to the impact on the Nightingale and the Fox.
- Whilst an Agent of Change agreement is in place for the development at 16 Kent Street to help provide better noise mitigation for the Nightingale, the recommendation does not sufficiently address the possibility that this development may be completed prior to 16 Kent Street and would allow this developer to renege on any mitigation leaving the Nightingale at severe risk of complaints from future occupiers about noise nuisance.
- The report suggests that mitigation for the Fox is not needed and future occupiers can close their windows at noisy times. This has been shown time and again to not be an effective form of mitigation, with a number of LGBT venues including the Loft, Missing and Sidewalk being subject to noise complaints from neighbouring residents who were not willing to close their windows. Providing residential accommodation adjacent to a late night entertainment venue will generate and should be avoided. If there is not a suitable form of mitigation then the application should be refused.
- There is no onus on the developer to ensure that future occupiers are aware that they will be living next to late night entertainment venues and other applications.

- Should the Committee be minded to approve the application the Section 106 agreement includes an affordable housing provision. Given the recent homophobic violence this money could be put to better use by enabling better street lighting and CCTV which has been asked for by members of the LGBT community. Ask that the Section 106 agreement be amended so that this contribution could be better used to protect a community under attack.

Proposed Amendments

3. Rather than seeking to resolve an agent of change agreement with the operators of the Fox the applicants have decided to seal a number of the units that have windows facing the pub. They have explained that achieving an agent of change agreement would firstly be a technical challenge as it would need to ensure that the existing external garden would be soundproof. Secondly it would be time consuming taking many months to agree, as was the case with the Nightingale. Furthermore the applicants have pointed out that although this has been a current application for a number of months representations on behalf of the Fox were only submitted on the day before the application was presented to Committee.
4. The revised plans indicate that a total of 49 out of the 456 units would have sealed windows; 35 units would be fully sealed and 14 units partially sealed where the units are positioned at the corners with windows facing away from the Fox. The sealed units would be on the 5th to 11th floors where the Fox building itself does not provide any physical screen from the entirety of the rear garden area.



Section through the Application Site and The Fox
showing Floors 5 to 11 with Sealed Windows

5. Latest comments from Regulatory Services - The reliance upon closed or sealed windows is not a solution that Regulatory Officers approve of and therefore the previous objection remains. However sealing the windows with a line of sight is effective. There may be some grazing incidence and diffraction over the roof and for effective noise reduction sealing the fourth floor in addition to the fifth to the eleventh

floors would be advisable. A ventilation scheme including predicted internal noise levels would be required if sealed windows are to be relied upon. Sealed windows present a risk of overheating and an overheating assessment would be required. Pre-occupation testing is necessary and this should include an assessment of the noise from mechanical ventilation. There are no windows through which noise from the front façade of the commercial part of the Fox could break out however the ground floor includes a number of doors. Suggest clarification is sought on which doors are used and whether they include an internal lobby. Photographs indicate that the ground floor area inside the building is likely to be used for entertainment purposes. This would result in noise emanating on access and egress if no internal lobby exists. Installing a lobby would address noise and could be achieved through a relatively simple agreement.

6. There are points in favour and against the sealing of windows. First it is anticipated that the sealed windows would mitigate against noise and disturbance that may otherwise lead to statutory nuisance complaints by future occupiers against the Fox. As such there would be less risk to the night time economy that this part of the City is renowned for. It would also provide much needed housing in a sustainable location; reference to the Council's five year housing land supply is made below. However sealing windows would remove occupiers' choice of whether they wish to open their windows, particularly during the day time when noise levels are expected to be acceptable. Therefore there is an adverse impact upon living conditions and amenity. Secondly there is the cost of providing sealed windows due to the requirement for replacement purge ventilation and air conditioning. The applicants have estimated this additional cost to be approximately £200,000, and this figure has been independently assessed. Consequently this cost would need to be deducted from the amount of affordable housing. Previously a total of 44 affordable units were proposed. This would be reduced to a total of 40 units as a mix of 20 No 1 beds and 20 No 2 beds that would be provided as low cost home ownership at a 20% discount to market value. This represents an overall affordable housing provision of 8.8%.
7. Sealed windows have been approved in Southside and at other City Centre locations where there was/is anticipated to be a conflict between proposed residential uses and the night time economy:
 - 2017/09461/PA Timber Yard, Southside (approved October 2018)
 - 2020/07829/PA Moseley Street, Digbeth (approved July 2021)
 - 2020/01796/PA Bordesley Wharf, Digbeth (approved March 2021)
 - 2017/07207/PA Lunar Rise, Digbeth (approved February 2018)
 - 2014/09348/PA Left Bank, Broad Street (approved November 2015)
8. It is considered that the provision of a proportion of sealed units would provide sufficient mitigation for the Fox in accordance with Policies DM2 and DM6 of the Development Management DPD.
9. The plans have also been amended to allow for an enclosed fire escape stairwell. This would face Gooch Street North but would be set back approximately 6.8m from the front façade, so that it would not dominate or detract from the overall elevation. Therefore the scheme continues to demonstrate high quality design in accordance with Policy PG3 of the BDP and Policy DM10 of the Development Management DPD. Neighbours have been re-consulted with regards to the elevational changes and the

proposed sealing of a proportion of the apartments. Any comments received will be reported verbally.



Proposed West Elevations Facing Gooch Street North
with Fire Escape Stairwell Circled

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

Updated Conditions

11. The previous list of conditions have been amended to refer to the relevant policies of the recently adopted Development Management DPD. In addition:
- Condition 4 was originally proposed to secure the Agent of Change agreement to ensure the implementation of sound proofing works to the Nightingale. It stated that:-

No development shall take place until:

i) a detailed specification of noise mitigation works based on the 'Noise Mitigation Measures as agreed on site with The Nightingale Club on 17th February 2021 - Rev H 14th May 2021 Revised Proposals by K4 Architects' has been submitted to and approved by the Local Planning Authority for approval;

- ii) an agent of change agreement has been entered into between the developer and all relevant parties with a legal interest in the Nightingale to secure the completion of the noise mitigation works at the Nightingale at the developer's expense in accordance with the detailed specification that has been approved in writing by the Local Planning Authority;*
- iii) any necessary planning permission(s) required from the local planning authority to enable the carrying out of the approved noise mitigation works at the Nightingale have been granted; and*
- iv) a methodology for the post completion noise commissioning test has been submitted to and approved by the Local Planning Authority.*

In line with the recent agreed at 16 Kent Street it is now proposed that in the Section 106 Agreement the applicant and the Nightingale (along with the leaseholder and freeholder of the building) enter into a binding agreement to enter into an Agent of Change Agreement in a form attached to the S106 Agreement on the same day as the S106 Agreement. The second point of condition 4 is therefore amended to read:-

“ii) a copy of the agent of change agreement that has been entered into between the developer and all relevant parties with a legal interest in the Nightingale to secure the completion of the noise mitigation works at the Nightingale at the developer's expense in accordance with the detailed specification to be approved in writing by the Local Planning Authority has been submitted to the Local Planning Authority;”

- Condition 7 (Submission of a Noise Mitigation Scheme) has been amended to take account of the units with sealed windows;
- Condition 8 (Submission of a Noise Mitigation Scheme) has been amended to require details of Materials to the Building and Boundary Treatments;
- Condition 12 (Green and Brown Roofs) has been removed proposed roofs would not have the loading capacity required (as reported at Committee last time);
- Condition 14 (Prior to First Use or Occupation of any Residential Apartment: Submission and Implementation of Noise Commissioning Testing) has been amended to take account of the units with sealed windows. In response to the comments raised by Regulatory Services this would also ensure that the proposed sealed units on the 5th to 11th floors are sufficient to mitigate noise or determine whether it is also necessary to seal windows on the 4th floor;
- Condition 19 (Prior to Use of Ground Floor for Class E(d) (Indoor sport and recreation): Submission of Noise Assessment and Mitigation Plan) has been removed as it is not relevant to the ground floor uses proposed (as reported verbally at Committee last time); and
- A condition has been added to ensure that the sealed windows are retained as such.

Conclusions

12. Policy DM6 of the Development Management DPD and the NPPF seek to ensure that new development is integrated effectively with existing businesses, which in this case is dominated by late night entertainment venues. Noise mitigation via an Agent of Change Agreement would secure mitigation works to the Nightingale whilst sealing a proportion of apartments facing the Fox is considered adequate mitigation for this venue. Sealing windows does however reduce the quality of the living environment

for occupiers of those sealed apartments contrary to Policy GA1.1 of the BDP. However as stated in the main report the scheme would make an efficient use of this brownfield site in accordance with national policy and Policies GA1.1 and TP28 contributing to the City's need for residential accommodation, a consideration that is to be given increased weight now that the Council cannot demonstrate a five year supply of deliverable housing sites. In addition it is anticipated that the proposed mitigation would help to maintain the night time economy within Southside in accordance with Policies TP24 and TP25.

13. On balance greater weight is given to these latter policies that support residential uses and promote a diversity of uses within in the City Centre. These public benefits in addition to the economic benefits during and after construction and social benefits of creating a place with good connectivity continue to outweigh the low level of harm to the setting of the Fox, an undesignated heritage. The proposed detailed design of the scheme remains acceptable and in accordance with Policy PG3.

Updated Recommendation

14. It is proposed that the Section 106 Heads of Terms be amended to include reference to the Agent of Change Agreement. A further reason for refusal is also included in the event that the legal agreement is not completed.
15. Approve subject to the prior completion of a planning obligation to secure the following:
 - a) The delivery of The Avenue with a minimum expenditure of £1,041,000 upon those items listed in the External Works – S106 cost plan (Rev. 5 dated 1st June) prior to the first use or occupation of the development;
 - b) The provision of a total of 40 affordable housing units split as 20 x one bedroom units and 20 x two bedroom units to be provided for low cost home ownership tenure at 20% discount to market values in perpetuity;
 - c) Should the works to mitigate noise from the Nightingale Club not have taken place prior to commencement of the development to require:
 - i) The entering into of an Agent of Change Agreement between the Developer and the Nightingale in respect of the noise mitigation works; and
 - ii) the applicants to submit a new FVA that takes account of the costs of the works to the Nightingale and this sum be deducted from the affordable housing equivalent monetary value resulting in fewer affordable housing units. An independent assessment of the revised FVA to be paid for by the developer.
 - d) Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.
16. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.

17. That, in the event of the above legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 30th April 2022, planning permission be refused for the followings reasons:
- (a) That in the absence of any suitable legal agreement to secure the provision of on site affordable housing and improvements to the public realm the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
 - (b) In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale through application of the agent of change principle, the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, Policy DM6 Noise and Vibration of the Development Management in Birmingham Development Plan Document, the Revised National Planning Policy Framework and Public Sector Equality Duty.
18. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 30th April 2022 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 at the end of the original report as updated under paragraph 11 above (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

End of report back

1. Proposal

- 1.1 The application seeks permission to demolish the existing buildings and redevelop the site to provide two commercial units of 268sqm and 238sqm and a total of 456 apartments. The footprint of the development would provide a continuous frontage set around the square perimeter of the site with a central courtyard creating street frontages to Gooch Street North, Kent Street and Lower Essex Street, and it is proposed to create a new street within the site bordering the southern boundary.
- 1.2 The proposed development is split into distinct blocks with an 11 and 12 storey block marking the front two corners facing Kent Street. The blocks then step down in height towards the rear of the site with 8 and 10 storey blocks at the rear corners overlooking the new route. Two south west facing roof top terraces are proposed atop the eighth floor.



CGI of Proposed Development from Corner of Kent Street and Lower Essex Street

1.3 The proposed apartment mix would provide the following:

1 bed 2 person = 178

2 bed 3 person = 235

2 bed 4 person = 33

2 bed duplex = 10

Total = 456 (39% 1 bed & 61% 2 bed)



Illustrative View along Gooch Street North and The Avenue

- 1.4 The duplex apartments are located at the southern end of the development. They would have direct access from the proposed new route through the site set behind a private ground floor terrace.



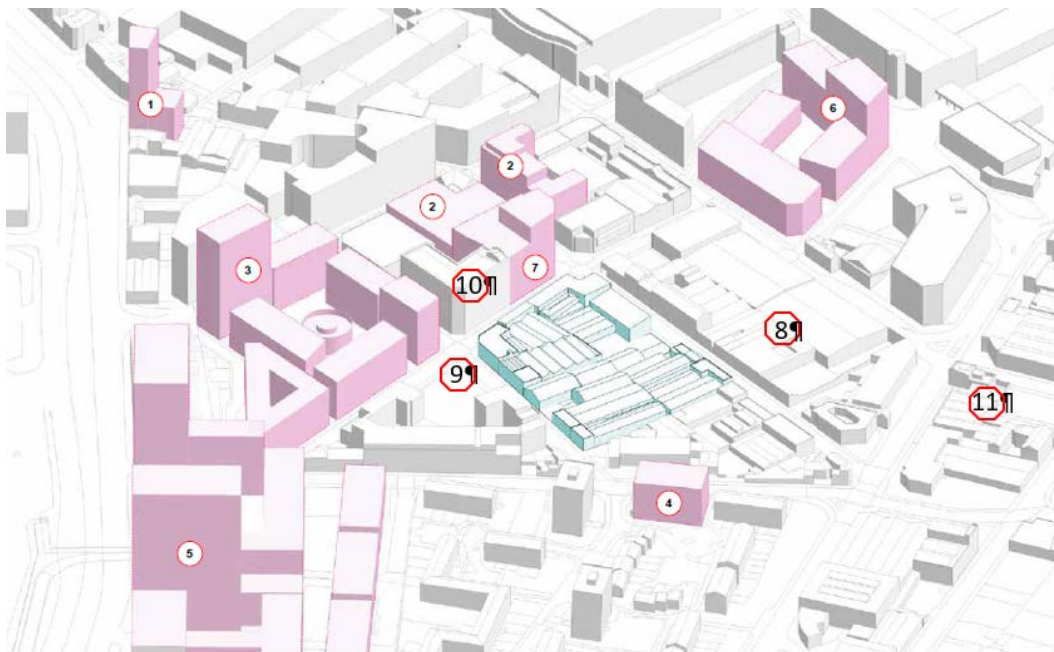
Kent Street Elevation

- 1.5 The commercial units would accommodate the following within Use Class E:
- a) Shop other than for the sale of hot food;
 - b) Food and drink which is mostly consumed on the premises;
 - c) Financial /professional services;
 - e) Medical services;
 - f) Non-residential creche, day centre or nursery; and
 - g) (i) office
- 1.6 A total of 26 parking spaces are proposed within the basement accessed via a ramp off Lower Essex Street. The basement would also accommodate 160 cycle parking spaces in addition to 250 on the ground floor.

1.7 [Link to Documents](#)

2 Site & Surroundings

- 2.1 The application site is located south of the City Centre, within the Southside district. It fills the northern half of a block bordered by Lower Essex Street to the north east, Kent Street to the north west, Gooch Street to the south west and the remaining buildings and structures that lie in the southern part of the block.
- 2.2 There are a number of post war buildings in varying states of repair and occupancy currently located on the site. The majority proposed to be demolished are two to three storey in height. There are currently a range of uses on site including leisure, retail, a place of worship, warehousing and offices.
- 2.3 The site sits to the west of the Rea Valley and south west of Smithfield within the LGBTQ+ cultural area adjacent the Chinese Quarter. The Nightingale club and Medusa Lodge are to the west both having a frontage to Kent Street. The Fox public house also lies opposite the site in Lower Essex Street. Within this part of the City many of the surrounding sites have been redeveloped or are approved for redevelopment with a dominance of residential led apartment blocks.



Application site in centre (outlined in blue)

(Below – list of surrounding developments, see planning history for further information)

- 1 – Bristol Street/Essex Street (Approved)
- 2 – Unity House & Armouries (Approved)
- 3 – Kent Street Baths (Approved)
- 4 – 77 Wrentham Street (Approved)
- 5 – Former Monaco House (Approved)
- 6 – Timber Yard (Approved)
- 7 – 16 Kent Street (current application awaiting S106 Agreement)
- 8 – Lower Essex Street/Hurst Street/Sherlock Street (current application)
- 9 – Kent St/Gooch St. North (current application)
- 10 – Priory House (Approved)
- 11 – Sherlock Street (Approved)

- 2.4 There are no heritage assets within the site. The Fox opposite on Lower Essex Street is a non-designated heritage asset and Unity House, a locally listed building indicated as number 2 on the plan above, is positioned 60m away. A terrace of locally listed buildings front onto Bristol Street at numbers 74-104. These adjoin the Grade II listed Wellington Hotel and numbers 99 to 102 Bristol Street, which are also locally listed.

3. Planning History

Within Application Site

- 3.1 None relevant

Beyond Application Site

- 3.2 Land at the corner of Essex Street and Bristol Street - 2020/02766/PA - Demolition of existing buildings and site clearance for the erection of 28 storey tower to include 154 apartments (Use Class C3), ground floor commercial/retail unit (Use Classes A1/A3),

with ancillary resident amenity space and all associated works (Approved 18/12/2020)

- 3.3 Unity House & Armouries - Variations of conditions attached to permission 2010/02473/PA for erection of 2 buildings and retention of Unity House to provide 162 apartments, 395sqm of ground floor commercial floorspace (A1, A2, A3, A4, B1, D2) and 98 car parking spaces (Approved 07/08/2013)
- 3.4 Sherlock Street - 2020/09624/PA - Demolition of all existing buildings and erection of a residential-led mixed-use development comprising part 30, part 13, part 12, part 10, part 9 and part 5 storey blocks providing 551 residential apartments (Use Class C3), ancillary internal residential amenity space, flexible ground floor space to be used as commercial, business and service uses (Use Class E), drinking establishments, and/or hot food take-away (Sui Generis), access, car and cycle parking, landscaping, public realm and all other associated works (delegated approval granted subject to signing of a S106 Agreement)
- 3.5 Land at Lower Essex Street, Hurst Street and Sherlock Street - 2021/05033/PA - Demolition of existing buildings and erection of 3 residential blocks to provide 642 apartments together with associated amenity/commercial (Use Class E) floorspace, parking and landscaping. Block A - 27 storey tower with 9 storey shoulder, Block B - 12 storey taller element and 8 storey shoulders, Block C - 8 storeys (awaiting determination)
- 3.6 Former Kent Street Baths, Land bounded by Bromsgrove Street, Gooch Street North, Kent Street and Henstead Street - 2017/09434/PA - Clearance of site and erection of a residential mixed use development comprising of 504 dwellings (Use Class C3), 955 Sq.m (Gross Internal Area) of flexible retail, restaurant, leisure and office uses (Use Class A1/ A2/A3/D1/D2/B1(a)), car parking and associated developments.
- 3.7 77 Wrentham Street - 2017/09468/PA - Demolition of existing building and erection of a six/seven storey building to provide 24 no. apartments and associated development (Approved 10/072018)
- 3.8 Land at Pershore Street and Skinner Lane (timber Yard) - 2017/09461/PA - Erection of 6-14 storey building comprising 379 residential apartments (Use Class C3), ground floor commercial units (use Classes A1-A5 and B1a), associated car parking and amenity space. (approved)
- 3.9 16 Kent Street - 2021/03783/PA – Demolition of existing buildings and redevelopment to provide 116 apartments with a ground floor of 2 commercial units to include Use Classes E(a), E(b), E(c), E(e), E(f) public houses, wine bars, and/or drinking establishments (sui generis) and E(g)(i) (delegated approval granted subject to signing of a S106 Agreement)
- 3.10 16 Kent Street - 2018/03004/PA - Demolition of existing buildings and residential-led redevelopment to provide 116 apartments and 2no. commercial units (Use Classes A1-A4, B1(a) and D1) in a 9-12 storey building (Current appeal pending against non determination)

- 3.11 Kent Street/Gooch Street North - 2021/00081/PA - Erection of 8-12 storey building providing 133 no. residential apartments (Use Class C3) together with ancillary ground floor amenity and commercial space (Use Class E) (awaiting determination)
- 3.12 Priory House , Gooch Street North/Kent Street - 2020/04784/PA - Conversion and refurbishment of Priory House, including change of use from Use Class B1(b) to include 79 residential apartments (Use Class C3), ancillary internal and external resident's amenity areas, secure car and cycle parking and other associated works (Approved 18/12/2020)
4. Consultation/PP Responses
- 4.1 Transportation – No objections subject to the following conditions:
- Grampian style condition for the various highway works to be carried out before the development is occupied (Note - a S278 Highway Agreement is required for the redundant crossings to be reinstated, new/modified access points and associated Traffic Regulation Order changes along with any other highway alterations);
 - Cycle parking and car parking to be provided prior to occupation;
 - EV charging to be included; guidelines seek 10% provision;
 - Boundary treatment to be defined to prevent cars parking across the forecourt strip and footway around the site; and
 - A Construction Management Plan is submitted to define any highway impacts and implementation commenced before any demolition takes place.
- 4.2 Severn Trent Water - No objections subject to conditions to require an agreed drainage plan is implemented before the development is first brought into use.
- 4.3 BCC Education – The School Organisation Team request a contribution for £1,219,111.29.
- 4.4 Sport England (SE) – Object. In the absence of an agreed package of S106 contributions to meet the needs for sport that arise from this development. The occupiers of new development, especially residential, will generate demand for sporting provision. The existing provision within an area may not be able to accommodate this increased demand. Therefore, new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity off-site.
- 4.4.1 The additional population, estimated to be 775 people, will generate additional demand for sports facilities. Sport England's Sports Facilities Calculator (SFC) indicates that the following contributions be sought:
- Sports Hall Sum - £134,604
 - Swimming Pool Sum - £138,434
 - Playing Pitches Sum - £180,776
 - Total Sum - £453,814
- 4.4.2 The site offers some opportunities for the provision of outside space for physical activity within the courtyard and roof terrace which should be large enough to cater for pop-up activities. Choice of materials, lighting, street furniture etc will be important to accommodate as broad a range of activities as possible. Nonetheless,

being high density development in the City Centre, residents will also need to access facilities off-site for sport and recreation activities. The development should be provided with high quality cycle facilities to maximise the benefits of the City Centre location, and in particular connectivity to bus and rail services, including HS2. There may be opportunities to enhance accessibility to existing open space via improvements to wayfinding and other public realm enhancements.

- 4.4.3 Police - Calls to service are high, the highest recorded crimes currently are violence and sexual offences, anti-social behaviour, public order and shoplifting. The location falls within the 'Night-time Economy' area that brings with it its own challenges. Noted that the proposed courtyard and terraces are for residents only and this is supported. Ask that a suitable boundary treatment is installed around the terrace to adequately prevent accidental falls over the boundary or intentional attempts to self-harm. Recommend that any furniture that is installed on the terraces is suitably located and secured so it cannot be used as a climbing aid to scale the boundary.
- 4.4.4 The public through route raises some concerns as access to the private spaces could be compromised. Security measures such as access control, lighting, CCTV and signage will be pertinent here. Controlled access into the basement is supported, with the correct standard of door/access security. With entrances off the street, two layers of security are recommended to prevent 'tail-gating'. Access control at the residents entrance should have an intercom facility (preferably video linked for a development of this size). Note there is defensible space between the street and the ground floor residences this is supported. Ground floor (and easily accessible) windows should be fitted with restrictive openers to prevent opportunistic theft. Recommend current safety standards for laminated, toughened glass and other safety glass, from ground floor up to the 4th floor.
- 4.4.5 Note there are no employment details but there will be a management office in reception. Ask that a management and maintenance plan for trees and shrubbery is subject to a planning condition. Ask that adequate lighting is also subject to a planning condition. Access control into the site should be extended to throughout the development, including lifts and stairwells. Recommend that a suitable site-wide CCTV scheme be installed. Cameras should provide coverage of the communal public space areas on the site, cycle store and car parking spaces, the main pedestrian and vehicle route into and throughout the site.
- 4.5 Environment Agency - no objections. This site appears to have been the subject of past industrial activity which poses a risk of pollution to controlled waters. We advise that you consult with your Regulatory Services officers for advice on generic aspects of land contamination management.
- 4.6 Civic Society - There is potential to support the application but would encourage the following points to be addressed. The redevelopment for residential use is acceptable in policy terms. The Birmingham Development Plan (BDP) policy GA1.2 'Growth and wider areas of change' supports a mix of uses in the Southern Gateway area.
- 4.6.1 Heritage – There would be a minimal impact on the settings of heritage assets such as the Grade II listed Rowton Hotel. There is the loss of a number of buildings that contribute to local character, but this did not raise an objection from our committee.

- 4.6.2 The energy strategy shows that passive design measures and efficient building services that the development is estimated to achieve a 17.05% reduction in CO2 emissions. The study concludes that photovoltaics are the most suitable means of making up the shortfall, mounted on the roof.
- 4.6.3 Design – the scheme has a number of positive characteristics including design which has been well considered through a considerable process of refinement. Material quality and detailing were felt to be appropriate.
- 4.6.4 Landscape and amenity space have been well considered and are of an appropriate scale and quality for this location. Can any reassurance be made that the roof top tree illustrated will be maintained?
- 4.6.5 Local character - Strong concerns regarding the loss of potential sites for gay venues and the future of the provision for the community as a whole due to current scale of development in this area. It is disappointing that such a large urban block does not contain say any commercial units that might support future venues. We would recommend a S106 agreement be used to support appropriate charities or local uses that will mitigate the impact of this development on the gay community.
- 4.6.6 Affordable housing – It is disappointing that there is no affordable housing provision due to viability, despite this being an extremely attractive city centre location, adjacent to Smithfield where very high levels of investment are being made. Cannot support the application for this reason.
- 4.7 Regulatory Services – Air Quality - Content with the revised air quality report.
- 4.7.1 Contaminated Land - concerns around the submitted Phase 2 Geo Environmental Assessment specifically around how the data has been treated. Contaminated land may need further investigation and will require remediation and verification.
- 4.7.2 Noise - Recommend refusal. There is the potential for a significant adverse impact on the proposed development that could lead to harm to health and quality of life for future residents due to noise from nearby commercial uses, and it would introduce a noise sensitive use in an existing area in circumstances where the resulting residential noise climate may represent a statutory nuisance which may have an adverse impact on the operation of existing businesses and potential loss of employment activities.
- 4.7.3 An agent of change scheme is required to address the source of entertainment noise from the Nightingale club and the Fox, similar to the approach in respect of 16 Kent Street. If the applicant agrees, further discussions are needed to scope out the mitigation works.
- 4.7.4 The concerns about noise from the Nightingale club and the Fox are that the mitigation only works if the windows are closed and use mechanical ventilation. Windows that are openable is not acceptable and would not avoid future residents being exposed to a statutory noise nuisance when windows are open. Windows being sealed is detrimental to residential amenity.

- 4.7.5 The noise assessment has not considered outdoor amenity areas such as the courtyard, roof top amenity areas and private areas.
- 4.7.6 Noted that the developer is amenable to contributing towards works to the Nightingale club. Any agreement should be worded so all developments included will share in the cost in a fair and reasonable way. Noise from the Fox also needs to be considered.
- 4.7.7 It cannot be assumed that the 16 Kent Street development will go ahead or that the 16 Kent Street works have been accepted by the Nightingale and therefore no reliance can be placed on this mitigation scheme being fully implemented; however it will have no effect on noise from the Fox.
- 4.7.8 The Fox building itself would provide screening to the ground level courtyards. However, a noise level in the outside amenity areas is required not an estimated reduction. There is no objection in principle to external amenity areas, subject to an assessment to ensure that it achieves the community space standard in respect of noise.
- 4.7.9 The consultants suggest the only method to control noise from the Fox is enclosing the beer garden, and that this is not possible, therefore they suggest closed windows. In order to satisfy the noise hierarchy more consideration must be given. There is no evidence of discussions with the owner and landlord of the Fox.
- 4.7.10 Other Matters - Pleased to see that the consultants agree that a mixed commercial and residential development would require a condition to ensure residential amenity to the properties above. Appropriate levels of vehicle charging would be required to address the introduction of additional vehicles into the CAZ. There is commercial use at ground floor level as well as a gym. Noise resulting from these activities affecting the building and surrounding area would need to be addressed through conditions. A construction site management plan would be required to reduce the risk of dust and noise nuisances during construction.
- 4.8 Local Lead Flood Authority – No objection subject to conditions to require the submission of a sustainable drainage scheme and drainage operation and maintenance plan.
- 4.9 BCC Leisure Services – No comments.
- 4.10 The application has been advertised in the press, site notices posted on site and neighbours notified. In addition the Local MP, local residents groups and forums and Southside BID have been consulted. One objection has been received raising the following concerns:
- there are already many apartments being constructed around this area;
 - the development will block vital sunlight into my building;
 - it will cause a prolonged period of noise during the construction period and will disturb home working;
 - it will bring in more traffic through the street, which already is at an unacceptable level; and

- there is very little town planning in the area (e.g no recreational parks) to enhance the area, which with more apartments will only depreciate the value of properties.

5. Policy Context

- 5.1 Birmingham Development Plan 2017; Development Management DPD (2021); Places for All SPG; Places for Living SPG; Car Parking Guidelines SPD (2021); Public Open Space in New Residential Development SPD; Lighting Places SPD; Affordable Housing SPG; Loss of Industrial Land to Alternative Uses SPD and the revised National Planning Policy Framework.

6. Planning Considerations

Principle of Redevelopment

- 6.1 The application site falls within the City Centre Growth Area identified by Policy GA1 however Policy TP20 seeks to protect employment land and resources where it contributes to the portfolio of land needed to meet longer term requirements. According to Policy TP20 there is a general presumption against the loss of employment premises unless it is a non-conforming use, has actively been marketed or it can be demonstrated that continuing an industrial development is not viable. The current employment floorspace does not comprise of non-conforming uses and the applicants have not demonstrated that there is marketing or viability justification to support the proposed loss of existing premises. Therefore the proposed loss of employment premises is contrary to this BDP Policy TP20 and any material considerations should be assessed to ascertain whether they should be given greater weight to outweigh this Policy conflict. First there is a requirement for future growth and change in and around the City Centre as identified within the BDP. Strategic Policy PG1 identifies a need for significant levels of housing, employment, office and retail development along with supporting infrastructure in Birmingham over the plan period. The Policy refers to a target of 51,100 additional homes although this falls short of Birmingham's objectively assessed need which is stated to be 89,000 homes.
- 6.2 Next Policy GA1 establishes the City Centre as the focus for a mix of uses including residential, retail, employment and leisure to improve the overall mix of uses and the vitality of the City Centre. Cultural, entertainment and residential activities are supported in Southside by Policy GA1.3, complemented by high quality public spaces and pedestrian routes. Paragraph 121 of the NPPF also states that authorities should take a positive approach to applications for the alternative use of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided that this would not undermine key economic sectors or sites, or the vitality and viability of town centres.
- 6.3 The application seeks permission for a range of uses at ground floor level, including retail and office. It is noted that the site lies 400m outside of the City Centre retail core however Policy GA1 supports appropriate scale retail development where it complements the existing retail core as part of mixed-use redevelopments. As the

proposed commercial units total only 517sqm, and would be split between two units, this floorspace can be deemed as ancillary to the main residential development.

- 6.4 Whilst the loss of the existing businesses is regrettable, they are not intensive employers and it is considered that the employment created by the construction of the proposed development and the expenditure created by the occupiers of the proposed 456 apartments should outweigh compliance with Policy TP20, particularly at a site where there is policy support for growth in this part of the City under Policies GA1.1 and GA1.3 and the location of the proposed housing complies with Policy TP28. It is therefore considered that the proposed uses would, in principle be acceptable at this location. Furthermore with a dominance of 2 bed units whilst not fully in accordance with Policy TP30 that requires a range of dwellings, the proposed mix is considered satisfactory for this City Centre site.

Proposed Design - Layout

- 6.5 The proposed layout is simple providing a perimeter of 8 connected blocks around an internal courtyard space, generating a clearly defined urban edge and creating a safe external amenity area for residents. As part of the proposal a new street ranging in width between 10.8m and 13.8m would be sited to the south eastern end of the plot. This pedestrian route, referred to as The Avenue would increase connectivity as it would provide a tertiary route through this urban block linking to Hurst Street and into Smithfield beyond. The Avenue would provide a tree lined boulevard to the residential front doors and gardens serving the ground and basement floors of the southern block and alternative stepped access to two of the residential cores the south. The south side of the Avenue Would be enclosed by a semi- permanent landscape treatment of robust steel framed mesh trellis system with climbing plants and space for temporary art installations. It is envisaged to become a living street and social space. Secondly the route would allow the redevelopment of the remainder of this block to the south.



Proposed Layout with an Indicative Layout for Phase 2 to the South of the Site

- 6.6 The proposed courtyard would provide a communal space of 2,100sqm and has been designed to incorporate a variety of level routes linking all four cores, together with a perimeter stepped path to give service access to the ground floor commercial and amenity spaces.



CGI of Proposed Courtyard

- 6.7 In addition two south west facing roof terraces of 101sqm and 534sqm are proposed atop the southern blocks overlooking The Avenue with views over south Birmingham.
- 6.8 Aside from the individual frontages from The Avenue the main point of entry would be from Kent Street. Controlled access into the basement is from Lower Essex Street via a short ramp that would lead to parking in the form of disabled, electric and car club spaces and cycle parking.

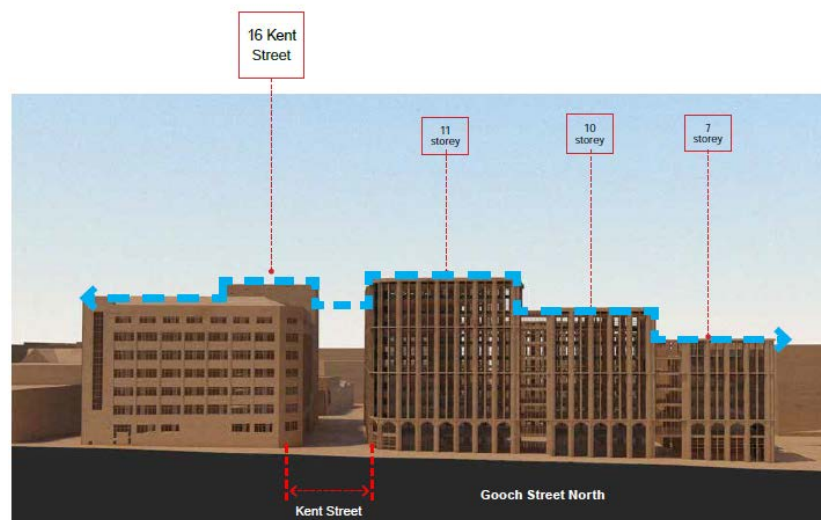


Proposed Upper Ground Floor Plan

- 6.9 It is considered that the layout would provide a high quality place with good connectivity in accordance with Policy PG3 of the BDP.

Proposed Scale and Massing

- 6.10 The scale of the development ranges between 7 storeys to the south of the site and 12 storeys in height to the north. This would align with the rising topography of the site towards the City Centre and would mark the key node and main entrance into the development at the junction of Kent Street and Lower Essex Street.



Elevation to Gooch Street North

- 6.11 Thereafter the overall massing is broken down into a series of more identifiable parts by dividing the massing into a series of blocks connected by linking segments of contrasting material.

- 6.12 The scale and massing is also relevant to the impact upon sunlight and daylight received by surrounding properties. An objection has been received regarding the loss of light to apartments opposite in Gooch Street North. A report has been submitted based on the various numerical tests laid down in the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight'. The report provides results of two tests in respect of daylight (Vertical Sky Component and Daylight Distribution) and a single test in respect of sunlight availability.
- 6.13 A total of 884 windows have been tested, of which, 459 have a requirement for daylight. Of the 459 windows, 129 fall short of the Vertical Sky Component (VSC) test at Priory House, the Former Kent Street Baths site and at Gooch Street North, including the objectors apartment. 28 of the 129 shortfalls are borderline and a number of windows that fall short serve bedrooms.
- 6.14 The report has also considered the proposed central courtyard area where it meets the BRE overshadowing to gardens and open spaces test.
- 6.15 The proposed scale broadly correlates with the new emerging scale of the wider area whilst the reduction in massing to the south correlates with the site topography allowing greater light into the central courtyard. As such the proposed scale and massing is considered appropriate and in accordance with design policy.
- 6.16 Whilst a large proportion of the windows to neighbouring properties tested fall short of the BRE guidelines they are only guidelines that are intended to be used flexibly, with the BRE acknowledging that natural lighting is only one of many factors in site layout design. They should also be considered in the context of the NPPF, which stipulates that local planning authorities should take a flexible approach to daylight and sunlight to ensure the efficient use of land. It is considered that the loss of light would not be so significant as it should outweigh material considerations relating to the siting of the development, streetscene and the efficient use of land, particularly at this City Centre location where, due to the density of development, it is considered that such guidelines should not be so stringently applied.

Proposed Appearance

- 6.17 The proposed facades are divided horizontally into three main parts with the massing reduced by horizontal bandings that group floors together. Windows align vertically to roof level giving the elevations a simple and calm rhythm. The City Design Manager comments that the round headed arches at the ground floor, *"look dated and difficult to achieve and run the risk of looking like a 1980's postmodernist office scheme. One improvement is the removal of metal cladding within this arcade of blind arches within inset windows to full glazing. The design remains odd but is less poor in its finish."*



Current Drawing

- 6.18 The current drawings show the removal of the metal infill panels at ground and lower ground levels, except where plant and entrances exist and the replacement of the horizontal cladding below the arch windows with ceramic backed glazed spandrel panels. The amendments are considered to be more in keeping with the glazing to top and bottom. In addition the horizontal banding is shown as reverting to brickwork.
- 6.19 The development is designed around a simple and robust palette of materials and textures. The approach is welcomed as it pulls the blocks together and allows the architecture itself to define the development and its massing. Whilst the original concerns raised by the City Design Manager with respect to the round headed arches at ground floor still remain the proposed detailed design of the scheme is considered acceptable subject to conditions and in accordance with Policies GA1.1 and PG3.

Impact of Noise

- 6.20 A key consideration is the impact upon the night time economy. Notably the site lies within a part of the City Centre that is known for its vibrant late night venues with the Nightingale club on Kent Street at a distance of approximately 30m and The Fox public house opposite on Lower Essex Street. Both venues are open seven days a week into the early hours.
- 6.21 The NPPF advises that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Policy DM6 of the adopted Development Management DPD states that where potential adverse impact is identified, the development should include details on how the adverse impact will be reduced and/or mitigated.
- 6.22 A noise assessment has been submitted based on three sources of data. As a result of covid restrictions the first source is archive noise data that includes a monitoring exercise carried out in late 2019 early 2020 by the Nightingale to support a planning application at 16 Kent Street, which have been previously agreed by BCC Regulatory Services as being an accurate assessment of break out noise from the club. The second source is archive measurement data for a pub beer garden in Moseley that

has live music and has been used to replicate events at The Fox public house. The third source is data collated from noise measuring equipment placed at three different positions on the application site that recorded noise during October and November 2020.

- 6.23 The results indicate that the general noise climate is dominated by road traffic on Bristol Street to the west, but with additional intermittent traffic noise from other roads in the vicinity. Additional noise occurs during the late evening and night time periods, particularly on Thursday to Saturday, which is attributable to the Nightingale Club together with associated pedestrian and vehicle activity on nearby streets.

The Nightingale Club

- 6.24 The Assessment advises that the structural components of the building envelope including appropriate glazing would adequately mitigate noise from late night premises, however where windows are open noise conditions would exceed British Standards for habitable rooms on roadside elevations, and alternative ventilation would be necessary. These conclusions are made with respect to the Nightingale club in its current form, however the applicants have agreed to undertake a range of works to address the primary sources of break out noise from the Nightingale club. The principle of these works have been agreed with Regulatory Services in association with the current scheme for residential development at 16 Kent Street. The works are as listed below and are estimated to cost approximately £661,000:
- a redesigned and acoustically treated smoking area on the ground floor;
 - replacement of existing ground floor fires doors with acoustically rated fire escape doors;
 - incorporation of additional noise mitigation to the walls on the corner of lower Essex Street and Kent Street;
 - the creation of a new first floor and second floor open smoking area to the side and rear of the building mitigated with acoustic barriers;
 - closure of the first and second floor balconies;
 - incorporation of additional noise mitigation to the windows on the first and second floors;
 - incorporation of noise mitigation measures to the existing extraction outlets on the roof; and
 - provision of new general building extraction acknowledging that all current external openings will be sealed shut and with the associated plant suitably acoustically mitigated and located on the roof.
- 6.25 The first preference for mitigating noise is to address it at the noise source via an agent of change agreement. Therefore the proposed works to the Nightingale club would result in future occupiers of the proposed scheme being able to open windows without a significant adverse impact upon their amenity. The completion of the noise mitigation works at the Nightingale club would be secured through planning conditions, which would require all of the following to be in place before the residential development commences:
- (i) a technical specification for the works to be submitted and approved;
 - (ii) an agent of change agreement being entered into between the developer and those with a legal interest in the Nightingale to secure the carrying out of the approved mitigation works at the developer's expense; and

(iii) planning permission for the mitigation works being granted.

- 6.26 Further conditions would require a commissioning test prior to occupation of the residential development to ensure the mitigation works achieve the desired noise mitigation. In addition, safeguarding conditions are attached to secure the proposed mitigation in terms of the proposed building envelope and glazing.

The Fox Public House

- 6.27 The Fox allows live music until midnight on Mondays to Thursdays, 02:00 on Fridays and Saturdays and 00:30 on Sundays. Similar mitigation, in the form of structural wall configuration and appropriate glazing is proposed with regards to break out noise. Again the Noise Assessment refers to an alternative means of ventilation to enable residents to close windows as required. Regulatory Services object on the basis that, with respect to the Fox, the only mitigation would be via the building envelope. Regulatory Services officers consider such a situation would lead to potential noise nuisance if windows were opened by the residents and they consider it is not reasonable to request windows be closed, even if they have alternative mechanical ventilation.
- 6.28 There is a range of relevant national planning policy, noise policy statements and British Standards (BS) guidance. The NPPF states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects, including cumulative effects of pollution on health and living conditions. The DEFRA Noise Policy Statement for England (NPSfE) 2010 that advises that the aim is to minimise noise as far as is reasonably practical and National Planning Practice Guidance provides general guidance on how noise impacts should be considered in the context of the planning system. The NPPG states that the planning process should try to avoid exposing people to noise that would change their behaviour (e.g. by closing windows) at the plan making stage. However it then goes on to give the example of closing a window for most of the time as a potential method of mitigation (and the need to consider the impact of this upon the living environment). It adds that the agent of change (or the developer) must clearly define the mitigation being proposed and that whilst this may not prevent all complaints from new residents it will help to achieve a satisfactory living environment and mitigate the risk of a statutory noise nuisance being found; again the NPPG gives the example of closing windows when those effects are occurring.
- 6.29 The Noise Assessment considers that the worst-case noise break out conditions would occur when a live band is playing in the beer garden. In the case of the Fox mitigation could only be achieved by enclosing the entire garden. Therefore mitigation is proposed in the form of the building envelope that includes occupiers closing windows during live music events. According to the Noise Exposure hierarchy table within the NPPG having to close windows for some of the time because of noise equates to the 'Lowest Observed Adverse Effect Level' and the advice is to mitigate the noise to reduce it to a minimum.
- 6.30 With respect to the Fox the rear beer garden is screened from the application site by the building that is approximately 9 metres in height. On this basis, the lower floors of the proposed development would benefit from a degree of screening. Whilst the upper floors would not have the benefit of this physical screen the potential for noise

nuisance would be reduced by the separation distance. Furthermore the need to close windows would, generally, be at times when residents might normally expect to close windows, during the late evening and night time. The noise consultants consider that residents should have the ability to open windows at their choosing during the majority of the day. Plus, during those periods when entertainment noise occurs and residents might choose to close their windows, full ventilation in accordance with Building Regulations would be provided, with a mechanical system providing better ventilation rates than an open window. A mechanical ventilation system also offers the opportunity to filter and condition fresh air entering the apartment unlike an open window that may provide little filtration during calm conditions.

- 6.31 On the basis of the licensing hours of the Fox, the position and size of the primary source of noise sited to the rear of the building and the potential requirement for occupiers to close their windows some of the time it is considered that the mitigation proposed via glazing and the building envelope would be sufficient to accord with Policy DM6 and the NPPF whilst still providing the future occupiers adequate living conditions. This form of mitigation would be secured via a condition. Future purchasers and occupiers would also be advised that a range of late night entertainment premises are located in this part of the City Centre and that residents may need to close windows to mitigate noise during the late evening.
- 6.32 The NPPG states that where external amenity spaces are an intrinsic part of the overall design, the acoustic environment of those spaces should be considered so that they can be enjoyed as intended. The centre of the ground level courtyard is approximately 100m from the Nightingale club and The Fox and fully screened from these premises by the proposed development that would exceed the height of the nearby entertainment premises. The noise consultants have indicated that sound levels in the courtyard would be of the order of 30dB (1,000 times) lower than the levels that occur at the building facades. Meanwhile the rooftop amenity areas are located on the southern side of the site and approximately 160m from the entertainment premises. These amenity areas are also positioned several floor levels below the height of the blocks facing to Lower Essex Street and Kent Street and, consequently, would be fully screened from the entertainment premises. As such the noise levels would be approximately 35dB (3,000 times) lower than levels that occur at the building facades nearest to the entertainment premises. Likewise the private gardens facing The Avenue would be screened from Nightingale club and The Fox. As such it is considered that the proposed communal and private amenity areas would be enjoyed as intended and accord with the Policies GA1.1, PG3 and DM6.

Impact Upon Heritage Assets

- 6.33 A Heritage Assessment (HA) identifies 27 designated and non-designated heritage assets within a 750m study area. The HA concludes that 8 of these assets, as listed below, have a setting with some sensitivity to the site and in all cases this is due to the visibility of the site from each heritage asset:
- The Fox public house, Lower Essex Street - non-designated heritage asset;
 - Unity House, 134-135 Bromsgrove Street - locally listed;
 - 74-104 Bristol Street - locally listed;
 - Wellington Hotel, Bristol Street - grade II listed ;

- 99-102 Bromsgrove Street - locally listed;
 - St. Catherine's of Siena R.C. Church -locally listed;
 - Smallbrook Queensway Ringway Centre - locally listed; and
 - The Rowton Hotel - grade II listed.
- 6.34 The proposed development is deemed by the HA to have a predicted negligible adverse impact on the setting of all but one of the above heritage assets. The exception is the Fox that would experience a change in the scale of development within its setting, resulting in a predicted low adverse impact. Overall, the impacts are judged by the HA to be of a magnitude that is not significant and that in NPPF terms represent no harm to the heritage significance of any built heritage asset. The Conservation Officer considers that there would be a degree of harm to the significance of The Fox. According to paragraph 203 of the revised NPPF the significance of a non-designated heritage asset should be taken into account and a balanced judgement is required having regard to the scale of the harm and significance of the heritage asset. In this instance the low level of harm identified is clearly outweighed by the significant public benefits associated with the development, noting that the public benefits test set out in the NPPF is confined to designated assets.
- 6.35 The archaeological potential of the site has been assessed. The Council's Archaeological Officer agrees that no further investigative works are necessary.

Sustainability

- 6.36 An Energy Statement has been submitted as required by Policy TP4. The Statement has demonstrated that through the implementation of passive design measures and efficient building services that the development is estimated to achieve a 17.05% reduction in carbon dioxide emissions over Building Regulations Approved Documents. The statement concludes that photovoltaics (PV) would be the most suitable LZC energy source for the development and the incorporation of PV systems would further reduce CO2 emissions for the development by a further 1.95% bringing the total reduction to 19%. A condition is attached to require details of the PV.

Transportation

- 6.37 The scheme proposes a basement car park with 26 spaces and 100% cycle parking. There are refuse stores adjacent to Gooch Street North and Lower Essex Street that could be accessed via the highway fronting the site using the existing on-street parking restrictions. The site is close to the City Centre; a 10 minute walk to New Street Station and a 15 minute walk to the proposed Curzon Street Station for HS2. Transportation welcome the proposed link, known as The Avenue to the south of the site as a beneficial connection for pedestrians however further details are required on its design and intended use. Such details would be secured via a condition.

Ecology

- 6.38 An Ecological Appraisal has been submitted identifying the majority of the buildings on site as having negligible potential for bats. Four buildings are classified as having low potential and 6 buildings that were unable to be fully assessed must also be classified as being at least of low potential. The Council's Ecology Officer has

therefore advised the submission of a Construction Ecological Management Plan (CEcMP) that would include the requirements for the bat activity survey to be undertaken at an appropriate time prior to demolition.

- 6.39 The area also has the potential for red data book bird species such as Black Redstart. The Appraisal states that none were noted on site the date of the survey was outside the survey period for this partially migratory species. Therefore given this potential the CEcMp condition would also allow consideration of nesting birds at the demolition and construction stages.
- 6.40 The Ecology Officer comments that the landscape plans for the central courtyard and rooftop garden and should provide some biodiversity interest. The proposed landscaping would not however cater for black redstarts in terms of nesting features, nor for bats, and it is considered reasonable to require a brown roof for reasons of ecology and sustainability. Therefore ecological conditions are attached.
- 6.41 Finally in order to secure a fully detailed planting scheme is implemented with adequate rooting volume for trees a suitable landscape condition is attached. It is noted that there are existing trees to the south of the application site, however the Tree Officer has commented that they should be sufficiently clear of the proposed development not to be affected.

Land Contamination

- 6.42 Regulatory Services have raised concern at the site investigation report submitted insofar as an insufficient number of boreholes and samples have been undertaken leading to potentially flawed assumptions. A condition to require further investigative works, remediation and verification are attached.

Other

Public Sector Equality Duty

- 6.43 The Equality Act 2010 introduced a new public sector equality duty (the PSED), which cover nine protected characteristics including sexual orientation. This is relevant to the current proposals that could potentially have an impact upon the Nightingale and The Fox, both key venues for the LGBTQ community.
- 6.44 In the context of this duty the Civic Society has raised concern at the loss of potential sites for LGBTQ venues and the future of the provision for the community as a whole due to current scale of development in this area. Disappointment is expressed that such a large urban block does not contain units that might support future venues. The Civic Society recommends a S106 agreement be used to support appropriate charities or local uses that would mitigate the impact of this development on the LGBTQ community. In response the applicant is willing to mitigate noise from the Nightingale at source whilst it is considered that the development itself would offer sufficient mitigation to avoid adverse effects from the Fox. Plus the proposed commercial units could offer additional floorspace to extend the LGBTQ quarter and could provide more activity and natural surveillance to increase safety in this part of the City Centre. As such, it is considered that there would be no significant adverse

impact upon the current operation of the nearby venues and therefore no significant risk to the demise of the LGBTQ quarter by this development.

Planning Obligations

- 6.45 Policy TP31 of the BDP requires 35% of the total number of dwellings to be affordable on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or a contribution towards off site provision for developments of 20 or more dwellings. In addition obligations have also been requested from the following consultees:
Education - £1,219,111.29; and
Sport England - £453,814.
- 6.46 The applicants contend that the development would be unable to meet the Policy requirements outlined above and still deliver a sufficient developer's return. Therefore a Financial Viability Appraisal (FVA) has been submitted and independently assessed. This sets out the costs associated with the development including £1,041,000 for the creation of The Avenue, the pedestrian boulevard linking Gooch Street North to Essex Street, that will include a green wall, feature art pieces, trees, raised fruit gardens and seating. The independent assessment tests the reliability of the submitted costs and the receipts that the developer should receive against the value of the land and an appropriate profit margin. It concludes that the proposed development is able to sustain the provision of 44 No. affordable apartments units as a mix of 22 one bedroom units and 22 two bedroom units. These would be provided for low cost home ownership tenure at 20% discount to market values into perpetuity. This represents an overall affordable housing provision of 9.65%. The equivalent monetary sum in lieu of the circa 10% affordable housing provision is £1,485,000.
- 6.47 Other requests for contributions have been received with respect to education and from Sport England. However it is not likely that the proposed development would deliver a significant proportion of family housing, whilst the scheme would provide approximately 2,735sqm of outdoor space for physical activity. Therefore the preference is to comply as far as possible with Policy TP31 by providing on site affordable housing.
- 6.48 There is also the matter of the necessary works to upgrade sound insulation at the Nightingale club. As with the development at 16 Kent Street the owner of the club has agreed to these works to help to secure the future of the business and to help protect against it against noise complaints in the future that may arise from residential occupiers living in close proximity. The cost of the works has been estimated by the 16 Kent Street applicants at approximately £661,000. The application at 16 Kent Street has received delegated authority to approve subject to the signing of a Section 106 Agreement. However should the current application be approved it is not known which development would be implemented first; 16 Kent Street or this current application. Therefore the Section 106 Agreement would need to encompass two scenarios as follows.
- The delivery of The Avenue with a minimum expenditure of £1,041,000 upon those items listed in the External Works – S106 cost plan (Rev. 5 dated 1st June) prior to the first use or occupation of the development; and

- The provision of 22 No one bedroom units and 22 No two bedroom units, to be provided for low cost home ownership tenure at 20% discount to Market Values into perpetuity.

However should the works to mitigate noise from the Nightingale Club not have taken place prior to commencement of the development:

- The delivery of The Avenue with a minimum expenditure of £1,041,000 upon those items listed in the External Works – S106 cost plan (Rev. 5 dated 1st June) prior to the first use or occupation of the development; and
- Require the applicants to submit a new FVA that takes account of the costs of the works to the Nightingale and this sum be deducted from the affordable housing equivalent monetary that would result in fewer affordable housing units. The independent assessment of the revised FVA to be paid for by the developer.

7. Conclusion

- 7.1 The site is located within the City Centre Growth Area under Policy GA1.1. The scheme would make an efficient use of this brownfield site in accordance with local and national policy and contribute to the City's need for residential accommodation. It is considered that the scale and massing would be appropriate for the emerging context with the provision of a pedestrian link to improve connectivity eastwards towards Smithfield to create a good place in accordance with Policy PG3.
- 7.2 There are however concerns surrounding noise from the surrounding late night premises and Policy DM6 of the Development Management DPD and the NPPF seek to ensure that new development is integrated effectively with existing businesses. In this instance mitigation via an agent of change has been agreed to secure mitigation works to the Nightingale whilst it is considered that mitigation offered by the proposed building envelope would be adequate to mitigate against the Fox public house.
- 7.3 There is also some harm to the significance of the Fox as a heritage asset due to the scale of the proposed development within its setting, however as the Fox is an undesignated heritage asset the scale of harm is considered to be low with this harm outweighed by the public benefits of the scheme. These comprise the provision of housing, the economic benefits during and after construction and social benefits of creating a place with good connectivity.
- 7.4 Whilst the City Design Manager has commented on detailed design matters it should be noted that there is overall agreement to the scale of the development, the setting out of the elevations and their materiality and the layout in terms of The Avenue, the central courtyard and the roof terraces.
- 7.5 I consider that the proposed scheme is acceptable subject to:
- a) completion of a legal agreement to secure the delivery of The Avenue and on site affordable housing (potentially less the cost associated with the noise mitigation works at the Nightingale club); and
 - b) safeguarding conditions.

8. Recommendation

- 8.1 That consideration of planning application 2021/05399/PA be deferred pending the completion of a planning obligation to secure the following:
- a) The delivery of The Avenue with a minimum expenditure of £1,041,000 upon those items listed in the External Works – S106 cost plan (Rev. 5 dated 1st June) prior to the first use or occupation of the development; and
 - b) The provision of 22 No one bedroom units and 22 No two bedroom units, to be provided for low cost home ownership tenure at 20% discount to Market Values into perpetuity.
 - c) Should the works to mitigate noise from the Nightingale Club not have taken place prior to commencement of the development to require the applicants to submit a new FVA that takes account of the costs of the works to the Nightingale and this sum be deducted from the affordable housing equivalent monetary resulting in fewer affordable housing units. An independent assessment of the revised FVA to be paid for by the developer.
 - d) Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.
- 8.2 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.3 That, in the event of the above legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 31st January 2022, planning permission be refused for the followings reason:
- That in the absence of any suitable legal agreement to secure the provision of on site affordable housing and improvements to the public realm the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 8.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 31st January 2022, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

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- | | |
|---|------------------------------------------------------------------------------------------------------------|
| 1 | Pre - Demolition: Submission of Demolition & Construction Management Plan |
| 2 | Pre - Demolition: Submission of Construction Ecological Management Plan (CEcMP) |
| 3 | Prior to Commencement of Development (excluding demolition): Submission of a Construction Employment Plan. |
| 4 | Prior to Commencement of Development (excluding demolition): Submission of Sustainable Drainage Scheme |
-

5	Prior to Commencement of Development (excluding demolition): Submission of a Contamination Remediation Scheme
6	Prior to Commencement of Development (excluding demolition): Submission of a Noise Mitigation Scheme to Approved Residential Apartments
7	Prior to Above Ground Works: Submission of Materials - Building and Boundary Treatments
8	Prior to Above Ground Works: Submission of Hard and Soft Landscaping and other Minor Artefacts within The Avenue
9	Prior to Above Ground Works: Submission of Hard and Soft Landscaping and other Minor Artefacts within the central Courtyard and Roof Terraces
10	Prior to Above Ground Works: Submission of details of bird/bat boxes
11	Prior to Above Ground Works: Submission of Details of Photovoltaics
12	Prior to First Use or Occupation of any Residential Apartment (including those apartments with sealed windows): Submission and Implementation of Noise Commissioning Testing
13	Prior to First Use or Occupation: Submission of Package of Highway Measures
14	Prior to First Use or Occupation of Development: Submission of a Contaminated Land Verification Report
15	Prior to Use of Ground Floor for Class E (b) (Food and drink which is mostly consumed on the premises): Submission of Extraction and Odour Control Details
16	Prior to First Use or Occupation of Development: Submission of a Sustainable Drainage Operation and Maintenance Plan
17	Prior to First Use or Occupation: Implementation of Approved Cycle Parking and Car Parking with Electric Vehicle Charging
18	Prior to First Use or Occupation: Submission of Noise Insulation Between Commercial and Residential Uses
19	Prior to First Use or Occupation: Submission of a CCTV scheme
20	Rating Levels for cumulative noise from all plant and machinery
21	Implementation within 3 years (Full)
22	Implementation in accordance with Approved Plans
23	Removal of Temporary Wall to Aligning Common Boundary to South of Site
24	Limits the hours of operation/deliveries/collections regarding Ground Floor Commercial Uses
25	Retention of Sealed Windows

Case Officer: Julia Summerfield

Photo(s)



Kent Street (application site on rhs, Nightingale club in distance to lhs)

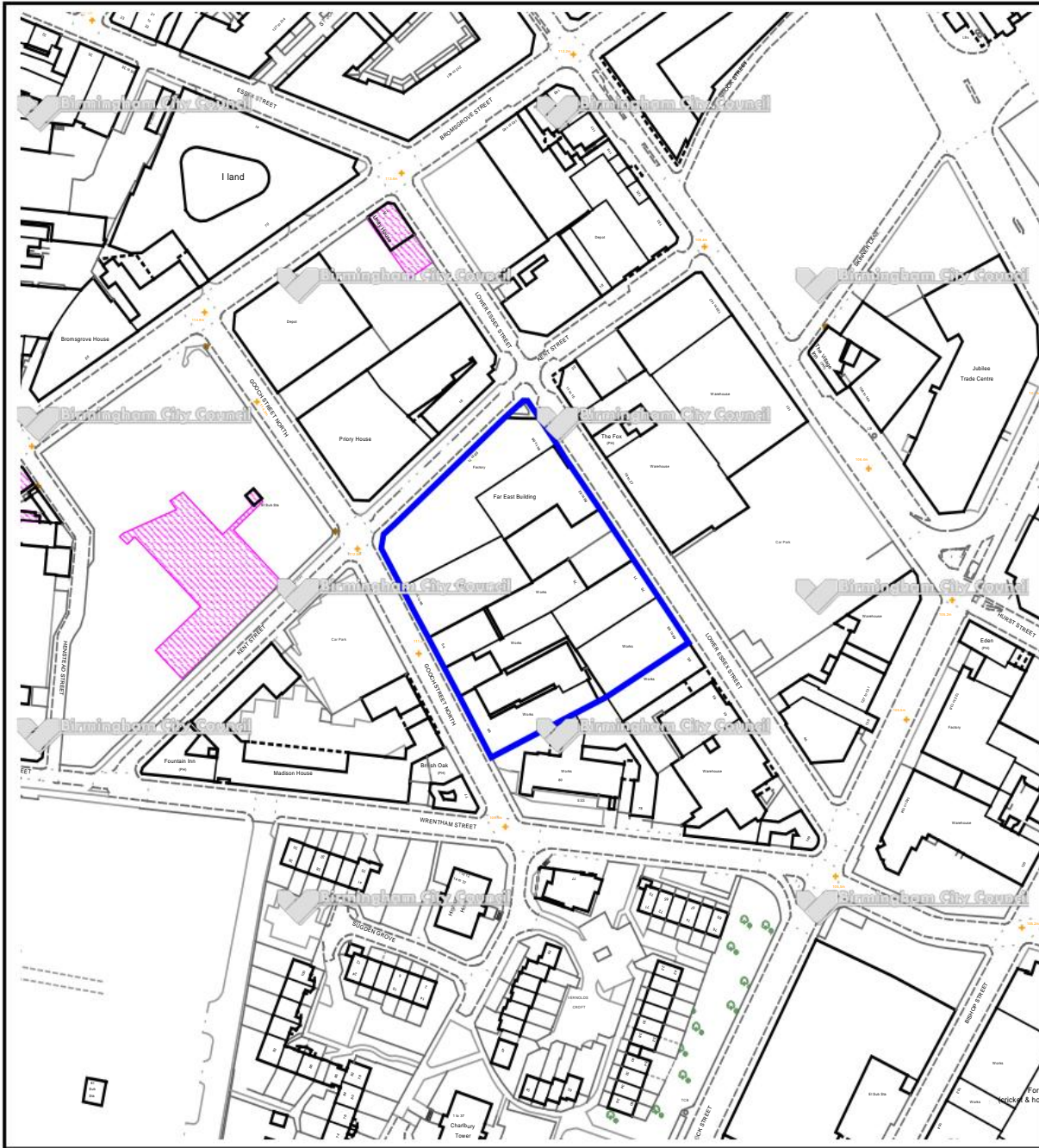


Lower Essex Street



Upper Gooch Street North

Location Plan



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Committee Date:	07/07/2022	Application Number:	2021/10788/PA
Accepted:	23/02/2022	Application Type:	Full Planning
Target Date:	08/07/2022		
Ward:	Bordesley & Highgate		

Corner of Essex Street and Bristol Street, City Centre, Birmingham

Demolition of existing buildings and site clearance for the erection of 30 storey tower to include 166 apartments (Use Class C3), ground floor commercial/retail unit (Use Class E), with ancillary resident amenity space and all associated works..

Applicant:	Essex St (Properties) Limited
	C/o Agent
Agent:	CarneySweeney
	Crossway, 156 Great Charles Street, Queensway, Birmingham, B3 3HN

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal:

- 1.1. Consent is sort for the complete clearance of the existing site and for the erection of a 30 storey tower to include 166 apartments (Use Class C3), a ground floor commercial/retail unit, with ancillary resident amenity space and all associated works.
- 1.2. A 28 Storey Tower of largely the same architectural design has already been consented on the site 2020/02766/PA and is currently under development, this application essentially seeks to add two extra storeys to this tower. The additional floor space would take the development from 154 to 166 apartments, i.e. an additional 12 apartments.
- 1.3. Overall, the proposed development provides for 76 no. 1 bedroom, 89 no. 2-bedroom residential apartments, and a 3-bedroom penthouse apartment delivered through a 30-storey building. The footprint of the proposed building would take up almost the entirety of the application site, with frontages on both Bristol Street and Essex Street. The entrance to the commercial unit would be off Bristol Street with residential access provided on Essex Street.
- 1.4. At ground and mezzanine level, the scheme includes a 232 sq.m commercial unit providing an active frontage onto Bristol Street. The main entrance to the residential apartments is via Essex Street with a double height reception area at ground floor level with a foyer, parcel & post room, concierge and security room. The 'back of house' area at ground floor level includes the refuse store; bike store; and bike workshop area to allow residents to undertake maintenance work on their bikes in a secure area. All plant equipment is proposed at mezzanine level, with a sub-station and switch room at ground floor level.

- 1.5. The scheme also includes ancillary amenity space for residents with a multimedia room/gym proposed at Level 1 and a roof garden. The proposed roof garden includes areas of seating and includes provision for a rooftop cinema space for use by residents.
- 1.6. As with the previously consented scheme, the proposed tower would be of a slender design finished in a combination of smooth and grooved natural red terracotta cladding. Across the elevations living room windows are generally larger, whereas bedroom windows would be smaller, as a method of expressing the layout of the building externally. The windows would have a dark grey finish and would be framed by bronze finish horizontal metal tramline fins running between each floor of the tower. There are minor changes to the application of the terracotta (in terms of the pattern) and the crown from the consented to the proposed scheme.
- 1.7. The commercial unit would occupy the ground floor and mezzanine level and would contain a higher proportion of glazing, complimented by terracotta coloured slotted panels and vertical fins to match the terracotta cladding above. A horizontal bronze feature band would be situated above the mezzanine level marking the transition to residential use above.



Figure 1 (Left) – 30 Storey Tower 2021/10788/PA and Figure 2 (Right) – 28 Storey Tower 2020/02766/PA

- 1.8. In terms of the main residential accommodation, this is located from Levels 1 through to Level 28. All apartments include open plan living/dining areas, with 1, 2 or 3 bedroom/s and bathroom/s. All of the units meet the nationally described space standards for their respective number of bedrooms. The split between 1 bed and 2/3 beds is circa 45%/55%.
- 1.9. In recognition of its sustainable location, and due to the constrained nature of the site, no on-site parking facilities are provided. The scheme does propose cycle storage provision for up to 76 bicycles on the ground floor.
- 1.10. This application is supported by: full set of Architectural Drawings, Design and Access Statement, Tall Buildings Assessment, Daylight; Sunlight and Overshadowing Assessment; Wind Micro-Climate Desktop Study, Phase 1 Desk Study Report (Ground Conditions), Sustainable Drainage Assessment, Fire Statement, Preliminary Ecological Appraisal, Noise Assessment, Air Quality Assessment, Overheating assessment, Heritage Statement, Heritage Statement Addendum, Transport Assessment, Travel Plan, Energy Statement, Sustainable Construction Statement, Draft Heads of Terms, Affordable Housing Statement; and a Financial Viability Appraisal.

1.1 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The site is currently under development with the 2021 consent for a 28-storey tower and was previously occupied by four Victorian properties that were demolished last year.
- 2.2. The wider area houses a wide range of uses. Essex Street includes a Night Club (opposite) with what appears to be residential use above, a karaoke bar/restaurant and a late night bar/club. Further east are the Southside and iLand large scale residential apartment developments. Immediately behind the site is a car showroom with parking associated with vehicle hire (fronting Bristol Street) beyond. This part of the Bristol Street frontage also includes a hairdresser, solicitors, bank and further clubs and food businesses. Bristol Street – the A38 – runs directly in front of the application site. This 8 lane highway forms the key arterial route into the city core from the south and dominates the pedestrian environment around the site. Beyond Bristol Street there is the O2 Academy music venue and a multi-storey car park.

3. **Planning History**

- 3.1. 01/12/2017 – 2017/06696/PA – Demolition of existing buildings and erection of a part 7, part 18 storey tower to provide two ground floor (A1, A2, B1(a), D1) commercial units and 68 no. apartments above. Approved subject to S.106 agreement.
- 3.2. 18/12/2020 - 2020/02766/PA - Demolition of existing buildings and site clearance for the erection of 28 storey tower to include 154 apartments (Use Class C3), ground floor commercial/retail unit (Use Classes A1/A3), with ancillary resident amenity space and all associated works - Approved Subject to a Section 106 Agreement
- 3.3. 09/03/2021 - 2020/10043/PA - Application for Prior Notification of proposed demolition of existing buildings - Prior Approval Required and to Approve with Conditions

4. **Consultation Responses**

- 4.1. BCC Transportation development – No objection subject to conditions as per approval 2020/02766/PA
- Cycle parking and refuse stores provided before the building is occupied
 - A site demolition and construction management plan is provided before any works commence on the site: Approved under discharge of condition application 2021/00727/PA.
- 4.2. BCC Regulatory Services – Recommend refusal due to the use of closing windows as a method of noise mitigation and the high level of entertainment and traffic noise, however if permission is granted, they recommend an overheating assessment and the following conditions:
- Noise Insulation
 - Extraction and Odour Control Details
 - Contamination remediation scheme: Approved under discharge of condition application 2021/03245/PA
 - Contaminated land verification report
- 4.3. Local Flood Authority and Drainage Team – Object because the proposed drainage strategy fails to meet the minimum requirements of Planning Policy TP6 of the adopted Birmingham Development Plan and the minimum requirements of paragraphs 167 to 169 of the NPPF.
- 4.4. BCC Leisure Services – No Objections and recommend a Section 106 contribution of £364,475 to public open space.
- 4.5. BCC Planning and Growth Strategy – No objections to the principle however question why the carbon dioxide reduction level is so low at 0.13%.
- 4.6. BCC Employment Access Team – No Objections subject to the submission of a construction employment plan: Approved under discharge of condition application reference 2021/02932/PA and to be adhered to throughout the construction period.
- 4.7. BCC Conservation – No Objections: The additional two storeys to the tower is not considered to have any significant additional impact on the setting of the identified heritage assets including the recently listed Grade II former White Lion Public House (Scarlett's).
- 4.8. BCC Design and Landscape – No objection subject to conditions:
- Requires submission of materials prior to development – windows and doors, cladding, roof plant and roof top balustrade
 - Submission of lighting strategy and signage strategy
- 4.9. BCC Ecology – Acceptable subject to conditions:
- Bat Survey
 - Scheme for ecological/biodiversity/enhancement measures
 - Biodiversity roof condition
- 4.10. Health and Safety Executive - Significant concern due to single core design, use of the roof top and potential clash between firefighters and escapees in the event of an emergency. Recommend the submission of a qualitative design review ('QDR').

- 4.11. Severn Trent Water – No Objection subject to conditions
- Submission of drainage plans – Approved under discharge of condition application 2021/02932/PA
- 4.12. Birmingham Civic Society object due to changes from consented design - 2020/02766/PA and believe that this does not offer the same high-quality design as the application that was consented in 2021.
- 4.13. The Victorian Society – Object to the demolition of the historic buildings that previously occupied the site and consider the proposed 30 storey tower would have a negative impact on the character and appearance of this part of the city centre. Consider that the proposal will also negatively impact the setting of the Grade II Listed buildings the Wellington Hotel and the former White Lion pub. They note that these two buildings have not be referenced in the Heritage statement (however an amendment has since been provided to the statement to include them).
- 4.14. Birmingham Airport – No objections subject to condition requiring an assessment against Birmingham Airport published instrument Flight Procedures (IFPS) prior to any part of the development (including construction equipment) exceeding 90 meters in height (AGL).
- 4.15. WM Police - Provide specific advice and guidance regarding lighting, security etc.
- 4.16. WM Fire Service – No objection subject to compliance with relevant building regulations.

5. Third Party Responses:

- 5.1. Site and Press Notices displayed. Neighbouring occupiers, Ward Members, Southside BID and Resident's Associations consulted with the following representations received.
- 5.2. 1 objection received from neighbouring occupier citing harm to amenity of the surrounding area and potential loss of amenity from local businesses. Moreover, the neighbouring occupier is concerned about the impact of noise and dust during the construction period as well as no agreement being reached about the fire escape adjoining to the neighbouring premises at 10-12 Bristol Street.

6. Relevant National & Local Policy Context:

- 6.1. Birmingham Development Plan (BDP) 2017; Development Management DPD 2021 Places for All SPG; Birmingham Parking (SPD); High Places SPG; Public Open Space in New Residential Development SPD; Affordable Housing SPG; Shopfronts Design Guide SPG; Places for Living SPG; and the revised National Planning Policy Framework.

7. Planning Considerations:

Tilted Balance

- 7.1. Since the application was previously reported the BDP has become more than five years old. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the local housing need figure for Birmingham. As of 10th January

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

- 7.2. Key issues for consideration are the principle of the development; design/townscape impacts; amenity; highway impact; sustainability; and viability/S106 issues. The consented 28 storey tower remains a viable fallback position and therefore is a material consideration. Therefore, in considering this application particular regard should be given to the impacts associated with the additional storeys, changes to the local context and policy since the previous grant of permission and any changes to the overall development proposed.

Principle

- 7.3. Considering housing mix, the BDP sets the following targets for market dwellings: 1-bedroom 13%, 2-bedroom 24%, 3-bedroom 28%, and 35% 4-bedroom. By comparison the proposed housing mix for this 166-apartment scheme would have a circa 45% - 55% split between one and two bedroom apartments, with the addition of one 3 bedroom penthouse. Although the housing mix figures are not ceilings, given the city's overall housing requirement, there is a need to ensure that the right type and mix is provided in the city as a whole.
- 7.4. It is accepted that in the city centre a higher percentage of one and two bedroom apartments are going to be delivered. This is on the basis of development land being at a premium, and the types of households that are likely to want to reside within a city centre locale. All of the units meet the nationally described space standards for their respective number of bedrooms. Given that all of the units meet the nationally described space standards the development is considered to provide a good standard of living accommodation and is deemed acceptable in that respect. Given the overall housing needs of the city and the site's location the proposed mix is considered acceptable.
- 7.5. The site benefits from existing planning approval 2020/02766/PA which has established, in principle, the ability of the site to accommodate a tall building and this new application essential extends the scope of this development by adding two extra stories. Furthermore, the proposed development is consistent with the broad policy context outlined above. The scheme would deliver residential accommodation in a sustainable city centre location whilst providing a level of commercial activity on the street frontages. The Council's Strategic Planning Officer raises no objections to the principle of the residential-led redevelopment of the site. Therefore, subject to more detailed considerations explored below, the principle of the development is considered acceptable.

Design

- 7.6. The tower's design incorporates a curved feature corner constructed with the use of curved glass, tramline horizontal band detailing in a bronze finish, curtain articulation of ground floor glazing and an extended crown feature which all provide visual

interest. The use of a limited palette of grooved and smooth red terracotta cladding and aluminium framed windows is supported, and this is representative of the existing context. The location of a tall building on this corner has already been established under the existing consent and the increase in height to 30 storeys is deemed acceptable in the context of existing and emerging tall buildings in the vicinity, particularly along the Bristol Street corridor.



Figure 3 – Crown Feature

- 7.7. The site is particularly constrained, with only a 850mm and 870mm gap at the narrowest point between the proposed building and the boundaries to the east and south respectively. Although a limited gap would remain, it is considered acceptable in a city centre location and it would be possible for adjoining future developments to respond without compromising a scheme entirely. It is considered the development has been designed in such a way that it does not sterilise potential future adjoining development, but it is worthy to note that the proposed scheme must be judged on its own merits and in the context of the surrounding built environment that currently exists.

Tall Building

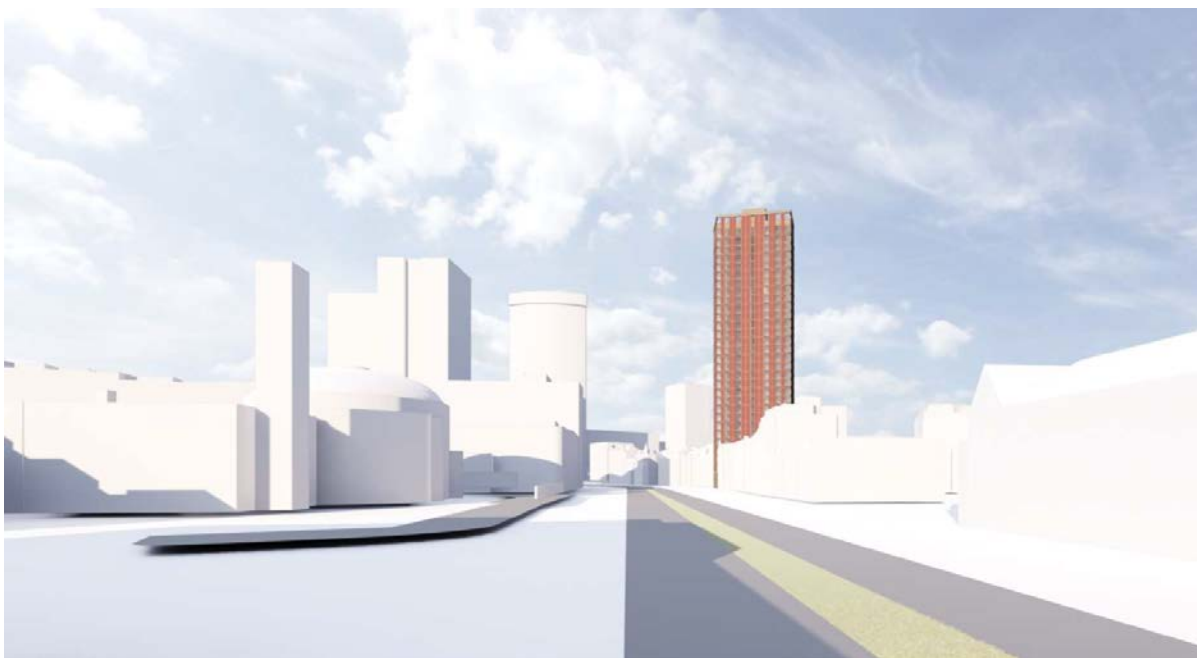


Figure 4 - View from Bristol Street looking towards Holloway Circus



Figure 5 - View from Holloway Circus

- 7.8. The proposed tower falls outside of the designated location for tall buildings ('appropriate locations') set out in High Places (SPD) but is on the boundary of the extended zone set out in the non-statutory Big City Plan (BCP). The SPD states that where outside of defined locations or the tower is not marking important facilities a case must be made for exceptional circumstances, considering the merits of the particular scheme against the wider policy context.
- 7.9. At 30 storeys, the height of the tower has been designed to reinforce the status of Bristol Street as an arterial route into the city centre and respond to the width of the A38. The building would have a visual relationship with existing and proposed tall buildings that will form a small cluster on the Smallbrook Queensway/Hurst Street junction and act as a gateway into the Southern Gateway / Smithfield areas of transformation to the east set out in policies that have emerged since High Places (2003). In addition, the scale is set such that it would remain subservient to the towers located at the Pagoda Island which is marked the Sentinels (31 storeys) and the Radisson Blue Hotel (39 storeys) and defined as a tall building cluster in the BCP. In addition, the proposal would be in keeping in terms of scale with future development proposals emerging along Bristol Street and on Smallbrook Queensway.

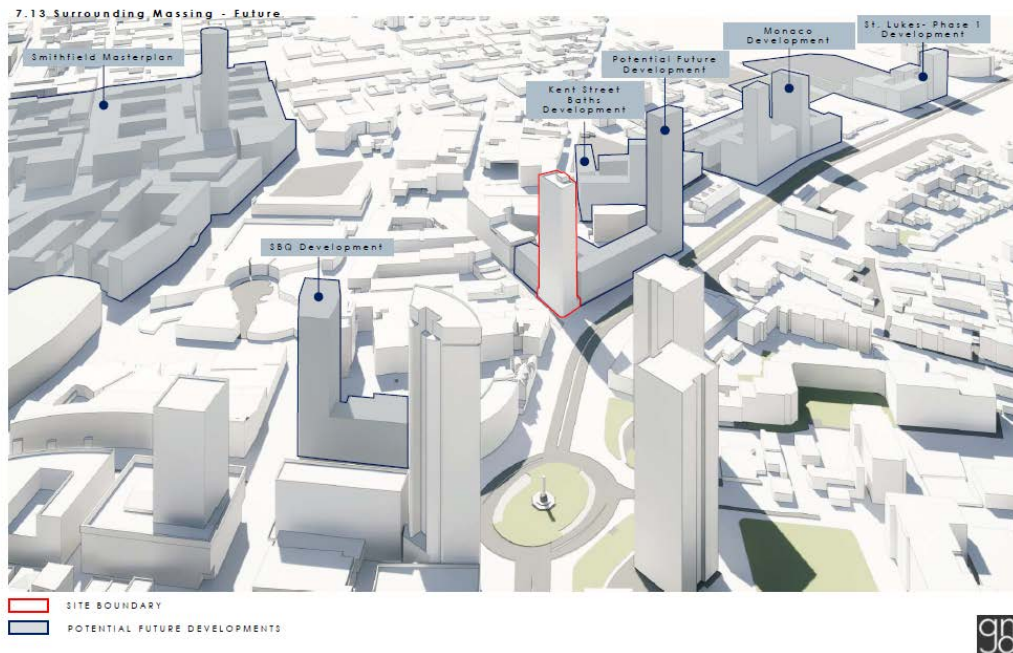


Figure 6 - Existing and emerging towers

- 7.10. Whilst the building is taller than its immediate neighbours, it would not be an overly dominant feature in the street scene given its slender design and orientation, with the additional two storeys further improving the tower's slenderness ratio. The proposal should also be viewed in the context of emerging schemes in the vicinity and it is considered the proposal would make a complimentary contribution to the developing city skyline in this area along Bristol Street and in the vicinity of Smithfield. The tower would also be viewed in the context of the built-up environment of the city centre.
- 7.11. The supporting statements and plans show that the building successfully integrates with the street environment, creating shelter at ground level that also emphasises the base of the building. The top of the tower is emphasised by a raised crown which is architecturally distinct and provides interest from longer views. Details provided show a feature corner and use of quality materials that are in keeping with the locality and the wider city centre context. Supporting statement confirm that the building will offer shade and relief at points at ground level, while it would not result in an adverse microclimate as a consequence of wind tunnelling.



Figure 7 - Feature Corner with curved glass

- 7.12. It is considered that it has been demonstrated that the proposed development would deliver a high-quality development that would reinforce the location of the City Centre and aid legibility marking a gateway to the Southside Area of Transformation / Smithfield to the east. As such the development complies with the exceptions test set out in the High Places SPG and thus in conclusion the proposed tower is considered acceptable on design grounds, subject to safeguarding conditions.

Heritage

- 7.13. When considering the impact of the 30-storey tower on the heritage of the surrounding area it should be noted that since the previous consent the buildings on the site were approved for demolition via the prior approval process. These buildings have now been cleared from the site and work to implement the previous consent is ongoing.
- 7.14. The Grade II former White Lion pub (now Scarlett's) lies within the vicinity of the tower which was listed by Historic England in March 2021 after consent was granted for the 28 story tower. The Heritage Statement identifies that whilst the site lies within the setting of this listed building, it has been shown to make no particular contribution to any of the heritage values identified. Again, whilst there will be a degree of inter-visibility and co-visibility between the site and this listed building, and the new tall building will appear within its setting, this will not have any impact on any of the reasons for the building being listed, and its significance will remain unscathed, ensuring that its heritage values and significance will be preserved.
- 7.15. In respect of the Wellington, which was listed after the previous application went before Planning Committee, the same conclusion is reached.
- 7.16. Concluding on heritage matters, the additional two storeys to the tower is not considered to have any significant additional impact on the setting of the identified heritage assets and the position reached in the Heritage Statement, of no harm concluded to the significance and setting of the listed and locally listed buildings, remain supported.

Residential amenity

Noise

- 7.17. A noise assessment (dated 27 July 2021) has been submitted in support of the application which includes monitoring data that pre-dates lockdown restrictions that could impact upon both entertainment and traffic noise data. The assessment has specifically addressed the effects of night-time economy noise on the potential occupiers of apartments closest to the noise sources and in particular from 'Chic' nightclub, which is the closest to the scheme.
- 7.18. This Noise Assessment notes that, most likely due to a further room opening at the venue, the noise levels have increased since the previous assessment. As a result the proposed specification for the façade design represents an increase to those required by the previous consent.
- 7.19. To mitigate noise from the operation of the various entertainment premises it will be necessary for residents to have to keep their windows closed although windows are openable (restricted to a 100mm opening), this position is not supported by Regulatory Services who do not support the strategy of residents needing to close windows to mitigate noise impact. The Noise Assessment states that rooms in 15% of apartments (i.e. 25 apartments) would be affected by entertainment noise to the extent that some windows would need to be closed some of the time.
- 7.20. Regulatory Services have recommended that the applicant submit an overheating assessment if approval is likely to be recommended given the need to close windows for some of the units to mitigate noise. An overheating assessment has been received and the report indicates that some rooms will require blinds to prevent overheating (all other rooms in the development will pass without any further mitigation). A total of 4 rooms (three living rooms and one study/office) would be affected and given that blinds would overcome this issue this is considered to be a matter left to the individual occupants.
- 7.21. In addition, Regulatory Services considers the level of noise generated by traffic (at 72 dB) unacceptable and residents would need to have windows closed to experience an acceptable acoustic environment. They do not support such an approach and therefore recommend refusal on this basis.
- 7.22. There is potential for noise to be generated during construction works, however this would be largely be regulated by the 'Control of Pollution Act 1974' and does not need to be controlled via the planning system. Demolition works have already taken place and the proposal does not necessitate any further demolition than has already taken place.
- 7.23. In conclusion on noise, in respect of road traffic noise, this is 'noise without character' and is generally a background noise that is less likely to disturb potential residents. It is also a source of noise that Regulatory Services do (and can) not take action against. Given the results of the overheating assessment and that alternative ventilation is proposed, the impact of road noise, subject to safeguarding conditions is acceptable.
- 7.24. The impact of entertainment noise, and most specifically the lower frequency bass noise, would impact upon 25 of the proposed dwellings. These apartments, situated within the lower part of the tower, remain unchanged in layout and form from the previous consent. The supporting noise statement, due to the uplift in noise levels from the previous report, recommends an increased level of attenuation compared with the previous consent. Therefore whilst it is noted that Regulatory Services do not

support the strategy of closing windows to deal with noise, given that the proposal provides an uplift in attenuation from that previously consented, that this application only differs from the previous consent in respect of the top two floors (which aren't affected to this degree) and that some units are dual aspect, the impact of entertainment noise is considered acceptable subject to relevant safeguarding conditions.

Daylight and Sunlight

- 7.25. A daylight, sunlight and over shadowing report has been submitted to support the application. The report acknowledges that there is likely to be some change in daylight and sunlight, due the existing site conditions, which previously accommodated a building that was of an appreciably smaller scale than the local context. However, the results of the study confirm that all the neighbouring residential rooms would satisfy the BRE guidelines.
- 7.26. For daylight and sunlight amenity within the proposed development, the report confirms that the vast majority of habitable rooms tested would exceed the target values for their use in respect of daylight and sunlight.

Wind

- 7.27. A wind microclimate assessment has also been submitted which concludes the erection of the tower would not make the microclimate considerably worse at any of the analysed locations. The study also finds that wind conditions are likely to become more comfortable at certain locations (generally Inge Street) due to the shielding effect the proposed building would have upon prevailing winds from the south and south westerly directions.
- 7.28. Given the matters discussed above, from a planning perceptive the proposal is acceptable on amenity grounds subject to appropriate safeguarding conditions.
- 7.29. In terms of the future resident's amenity, there is no change to the majority of the tower's layout which continues to provide adequate space and outlook to future residents. The addition 12 number apartments in the further two floors proposed would all meet the Nationally Described Space Standards and benefit from adequate light and outlook – being located at the top of this 30 storey tower.

Ecology

- 7.30. The City Ecologist accepts the findings of the Preliminary Ecological Assessment submitted to support the application. No bats were recorded emerging from, or returning to, the buildings during the nocturnal surveys, and no bat activity was recorded whilst the surveyors were on site. The site's urban location and the presence of street lighting along Bristol Street and Essex Street limits its value to bats. Based on these survey results, the proposed development is unlikely to impact on roosting bats and no further survey work is required considering that the buildings that previously occupied the site have now been demolished.
- 7.31. Ecology have also requested conditions be appended to ensure biodiversity enhancement of the development, which can be achieved via the roof top garden, the inclusion of bird/bat boxes, and a condition to ensure implementation of the requirements. These conditions have been duly attached.

Transportation

- 7.32. The supporting Transport Statement assesses the existing highway and sustainable transport network, provides an analysis of the proposed development and draws overall conclusions on the impact to the network. The report outlines the sustainable location of the site, which is within easy walking distance of amenities and a comprehensive public transport network of busses, trams and trains. The report predicts that few, if any, residents are likely to have private vehicles and that the vast majority of trips are likely to be on foot. It is worthy to note that local roads are the subject of parking control measures, which are strictly controlled.
- 7.33. The development is proposed to be car free, which is in accordance with the Parking SPD that stipulates such a requirement for development within the city centre (Zone A). The development does propose the provision of 66 cycle parking/storage spaces, and although this falls below the '1 space per 1 unit' guideline with the SPD, I consider the provision acceptable given the limited footprint of the site and its close proximity to the city centre and a variety of sustainable transport options.
- 7.34. The Transport Development team concur with these conclusions and have recommended conditions be imposed requiring a construction management plan, gates to be set back from the highway and for cycle storage provision to be provided prior to occupation of the building.
- 7.35. Overall, on the grounds of transportation approval is recommend and a condition requiring details of cycle provision and refuse storage prior to occupation has been attached.

Energy Efficiency

- 7.36. Policy TP3 of the BDP requires development to be designed and constructed in ways that maximise their sustainability credentials, limiting the overall impact of the works. This includes maximising energy efficiency, use of low carbon energy, conserving water, reducing flood risk, use of sustainable materials, building in flexibility, minimising waste and maximising recycling in construction and operation, and enhancing biodiversity value.
- 7.37. The Energy Strategy states that energy efficiency measures will deliver a carbon dioxide reduction of 0.13% when compared against the minimum building's regulations standard. Chapter 4 of the statement also implies that the energy consumption and carbon dioxide emissions of the buildings are designed to meet the required building regulations standards of Part L1A.
- 7.38. Although the Council's adopted Guidance Note on Sustainable Construction and Energy Statement paragraph 3.11 states residential development will be encouraged to aim for a reduction in carbon dioxide emissions of least 19% against the TER of the 2013, this remains guidance and is not statutory policy.
- 7.39. The council's Planning Strategy officer has commented on the lower CO2 reduction of 0.13% and has commented that this is disappointing as it is lower than on the previously consented application which had a CO2 reduction of 2.56%. Both figures fall far short of the carbon dioxide emission reduction TER goal of 19%. The planning agent has explained that the change in performance is due to amendments to the building design, specifically the façade. Due to the site constraints, the construction method has had to be altered to a unitised system (traditional build not being possible).
- 7.40. Despite the proposed carbon dioxide reduction level falling short of the TER goal of 19% the a very modest reduction in carbon is still achieved, and given the site

constraints, on balance it is considered that the proposal represents a suitably energy efficient development and complies with Policy TP3 of the BDP. Given the very modest improvement over Building Regulation's requirement this is given neutral weight in the overall planning balance of the scheme.

Drainage

- 7.41. The proposed development represents the intensive re-use of a brownfield site situated in a sustainable city centre context. The LLFA have raised an objection to the proposal due to insufficient drainage information and recommend that all property FFL levels should be set to a minimum of 150mm above surrounding ground levels. However, given that development is already on site and the LLFA did not object to the approved 28 storey tower - 2020/02766/PA and that the drainage condition from this consent has already been discharged - 2021/02932/PA and that the application is for additional floors on the top of the tower, it would be unreasonable to request alterations to the ground level of the proposal as no changes are proposed at that level. Moreover, a condition has been attached requiring submission of a Sustainable Drainage Operation and Maintenance Plan.
- 7.42. The site is within Floodzone 1, the category least at risk from flooding, and there are no apparent critical drainage problems.

Fire Safety

- 7.43. The Health and Safety Executive's comments requesting a further Qualitative Design Review (QDR) report are noted. This review would assess whether the fire safety provisions are appropriate and also consider the implications of measures failing. They raise concerns around the single core design of the tower that connects to ancillary accommodation (e.g. cycle and bin stores) that are high hazard areas and the use of the roof terrace (and potential lack of warning for users of this in the event of fire and the potential conflict between occupants existing the tower and firefighters).
- 7.44. In response the applicant has confirmed that discussions between Building Regulations and West Midlands Fire Service continue and that a QDR with Fire Strategy drawings are to follow. They add that the ancillary areas are not connected to the stair core directly and there are fire doors and smoke curtains to ensure separation from these higher risk areas. In respect of the rooftop area, this would be served by alarms and beacons as per the rest of the common areas throughout the building. With the 24/7 on site building management in place ensuring the roof terrace does not exceed its 60-person capacity it is anticipated that the roof garden would be evacuated prior to the arrival of the roof terrace. The building will be sprinklered throughout and utilise a wet riser system. A condition has been attached ensuring that the fire safety measures referenced in the fire safety will be fully implemented prior to occupation.
- 7.45. Given the fallback position, the measures proposed, the further design work on the QDR at Building Regulations stage and the lack of objection from West Midlands Fire Service no objections are raised regarding the proposed fire strategy.

Equalities Act

- 7.46. In regards the location of the tower on the edge of the Gay Village special account of people or groups with 'protected characteristic' must be given under the 2010 Equalities Act

- 7.47. Subject to safeguarding conditions, no particular adverse impacts for this community are identified. Of particular note is the need to ensure that the proposals create a satisfactory living environment not impacted upon by the entertainment venues within the Gay Village that are integral to its character and function. Conditions have been attached to ensure that there is no unreasonable restrictions on these venues. As such, the LPA has given due consideration to a community with protected characteristics as legislated for under the Equality Act 2010.

Section 106 and Financial Viability

- 7.48. This application is supported by a Financial Viability Statement that sets out the viability position of the scheme. The report concludes that the scheme would only become financially viable if all Section 106 obligations were waived.
- 7.49. The significant cost implications of the tower have been discussed in length in the financial viability assessment and whilst sales values have continued to improve the viability of the proposed development has been further challenged by the considerable cost inflation currently being experienced. Therefore, the maximum amount that would continue to result in a viable development being the provision of 5 No. affordable apartments for low cost home ownership and 2 no apartments as a first homes contribution. The low-cost units would comprise of 4 one-bedroom apartments and 1 two-bedroom apartment at 20% discount, the First Homes would consist of 2 one-bedroom apartments at 30% discount. Whilst this represents a reduction in the overall number of affordable units from the previous scheme from 8 to 7 it is an increase in the level of discount for the two First Homes (from 20% to 30% discount).
- 7.50. Leisure Services have calculated that the development generates a requirement of £364,475 towards the provision of public open space, which they suggest should be spent in the Bordesley and Highgate Ward, which is below the BDP target of 2ha per 1000 people.
- 7.51. The independent assessors report concludes that after their adjustments the appraisal is still only showing a return of 8.19% on GDV, well below what is considered to be an appropriate benchmark profit of 17.5% on GDV. Taking this assessment into account, it is not considered reasonable to require a contribution towards POS in this instance, with the priority deferring to the provision of on-site affordable housing and the first homes contribution.
- 7.52. The Employment Access Team has requested that local employment is secured during the course of construction of the development. A condition was attached to the existing consent and has subsequently been discharged - 2021/02932/PA and the agreed requirement have been re-imposed.

8. **Conclusion**

- 8.1. This proposal represents a high-quality development that makes efficient use of a brownfield site. The scheme will play a part in meeting the city's housing demand identified over the current plan period, with a modest additional provision of 12 additional units. Through rigorous testing and review, I conclude that the site remains suitable for a tall building, with the scheme providing a valid contribution to the city's skyline with the additional 2 storeys having marginal townscape impact compared with the previous consent. In addition, an affordable housing contribution of 5 units for sale at 80% of current market value to be retained in perpetuity and 2 units for sale at 70% of the current market value as a first homes contribution would be provided via a Section 106 agreement. Therefore, subject to appropriate safeguarding conditions, it is recommended that this application be approved

9. Recommendation:

- 9.1. Approve application number 2021/10788/PA subject to the conditions listed below and a Section 106 Legal Agreement to secure the following:
- i) The provision of 5 No. on-site affordable housing units to be sold at 20% discount on market value, in perpetuity and 2 units to be sold at 30% discount on market value as First Homes.
 - ii) A financial contribution of £3,570 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.
- 9.2. In the absence of a planning obligation being completed to the satisfaction of the Local Planning Authority by the 1st August 2022, or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason: -
- i) In the absence of a legal agreement to secure an onsite affordable housing contribution the proposal conflicts with Policy TP31 of the Birmingham Development Plan
- 9.3. That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act. Occupation
- 9.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 1st August 2022, or such later date as may be authorised by officers under powers hereby delegated, favourable consideration is given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

1	Implement within 3 years (Full)
2	Requires the scheme to be in accordance with the listed approved plans
3	Requires the prior submission of a construction employment plan.
4	Requires the submission of a scheme for ecological/biodiversity/enhancement measures
5	Requires the prior submission of details of bird/bat boxes
6	Requires the implementation of the submitted mitigation/enhancement plan
7	Requires the provision of cycle parking prior to occupation
8	Requires the prior submission of noise insulation for residential units
9	Requires the submission of extraction and odour control details
10	In accordance with contamination remediation scheme approved under discharge of condition 2021/03245/PA
11	Requires the submission of a contaminated land verification report

-
- 12 Requires submission of a Sustainable Drainage Operation and Maintenance Plan.
 - 13 Drainage of foul and surface water in accordance with details agreed under discharge of condition reference 2021/02932/PA :
 - 14 Requires the submission of the following architectural details prior to occupation to be approved in writing by the local planning authority:
 - 15 Requires development to be carried out in accordance with the following approved architectural details.
 - 16 Removes PD rights for telecom equipment
 - 17 Fire safety measures to be implemented prior to occupation in accordance with details from the submitted Fire Statement
-

Case Officer: Samuel Bridgewater

Photo(s)



Figure 8 - Application Site

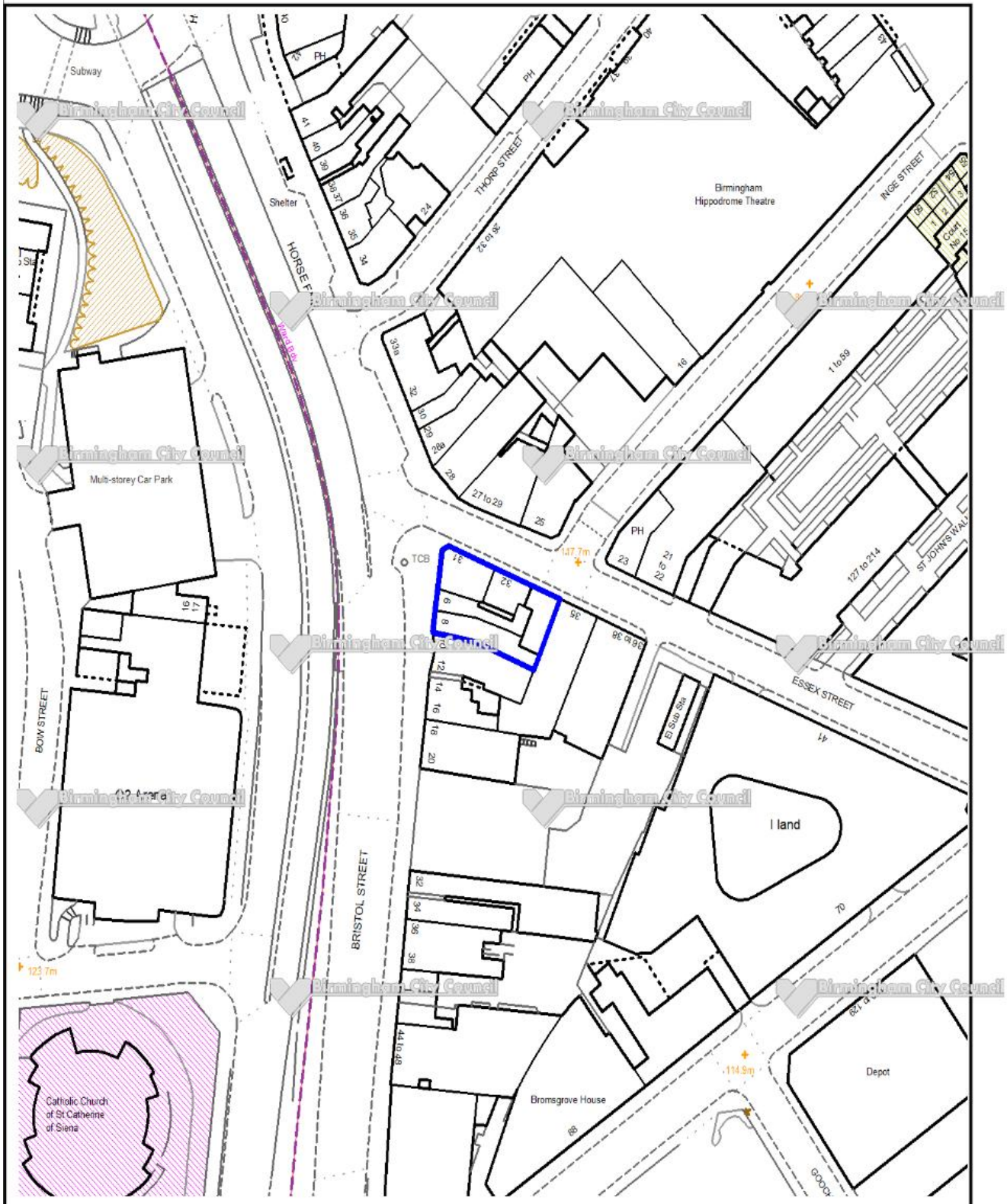


Figure 9 – Application site from the opposite side of Bristol Street



Figure 10 – Application site from south facing view along Bristol Street

Location Plan



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Birmingham City Council

Planning Committee

07 July 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	10	2022/02444/PA 56 High Street Erdington Birmingham B23 6RT Change of use of ground floor from a bank (Use Class E) to a betting office (Sui Generis) with associated external alterations.
Approve – Conditions	11	2022/03182/PA Gravelly Industrial Park - Unit 38 Tyburn Road Erdington Birmingham B24 8TG Demolition of existing unit and erection of a B2 & B8 warehouse unit with new service yard and car parking

Committee Date:	07/07/2022	Application Number:	2022/02444/PA
Accepted:	31/03/2022	Application Type:	Full Planning
Target Date:	11/07/2022		
Ward:	Erdington		

56 High Street, Erdington, Birmingham, B23 6RT

Change of use of ground floor from a bank (Use Class E) to a betting office (Sui Generis) with associated external alterations

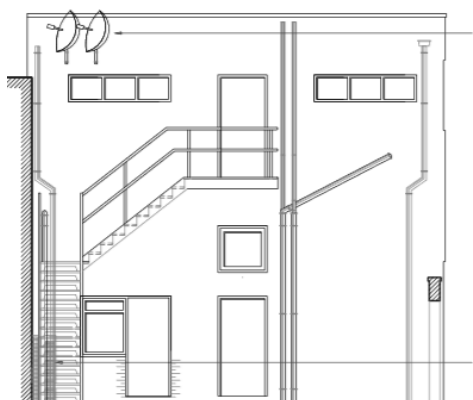
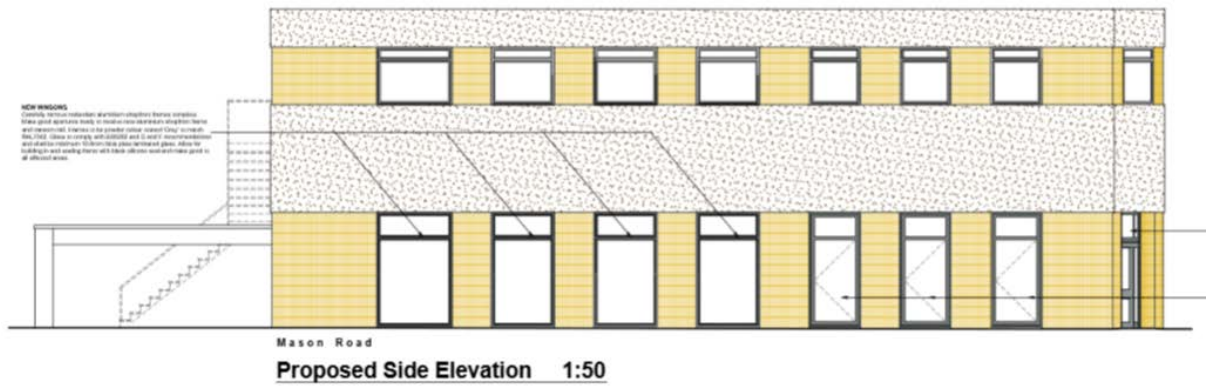
Applicant: BoyleSports (UK) Limited
56 High Street, Erdington, Birmingham, B23 6RT
Agent: Rhannon Harrop-Griffiths
Cornerblock, 2 Cornwall Street, Birmingham, B3 2QX

Recommendation

Approve subject to Conditions

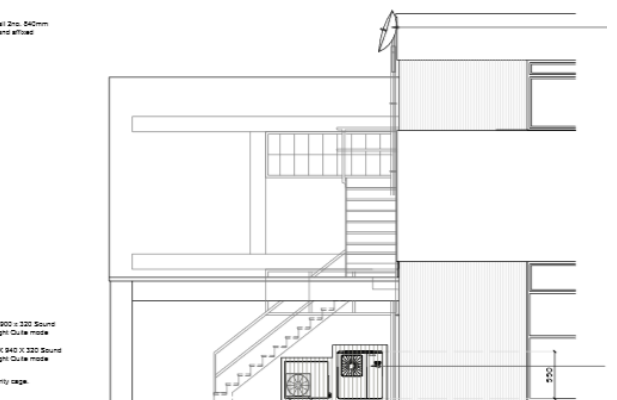
1 **Proposal:**

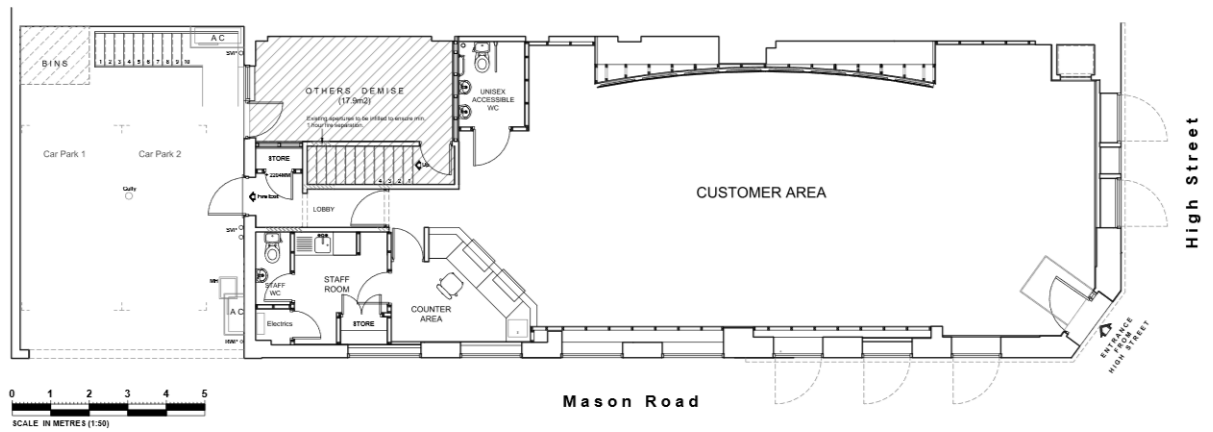
- 1.1. This application proposes the change of use of the ground floor of the premises at 56 High street, Erdington from a bank (Use Class E) to a betting office (Sui Generis), with associated external alterations.
- 1.2. The proposal would primarily involve the reconfiguration of internal floorspace to provide:
 - Customer area (110.2m²)
 - Counter area (8.3m²)
 - WC (3.7m²)
 - Staff facilities (8.75m²)
- 1.3. The proposal also includes a number of external alterations, comprising the replacement of the existing shopfront and entrance door, replacement of front elevation windows and repair of existing side elevation windows, the provision of 2 satellite dishes and AC units to the rear of the building.
- 1.4. The proposed betting office would open between 08:00-22:00 daily, and would be managed by four full-time and four part-time members of staff.
- 1.5. This application is parallel to a pending application for the conversion of the first floor from offices to three flats. Permission has previously been granted for fascia and hanging signage which are shown on the plans relating to this current application.
- 1.6. [Link to Documents](#)



Specialist contractor to supply and install 200mm dia satellite dishes mounted on a pole and affixed back to structure.

Proposed AC Condenser location
 1. Two Daikin R245G211 size 770 x 900 x 320 Sound pressure level @ 150 Hz 45 dBA Night Duty mode 420 dBA
 2. Two Daikin R245G211 size 900 x 940 x 320 Sound pressure level @ 150 Hz 55 dBA Night Duty mode 440 dBA
 Mounted within a powder coated security cage.





Proposed Ground Floor Plan 1:50

2 **Site & Surroundings:**

- 2.1 56 High Street is a two-storey building which occupies a rectangular layout within a constrained plot. The building embodies a distinctive appearance, featuring alternating bands of decorative tiles and roughcast render with a high proportion of fenestration. The site is served by a small parking area to the rear.
- 2.2 The site is located within the Primary Shopping Area of the Erdington Local Centre. The area to the west and south of the site is characterised by contemporary buildings of varying design comprising numerous commercial uses. To the north and east, the built form is more traditional as it transitions into the residential dwellings of Mason Road, including the Grade II listed Erdington Library.
- 2.3 [Link to Site Location](#)

3 **Planning History:**

- 3.1 2022/01206/PA - Change of use of first floor from office space (Use Class E) to 3no. self contained flats (Use Class C3) - Decision pending.
- 3.2 2022/02445/PA - Display of 3no. internally illuminated fascia signs and 2no. internally illuminated projecting signs – Approved with conditions.

4 **Consultation Responses:**

- 4.1 Regulatory Services: No objections, subject to condition linking operation of AC units to opening hours of premises.
- 4.2 Conservation: No objections.
- 4.3 Transportation Development: No objections.
- 4.4 West Midlands Police: No objections.

5 **Third Party Responses:**

- 5.1 Ward Councillors, Residents Associations and adjoining occupiers were notified, and a site notice was displayed outside the premises.
- 5.2 Eighty objections have been received raising the following issues which are material to the consideration of the application:
- Anti-social behaviour resulting from development;
 - High number of betting premises;
 - Impact on the character of the area.
- 5.3 Paulette Hamilton MP objected to the application for the following reasons:
- Proliferation of betting shops;
 - Impact on the character of the area;
 - Potential increase in anti-social behaviour.
- 5.4 Cllr Robert Alden objected to the application for the following reasons:
- Loss of retail unit;
 - Visual impact of development;
 - Conflict with Shopping and Local Centres SPD.
- 5.5 A petition was also submitted, which contained fifty-four signatories.

6 Relevant National & Local Policy Context:

6.1 National Planning Policy Framework

6.2 Birmingham Development Plan 2017:

- PG3 Place Making
- TP12 Historic Environment
- TP21 The Network and Hierarchy of Centres
- TP24 Promoting a Diversity of Uses Within Centres
- TP44 Traffic and Congestion Management

6.3 Development Management DPD: (if relevant)

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

6.4 Supplementary Planning Documents & Guidance:

- Places for Living SPG (2001)
- Shopping and Local Centres (2012)
- Birmingham Parking SPD (2021)
- Shopfronts Design Guide (1995)

7 Planning Considerations:

- 7.1 This application has been assessed against the objectives of the policies set out above. The key issues in the determination of this application are the principle of development, visual amenity, conservation of the historic environment, the residential amenity of existing and future residents, and highways safety and parking.

Principle of Development:

- 7.2 Neither the existing use of the premises as a bank (Class E) nor the proposed use of the premises as a betting office (Sui Generis) constitute retail shop uses. As such, the proposed change of use would not reduce the proportion of retail shop units within the Erdington Local Centre below the existing 63.6%. Although the proposed change of use would continue the run of two non-retail shop uses in a row as the adjoining use is a community cafe, this would not worsen the existing situation. The proposal would not therefore additionally contribute to a clustering of non-retail shop uses.
- 7.3 Objectors have raised concerns that the development would exacerbate a proliferation of betting shops within the area and have a detrimental impact on the character of the local centre. However, although one other betting shop is present in the frontage of shops which includes no.56, this is separated by eight intervening retail units. Moreover, seven other betting offices are present within the 650m of shops on either side of High Street, equating to approximately one betting office every 72m. This is not considered to comprise an unacceptable clustering of such uses.
- 7.4 Furthermore, the operation of the unit as a betting office would not be significantly different to the use of other units in the Local Centre in terms of the level and timing of activity and movements. It is not anticipated that the proposed use would significantly affect footfall or vehicular movements. As such, the characteristics of the proposed use are considered to be appropriate within a Local Centre.
- 7.5 Therefore, given the existing and proposed uses of the site, the development would not result in the loss of a retail unit, the harmful clustering of non-retail units, or the introduction of a use that would conflict with the character of the Local Centre. The application is therefore considered acceptable in principle.

Visual Amenity/ Urban Design:

- 7.6 The proposed external alterations would neither collectively nor individually harm the area's visual amenity. The removal of brickwork below a number of windows would arguably improve the solid to void ratio of the shopfront. The windows to be repaired or replaced, in addition to the replacement front door would be similar in appearance to the existing openings and would not significantly alter the character of the building. Furthermore, although the proposed satellite dishes and AC units would be visible from Mason Road, they would be sited within a rear service yard with a utilitarian character and would be neither conspicuous nor incongruous in this context.

Conservation of the Historic Environment:

- 7.7 The site makes a neutral contribution to the setting of the Grade II listed Erdington Library by virtue of its neat and coherent appearance. The proposed scheme was amended to improve the appearance of the proposed fenestration/ colour and the Conservation officer has raised no objections to the current proposals.

Residential Amenity:

- 7.8 The proposed development would not increase the footprint of the building, and would therefore not result in any overbearing, overshadowing, or overlooking impacts that would be detrimental to the residential amenity of surrounding occupiers.
- 7.9 It is considered that the proposed change of use would not result in any environmental impacts that would be harmful to the residential amenity of surrounding neighbours, including the future occupiers of the first floor should 2022/01206/PA be granted approval. The proposed use of the site as a betting office would not result in

externalities in excess of those associated with the site's previous use as a bank. Furthermore, the proposed AC units would not result in excessive noise or disturbance. Accordingly, Regulatory Services did not object to the application subject to a condition restricting the use of the proposed AC units to match the opening hours of the betting office. This suggested condition is considered to be reasonable and has been attached accordingly.

Highways, Traffic and Parking:

- 7.10 Transportation Development consider that the proposed use would not result in a material change to the character or volume of traffic in the vicinity of the site, while the traffic and parking demand would not exceed that of a retail use. Furthermore, no alterations to the existing access that would impact the public highway are proposed. Accordingly, it is considered that the application would not disrupt the functioning of the local highways network.

Other issues:

- 7.11 With regards to objectors' concerns that antisocial behaviour would result from the proposed development, there is no evidence that this would be the case. The agent has pointed out that this would be a licensing matter and West Midlands Police have expressed no objections to the application. It would therefore be unreasonable to refuse the application on the basis of a speculative increase in such behaviour.

8 **Conclusion**

- 8.1 In summary, the proposed development is considered acceptable in principle, would not be harmful to the area's visual amenity, the conservation of the historic environment, the residential amenity of surrounding occupiers, or the functioning of the local highways network. As such, the application complies with the policies of the Local Plan and is recommended for approval.

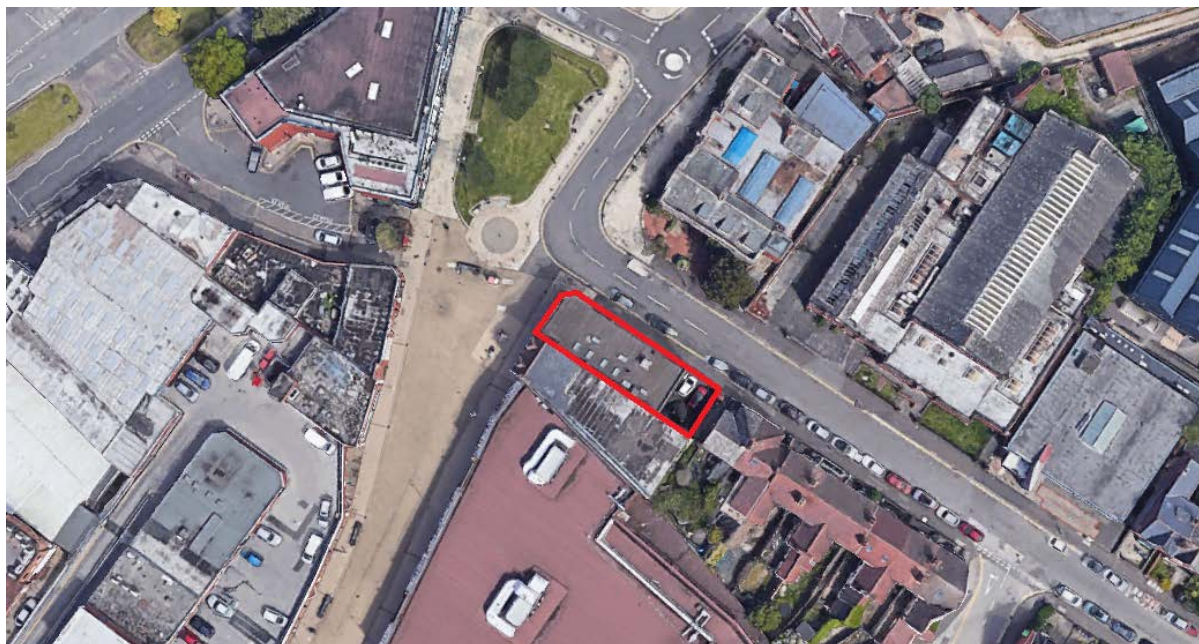
9 **Recommendation:**

- 9.1 Approve subject to conditions.

-
- | | |
|---|------------------------------------------------------------------------|
| 1 | Implement within 3 years |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Limits the hours of operation to between 08:00 - 22:00 daily |
| 4 | Restricts use of AC units to opening hours |
| 5 | Prevents obstruction of windows |
-

Case Officer: Jeff Badland

Photo(s)



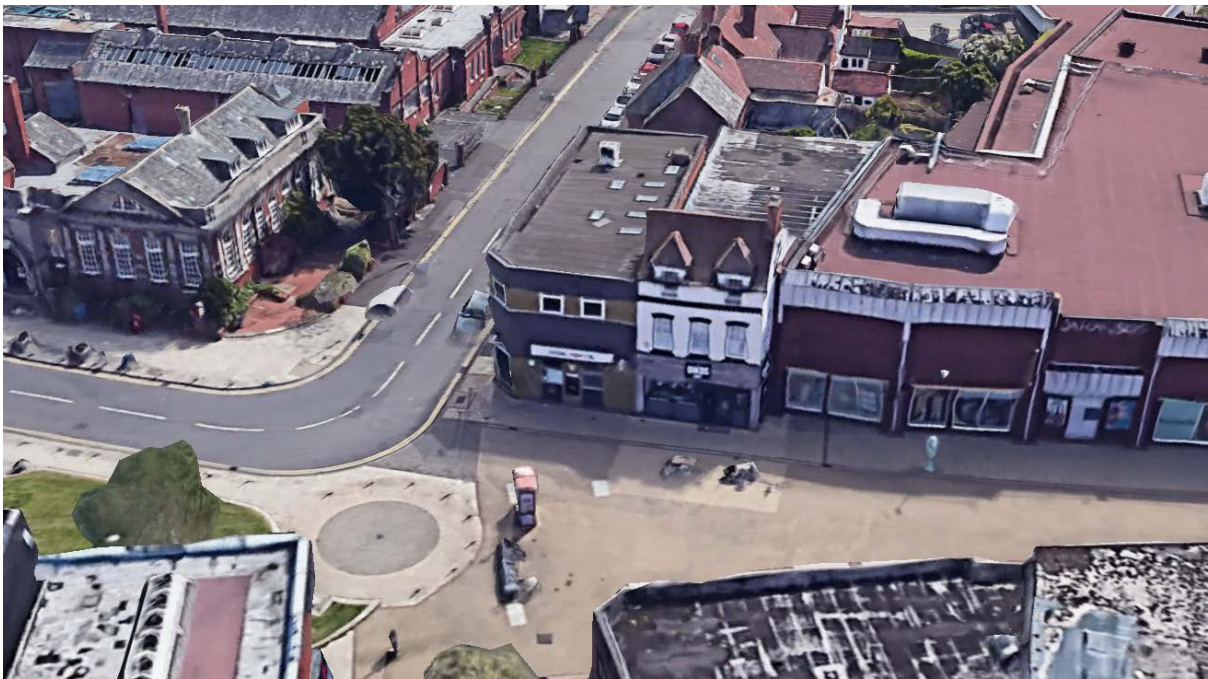
Aerial view of site



Front and side elevations



Rear service yard



Bird's eye view of the site from the west



Bird's eye view of the site from the east



Bird's eye view of the site from the north

Location Plan



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Committee Date:	07/07/2022	Application Number:	2022/03182/PA
Accepted:	14/04/2022	Application Type:	Full Planning
Target Date:	14/07/2022		
Ward:	Nechells		

Gravelly Industrial Park - Unit 38, Tyburn Road, Erdington,
Birmingham, B24 8TG

Demolition of existing unit and erection of a B2 & B8 warehouse unit
with new service yard and car parking

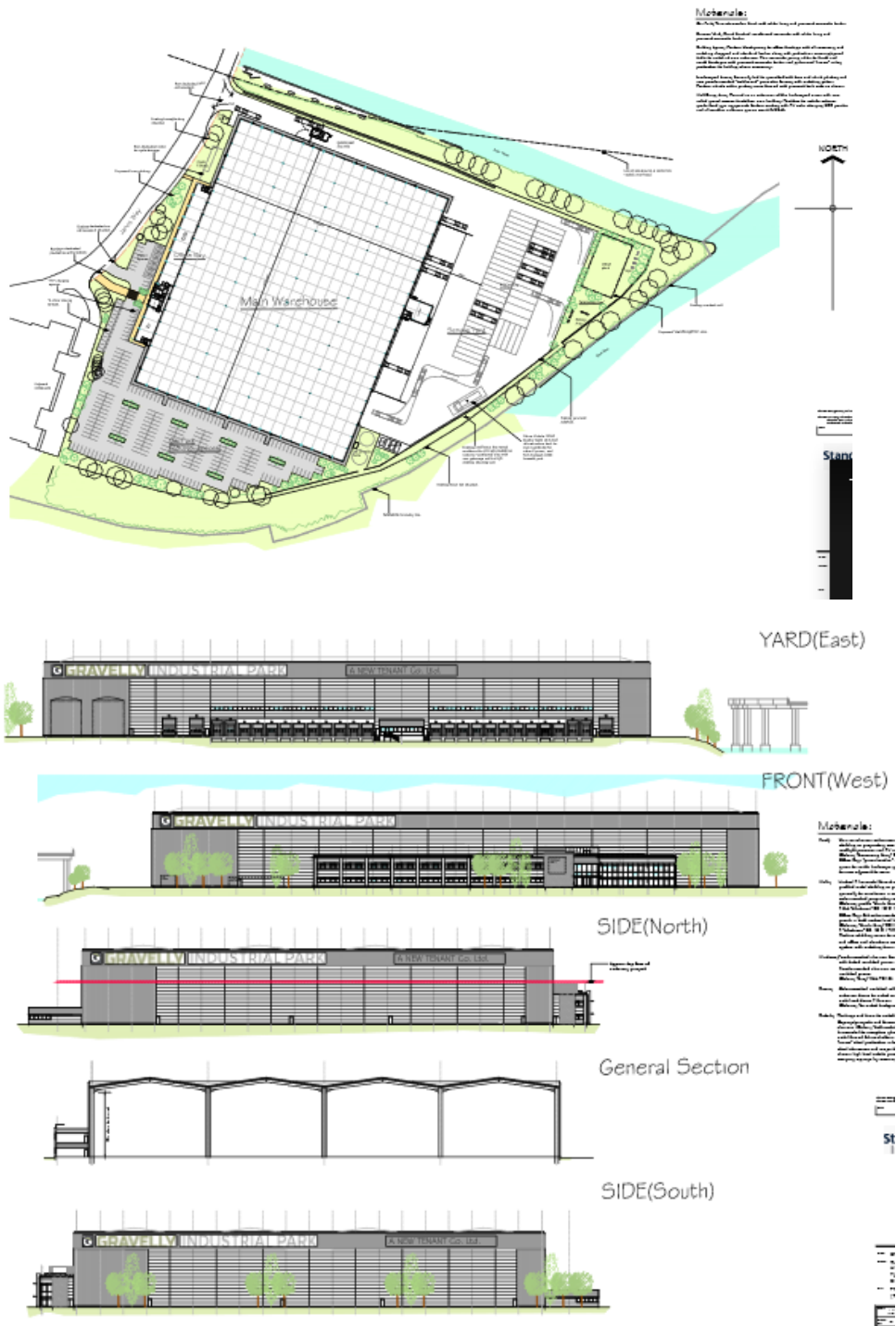
Applicant: Standard Life Assurance Ltd
1 George Street, Edinburgh, EH2 2LL
Agent: K3 Consulting Ltd
Suite 209 The Argent Centre, Legge Lane, Birmingham, B1 3HS

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This is an application for the demolition of existing buildings and structures and the erection of a circa 24,000sq.m General Industrial and Warehouse unit (Use Classes B2 and B8 respectively) with associated car parking and service yard at Gravelly Industrial Park, Erdington. The proposed building would be 18m high and located centrally within the site, with a service yard to the rear providing 50 HGV parking spaces, a two storey office bay to the front and car parking to the front and side (east) providing 280 spaces.
- 1.2 The car parking area is to be accessed via the existing vehicle access from Jarvis Way and a new HGV entrance would be created in the north west corner to provide access to the service yard. The proposal includes a multi-use games area and 'well being area' within the north east corner.



1.3 The existing buildings at the site were constructed in the late 1970's. The main building is approximately 11m high. The applicant has advised that the internal height of the warehouse area is inadequate by modern standards, and the buildings are poorly insulated making them difficult to competitively market and efficiently occupy.

1.4 The following supporting information has been submitted:

- Sustainable drainage statement;
- Flood risk assessment;
- Energy statement;
- BREEAM pre-assessment report;
- Landscape management plan;
- Tree survey;

- Ecological site appraisal & bio-diversity net gain report;
- Transport assessment;
- Travel plan;
- Air quality assessment;
- Geo-Technical desk study appraisal

- 1.5 Under the Scheme of Delegation the application must be determined by Planning Committee as the floor space of the proposed building exceeds 5,000 sq.metres.

[Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The site is located within Gravelly Industrial Park, a Core Employment Area. Immediately to the north is a section of the M6, elevated above the River Tame. To the east and south the site is bordered by the River Rea.

[Site location](#)

3. **Planning History:**

- 3.1 None relevant to the assessment of the application.

4. **Consultation Responses:**

- 4.1 Employment Team – Request the submission of a Construction Employment Plan and Local Employment Strategy.

Ecology Officer – Recommends conditions requiring the development to take place in accordance with the submitted Ecological Appraisal and the submission of a landscape and ecological management plan and details of biodiversity roofs.

Tree Officer – Recommends a condition requiring the development to take place in accordance with the submitted Arboricultural Method Statement and Tree Protection Plan.

Transportation Development – No objection, subject to conditions.

Environmental Pollution Control – No objection subject to conditions requiring the submission of a construction management plan and contaminated land verification report.

Lead Local Flood Authority - Further information required to demonstrate that appropriate sustainable drainage systems will be implemented within the development.

Severn Trent Water – No objection subject to a condition requiring details of foul and surface water drainage.

Network Rail – No objection.

5. **Third Party Responses:**

- 5.1 Shabana Mahmood MP, Ward Councillors and neighbouring properties were notified and a site notice was posted. No representations have been received in response to the public consultation exercise.

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

6.1 National Planning Policy Framework
Paragraph 81

Birmingham Development Plan 2017

Policy PG3 (Place Making)
Policy TP3 (Sustainable Construction)
Policy TP4 (Low and Zero Carbon Energy Generation)
Policy TP6 (Management of Flood Risk and Water Resources)
Policy TP8 (Biodiversity and Geodiversity)
Policy TP19 (Core Employment Areas)

Development Management in Birmingham DPD

Policy DM1 (Air Quality)
Policy DM4 (Landscaping and Trees)
Policy DM6 (Noise and Vibration)
Policy DM14 (Transport Access and Safety)
Policy DM15 (Parking and Servicing)

7. **Planning Considerations:**

7.1 The main material considerations are:

- Principle;
- Design;
- Access/Parking;
- Sustainability;
- Drainage/Flood Risk;
- Ecology;
- Trees;
- Air Quality

Principle

- 7.2 NPPF paragraph 81 advises that planning decisions should help create conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity. The proposed development is consistent in principle with BDP policies which encourage economic regeneration and additional development opportunities, in particular Policy TP19 which advises that general industrial and warehouse developments are appropriate employment uses in Core Employment Areas.

Design

- 7.3 The scale and design of the proposed building are appropriate within the context of the wider industrial estate. The building would have a simple, yet contemporary appearance with a two colour/tone scheme, sizeable areas of glazing, and subtle use of different cladding textures to reduce the mass of the building and create visual interest. The development would improve the existing appearance of the site, in

accordance with BDP Policy TP19 which supports measures that improve the quality and attractiveness of Core Employment Areas.

Access/Parking

- 7.4 Transportation Development have not raised any concerns in relation to the proposed access arrangements or parking provision, and as such it is considered that the development would not have any adverse impact on highway safety. In this respect the proposal complies with DMB DPD Policies DM14 and DM15.

Sustainability

- 7.5 BDP Policy TP3 seeks to ensure that new buildings within the City meet high standards of sustainable design and construction. The BREEAM Pre-Assessment Report demonstrate that 'Excellent' standard is achievable – Condition 3 requires submission of a final certificate to verify that this standard has been met.
- 7.6 BDP Policy TP4 requires new developments to incorporate the provision of low and zero carbon forms of energy generation or to connect into existing networks where they exist. The submitted Energy Statement, together with the information presented in the BREEAM Pre-Assessment Report, demonstrates that this can be achieved via the use of air source heat pumps and solar photovoltaic panels. The information submitted advises that there would be a 67% saving in carbon emissions against the baseline using the methods proposed.

Drainage/Flood Risk

- 7.7 The site falls within Flood Zones 2 and 3. Condition 10 requires that the development takes place in accordance with the submitted flood risk assessment to ensure that it is appropriately flood resistant and resilient and incorporates sustainable drainage systems, in accordance with the requirements of BDP Policy TP6. The additional information requested by the Lead Local Flood Authority is sought by Condition 32.

Ecology

- 7.8 BDP Policy TP8 requires that developments mitigate any potentially harmful impacts on wildlife habitats and, if possible, support the enhancement of the natural environment. Recommendations are set out in the Ecological Appraisal for enhancement measures to be implemented within the development, and the Biodiversity Net Gain Report advises that the development would deliver a 29% net gain in 'habitat units' at the site. The conditions recommended by the Ecology Officer have been attached accordingly.

Trees

- 7.9 26 predominantly 'C' category trees are to be removed to facilitate the development, with 52 trees to be planted (including some along the river boundaries to fill in 'gaps' in the existing tree cover). In this respect the proposal complies with DMB DPD Policy DM4 which requires adequate replacement planting to ensure that the benefits of proposed development outweigh the harm resulting from the loss of any trees.

Air Quality

- 7.10 DMB DPD Policy DM1 requires that development proposals consider air quality and are accompanied by an appropriate scheme of mitigation. The submitted Air Quality Assessment proposes mitigation measures to reduce construction and transport related emissions. Condition 14 is necessary to ensure that these measures take

place. The condition recommended by Environmental Pollution Control relating to construction management has also been attached accordingly.

8. **Conclusion**

- 8.1 The proposal is consistent with the aims of the policy documentation referred to above, in that it constitutes an appropriate use and form of development which would have a positive effect on the Core Employment Area.

9. **(Recommendation:**

- 9.1 Approve with conditions

-
- | | |
|----|----------------------------------------------------------------------------------|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | BREEAM certificate |
| 4 | Demolition management |
| 5 | Construction Management Plan |
| 6 | Requires the submission of a contaminated land verification report |
| 7 | Limits the noise levels for Plant and Machinery |
| 8 | Sound Insulation for Plant/Machinery |
| 9 | Electric vehicle charging points |
| 10 | Flood risk management |
| 11 | BREEAM measures |
| 12 | Landscape management |
| 13 | Energy measures |
| 14 | Air quality measures |
| 15 | Requires the prior submission of a construction employment plan. |
| 16 | Requires the submission of hard and/or soft landscape details |
| 17 | Requires the submission of boundary treatment details |
| 18 | Requires the prior submission of a construction method statement/management plan |
| 19 | Requires the submission of details to prevent mud on the highway |
| 20 | Requires the prior installation of means of access |
| 21 | Prevents occupation until the service road has been constructed |
-

-
- 22 Prevents occupation until the turning and parking area has been constructed
 - 23 Requires the delivery and service area prior to occupation
 - 24 Requires the parking area to be laid out prior to use
 - 25 Requires the applicants to sign-up to the Birmingham Connected Business Travel Network
 - 26 Contamination works
 - 27 Tree protection
 - 28 Ecology measures
 - 29 Ecology management plan
 - 30 Biodiversity roofs
 - 31 Unexpected Contamination
 - 32 Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 33 Cycle storage
-

Case Officer: Faisal Agha

Photo(s)

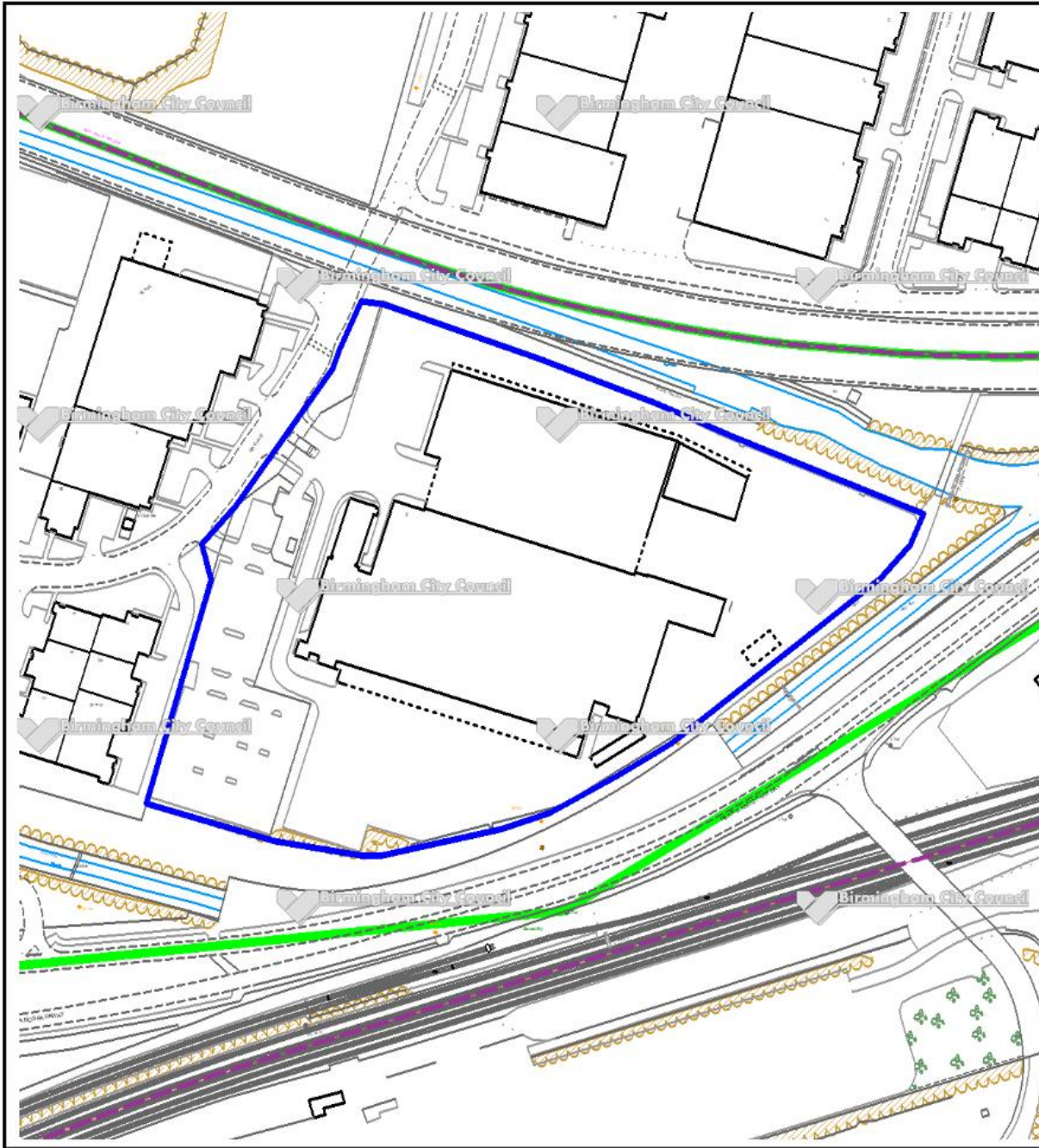


Aerial view of the site from the west



Aerial view of the site from the south

Location Plan



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Birmingham City Council

Report to Planning Committee

7 July 2022

Subject: Enforcement Performance

Report of Ian MacLeod - Director of Planning Transport and Sustainability, Place, Prosperity & Sustainability Directorate. Email Address: Ian.MacLeod@birmingham.gov.uk

Report author: Mark Franklin - Principal Enforcement Officer, Planning & Development.
Email Address: mark.franklin@birmingham.gov.uk

Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
-------------------------------------------------------------	------------------------------	----------------------------------------

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

1. Executive Summary

It was agreed at Planning Committee on 29 April 2021 that bi-annual reports would be provided to committee as stated in the Birmingham Local Enforcement Plan. It was also agreed at Economy & Skills Overview & Scrutiny Committee on 2 March 2022 that the report would be sent to all Councillors. This report shows performance/data for the financial year half 1, October 2021 to 31 March 2022.

2. Recommendations:

- 2.1. The report is for information only and recommended that Planning Committee note the high volume of live case work within the Enforcement team and the positive actions in terms of cases closed; notices served, prosecutions and confiscation orders.

3. Background:

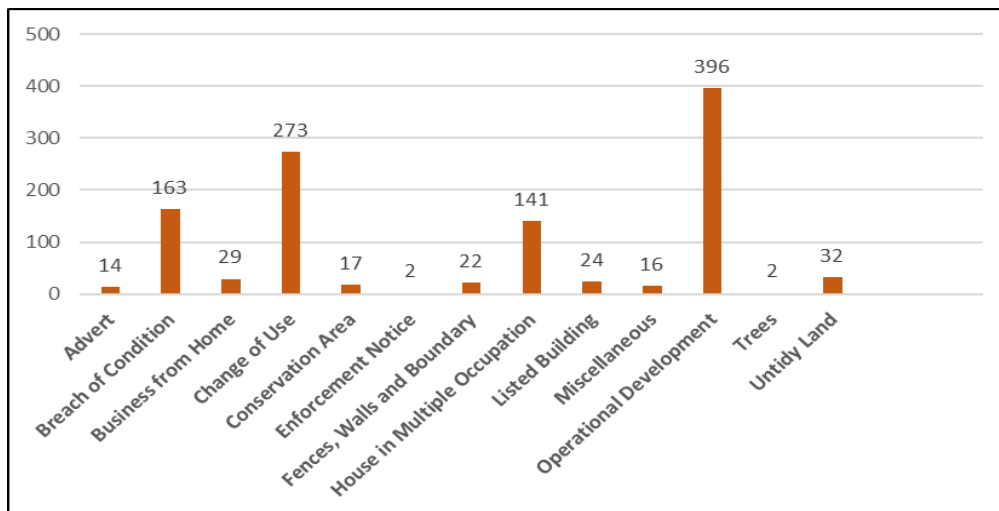
- 3.1 A review into the operation of the team was undertaken in November 2020 and it was concluded that the enforcement team would be divided into North and South teams. The North team managed by James Fox, Acting Principal Enforcement Officer and the South team managed by Mark Franklin, Principal Enforcement Officer.
- 3.2 Head of Enforcement, Householder and Technical Services is James Wagstaff. There are eight senior enforcement officers (two are part time) who investigate complaints received and one enforcement officer who registers the complaints and has a small caseload.
- 3.3 It is considered the above management structure of the team is more efficient and effective way of managing the workload.
- 3.4 Staffing levels have slightly changed since the last report. Only one Graduate remains on the team, instead of two. The senior officer who returned from long term sick leave has not returned to his substantive role and continues to register cases. This is due to the significantly high volume of new complaints in the planning breaches inbox. A senior officer has left the team on a development opportunity as part of the Commonwealth Games for six months. We have successfully offered a

development opportunity to replace this officer to our own enforcement officer for a period of six months. We have secured an agency member of staff until June 2022 using monies gained from our confiscation orders.

- 3.5 The Birmingham Local Enforcement Plan (BLEP) was reported to Cabinet in May 2021 and subsequently adopted. It is a live document on the Council's webpages and in particular is highlighted to be read by those wishing to make complaints as part of the complaint form.

4. Performance/Data:

- 4.1 The chart below outlines the total number of live cases as at 31 March 2022 (1131). This is 293 less cases than the end of the last half year. These can be categorised as the following:



- 4.2 The table below illustrates the number of live cases per ward:

WARD	Count
Acocks Green	36
Allens Cross	6
Alum Rock	49
Aston	19
Balsall Heath West	8
Bartley Green	10
Billesley	10
Birchfield	23
Bordesley & Highgate	28
Bordesley Green	32
Bournbrook & Selly Park	43
Bournville & Cotteridge	12
Brandwood & King's Heath	15
Bromford & Hodge Hill	21
Castle Vale	2
Druids Heath & Monyhull	2
Edgbaston	20
Erdington	45
Frankley Great Park	5

Garretts Green	5
Glebe Farm & Tile Cross	15
Gravelly Hill	25
Hall Green North	26
Hall Green South	15
Handsworth	22
Handsworth Wood	25
Harborne	27
Heartlands	20
Highter's Heath	3
Holyhead	11
King's Norton North	6
King's Norton South	3
Kingstanding	7
Ladywood	18
Longbridge & West Heath	3
Lozells	13
Moseley	48
Nechells	7
Newtown	12
North Edgbaston	34
Northfield	3
Oscott	13
Perry Barr	14
Perry Common	6
Pype Hayes	14
Quinton	18
Rubery & Rednal	0
Shard End	6
Sheldon	11
Small Heath	20
Soho & Jewellery Quarter	40
South Yardley	15
Sparkbrook & Balsall Heath East	53
Sparkhill	31
Stirchley	8
Stockland Green	33
Sutton Four Oaks	8
Sutton Mere Green	1
Sutton Reddicap	6
Sutton Roughley	2
Sutton Trinity	7
Sutton Vesey	16
Sutton Walmley & Minworth	10
Sutton Wylde Green	4
Tyseley & Hay Mills	7
Ward End	24
Weoley & Selly Oak	14
Yardley East	10
Yardley West & Stechford	6

Total

1131

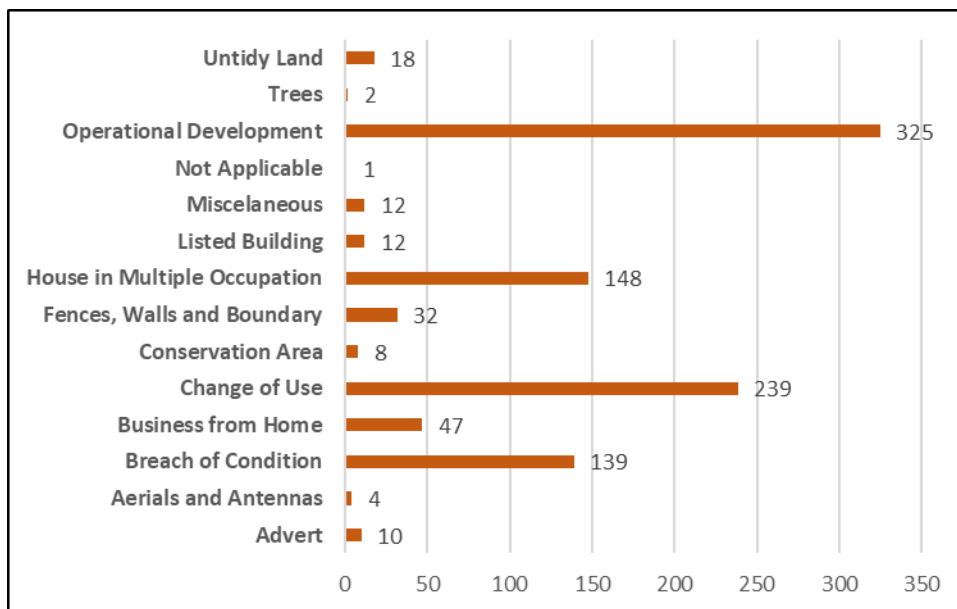
4.3 There has been a total of 997 cases closed during the final six months of the financial year. The table below shows the number of closed cases per ward:

WARD	Count
Acocks Green	24
Allens Cross	3
Alum Rock	31
Aston	27
Balsall Heath West	8
Bartley Green	4
Billesley	12
Birchfield	28
Bordesley & Highgate	10
Bordesley Green	6
Bournbrook & Selly Park	87
Bournville & Cotteridge	14
Brandwood & King's Heath	21
Bromford & Hodge Hill	17
Castle Vale	1
Druids Heath & Monyhull	6
Edgbaston	4
Erdington	41
Frankley Great Park	4
Garretts Green	4
Glebe Farm & Tile Cross	9
Gravelly Hill	11
Hall Green North	28
Hall Green South	14
Handsworth	22
Handsworth Wood	25
Harborne	22
Heartlands	9
Highter's Heath	4
Holyhead	21
King's Norton North	3
King's Norton South	2
Kingstanding	7
Ladywood	13
Longbridge & West Heath	10
Lozells	15
Moseley	30
Nechells	5
Newtown	6
North Edgbaston	28
Northfield	2
Oscott	14
Perry Barr	42
Perry Common	8
Pype Hayes	15
Quinton	11
Rubery & Rednal	1

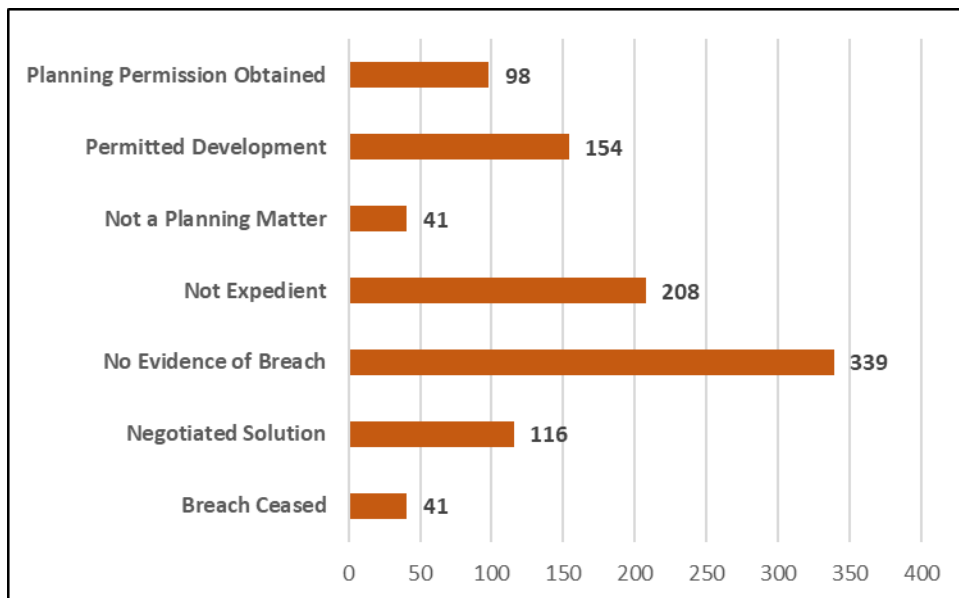
Shard End	4
Sheldon	16
Small Heath	20
Soho & Jewellery Quarter	45
South Yardley	12
Sparkbrook & Balsall Heath East	21
Sparkhill	16
Stirchley	9
Stockland Green	18
Sutton Four Oaks	9
Sutton Mere Green	14
Sutton Reddicap	2
Sutton Roughley	0
Sutton Trinity	9
Sutton Vesey	14
Sutton Walmley & Minworth	6
Sutton Wylde Green	11
Tyseley & Hay Mills	4
Ward End	17
Weoley & Selly Oak	4
Yardley East	10
Yardley West & Stechford	7

997

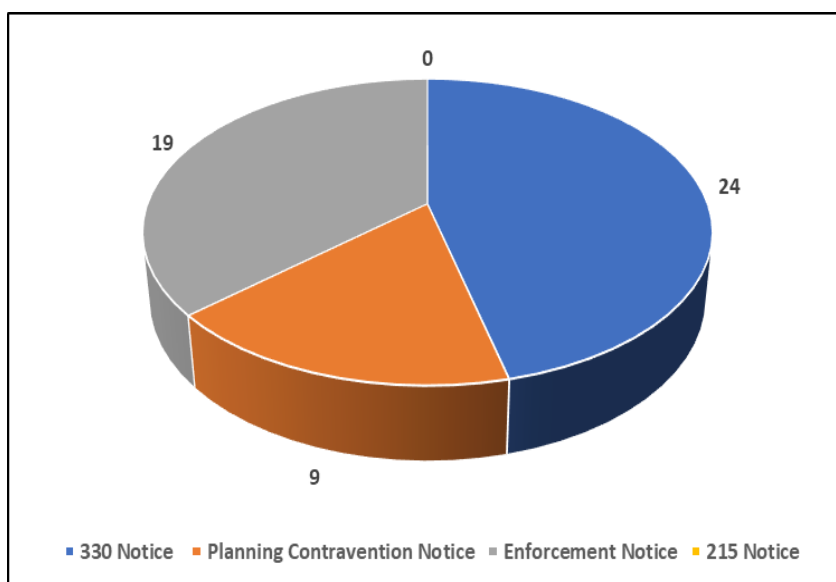
4.4 The chart below shows the categories of those cases closed:



4.4.1 The chart below shows the categories why those cases were closed:



4.5 The chart below displays the number of notices and type of notice issued during the final six months of the financial year.



4.6 Since 2018 the local planning authority has referred several cases, where appropriate, to Crown Court to obtain a confiscation order under the Proceeds of Crime Act. The table below shows our success to date. A total of £310,981.89 has been awarded to the Council. The Planning Enforcement Team receive roughly 1/6th of that figure, so approximately £60,000 which must be reinvested into prevention/detection of crime and separating offenders from the proceeds of their crimes.

<u>Date</u>	<u>Payment</u>	<u>Breach</u>
02/01/2018	£5,004.38	Unauthorised erection of a first-floor extension
04/01/2019	£114,000.00	Unauthorised change of use to a hot food takeaway
27/03/2019	£50,000.00	Unauthorised change of use to a hot food takeaway

02/04/2019	£5,896.00	Unauthorised change of use to a hot food takeaway
10/03/2020	£25,000.00	Unauthorised change of use to shisha cafe
11/03/2020	£25,000.00	Unauthorised change of use to shisha cafe
12/03/2020	£19,000.00	Unauthorised change of use to shisha cafe
14/04/2020	£28,000.00	Unauthorised rear extension
15/04/2020	£9,433.39	Unauthorised rear extension
05/03/2021	£15,000.00	Unauthorised first floor extension
10/03/2021	£14,648.12	Unauthorised first floor extension
01/10/2021	£50,000.00	Unauthorised change of use to a HMO
	£360,981.89	

4.7 There have been no Court cases concluded during the final six months of the financial year.

5.0 Recommendation

5.1 That the report be noted, and bi-annual reports continue to be presented to Planning Committee in accordance with the Birmingham Local Enforcement Plan.

Ian MacLeod
Director of Planning Transport and Sustainability

Contact Officer: Mark Franklin
E-Mail: mark.franklin@birmingham.gov.uk

BIRMINGHAM CITY COUNCIL

REPORT OF DIRECTOR OF PLANNING, TRANSPORT AND SUSTAINABILITY

PLANNING COMMITTEE

07 July 2022

Purpose Built Student Accommodation: Supply and Demand

1. Summary report

Introduction

- 1.1 This report provides a summary of the 'Purpose Built Student Accommodation: Supply and Demand (2022)' paper (attached as Appendix 1). Appendix 1 updates the previous paper which was reported to Planning Committee on 21 January 2021. It should be noted the paper is not a policy document; its purpose is to provide information on the demand for and supply of student accommodation in Birmingham, based on the available data at the time of writing.

Demand

- 1.2 According to the Higher Education Standards Agency (HESA) 2020/21 data, there were 76,850 full-time and sandwich students studying at the five main universities¹ in Birmingham in the 2020/21 academic year. This has increased by 7,040 students compared to 2018/19.
- 1.3 Of the total number of full-time students: 19% lived-in Purpose-Built Student Accommodation (PBSA); 27% in HMOS/ other rented accommodation; 33% lived with parents/ guardians; 16% lived in their own home; 5% not known and 0.5% were not in attendance.
- 1.4 Since the January 2021 report (which was based on HESA 2018/19 data), the proportion of students living in PBSA has dropped by 6%, while those living in HMOs/ other rented accommodation has remained consistent. The proportion of students living with parents/ guardian has increased by 4% and those living in their own residence has increased by 2%.

¹ University of Birmingham, Aston University, Birmingham City University, University College Birmingham and Newman University.

- 1.5 Excluding those who do not require accommodation because they lived with parents/ guardians; in their own home; or were not in attendance at the university, **the estimated current overall demand for accommodation is 38,915 bed spaces**, an increase of 513 bedspaces since the January 2021 report. Table 1 shows how demand has been disaggregated based on the universities and their location.

Table 1: Demand by university/ location

University/ location	Uni. of Bham (Selly Oak/ Edgbaston)	Aston, BCU, UCB (City Centre)	Newman Uni. (Bartley Green)	City-wide
Existing demand*	22,650	15,880	385	38,915
Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062

* Source: HESA 2020/21

- 1.6 BCC obtained information from the universities regarding their future growth plans and projected student numbers for the January 2021 report. As part of the work on the Housing and Economic Development Needs Assessment (HEDNA) for the preparation of Birmingham's new local plan, consultants Iceni Projects Ltd interviewed the 5 main institutions. These interviews took place over the summer of 2021. The findings, along with the information that remains relevant from the Council's January 2021 report has been used to update the future demand figures. Drawing together the Council's and Iceni's findings, the estimated number of students requiring accommodation will increase to 44,062 – 45,062 bed spaces by 2025/26.

Supply

- 1.7 At April 2021, there were an estimated 23,443 existing available bed spaces² in purpose built and converted³ student accommodation in the city. A further 1,130 bed spaces were under construction and another 3,483 had planning permission not yet started.
- 1.8 The majority of existing and committed PBSA is located in the city centre (57%) with other major concentrations in Selly Oak (34%), and smaller clusters in the North Edgbaston/ Five Ways area and Bartley Green (9%). For analysis, supply that serves both the city centre universities and the University of Birmingham has been split 50:50 between these two main locations.
- 1.9 At the time of writing this report (14 February 2022) there were 8 live planning applications for PBSA totalling 2,834 bedspaces and 9 recent/ current pre-applications totalling 1,737 bedspaces.

² This takes into account 811 bed spaces in Perry Barr which have been demolished/ no longer in use

³ Only large-scale conversions of 50+ beds paces have been included

Table 2: Supply of PBSA by location

Location	Selly Oak/ Edgbaston	City Centre	Bartley Green	City-wide
Existing supply*	9,108	14,225	110	23,443
Under construction*	268	862	0	1,130
Permission not started*	1,295	1,992	196	3,483
Sub total	10,671	17,079	306	28,056
Current applications**	471	2,364	0	2,834
Pre-applications**	347	1,390	0	1,737
Total	11,489	20,833	306	32,627

* At 1st April 2021

** At 14th February 2022

Demand and supply analysis

1.8 Table 3 below shows three different scenarios.

- Scenario 1 - Existing demand⁴ against existing and committed supply⁵
- Scenario 2- Future demand against existing and committed supply
- Scenario 3 – Future demand against existing and committed supply, plus supply from all current applications (at February 2022) if permitted

1.9 A fourth scenario in Table 5 looks at the impact of including of other rented accommodation within the analysis.

1.10 These scenarios assume that all permissions are built out and that all students requiring accommodation would choose to live in PBSA. It is also important to assess demand and supply by location and Table 4 below disaggregates the citywide figures to provide a more granular picture.

Table 3: City wide – Demand/ supply analysis

	Bed spaces
Existing demand	38,915
Existing supply + committed supply	28,056
Shortfall	10,858
Potential future demand	44,062 – 45,062
Existing supply + committed supply + all current PAs if approved	30,890
Shortfall	13,172 – 14,172

⁴ HESA 2020/21

⁵ Sites under construction and sites with planning permissions not yet started at 1 April 2

Table 4: Sub area – Demand/ supply scenarios

	Scenario	Uni. of Bham (Selly Oak/ Edgbaston)	Aston, BCU, UCB (City Centre)	Newman Uni. (Bartley Green)	City-wide
1	Existing demand	22,650	15,880	385	38,915
	Existing supply + committed supply	10,671	17,079	306	28,056
	Shortfall/ surplus	11,976 shortfall	1,196 surplus	78 shortfall	10,858 shortfall
2	Potential future demand	24,407 – 25,407	19,139	516	44,062 – 45,062
	Existing supply + committed supply	10,671	17,079	306	28,056
	Shortfall/ surplus	13,736 – 14,736 shortfall	2,060 shortfall	210 shortfall	16,006 – 17,006 shortfall
3	Potential future demand	24,407 – 25,407	19,139	516	44,062 – 45,062
	Existing supply + committed supply + current applications	11,142	19,443	306	30,890
	Shortfall/ surplus	13,265 – 14,265 shortfall	304 surplus	210 shortfall	13,172 – 14,172 shortfall

- 1.11 Table 4 shows that the largest shortfall in accommodation is experienced in the Selly Oak/ Edgbaston area due to unmet demand arising from the University of Birmingham. In the city centre, existing demand arising from the city centre-based universities is almost fully met by existing supply. When sites under construction and with planning permission are taken into account, there would be an apparent surplus of supply (Scenario 2). However, this scenario assumes that all consents will be implemented, and that demand remains static. In reality, demand arising from the city centre universities is expected to modestly grow resulting in a shortfall of around 2,000 bedspaces against existing and committed supply (if all built out). The third scenario considers the impact if all current applications (at February 2022) were approved. This would result in a surplus of around 300 bedspaces. However, it is important to note the data limitations and assumptions set out throughout this report.

Other sources of accommodation

- 1.12 While the focus of this update is on PBSA, houses in multiple occupation (HMO) and other rented accommodation also provides an important source of accommodation. Table 5 below shows that if HMOs are taken into account, there would be a significant over-supply of student accommodation. However, it should be noted that that HMOs are not directly comparable to PSBA with the latter providing a greater

range of facilities and services and the former being more variable in quality and availability.

Table 5: Sub area – Demand/ supply scenarios including HMOs

	Selly Oak/ Edgbaston	City Centre	Bartley Green	City-wide
Potential future demand	24,407 – 25,407	19,139	516	44,062 – 45,062
Students living in HMOs*	13,065	7,605	270	20,930
Existing supply + committed supply + HMOs*	23,735	24,684	495	48,914
Shortfall/ surplus	672 -1,672 shortfall	5,545 surplus	21 shortfall	4,852 – 5,852 surplus
Existing supply + committed supply + all current PAs if approved + HMOs*	24,206	27,048	566	51,819
Shortfall/ surplus	210 -1,201 shortfall	7,909 surplus	50 surplus	7,757 – 8,757 surplus

* The number of students living in HMOs and other rented accommodation according to HESA 2020/21 data. This figure is not the total number of HMOs in the city. Figures do not sum due to rounding.

1.13 It is acknowledged that, currently, all students have accommodation and there is, therefore, sufficient accommodation to house all students. This suggests that any new PBSA would primarily be to:

- Serve a growth in student numbers,
- Rectify a mismatch in the type of accommodation which is available and that which is needed,
- Respond to changing student preferences, or
- Replace existing PBSA accommodation

Data limitation and assumptions

1.13 It is important to note that demand from alternative providers and further education colleges has not been quantified and that demand for PBSA may arise from these, as well as other universities within or beyond Birmingham.

1.14 The estimated demand assumes that all students requiring accommodation would want to live in PBSA.

1.15 In terms of supply, it is assumed that all completed schemes will remain as available supply.

2. Recommendations

- 2.1 That Planning Committee note the updated paper on 'Purpose Built Student Accommodation: Supply and Demand' (attached as Appendix 1).

3. Contact Officers

Uyen-Phan Han
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Planning and Development
Email: uyen-phan.han@birmingham.gov.uk

4. Background

- 4.1 See main report set out in Appendix 1.

5. Financial Implications

- 5.1 None.

6. Implications for Policy Priorities

- 6.1 The report supports the outcomes of the Council Plan, in particular: "Birmingham is an Entrepreneurial City to learn, work and invest in" and "Birmingham is a great city to live in" by supporting implementation of the Birmingham Development Plan which was adopted by Full Council in January 2017.

7. Implications for Equalities

- 7.1 The BDP was prepared in line with Section 149 of the Equality Act 2010 in ensuring that public bodies consider the needs of all individuals in shaping policy. Preparation of the BDP included the carrying out of an integrated Sustainability Appraisal at each formal stage which ensures positive social, economic and environmental impacts as well as an Equality Analysis.

8. Appendices

Appendix 1 – 'Purpose Built Student Accommodation: Supply and Demand'

9. List of Background Documents used to compile this report

- Birmingham Development Plan (2017)
- HESA Data

Appendix 1

Purpose Built Student Accommodation: Supply and Demand

1. Policy context

- 1.1 The adopted Birmingham Development Plan (BDP) is the city's key statutory planning document and is used to guide decisions on planning and development. The BDP recognises the important role of the city's universities and the supply of good quality accommodation to meet their housing need. The BDP contains the following policy in relation to the provision of new student accommodation.

Policy TP33 Student accommodation

"Proposals for purpose-built student accommodation provided on campus will be supported in principle subject to satisfying design and amenity considerations. Proposals for off campus provision will be considered favourably where:

- There is a demonstrated need for the development.
- The proposed development is very well located in relation to the educational establishment that it is to serve and to the local facilities which will serve it, by means of walking, cycling and public transport.
- The proposed development will not have an unacceptable impact on the local neighbourhood and residential amenity.
- The scale, massing and architecture of the development is appropriate for the location.
- The design and layout of the accommodation together with the associated facilities provided will create a safe, secure and welcoming living environment."

2. Student Profile in Birmingham

- 2.1 Birmingham is home to five main universities, the top three of which have nationally and internationally recognised specialist strengths in a range of teaching and research fields. The universities/colleges and their students bring many positive benefits to the City. They enhance its reputation as a dynamic and vibrant location, they create a critical mass for the delivery of goods, services and events, they boost the local economy, they provide local businesses with skilled workers and seasonal part time workers, they are a driving force for innovation and they can aid regeneration and investment. The City's universities make a significant contribution to the local economy as major employers and investors. The University of Birmingham for example contributes £3.5 billion to the UK economy every year and supports 15,545 jobs in the West Midlands.
- 2.2 It is essential, therefore, for the competitiveness of our higher education institutions and the welfare of the students that a suitable range of high quality and affordable accommodation is on offer. Student accommodation plays a major role in the student

experience at a university. Well designed and managed accommodation in the right location provides not only a place to live but also a place to study and relax in a safe and secure environment.

- 2.3 Demand for places at Birmingham's universities remains high with the number of applications for a place on an undergraduate course far exceeding the number of places available (UCAS data 2020).

Table 1: Undergraduate applications – UCAS Applications

		2016	2017	2018	2019	2020
University of B'ham	Applicants	37,725	43,090	40,175	53,050	55,935
	Placed Applicants	5,455	5,800	5,590	6,850	7,725
B'ham City University	Applicants	29,735	28,715	27,215	35,760	34,775
	Placed Applicants	6,110	6,275	5,970	6,690	6,755
Aston University	Applicants	13,730	13,600	11,605	17,120	18,730
	Placed Applicants	3,065	3,065	2,765	3,465	3,585
University College B'ham	Applicants	3,010	2,450	1,745	2,015	2,995
	Placed Applicants	1,115	1,135	1,115	1,490	1,830
Newman University	Applicants	3,010	3,040	2,845	2,845	3,075
	Placed Applicants	810	855	750	785	730
TOTAL	Applicants	87,210	90,895	83,585	110,790	115,510
	Placed Applicants	16,555	17,130	16,190	19,280	20,625

Source: UCAS

- 2.4 Over the last 5 years there has been a 16% increase in the number of full-time students studying at the 5 main universities in Birmingham.

Table 2: Full Time Students 2020/21 at the 5 main institutions in Birmingham

Full time	2016/17	2017/18	2018/19	2019/20	2020/21
Total	66,215	67,890	69,810	72,505	76,850

HESA data rounded

3. Where students lived – past trends

3.1 The most widely used information source relating to where students live comes from the Higher Education Statistics Agency (HESA). The latest available data is for the academic year 2020/21. This paper provides data on the returns provided to HESA from the city's five main higher education institutions: Aston University, Birmingham City University, Newman University, University College Birmingham and the University of Birmingham. Part time students are generally excluded from assessments of demand for student accommodation based on the assumption that they are already housed for the duration of their part time studies. Table 3 shows where full time students lived during term time in the following academic years.

Table 3: Where full time students lived 2016/17 – 2020/21

Accommodation	16/17	17/18	18/19	19/20	20/21	% change
University halls	10,560	6,955	6,465	5,860	5,745	-45
Private-sector halls	5,555	9,920	10,970	10,625	8,565	54
Parental/guardian home	17,500	18,215	19,990	21,255	25,075	43
Own residence	10,515	11,265	10,080	10,465	12,440	18
HMO/Other rented accommodation	16,430	15,435	17,015	19,375	18,940	15
Other	1,765	2,035	1,615	1,965	1,990	13
Not known	2,580	1,880	2,335	1,805	3,675	42
Not in attendance	1,320	2,195	1,340	1,150	415	-68
Total	63,635	66,010	67,475	72,505	76,850	-

Source: HESA data rounded. Figures do not sum.

Table 4: Needing versus not needing accommodation

	2016/17	2017/18	2018/19	2019/20	2020/21
Requiring accommodation ⁶	36,890	36,220	38,400	39,635	38,915
Not requiring accommodation ⁷	29,325	31,670	31,410	32,865	37,935
Total	66,215	67,890	69,810	72,505	76,850

Source: HESA data rounded

Last 5-year trend

- The amount of university-maintained accommodation has decreased by over 45% over the last 5 years. This is partly accounted for by the transfer of significant amount

⁶ Student living in university hall, private sector halls, HMO/ other rented accommodation, other accommodation, and 'unknown'.

⁷ Students living at parental/ guardian home, own home, or not in attendance at the provider

of university accommodation (e.g. Aston University accommodation) to the private sector and the loss of accommodation (c. 3,000 bed spaces) at BCU's former Perry Barr campus.

- There has been a 54% increase in the number of students living in private sector PBSA but taking into account the transfer of university accommodation to the private sector, the increase in real terms is less than this.
- Students living at their parental/ guardian home have increased by 43% between 2016/17 and 2020/21. Students living in their own home have increased by 18% over the same period.
- Students living in HMO/ other rented accommodation have fluctuated but between the period 2016/17 and 2020/21 there has been a 15% increase.
- Over the last 5 years the proportion of students requiring accommodation has also varied year on year, but the overall trend is upwards. The proportion of students not requiring accommodation has increased almost year on year. The 2020/21 data shows a big increase in those living at home or in their own residence. The 2020/21 figures are likely however to be affected by the impacts of Covid-19.

4. Demand for student accommodation

Data sources and limitations

- 4.1 The data principally used to assess demand in this report is collected by the Higher Education Statistics Agency (HESA). This report uses the latest HESA data of 2020/21. Comprehensive data is not available for alternative providers and further education colleges which may also generate demand.
- 4.2 It should be noted that student numbers and accommodation preferences are subject to change. Demand for accommodation may fluctuate in response to changes in student finance regimes; employment prospects; competition between institutions. Past trends may not necessarily guide future patterns.

Assumptions

- 4.3 Part time course students are generally excluded from assessments of demand for student accommodation based on the assumption that they are already housed for the duration of their part time studies.
- 4.4 The analysis in this paper is generally based on the assumption that all current and future potential demand is accommodated in PBSA, rather than, for example in shared housing in the private rented market.

Overall student numbers

- 4.5 Table 5 shows where full time students studying at the city's five universities resided in 2020/21.

Table 5: Type of Accommodation 2020/21 Academic Year - Full Time Students

Term time accommodation	Number of students
University maintained halls	5,755
Private-sector halls	8,565
Parental/Guardian home	25,075
Own home	12,440
HMO /Other rented	18,940
Other	1,990
Not in attendance	3,675
Not known	415
Full time Total	76,850

Source: HESA 2020/21 rounded. Figures to do not sum.

Students not requiring accommodation

- 4.6 Of the 76,850 full-time students, not all will require accommodation. Students that have been removed from the assessment of demand are those living in their own home; in their parental/ guardian home and 'not in attendance'.

Table 6: Students not requiring accommodation

Term time accommodation	Number of students
Parental/Guardian home	25,075
Own home	12,440
Not in attendance	415
Total	37,935

Source: HESA 2020/21 rounded

- 4.7 These students will usually have made the decision to study at a local university, often to minimise costs and will not normally be seeking alternative accommodation.

Students requiring accommodation

- 4.8 The analysis in this paper is based on the assumption that all current and future potential demand is accommodated in PBSA, rather than, for example in shared housing in the private rented market.
- 4.9 There were 415 students where information regarding their place of residence during term time is 'not known'. They have been counted towards the demand.

Table 7: Students requiring accommodation (city-wide)

Term time accommodation	Number of students
University maintained halls	5,750
Private-sector halls	8,565
HMO /Other rented	18,940

Other	1,990
Not known	415
Full time Total	38,915

Source: HESA 2020/21 rounded

In 2020/21 there was a minimum demand of 38,915 bed spaces city-wide.

Current demand by area

- 4.10 The demand can be disaggregated by area assuming that students choose to live close to their place of study. Therefore, demand arising from the city centre universities is assumed to be the demand for accommodation in the city centre. The same principles have been applied to the other institutions/ areas.

Table 8: Current demand by area

Location	Selly Oak/ Edgbaston	City Centre	Bartley Green	City-wide
Existing demand	22,650	15,880	385	38,915

Source: HESA 2020/21

City Centre

- 4.11 Demand for student accommodation in the city centre mainly arises from Aston University, Birmingham City University, and University College Birmingham. In considering sub areas it should be borne in mind that the city centre is very accessible from Selly Oak. HESA data shows that around 6% of students on a full-time course at the University of Birmingham in 2020/21 lived in the city centre.
- 4.12 Demand for student accommodation in the city centre may also arise from alternative providers of higher education located in the city centre such as the University of Law and Access to Music Ltd. HESA does not capture data for such smaller institutions; demand is likely to be nominal.

Selly Oak

- 4.13 Demand for student accommodation in Selly Oak arises principally from the University of Birmingham. About 29% of students requiring accommodation lived in provider maintained or private sector PBSA. A notable 58% lived in 'other rented accommodation' including HMOs. 14% of students answered, 'don't know'. These categories have been counted towards the demand.
- 4.14 Of those living in PBSA, the majority (86%) were first year or foundation year students; 14% were non-first year students.
- 4.15 The University of Birmingham (UoB) own and operate 5,183 bedrooms across 3 key locations at the Vale, Pritchatts Park and Selly Oak. In 2020/21 UoB contracted out 1,070 bedrooms to private sector providers to supplement its own stock in order to meet the demand of their first-year guarantee scheme. Demand for first year

accommodation for the academic year (2021/22) is estimated to be around 7,200 bedrooms.

Other

- 4.16 Demand for student accommodation elsewhere in the city mainly arises from Newman University located in Bartley Green. Newman University have 300 university-maintained bedspaces on campus.

Future potential demand

- 4.17 For the January 2021 report, BCC obtained information from the universities regarding their future growth plans and projected student numbers. As part of the work on the Housing and Economic Development Needs Assessment (HEDNA) for the new Birmingham Plan, the 5 main institutions were interviewed on issues relating to accommodation and future growth. These interviews took place over the summer of 2021. Their findings, along with the information that remains relevant from the Council's January 2021 report is summarised below.

Aston University

- 4.18 The University does not own any student accommodation; however, they do have an annual nominations agreement with UNITE Student Accommodation. Currently this agreement provides 1,100 rooms for first years and Postgraduates and adapted accommodation for students with disabilities.
- 4.19 Most other students live in other private purpose-built student accommodation within the city centre close to the university's main campus – approximately 1/3 of students originate within 25 miles of the University.
- 4.20 The university plans on a 5 year rolling basis. Currently they plan to keep undergraduate numbers steady with incremental growth in postgraduates taught students. Degree apprenticeship students are a different category in regard to accommodation as are mature learners they usually live at home.
- 4.21 To give an indication of the scale of growth, this year (2020/21) 80 UNITE rooms were allocated to postgraduate students, it is likely that in 2021/22 they will be seeking 90 and 100 the year after. (This is a growth of around 12% per annum which if applied to 3,000 post graduate students (20% of 15,000) would be an additional 736 students in two years.)
- 4.22 Before Covid-19 many postgraduate students came from overseas, the expansion of online provision as part of the reaction to Covid-19 has enabled the university to expand. This has been particularly successful in tapping into the Canadian postgraduate market. As such, postgraduate growth may not have any impact on accommodation within the city at all.

- 4.23 The decision is made annually on whether to increase the nomination agreement with UNITE. Currently it is expected that the nomination level will remain the same for under-graduates in 2021/22.
- 4.24 Recently the nomination agreement with UNITE has decreased as a result of Brexit, loss of Erasmus (which has one year left) and other EU students. Those who are not allocated rooms tend to find other purpose-built accommodation within the city centre.
- 4.25 The university are hoping to grow the number of overseas students. Brexit has resulted in applications from the EU plummeting, this has been replaced by increased numbers of domestic students which the university would like to rebalance with greater numbers of international students.
- 4.26 Based on past trends, the Council's January 2021 report estimated a 10% increase in the number of students requiring accommodation by 2025/26 from 2018/19 levels, resulting in an additional c. 600 students requiring accommodation by 2025/26. Drawing together the above information, it is considered that this estimate remains reasonable.

Birmingham City University

- 4.27 BCU own and operate 450 bedrooms and nominate around 2,700 bedrooms to private sector providers in order to supplement their stock. Since BCU's relocation from its Perry Barr Campus to the city centre, and redevelopment of the Perry Barr site for the CWG Athlete's village, a substantial amount of stock has been lost.
- 4.28 The University has undergone a strong period of growth equating to a 15% increase between 2014-15 and 2019-20 of both undergraduates and postgraduates. Birmingham City University did not provide any comment to the HEDNA on their plans or issues around housing their students. However, as previously indicated in the Council's January 2021 report, BCU forecast a 35% increase by 2025/26 in the number of students requiring accommodation from its 18/19 base resulting in an additional 2,846 students requiring accommodation by 2025/26. These future demand figures remain therefore remain unchanged.

Newman University

- 4.29 The University principally draws students from the local area and has experienced a period of modest growth equating to 3% between 2015/15 and 2019/20. The University has decreased the number of undergraduates and increased the number of postgraduates. Of the 2019/2020 student intake 78% are Undergraduates and 22% are Postgraduates.
- 4.30 The vast majority of students are accommodated in University owned housing in their Bartley Green campus which has undergone substantial investment since 2016.

- 4.31 The University has plans to increase the overall student roll by 6% each year for the next five years. This would take the total number of students to 3,740 and would be an increase of both under-graduate and post-graduate students as well as changing the profile of students with new subjects coming online. The University intends to publish an estates strategy towards the end of 2022 which will detail how this growth in students will be accommodated.
- 4.32 Taking the projected increase of 6% each year and applying that to the number of students currently requiring accommodation would result in 516 students requiring accommodation by 2025/26 – an additional 132 students. The college has planning consent granted in 2017 for an additional 196 beds at Genners Lane. The implementation of this permission is being reviewed through their estate strategy.

University of Birmingham

- 4.33 The University has no plans to dramatically increase student numbers for the UK campus or change the profile of students. However, the University was granted planning permission to expand its accommodation portfolio in the Pritchatt's Park village which will bring 496 new beds for undergraduate students. Work started in Autumn 2021. The Pritchatt's Park site will be operated under a DBFO scheme.
- 4.34 The continued assumption based on the Council's previous discussion with the University is that an additional 2,000 – 3,000 students will require accommodation, representing a 9-13% increase from the 18/19 baseline.

University College Birmingham

- 4.35 The University College has undergone a low period of growth equating to 2% between 2014-15 and 2019-20 when there were 4,855 students on the roll. the student roll is very local.
- 4.36 The University has plans to increase the number of higher education students (full and part time) to 6,500 over the next five years. This is likely to mean a greater focus on post-graduates with an anticipated split of 80% undergrads and 20% post-graduates.
- 4.37 Historically, the University has had one of the highest proportion of EU students (30%) with 7% other international. They are expecting this to decline to 10% EU (decline) with other international students expected to increase to 15%. They also expect an increase in domestic students and due to the pandemic they expect this to continue to be quite local students.
- 4.40 Of the 4,665 full time studying at the University, approximately 29% require accommodation. Taking into account the University's planned increased in students and applying the proportion (29%) which require accommodation, only an estimated 316 additional students will need accommodation over the next 5 years.

Table 9: Current and Potential Future Demand for accommodation

Location	Selly Oak/ Edgbaston	City Centre	Bartley Green	City-wide
Existing demand *	22,650	15,880	385	38,915
Potential additional demand	2,000 – 3,000	3,746	132	5,878 – 6,878
Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062

* Based on HESA 2020/21

5. Supply of student accommodation

City-wide supply of PBSA

- 5.1 At April 2021 there were 23,443 existing available bed spaces in PBSA in the city. Once schemes currently under construction have been completed the supply of PBSA will increase to 24,573 bed spaces. A further 3,483 bedspaces have planning permission but have not yet started construction, giving a potential supply of 28,056 bed spaces.
- 5.2 At the time of writing this report (14 February 2022) there were 8 live planning applications for PBSA totalling 2,834 bedspaces and 9 recent/ current pre-applications totalling 1,737 bedspaces.

Table 10: The supply of PBSA city-wide (bed spaces)

Supply	Bedspaces
Existing Available*	23,443
Under Construction*	1,130
Permission Not Started*	3,483
Sub Total	28,056
Current applications**	2,834
Pre-apps**	1,737
Total	32,627

Birmingham City Council

* At 1st April 2021

** At 14th February 2022

Supply of PBSA by sub area

- 5.3 The above data has been split based on location to provide a more granular understanding in terms of geography/ distribution of the supply. The largest concentrations of PBSA are in the city centre and Selly Oak with a smaller agglomeration situated in Bartley Green and Edgbaston. Supply in Edgbaston has been split 50:50 between the City Centre and Selly Oak.

Table 11: The Supply of PBSA by area (bedspaces)

Location	Selly Oak/ Edgbaston	City Centre	Bartley Green	City-wide
Existing supply*	9,108	14,225	110	23,443
Under construction*	268	862	0	1,130
Permission not started*	1,295	1,992	196	3,483
Sub total	10,671	17,079	306	28,056
Current applications**	471	2,364	0	2,834
Pre-apps**	347	1,390	0	1,737
Total	11,489	20,833	306	32,627

Birmingham City Council

* At 1st April 2021

** At 14th February 2022

Trends in type and format of supply

- 5.4 Of the total number of existing available PBSA bed spaces, 85% are in cluster flats and 15% are self-contained studios. Of those currently under construction, 57% are in cluster flats and 43% are studios. And of those with planning permission not yet started, 40% are in cluster flats and 70% are studios.
- 5.5 The Student Accommodation Survey 2021 undertaken by Knight Frank in partnership with UCAS captured the views of over 700,000 students and provides a comprehensive and authoritative study into student accommodation in the UK. The key messages are:
- Despite the Covid-19 pandemic, a record 516,650 students were accepted at UK universities in the 2020/21 academic year. International student enrolment also increased to its highest ever level. There were lower numbers of international students on campus but the latest data a significant uptick in demand for the next cycle.
 - The impact of the UK's departure from the EU is still not fully understood but could impact on research funding.
 - The value of going to university has been put in the spotlight. The pandemic has accelerated the delivery of online learning and raised questions about the future of campus, but students still want an immersive experience of university.
 - Affordability is the number one issues in terms of accommodation.
 - Around 69% of students living in PBSA (either privately operated or university maintained) felt positive about their accommodation provider's response to the Covid-19 pandemic compared to just 25% of students living within house shares rented in the private sector.
 - The lasting impacts of the pandemic on the accommodation preferences of students is not yet known.

- Students living in private PBSA or university-run halls were the most satisfied with their accommodation, with 82% of such respondents indicating this was the case.
- Those living in a cluster flat, or in a shared house, were happier than those living in a single-occupancy studio or alone.
- The most commonly cited issue for those living in PBSA related to a lack of value for money. For those living in privately rented house shares problems with the buildings and landlord or agent were the most common issue.
- In addition to property type, other key drivers of happiness with private PBSA are location, the option to live with friends and the quality of accommodation.
- The survey suggests a preference for high-quality accommodation that provides clear and obvious elements that add value.
- While the majority of first-year students live in a form of PBSA, this changes in the second year. Some 73% of first year students who are currently living in PBSA said they planned to move into mainstream private rental accommodation in their second year. Some 25% of first year students who currently live in private PBSA said they planned to stay in the same accommodation the following year. Some 40% of second years living in private PBSA said the same.

Houses in Multiple Occupation

- 5.6 There is a large available supply of HMOs in the city and these act to meet the residual demand for student accommodation. Shared rented housing is a popular choice for students studying in their second year and beyond, often for social and financial reasons. The main concentration of student occupied HMOs are in the Bournbrook area but they are also in other locations across the city. Of the total number of students requiring accommodation across the 5 main universities, 54% lived in HMOs or other rented accommodation. 58% of those studying at the University of Birmingham and requiring accommodation lived in HMOs and other rented accommodation.
- 5.7 While the focus of this report is on PBSA, houses in multiple occupation (HMO) also provides an important source of accommodation. HMOs are however not directly comparable to PBSA as they do not possess a range of services facilities common within PBSA.
- 5.8 To limit high concentrations of HMOs in the city, the Council introduced a city-wide Article 4 Direction on 8 June 2020 which removes permitted development rights for the conversion of C3 housing to C4 small Houses in Multiple Occupation. This will help to better manage the growth and distribution of HMOs in the city, thereby increasing demand for PBSA, but it is too early to assess the impacts of this.
- 5.9 The development of PBSA could serve to free up dwellinghouses currently used for student accommodation, HMO or otherwise, to the general housing market, countering current trends of conversion from dwellinghouses to HMOs in certain

areas of the city. However, the provision of the unsuitable PBSA could act to increase the need for HMOs.

6. Analysis of demand and supply

- 6.1 Overall, demand for accommodation from students has increased over the past 10 years and is set to increase over the next 5 years according to the universities' growth projections.
- 6.2 There has been a steady increase in all types of accommodation occupied by students, but the most significant increases have been in those living in private sector PBSA and with parents/ guardians.
- 6.3 Excluding those who do not require accommodation because they live with parents/ guardians; in their own home; or are not in attendance at the university, **the estimated current overall demand for accommodation is 38,915 bed spaces**, an increase of 513 bedspaces since the January 2021 report.
- 6.4 Based on the information provided by the main universities, potential future demand of students requiring accommodation could increase by an additional between 5,878 – 6,878 over the next 5 years resulting in a demand for 44,062 – 45,062 bed spaces.
- 6.5 Table 12 below sets out four different scenarios at a city wide and sub area level:
- Scenario 1 - Existing demand⁸ against existing and committed supply⁹
 - Scenario 2- Future demand against existing and committed supply
 - Scenario 3 – Future demand against existing and committed supply, plus supply from all current applications (at February 2022) if permitted
 - Scenario 4 – As Scenario 3 but includes HMOs and other rented accommodation
- 6.6 At a sub area level, the largest shortfall in accommodation is experienced in the Selly Oak/ Edgbaston area due to unmet demand arising from the University of Birmingham. In the city centre, existing demand arising from the city centre-based universities is almost fully met by existing supply. When sites under construction and with planning permission are taken into account, there would be an apparent surplus of supply (Scenario 2). However, this assumes that all consents will be implemented, and that demand remains static. Demand arising from the city centre universities is expected to grow modestly resulting in a shortfall of around 2,000 bedspaces against existing and committed supply (if all built out). The third scenario considers the impact of all current applications being approved. This would result in a surplus of around 300 bedspaces.

⁸ HESA 2020/21

⁹ Sites under construction and sites with planning permissions not yet started at 1 April 2

- 6.7 Scenario 4 includes HMOs/ other rented accommodation and shows that there would be an apparent over-supply at a city wide level. However, as stated HMOs are not directly comparable to PSBA.

Table 12: Supply and demand scenarios

Scenario	Supply vs Demand Analysis	Selly Oak	City Centre	Bartley Green	City-wide
1	Existing demand (HESA 2020/21)	22,650	15,880	385	38,915
	Existing supply + committed* supply	10,671	17,079	306	28,056
	Shortfall/ surplus	11,976 shortfall	1,196 surplus	78 shortfall	10,858 shortfall
2	Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062
	Existing supply + committed supply	10,671	17,079	306	28,056
	Shortfall/ surplus	13,736 - 14,736 shortfall	2,060 shortfall	210 shortfall	16,006 – 17,006 shortfall
3	Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062
	Existing + Committed supply* + current applications**	11,142	19,443	306	30,890
	Shortfall/ surplus	13,265 - 14,265 shortfall	304 surplus	210 shortfall	13,172 – 14,172 shortfall
4	Potential future demand	24,407-25,407	19,139	516	44,062 – 45,062
	Students living in HMOs	13,064	7,605	260	20,929
	Existing + Committed supply* + Current applications** + HMOs	24,206	27,048	556	51,819
	Shortfall/ surplus	201 – 1,201 shortfall	7,909 surplus	50 surplus	7,757 – 8,757 surplus

* Committed supply = under construction + PP not yet started

** Current applications

at

14

February

2022

21

6.8 The following table calculates the ratio of student to bed space according to various scenarios.

Table 15: Ratios of bedspace to students

Student to Bedspace Ratio	Selly Oak	City Centre	Bartley Green	City-wide
Existing demand to existing and committed supply	2.1: 1	0.9: 1	1.2: 1	1.4: 1
Future demand to existing and committed supply	2.3: 1 – 2.4:1	1.1: 1	1: 1	1.6: 1 - 1.7: 1
Future demand to existing and committed supply + current apps	2.2:1 - 2.3: 1	1:1	1.1: 1	1.4: 1 - 1.5: 1
Future demand to existing and committed supply + current apps + HMOs	1.1: 1	0.7: 1	0.6: 1	0.8: 1

6.9 In considering the demand for student accommodation, it is acknowledged that, currently, all students have accommodation and there is sufficient accommodation to house all students. This suggests that any new purpose-built student accommodation (PBSA) would primarily be to:

- Serve a growth in student numbers;
- Rectify a mismatch in the type of accommodation which is available and that which is needed;
- Respond to changing student preferences or
- Replace existing PBSA accommodation.

6.10 Students' accommodation preferences can change from one year to the next as shown by the data. Other factors such as changes to finance regimes, employment prospects, and competition between institutions can act to either suppress or increase overall demand and demand for particular types of accommodation. Some flexibility in supply is therefore beneficial as student numbers can change relatively quickly but development takes much longer to be provided.

7. Occupancy rates

7.1 An occupancy survey was sent to all the major PBSA providers in the city in winter 2021/22. Of those who returned the survey, the average occupancy rate was 91%; this was 4% lower than the 2019/20 academic year (Pre Covid-19) which had an average 95% occupancy.