

Birmingham City Council

Planning Committee

5th June 2025

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	9	2024/07862/PA 119 Coopers Road Handsworth Birmingham B20 2JX Erection of two storey side and rear extensions, first floor rear extension, single storey rear extension and front porch extension.
Approve – Subject to Section 106 Legal Agreement	10	2024/07622/PA Sutton Coldfield Tennis Club Highbridge Road Sutton Coldfield Birmingham B73 5QB Installation of 3 floodlit covered padel tennis courts and 2.5m high acoustic fence. Repositioning of 2 existing lawn tennis courts and installation of tweener lighting system for use up to 9pm daily
Approve – Conditions	11	2024/05554/PA 99 Earlsbury Gardens Birmingham B20 3AD Conversion of (Use C3) Dwelling into women's refuge (Sui Generis) with associated communal facilities.

Approve	12	<p>2025/01886/PA</p> <p>Land at former Comet PH Collingbourne Avenue Hodge Hill Birmingham B36 8PE</p> <p>Revision to section 106 Agreement to application reference 2018/03568/PA (section 106 dated 11th January 2019) (reduced contribution of £90,000 (£70,000 towards off site affordable housing and £20,000 loss of Public Open Space)).</p>
Approve – Subject to Section 106 Legal Agreement	13	<p>2024/07553/PA</p> <p>Former Severn Trent Land Wishaw Lane Birmingham B76</p> <p>Outline planning application with all matters reserved except for access for up to 21,000 sqm of employment floor space (Use Classes B2, B8 and E(g ((iii))) with ancillary offices and parking and wider enabling infrastructure including drainage, groundworks and landscaping</p>

Committee Date:	05/06/2025	Application Number:	2024/07862/PA
Accepted:	12/12/2024	Application Type:	Householder
Target Date:	06/06/2025		
Ward:	Handsworth Wood		

119 Coopers Road, Handsworth, Birmingham, B20 2JX

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

Applicant:	Mr N Khan 119 Coopers Road, Handsworth, Birmingham, B20 2JX
Agent:	Misbah Sadaf 560 Walsall Road, Perry Barr, Birmingham, B42 1LR

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application is to be determined by Planning Committee because of the number of objections received and also request made by a local councillor for it to be determined by Planning Committee.
- 1.2 Consent is sought for the erection of two storey side and rear extensions, first floor rear extension, single storey rear extension and front porch extension.
- 1.3 The proposed two storey side and rear extension would be 4.84m in width at the front elevation and 7.3m in width at the rear elevation. The proposed two storey rear extension would be 3.7m in length from the original rear elevation of the house. The two storey side and rear extension would have a hipped roof design with matching roof tiles and brick finish.
- 1.4 The proposed first floor rear bedroom extension adjacent to the boundary with No. 117 Coopers Road is to extend the existing bedroom by 0.9m. This extension would have a small flat roof which would replace the existing first floor flat roof bay window.
- 1.5 The proposed single storey rear extension at 3.2m in depth would partly extend off the existing single storey rear extension which is currently also 3.2m in depth; so overall depth from the original main wall of the house would be 6.4m. The overall width is 10.4m and the extension would have a mainly flat sloping roof at a maximum height of 3.2m.
- 1.6 The proposed front porch extension would replace the existing porch and would be 1.2m deep; 2.2m in width and total height 3.4m.
- 1.7 All proposed materials are to match existing roof tiles and brick finish to match.

- 1.8 The applicant has provided a supporting statement in regard to the current use and proposed use of the dwelling which falls within use class C3 residential dwelling. It has been established that the property is currently used as a Supported Exempt Accommodation and the registered provider is Reliance Social Housing and the Managing Agent, Streetly Housing Limited. Currently there are six bedrooms spread over two floors. One of the bedrooms is not in use as it is too small. There are currently five tenants living at the property. The applicant has confirmed in writing and stated that if 'planning permission is granted for the proposed extensions the property will be vacated for works to commence. Upon the completion of the work, my family and I will move in and use the property as a family dwelling'. The proposed number of bedrooms as shown on the submitted plans would be five in total.



Figure 1 – Existing ground floor plan

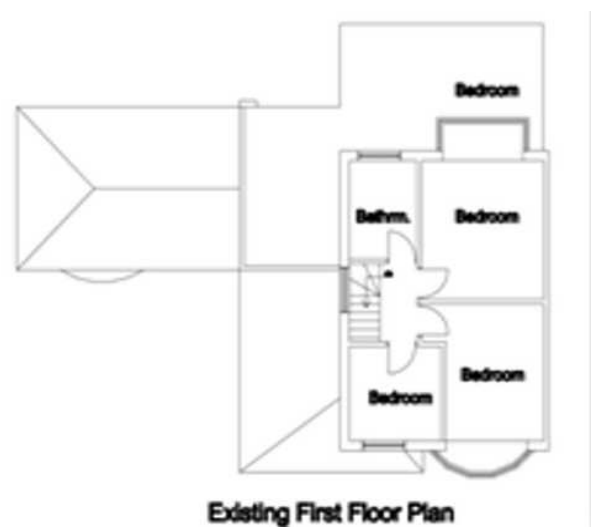


Figure 2 – Existing first floor plan.

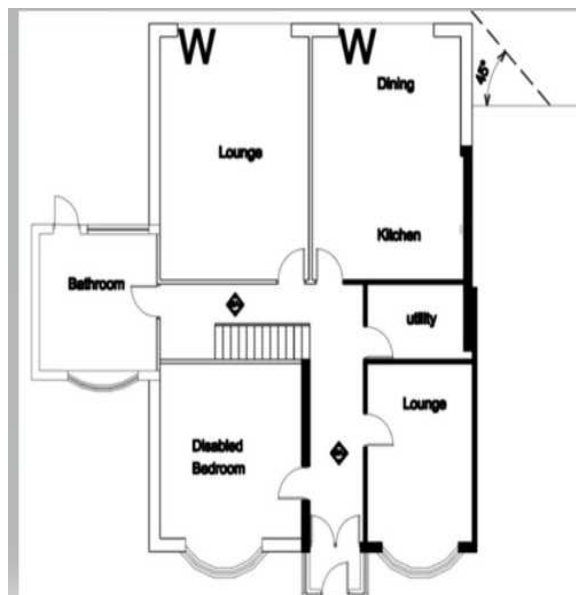


Figure 3 – Proposed ground floor plan

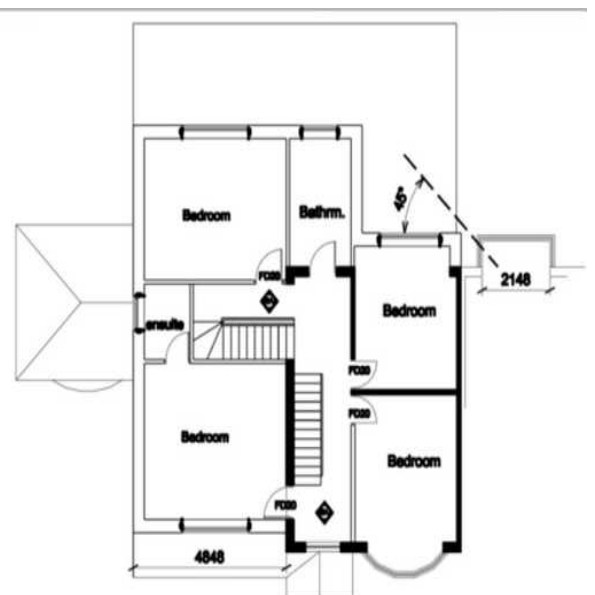


Figure 4 – Proposed first floor plan.



Figure 5 – Existing front elevation Figure 6 – Existing rear elevation



Figure 7 – Proposed front elevation Figure 8 – Proposed rear elevation.

1.9 [Link to Documents](#)

2 **Site & Surroundings:**

- 2.1 The application site consists of a semi-detached property with a hipped roof design, double bay window column with gable feature above and a porch to the front.
- 2.2 The application site has been previously extended at ground floor level with existing side and rear extensions.
- 2.3 The application site is situated on an elevated higher ground level than the adjacent highway with a hardstanding front driveway and steps leading to the main entrance.

The ground level gradually increases along Coopers Road with the neighbouring property No. 117 Coopers Road on a slightly higher level than the application site.

- 2.4 There is a long rear garden which is predominately grassed and enclosed with 2m wooden fencing and is well screened from the adjacent Cherry Orchard Road with mature dense overgrown hedging and trees along the boundaries. The trees are not protected by any Tree Preservation Order.
- 2.5 The application site is located on a corner plot within a residential area and the street scene is comprised of properties which are of both similar and varying scales and designs with a number previously extended.
- 2.6 The neighbouring property No. 117 Coopers Road has been previously extended with two storey side and rear extensions and single storey front and rear extensions.

3 Planning History:

- 3.1 12472000 – Garage & covered yard – Approved 10/12/1953.
- 3.2 12472002 – Extension to form laundrette – Approved 28/04/1975.

4 Consultation Responses:

- 4.1. Neighbouring properties and Local Ward Councillors were notified for the statutory 21 days. 11 individual objections have been received from local residents and a petition with 110 signatures objecting to the proposal has been submitted by Councillor Narinder Kaur Kooner. Objections have raised the following concerns:

- Currently not a family dwelling being used as an HMO, rented property with multiple tenants. Misleading information on application.
- Anti-social behaviour, drugs, police visits, noise & disturbances.
- Proposal would exacerbate the noise and anti-social behaviour issue by increasing occupancy and facilitating further disturbances. Lead to more visitors.
- Litter/waste issues & environmental impact.
- Safety & security issues.
- Impact on parking and traffic.
- If to be for single family use then will be no issues.
- Impact on local neighbourhood.
- Scale.
- Loss of privacy
- Out of character.

Councillor Narinder Kaur Kooner also objects to this proposal on the grounds of:

- Misleading information - not a family dwelling house and is used for multiple individuals who are not living as a family unit.
- Negative impact on neighbouring properties – badly managed Supported Exempt Accommodation (SEA), anti-social behaviour, noise & disturbance and littering. Therefore, any expansion of this Supported Exempt Accommodation/Family Dwelling would lead to an increased negative impact on neighbouring properties as it would have the capacity to house an increased number of individuals within the site.
- Scale and mass would be out of character with the street scene
- If site is extended, further vehicles would need to park on the road. This

would lead to extra traffic congestion on an already congested road as the site houses multiple households.

5 **Relevant National & Local Policy Context:**

5.1 The following national policies are applicable:

- National Planning Policy Framework.

5.2. The following local policies are applicable:

- Development Management in Birmingham DPD (2021).
- Birmingham Development Plan (2017).
- Birmingham Design Guide (2022).

6 **Planning Considerations:**

6.1 The main planning considerations relate to the visual impact as well as impact on neighbouring residential amenity.

Impact on nearby neighbouring residential amenity

6.2 The proposed development complies with the 45 Degree Code and the numerical guidelines set out in Birmingham Design Guide SPD 2022, as a result there is no detrimental impact on neighbouring occupiers light, outlook or private amenities.

Design & Character

6.3 The scale, mass and design of the proposed development is acceptable. I consider that the proposed development would not have a harmful impact on the character and appearance of the host property. The proposed two side and rear extension whilst sizable would not be an excessive addition to the host property and not an overdevelopment of the plot. The proposed extensions would be subservient in appearance and would maintain a sufficient gap to the side boundary adjacent Cherry Orchard Road on this corner plot location. I consider that the proposed extensions would be in keeping with the scale of extensions evident within the surrounding area and that they would not adversely dominate the appearance of the property.

6.4 Overall, I consider that the proposed development would not result in the over-intensification of the property and that it would not have a harmful impact on the character and appearance of the host property or the surrounding area. The proposal would generally be in accordance with the principles contained within the Birmingham Design Guide SPD 2022.

Other Issues

6.5 Concerns have been raised by local residents, local councillor and local residents association in relation to this proposal. Concerns in regard to scale, out of character and loss of privacy have been taken into account and addressed above.

6.6 Notwithstanding the concerns raised about the current use of the property and House in Multiple Occupation (HMO) concerns; this has been investigated by Planning Enforcement and Council Housing Officers with a site visit undertaken on 25 April 2025. It has been established that the property is currently registered

as Supported Exempt Accommodation (SEA) with 5 different tenants. The applicant has submitted a planning statement which confirms in writing the current use of the property as a SEA. A change of use application is not required for SEA use of a residential C3 property based on current number of bedrooms and individuals at the property which is different legislation to an HMO use of a property. If the property was to be converted to an HMO in the future, then a change of use planning permission would be required. The applicant has stated if planning approval is granted for the proposed extensions the property will be vacated for works to commence and upon the completion of the work, they will use the property as a single-family dwelling.

6.7 In regard to concerns raised about anti-social behaviour, drugs, noise levels and litter/waste at the application site; Officers together with Community Safety Intervention Officer met with representatives from the Registered Provider, Reliance Social Housing CIC, and the Managing Agent, Streetly Housing Limited and found no evidence of drug-dealing, and the interior of the property is reasonably well-maintained. There were no issues in relation to waste management or littering. Officers have spoken to some local residents and it appears that the problems with loud music and anti-social behaviour happened in the last six months. However, these issues will be monitored by Housing/SEA Officers should there be any re-occurrence of this behaviour.

6.8 The concerns in relation to security and safety are noted. However, I do not consider that the proposed development would have a harmful impact on the security and safety of residents.

6.9 The proposed development would not impact on the current off-road parking available at the application site. Whilst there would be initial noise and disruption on the road from building works with construction vehicles; this would only be for a short period of time until building works are substantially complete.

Public Sector Equality Duty (PSED)

6.10 The planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development should be allowed to proceed. The rights of the vulnerable individuals living at the property have been taken into account in the assessment of this application, as they fall within a protected characteristic (disability). The LPA has therefore applied Section 149 of the PSED contained within the Equality Act 2010.

7 Conclusion

7.1 This application is recommended for approval as the proposed development complies with the objectives of the policies that have been set out above.

8 Recommendation:

8.1 Approval subject to the following conditions:

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

3 Requires that matching materials are used in construction

4 Removes PD rights for new windows

Case Officer: Ricky Chima

Photo(s)



Photo 1 – Front Elevation



Photo 2 – Rear Elevation



Photo 3 – Rear Elevation

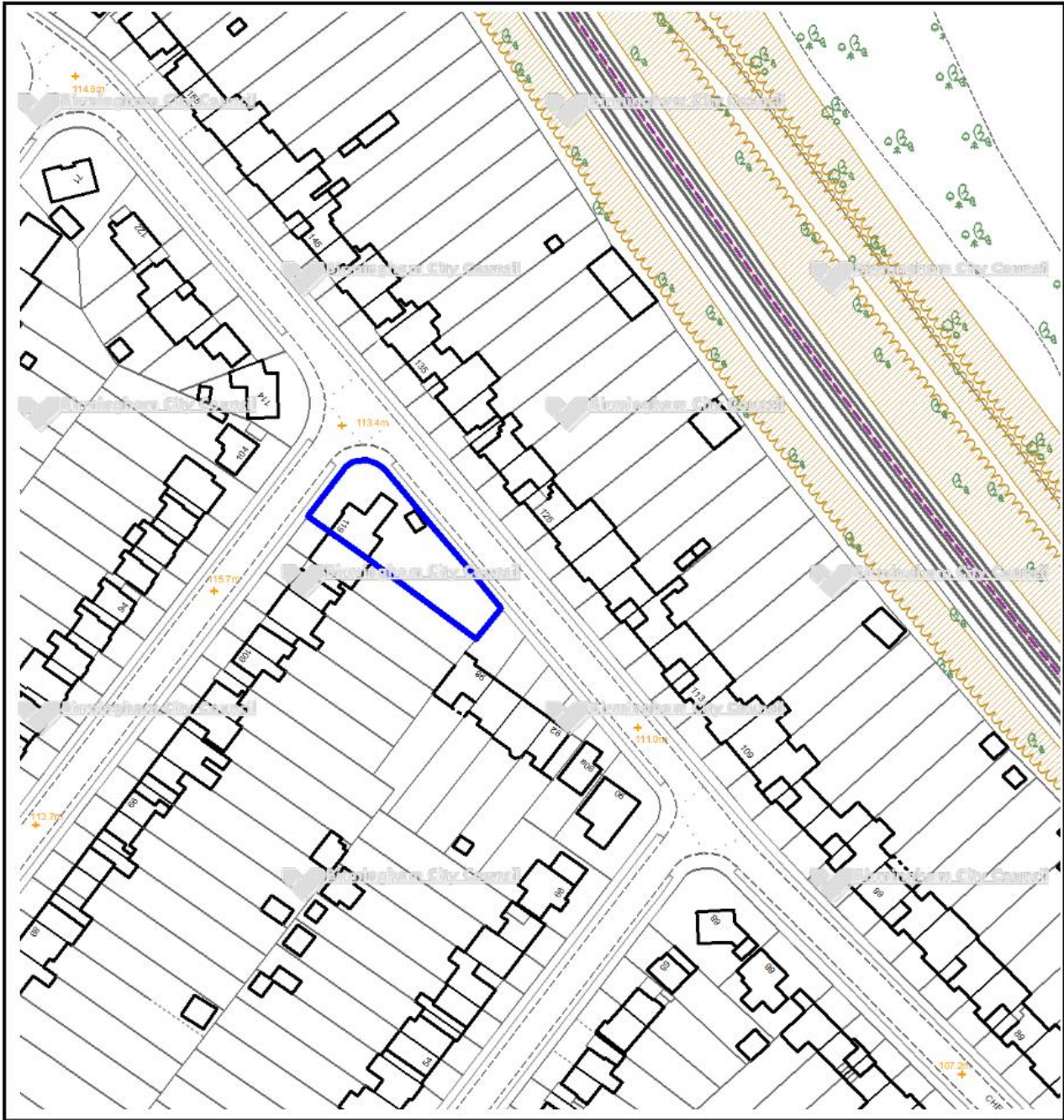


Photo 4 – Boundary to Cherry Orchard Road



Photo 5 – Street Scene

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date:	05/06/2025	Application Number:	2024/07622/PA
Accepted:	02/12/2024	Application Type:	Full Planning
Target Date:	06/06/2025		
Ward:	Sutton Wylde Green		

Sutton Coldfield Tennis Club, Highbridge Road, Sutton Coldfield, Birmingham, B73 5QB

Installation of 3 floodlit covered padel tennis courts and 2.5m high acoustic fence. Repositioning of 2 existing lawn tennis courts and installation of tweener lighting system for use up to 9pm daily

Applicant:	Mr P Watson, Secretary Sutton Coldfield Tennis Club Highbridge Road, Sutton Coldfield, Highbridge Road, Birmingham, B73 5QB
Agent:	The Tyler Parkes Partnership Ltd 66 Stratford Road, Shirley, Solihull, B90 3LP

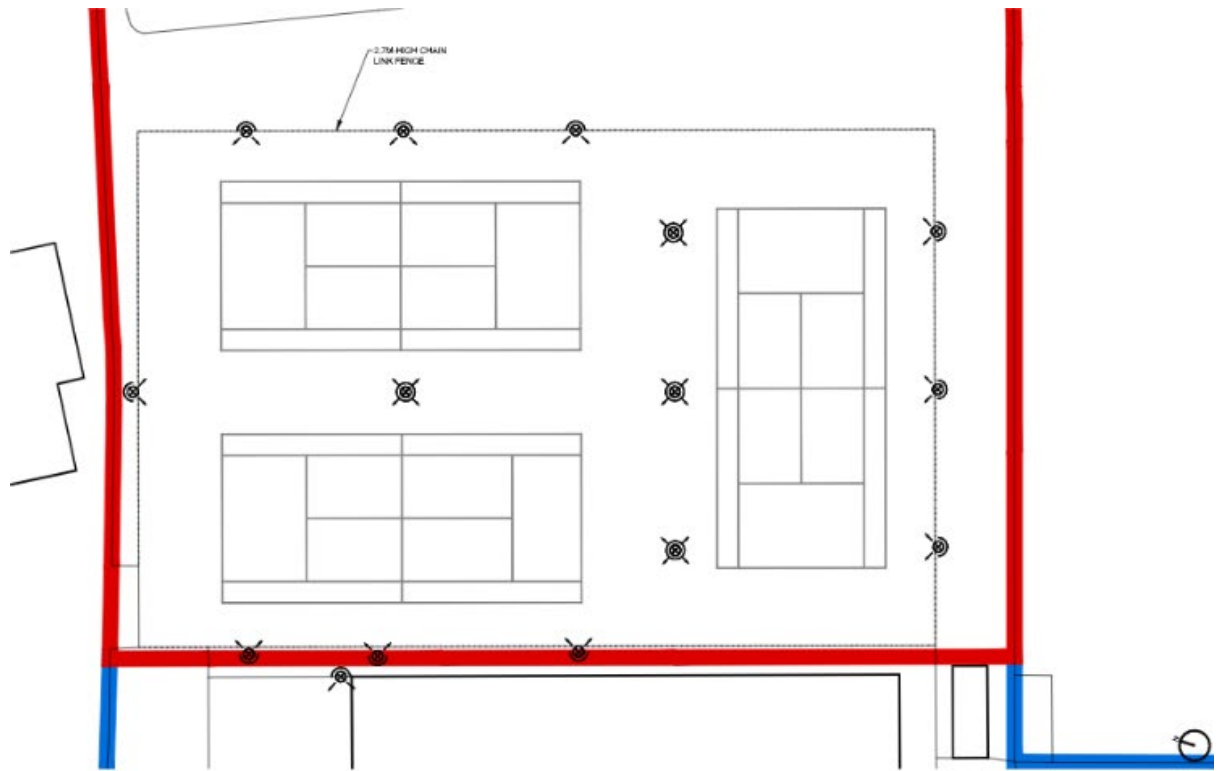
Recommendation

Approve Subject to a Section 106 Legal Agreement

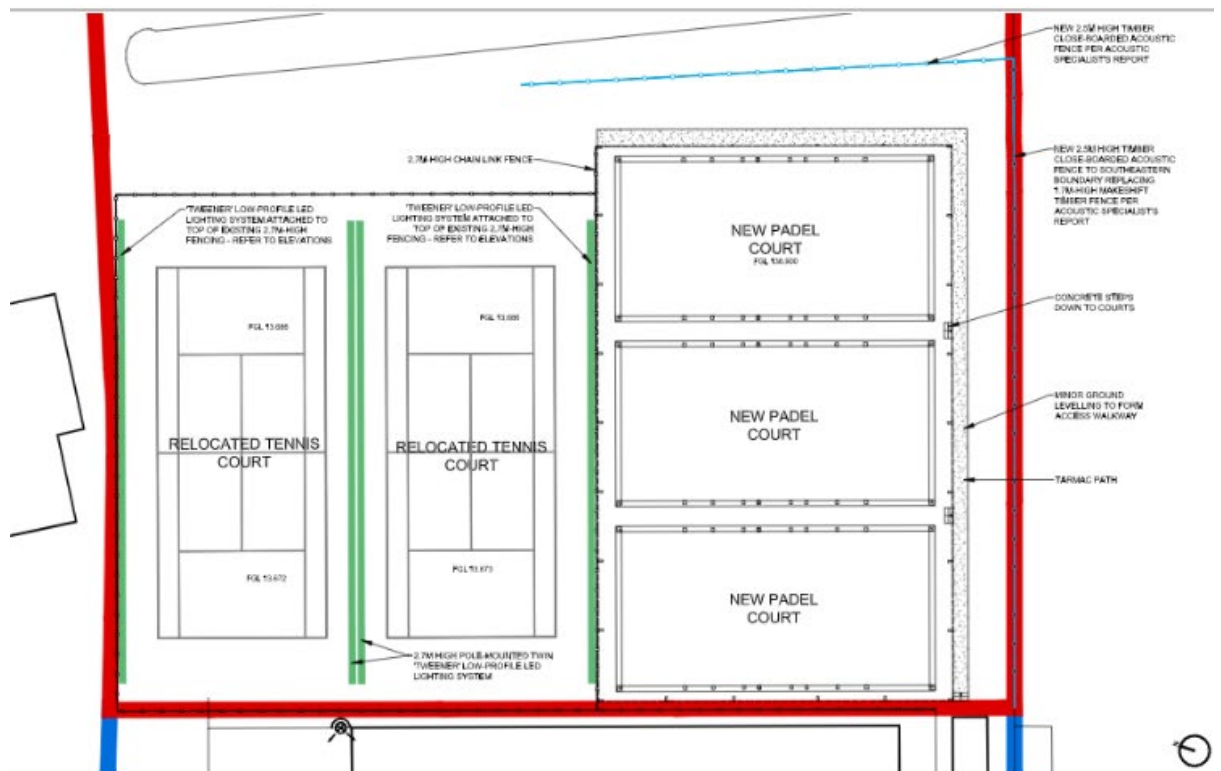
1. Proposal:

- 1.1. The application seeks planning consent for installation of 3no. floodlit covered padel tennis courts on the site of an existing lawn tennis court (court no.12) on-site and the reconfiguring of court numbers 10 & 11 which would be retained as traditional lawn tennis courts; and for the installation of a tweener lighting system. There would be a net increase of 2 courts on this part of the site (padel courts being smaller than lawn tennis courts). The proposal description was amended to include the erection of 2.5m high acoustic fencing to be located adjacent to the padel courts since submission of the application.
- 1.2. Each padel court would be rectangular in shape, approx. 10 metres wide and 20 metres long, including its enclosure. At the middle of each court there is a net dividing the court in two, with the net having a maximum height of 88 cm in the centre raising to 92cm at sides.
- 1.3. On the sides of the courts, the enclosure would be erected from 4-metres-high toughened glass. The courts would sit within a galvanised steel structure. Over all 3 courts there would be a single canopy structure 10.5m in height. This structure would be erected in the form of a curved translucent polycarbonate type of cladding. The existing floodlighting on all 3 tennis courts would be removed. The padel courts would each be served by floodlights which would sit under the proposed canopy over the courts. There would be limited light spillage from the floodlights as they would be fitted 'inside' the courts, however, a LUX plan is provided in the submission to confirm this.
- 1.4. The padel courts are proposed to be used daily from 8am to 9pm.

- 1.5. 2 no. existing lawn tennis courts, numbers 10 and 11 would be reconfigured as part of the proposals and be rotated northeast/southwest, effectively turning the courts 90 degrees. The courts would be set further away from the northeastern boundary and replacement lighting would be moved from the site boundaries onto the court fencing. This lighting is proposed to be used up to 9pm daily as per the consented hours of operation of the current floodlights.
- 1.6. The tennis courts would be lit by a Tweener system which would be mounted on the fencing siding onto each court at a height of 2.7m. Tweener by NLX is a LED tennis court lighting solution. A Tweener system has been approved in January 2024 on court 9 and is already in use (2023/07972/PA refers).
- 1.7. The Tweener lighting system does not require structural works and is effectively a 'plug and play' system. It provides lighting for play with an average illuminance level of 300 lux and illumination uniformity factor of 0.7. As it is installed at less than 3 metres in height, it has less light spillage than standard much taller floodlights (which are 6.7 metres tall in the case of the existing floodlights on these courts), the system is attached to existing fencing at a maximum height of 3 metres and reduces the Club's carbon footprint. The system creates no shadow, no glare and is relatively unnoticeable when switched off.
- 1.8. The mounting system would be aluminium, with a RAL colour coated green (RAL 6005) and attached to the existing fencing by stainless steel screws and bolts. The Tweener system would be attached near the top of the fences on the northwest and southeast (long) sides of both Courts 10 and 11. The system would be set in from either end of the court as it illuminates the playing surface. There are no lights on the southwestern or northeastern ends of the court.
- 1.9. The application is accompanied with a planning statement, tweener lighting information, light study, light spillage report, environmental noises assessment of the proposed padel court, arboricultural impact assessment, landscaping scheme, transport statement and biodiversity net gain assessment.

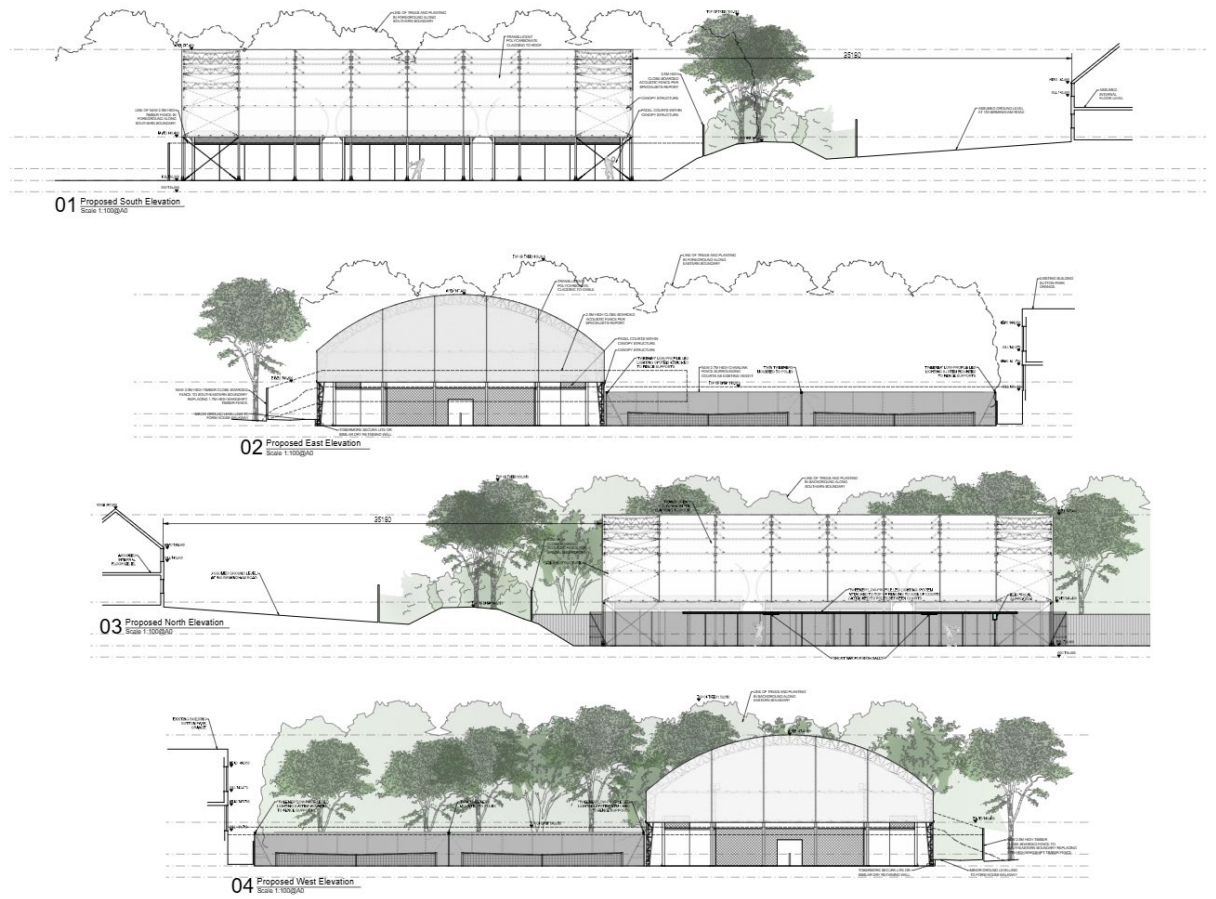


01 Existing Site Plan
Scale 1:200 @ A1

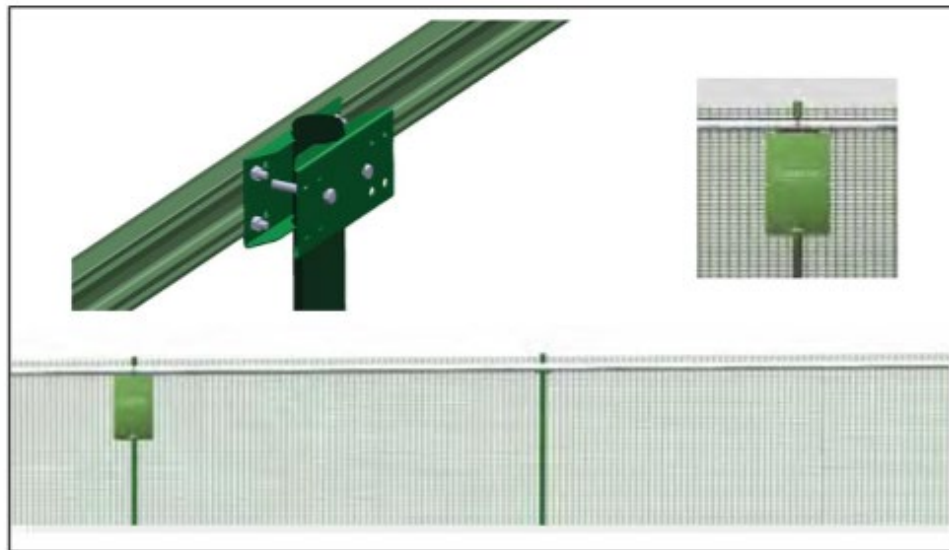


02 Proposed Site Plan
Scale 1:200 @ A1

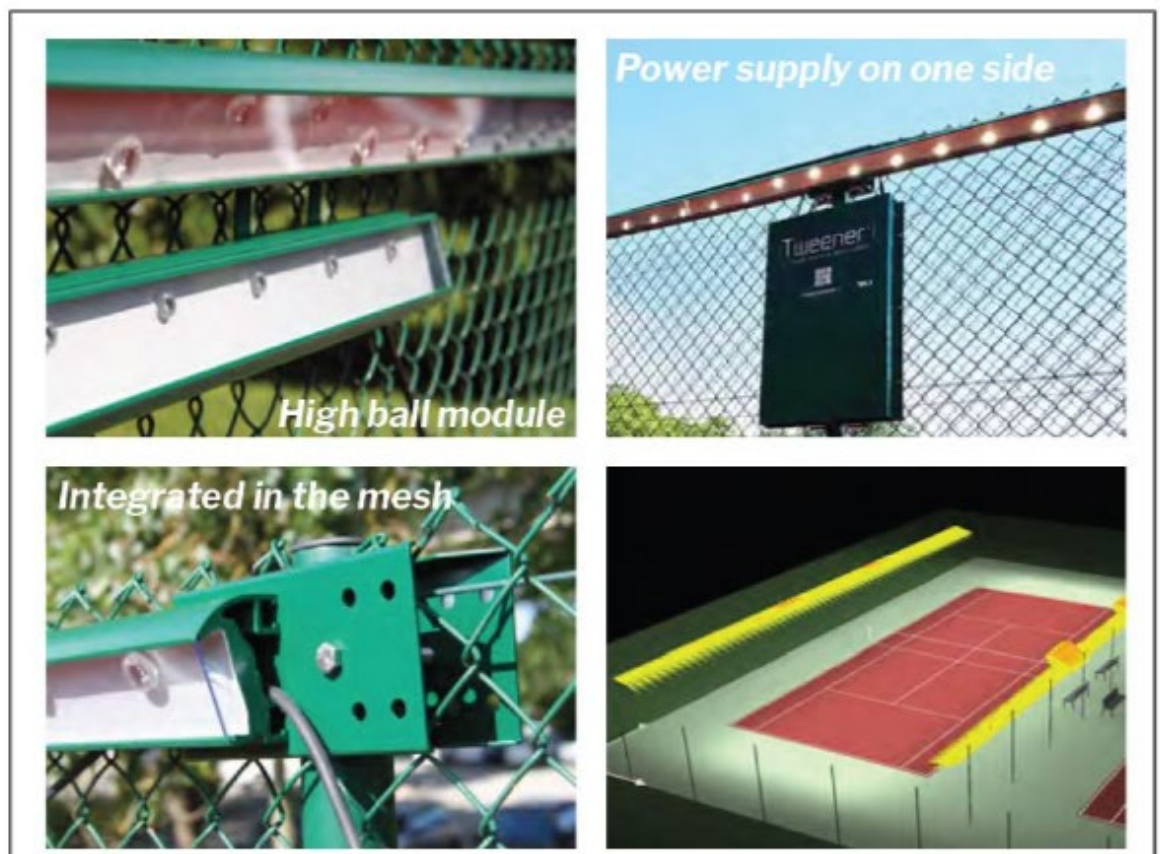
Existing & Proposed layout



Proposed elevations



Details of light source, lighting track, mounting poles and electrical supply box



Extracts from Tweener® datasheets

Proposed Tweener Lighting System

1.10. [Link to Documents](#)

2. **Site & Surroundings**

- 2.1. The application site is located within the Wylde Green area of Sutton, amongst a predominantly residential community, on a back land plot to the rear of properties at Birmingham Road and Highbridge Road. The tennis club site is accessed from Highbridge Road and contains a mix of indoor and outdoor tennis courts (including an outdoor padel court), together with a cluster of buildings (1 to 3 storeys in height) that contain squash courts, gym, function room etc. The development site currently contains 3 open-air tennis courts on the eastern edge of the tennis club site.
- 2.2. The site is bound to the south and west with a band of mature planting, beyond which are detached houses at Birmingham Road, and an apartment car park to the south. To the north of site is a 3 storey, purpose built care home.
- 2.3. The courts subject of this application side onto a high bund of some 3.2m in height above the level of the flanking courts, covered in 6-10m tall trees, and separated from the neighbouring residential gardens by a close boarded fence of some 4.9m in height above the level of the courts. The bund is approximately 13m deep. The distance between the lawn tennis courts to the nearest house at no.152 Birmingham Road is 25m. The houses along Birmingham Road have mature rear gardens, containing tree planting and outbuildings.
- 2.4. The application site is not designated nor allocated in the Local Plan.
- 2.5. Provide link to [‘Site location’](#) (google maps)

3. **Planning History and Enforcement History**

- 3.1 1997/00169/PA Erection of six, 10-metre-high lighting columns, approved 24th September 1998;
- 3.2 1997/00169/PA Erection of six, 10-metre-high lighting columns, approved 24th September 1998;
- 3.3 2006/05681/PA Erection of temporary inflatable structure to cover 3 existing tennis courts with associated floodlighting, temporary permission 1st March 2007;
- 3.4 2010/06195/PA Refurbishment of car park, approved 15th December 2010;
- 3.5 2014/05707/PA Installation of floodlights to tennis Courts 10, 11 and 12, approved 6th October 2014. This permission approved 14no. 6m high floodlighting columns (with installed lights nearly 7m in height) for use up to 9pm daily;
- 3.6 2016/04274/PA Installation of inflatable air dome to provide all weather Playing to 2 no. courts, approved 19th January 2017;
- 3.7 2023/04128/PA Installation of replacement floodlight lamp units with LED lamps to existing 10m high floodlight columns at Courts 4-7, approved 25th August 2023;
- 3.8 2023/07972/PA Installation of Tweener lighting system for use up to 9pm daily on Court 9, approved 18th January 2024;

- 3.10 2025/0049/ENF: Unauthorised change of use from a tennis court to a padel court – under investigation.

4. **Consultation**

- 4.1. Neighbours, Local Councillor and resident associations consulted and a site notice has been displayed.
- 4.2. Sutton Town Council raise no objection.
- 4.3. Transportation Development raise no objection, subject to conditions for speed warning sign, car park management plan and cycle parking provision.
- 4.4. Highways Electrical Asset Officer raises no objection.
- 4.5. Regulatory Services raise no objection subject to conditions for acoustic barrier and hours of operation.
- 4.6. City Design/Landscape Officer raises no objection, subject to conditions being imposed regarding external materials, hard/soft landscaping, boundary treatment details and landscape management plan.
- 4.7. Ecology Officer – No objection subject to S106 for BNG monitoring. Conditions for implementation of measures set out in BNG net gain condition, bird/bat boxes and soft landscaping plan.
- 4.8. Leisure Services raise no objection.

5. **Third Party Responses:**

- 5.1. Consultation was undertaken with 167 no. letters of representations (several duplicates) received from local councillor and neighbouring occupiers.
- 5.2. Councillor Yip expressed concerns on behalf of residents to the proposal (in summary):
- Whether the site can safely accommodate this expansion without unduly impacting residents especially on the key issues of noise and parking/traffic flow.
 - A letter will be sent to committee (requesting that it is read out to committee members on the day of committee), urging a site visit is undertaken prior to a final determination of the proposal.
- 5.3. 47 no. objections received from local residents raising the following issues (in summary):
- Padel is significantly louder than tennis (compared to gunshots in the media) and is played on a smaller court, which would intensify the use - as there would be 3 times the number of people playing at any one time;
 - The padel courts would cause increased noise disturbance to residents of the nearby care home and retirement community;
 - Light disturbance from the proposed padel court use;
 - Flood lights from the club are currently very intrusive;
 - No formal noise assessment and mitigation scheme have been submitted;
 - Insufficient parking provision, which would increase congestion on surrounding roads;

- Detriment to highway and pedestrian safety;
- No air quality assessment has been undertaken to take account of additional car journeys;
- There are sufficient padel facilities within the City that are situated away from residential properties;
- The courts and canopy would be visible from nearby residential properties, appearing overbearing, blocking light and sunlight, causing detriment to visual amenity;
- The existing padel court has been erected without planning permission;
- Insufficient neighbour notification has been carried out;
- Red line boundary of the site should be extended to cover the entire site; and
- Impact on wildlife and their habitat.

5.4. 2 no. objections received from local residents raising the following issues in relation to the amended scheme to include 2.5m high acoustic fencing (in summary):

- The changes make very little difference to our concerns. Noise is still a major area of concern, along with the road safety on Highbridge Road.
- The proposed padel courts will be so close to our property, so it is difficult to see how a 2.5 metre acoustic wall is going to stop the sound adversely affecting the quality of our lives. We are concerned that we won't be able to sit in our garden, or have the windows open during the summer months, due to the excessive noise.
- In reference to changes to parking at the tennis club, inadequate parking was always an issue over the years. Increased use of the club will result in players parking in Highbridge Road, making the road even more dangerous than it already is. Increased traffic flow will make travelling down the road even more dangerous, as there is consistent double parking, because the houses do not have garages.
- A site visit is advised for the planning committee, so they can see for themselves the proximity of the planned courts to the neighbouring properties and view the concerns in reference to road safety on Highbridge Road and the very limited car parking at the tennis club;

5.5. 117 no. letters of support received from local residents raising the following issues (in summary):

- Padel is a fast growing sport and there is insufficient provision of padel facilities within the North Birmingham area;
- Expansion of padel facilities would enhance the viability and long term future of the tennis club;
- Increased and covered padel facilities would assist the local community social, health and well being all year round;
- Beneficial asset for the area; and
- Very inclusive and accessible sport compared to tennis for all ages and abilities.

5.6. Lawn Tennis Association – support the application.

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

6.1 National Planning Policy Framework:

- Section 2 - Achieving sustainable development
- Section 4 - Decision making
- Section 8 - Promoting healthy and safe communities

- Section 9 - Promoting sustainable transport
- Section 11 - Making effective use of land
- Section 12 - Achieving well-designed places

6.2 Birmingham Development Plan 2017:

- PG3 - Place making
- TP7 – Green Infrastructure Network
- TP8 - Biodiversity and geodiversity
- TP9 - Open space, playing fields and allotments
- TP11 - Sports facilities
- TP27 - Sustainable Neighbourhoods
- TP37 - Health
- TP39 - Walking
- TP40 - Cycling
- TP44 - Traffic and congestion management

6.3 Development Management in Birmingham DPD:

- DM2 - Amenity
- 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

6.4 Supplementary Planning Documents & Guidance:

- Birmingham Design Guide SPD (2022)
- National Design Guide (2021)
- Birmingham Parking SPD (2021)

7 **Planning Considerations**

7.1 The main issues in determining this application are:

- principle of development;
- visual impact;
- impact upon residential amenity;
- the impact on highway/pedestrian safety and parking; and
- ecology/biodiversity net gain.

Principle:

7.2 Policy TP11 of the BPD supports the availability of facilities that encourage both formal and informal activities contributing to healthier lifestyles. These facilities can serve as a 'stepping stone' into more organised sports, and their promotion is encouraged. The policy also outlines that the City Council would continuously assess the availability of sports facilities in the City, taking into account changing demands and preferences.

7.3 The Club is a long-established racket sports facility. The proposed padel tennis courts would add to the Club's vitality and viability and is a complementary proposal, allowing participants to engage in padel tennis. In common with many tennis clubs

throughout the UK, tennis participation is in slow decline. In the 10 years since 2014 tennis membership at the Club has fallen by 19% whilst squash membership has declined by 17%. This represents a fall of 139 members using the site which means the site overhead burden is spread over a much smaller number of members. To keep the Club relevant and viable it's offering must stay 'current' and this means that padel courts need to be made available.

- 7.4 The proposal strongly promotes economic, social, and environmental objectives. The proposal improves access to a wider variety of sporting facilities for the local community and retains space for outdoor sporting use. The introduction of 3no. padel tennis courts at Sutton Tennis Club, a relatively new sport, is acceptable in principle. The courts would be located in the existing lawned tennis court area, adding variety to the wider site's use without compromising existing sports facilities.
- 7.5 The provision of padel courts would be in line with policies of the BDP. The principle of tennis courts use in this location is well established and the padel court intensification of the site is broadly acceptable in principle subject to other site-specific material planning considerations.

Visual Impact

- 7.6 Objections have been received on grounds of the proposal being overbearing and causing detriment to visual amenity of nearby residents and this is noted.
- 7.7 The proposed padel courts would be sited within an existing lawn tennis court and are next to existing courts at the site that would be reconfigured. The site is bounded to neighbours on three sides by boundary fences and in the case of the boundary to the northeast by substantial bunding and mature trees, and to the southeast by mature trees and planting, all of which assist in screening the site, even during the winter months (some of the trees are evergreen). The courts are largely proposed on the sealed surface currently occupied by the existing tennis courts, although this is to be widened slightly (by 2m) into the vegetated bank to accommodate the padel proposal.
- 7.8 The application is accompanied by an Arboricultural Impact Assessment which confirms it would only be necessary to remove one Category U tree, which should be removed regardless of the application due to its poor condition. In addition, the proposal would only necessitate the need to carry out minor pruning works every 3-5 years to one further tree (T26) only, which is not seen as detrimental to the tree or causing future harm to the tree. In summary, the proposal would have no significant impact on the retention of the existing tree screen around the perimeter of the courts.
- 7.9 The primary form of the enclosure proposed for the padel tennis courts is toughened glass, a visually lightweight structure with galvanised steel supports. The proposed canopy is also lightweight and translucent and would sit below the level of the adjacent bunding and mature tree screen. The enclosure and canopy would be largely screened from outside of the site by the distances involved to the nearest properties and by the substantial boundary planting and bunding. It is noted that the distance between the proposed padel courts and the nearest house along Birmingham Road is 25m. It should be noted that the existing floodlights on these courts are taller floodlights than proposed under the padel proposal, and the existing floodlights are closer to the site boundaries. Furthermore, the padel floodlights would be inside/beneath the canopy which would further reduce their impact.
- 7.10 In terms of the use of the Tweener system on the reoriented lawn tennis courts, this introduces low-level localised lighting, which would be less intrusive than the existing floodlighting. The change from standard floodlighting to low-level lighting (Tweener)

or covered lighting under the padel canopy would be an improvement on the existing floodlighting.

- 7.11 A landscaping scheme accompanies the proposal which further reinforces this boundary planting and provides additional screening.
- 7.12 The Council's City Design Officer is supportive of the proposal, commenting that the separation distance exceeds the minimum separation distance (as outlined in the BDG) and the proposed planting of the Scots Pine and Juniper trees would fill the current gap in the existing landscape strip, helping to mask the gable of the enclosure.
- 7.13 As such, I consider the siting, scale, design and appearance of the proposed padel courts acceptable in terms of visual impacts. Conditions as recommended by the city design officer to ensure satisfactory materials, landscaping and boundary treatment details, are attached.

Neighbour Amenity:

- 7.14 Objections have been received on grounds of the proposal having potential to cause loss of light, sunlight, lighting disturbance and increased noise levels to the detriment of neighbour amenity and this is noted.
- 7.15 In terms of the noise from the proposal, this is addressed in the accompanying Noise Assessment and additional technical notes. The reports consider the impact of the noise from the proposed padel tennis courts and the 2-no. reoriented lawn tennis courts. Amended plans have been submitted to include a 2.5m high acoustic fence in accordance with the report recommendations.
- 7.16 The report and technical notes confirm that the level and character of the noise from use of the proposed padel tennis courts would cause no greater impact than the existing use of the site. The reports have been examined by the Council's regulatory services officers, who have also made 2no. visits to site and surrounding residential roads to assess noise levels of the existing tennis courts and padel court during operation. Following a comprehensive investigation they raise no objection. It is therefore considered that the proposal would be in line with national policy aims contained within the NPPF.
- 7.17 The accompanying Transport Assessment also confirms that the proposals would not result in any material increase in traffic volumes to the site, and therefore the noise from additional journeys to the Club in respect of the 2no. additional tennis courts would be negligible.
- 7.18 The application proposes the use of LED floodlights and Tweeners lights and is accompanied by a Lux plans showing spillage. Due to the proposed use of the low-level Tweeners system, the containment of the floodlights for the padel courts under the canopy, together with the substantial natural screening around the Tennis Club site, as well as the existing floodlights already on the Club site, it is considered that the proposal would have no significant impact on the neighbouring residential occupiers, over and above the existing use.
- 7.19 It is noted that the adjacent care home at Sutton Park Grange Care Home has windows facing towards courts 10-12. However, the care home was approved under 2018/01827/PA, more recently than the 2014 planning permission for the floodlights on courts 10-12. In addition, the windows serve the end of corridors overlooking the courts and are not to bedrooms or habitable living spaces.
- 7.20 The site accommodates existing tennis courts and it is considered that the overall use of the site remains broadly similar and this is not considered to result in any significant

new additional nuisance above and beyond the existing use on site. The accompanying reports, evidence and landscaping mitigation plan confirm there would be no adverse impact on the amenity of neighbours.

- 7.21 The changes to the appearance and use of the site beyond the lawful use and that of the consented floodlighting scheme would be negligible for the neighbours in terms of receipt of light/sunlight, visual, noise and lighting impact, and in terms of the impact from floodlighting, would be less than exists at present.
- 7.22 The Council's Regulatory Services Officer has also raised no objection in this regard, subject to conditions, which have been applied.
- 7.23 It is therefore considered that the proposal would comply with the NPPF and Policy TP11 of the Development Plan by seeking to ensure that the proposal balances the benefits for sport with the amenity of local residents. There would be no adverse impact from the proposal on the amenity of adjacent residential occupiers, in accordance with policies DM2 and DM5 of the Development Management DPD. The proposal also accords with policy PG3 of the Birmingham Development Plan.

Highway/Pedestrian Safety & Parking:

- 7.24 Objections have been received on grounds of the proposal having the potential to cause adverse impacts upon parking and highway/pedestrian safety and this is noted.
- 7.25 The Club benefits from 68no. car parking spaces and 12no. cycle parking spaces. The application proposes an additional 6no. cycle parking spaces within the site.
- 7.26 The site is also well served by public transport, with many bus services operating along Birmingham Road (300m from the site) together with local rail services from Wylde Green Railway Station which is located approximately 700m south of the site access point off Station Road. In addition, some members walk and cycle to the Club.
- 7.27 The accompanying Transport Statement (TS) by DTA confirms that a review of the latest five-year personal injury collision data for the surrounding area has been undertaken and does not indicate any existing highway safety issues within the study area.
- 7.28 The TS confirms that the existing site access would continue to be used which is currently operating safely and would continue to operate safely following the proposed development. The current car parking arrangement would continue to function safely following the development.
- 7.29 The TS concludes that the development proposals would not result in a material increase in traffic volumes to the site. Consequently, any traffic impact on the operation of the local highway network would be negligible.
- 7.30 The Council's Transportation Officer has also raised no objection in this regard, subject to conditions, which have been applied (apart from a flashing speed sign condition, which was deemed unnecessary).
- 7.31 As such, it is considered that the proposal would not cause severe impact or detriment to highway and public safety, in accordance with national policy and the Birmingham Development Plan.

Ecology/Biodiversity Net Gain (BNG)

- 7.32 Objections have been received on grounds of the proposal having the potential to cause adverse impacts upon wildlife and this is noted.

- 7.33 The application is subject to BNG requirements.
- 7.19. The accompanying BNG Design Stage Assessment Report confirms that the proposal would result in a 46.31% increase in biodiversity at the site, well in excess of the mandatory requirement. The report references the fact that the proposed development is on an area of developed land; a sealed surface currently occupied by the existing tennis courts, which would be widened slightly into the vegetated banking, and the provision of a new access pathway along the southern limit of the site. The BNG report confirms that the proposed landscape scheme would provide compensation for loss of the strip of ruderal and modified grassland comprising planting within the embankment to the west.
- 7.20. The report confirms that the scope of works would only have a low potential impact and can proceed under a precautionary method of working in order to safeguard any protected or priority species which may potentially be present within the embankment area, confirming no further protected species surveys are required.
- 7.21. In addition, it should be noted that the change on this existing court area from standard floodlighting to low-level lighting (Tweener) and covered lighting under the padel canopy means that the proposed sports lighting on the courts would be less impactful than the existing floodlights.
- 7.22. A condition requiring the applicant/developer to ensure the habitats would be created and enhanced to achieve their intended biodiversity value is imposed and a S106 is required prior to grant of permission to ensure that these improvements are maintained over a minimum 30-year period, as per current policy and guidance.
- 7.23. It is therefore considered that the proposal would accord with mandatory BNG requirements, the NPPF, Policy TP7 Green Infrastructure Network of the Development Plan and the Birmingham Design Guide (2022).

Public Sector Equality Duty (PSED)

- 7.24 The planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development should be allowed to proceed. The rights of the occupiers of Sutton Park Grange Care Home have been taken into account in the assessment of this application, as fall within a protected characteristic (age). The LPA has therefore applied Section 149 of the PSED contained within the Equality Act 2010.

Other issues

- 7.24. The objections received have been noted and the salient points have been addressed within the report. However, in relation to the comments received regarding the red line boundary and lack of neighbour consultation, the Council's computer system identifies that a number of residential occupiers have been consulted, and a site notice has been displayed, in accordance with the Council's statutory requirements.
- 7.25. The existing open air padel court has been in situ since 2017 and received no noise complaints until the current application was made public. It is therefore considered that 4-year rule applies for operational development and thus became immune from enforcement action in Oct 2021. As such, the facts as presented do not indicate that there is an actionable breach. Further this element of the scheme is not the subject of the current application and is not included within the current development proposals.

8. **Conclusion**

- 8.1 The proposed development to convert an existing lawn tennis court to 3 no. covered padel tennis courts and the repositioning of 2no. existing lawn tennis courts with associated acoustic fence and installation of tweener lighting system would help to provide a more varied leisure offer at the Club, promoting health and wellbeing. The accompanying reports, evidence and landscaping mitigation plan confirm there would be no significant adverse impact on the amenity of neighbours, highway and pedestrian safety.
- 8.2 The scheme is also acceptable in terms of sustainability and ecology matters.
- 8.3 As such, the development accords with the Development Plan and is therefore acceptable. I recommend that planning permission is granted subject to conditions.

9 **Recommendation**

- 9.1 That application 2024/07622/PA be approved, subject to the prior completion of a S106 Legal Agreement to secure the following:
- a) A Biodiversity Gain Land Monitoring Contribution of £5,802.44.
 - b) Payment of a monitoring and administration fee associated with the legal agreement of £2,000.
- 9.2 In the absence of the above legal agreements being completed to the satisfaction of the Local Planning Authority by the **30 September 2025** or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason(s):-
- a) In the absence of a Biodiversity Gain Land Monitoring Contribution, the proposed development would be in conflict with Policy TP8 of the Birmingham Development Plan 2017, the Environment Act 2021 Schedule 14, Schedule 7A of the Town and Country Planning Act 1990 and the guidance in the NPPG on BNG.
- 9.3 That the City Solicitor be authorised to prepare, seal and complete the above planning agreement.
- 9.4 That in the event of the planning agreement being completed to the satisfaction of the Local Planning Authority on or before the **30 September 2025**, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (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 submission and approval of external materials
 - 4 Requires the submission of hard landscape details
 - 5 Requires the submission of boundary treatment details
-

-
- 6 Requires the submission of a landscape management plan
 - 7 Limits the hours of use 08:00-21:00 Monday to Sunday.
 - 8 Acoustic fence
 - 9 Requires the provision of cycle parking prior to first use
 - 10 Requires the submission of a car park management plan.
 - 11 Lighting
 - 12 Requires the prior submission of details of bird/bat boxes
 - 13 CECMP CONDITION
 - 14 GENERAL ON-SITE BNG: BIODIVERSITY GAIN PLAN CONDITION
 - 15 GENERAL ON-SITE BNG: HABITAT MANAGEMENT AND MONITORING PLAN
CONDITION
 - 16 GENERAL ON-SITE BNG: COMPLETION AND MONITORING REPORTS
CONDITION
 - 17 SOFT LANDSCAPING CONDITION
-

Case Officer: Audrey Lewis

Photo(s)



Highbridge Road Entrance



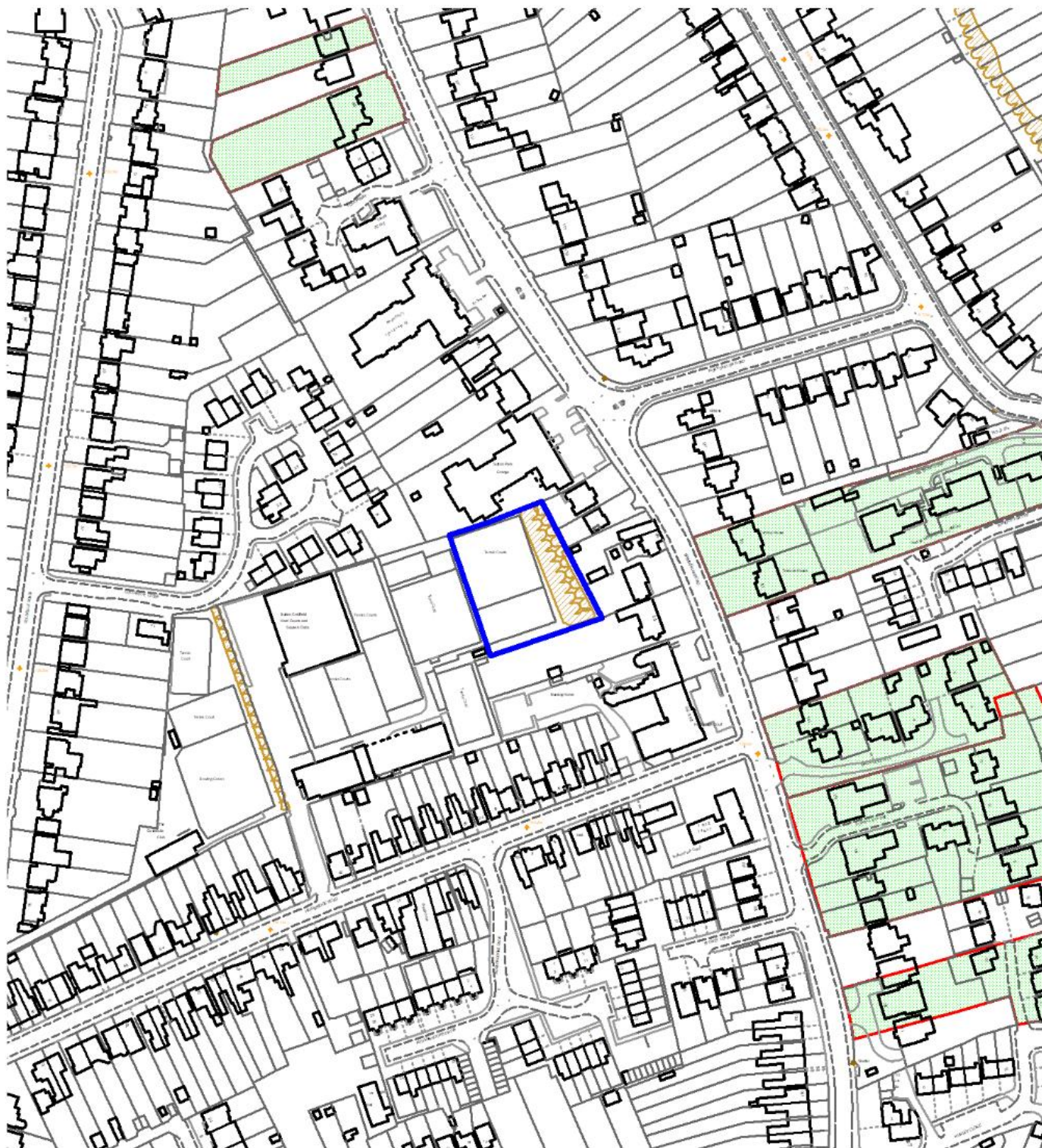
Aerial view of site relative to residential plots



Proposed Padel Court Location



Existing Tennis Court Layout Adjacent to Care Home



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date:	05/06/2025	Application Number:	2024/05554/PA
Accepted:	06/12/2024	Application Type:	Full Planning
Target Date:	06/06/2025		
Ward:	Aston		

99 Earlsbury Gardens, Birmingham, B20 3AD

Conversion of (Use C3) Dwelling into women's refuge (Sui Generis) with associated communal facilities.

Applicant: Vicarage housing CIC
C/O Agent
Agent: Anjum Design Ltd
435 Stratford Road, Shirley Solihull, B90 4AA,

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 Planning permission is sought for the change of use of an existing 4no. bedroom end-terraced dwellinghouse (Use Class C3) to form a Women's Refuge Centre for 6no. occupants.
- 1.2 The application has been made by Vicarage Housing. A management plan has been provided to support this submission. Vicarage Housing & Support are offering temporary accommodation for women experiencing domestic violence and who are pregnant, for up to a period of six months, providing them with a safe and supportive environment while they work towards securing permanent housing.
- 1.3 The floor plan would consist of the following:
- 1.4 Ground Floor:
 - Bedroom 1 would measure 20sqm;
 - Bedroom 2 would measure 12.5sqm;
 - Dining Room; and
 - Kitchen.
- 1.5 First Floor:
 - Bedroom 3 would measure 17.5sqm;
 - Office;
 - Bedroom 4 would measure 12.5sqm;

- Bedroom 5 would measure 7.5sqm; and
- A shared bathroom.

1.6 Second Floor:

- Bedroom 6 would measure 15sqm.

1.7 No front external changes have been proposed, while the rear garage would be demolished.

1.8 2no. off street parking spaces would be provided to the rear of the property with cycle storage arrangements for up to 8no. cycles.

1.9 Rear amenity space totalling an area of 77sqm would be provided.

1.10 Link to Documents

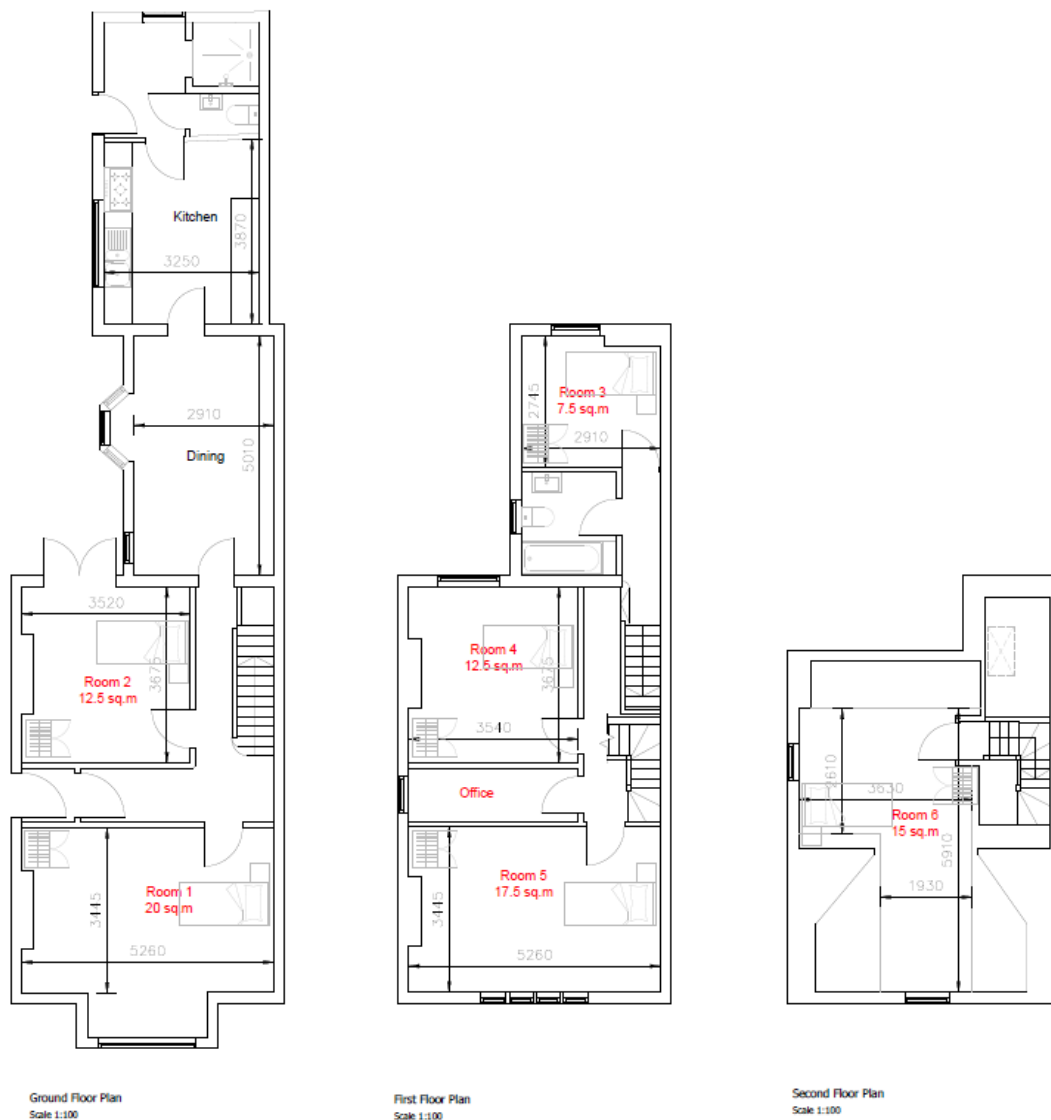


Figure 1 Proposed floor plans

2. Site & Surroundings:

- 2.1. The application site is within a predominantly residential area, facing onto Earlsbury Gardens. To the rear lies Penshurst Avenue, the dwellings within the vicinity of the application site are mainly terraced and end terrace properties with rear wings and large gardens.
- 2.2. The application site is an end terraced dwelling which has an existing rear garage.
- 2.3. An aerial/ street view of the site can be viewed here on google maps. [99 Earlsbury Gardens.](#)

3. **Planning History:**

1993/02528/PA	97-99 EARLSBURY GARDENS, PERRY BARR	ERECTION OF REAR GROUND AND FIRST FLOOR EXTENSIONS	22/06/1993	Approve subject to Conditions	19/05/1994
2003/05262/PA	99 Earlsbury Gardens, Perry Barr, B20 3AD	Erection of single storey rear extension.	29/08/2003	Refuse	24/10/2003
2004/01591/PA	99 Earlsbury Gardens, Perry Barr, B20 3AD	Erection of single storey rear extension	11/03/2004	Refuse	14/05/2004
2005/04716/PA	99 Earlsbury Gardens, Birmingham, B20 3AD	Erection of single storey rear extension	15/07/2005	Withdrawn by Agent	11/10/2005

4. **Consultation Responses:**

- 4.1. Transportation Development raise no objection.
- 4.2. Regulatory Services raise no objection.
- 4.3. West Midlands Police raise no objection subject to development following the Secure by Design 'Homes 2024' guide.

5. **Third Party Responses:**

- 5.1. Neighbours, Councillors, and Residents Associations were consulted and a site notice was displayed.
- 5.2. 7no. letters of objection have been received which relate to:
 - Anti Social Behaviour;
 - Traffic;
 - Noise;
 - High Concentration of HMO's; and
 - Decline in Property Values and Quality of Life.
- 5.3. A signed a petition was submitted by Councillor Mumtaz Hussain objecting to the proposal which received 51no. signatures. This did not detail reasons for the petition.

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

- 6.1. National Planning Policy Framework
- 6.2. Birmingham Development Plan 2017:

- *Policy PG3 (Place making)*
- *Policy TP27(Sustainable neighbourhoods)*
- *Policy TP35 (The existing housing stock)*
- *Policy TP37 (Health)*
- *PolicyTP39 (Walking)*
- *Policy TP40(Cycling)*
- *Policy TP44 (Traffic and congestion management)*
- *PolicyTP45(Accessibility standards for new development)*

6.3. Development Management DPD:

- *PolicyDM2 (Amenity)*
- *PolicyDM10 (Standards for residential development)*
- *Policy DM12 (Residential conversions and Specialist accommodation)*
- *PolicyDM14 (Highway safety and access)*
- *PolicyDM15 (Parking and servicing)*

6.4. Supplementary Planning Documents & Guidance:

- *Birmingham Design Guide*
- *Car Parking SPD 2021*

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, standard of accommodation, residential amenity and highway safety.
- 7.2. The proposal is for a temporary housing scheme for vulnerable young women, and as such, the proposed use of the property is considered to be that of a hostel/specialist accommodation, which has its own separate Use Class, under SUI Generis, rather than being classed as an HMO or C2 (Specialist Accommodation) Home, given the temporary nature of the accommodation. As such nature has been set out by the applicant both within the application form and the supporting statement and it is on this basis that the scheme has been assessed.
- 7.3. Whilst the Birmingham Development Plan 2017 contains no policies directly relating to hostel uses, policy TP27 and TP30 seek to ensure that new housing provision is made in the context of creating sustainable communities which contain a wide mix of housing. Paragraph 4.26 of the Development Management in Birmingham Development Plan Document (DMB) states that new housing should add to the choice of accommodation available to people, whatever their circumstances. A strong and sustainable community responds to the needs of all residents, including those that are considered to be most vulnerable and requiring access to housing that meets their specific needs.
- 7.4. Policy DM12 (Residential Conversions and Specialist Accommodation) provides the following criteria to determine whether the Council will support the provision of specialist accommodation:
- a) It will not lead to an unacceptable adverse impact on the amenity, character, appearance, parking, public and highway safety of the area, taking into account the cumulative effects of similar uses in the area.
 - b) The accommodation and facilities, including outdoor amenity space and provision for safety and security, is suitable for the intended occupiers.

- c) It is accessible to local shops, services, public transport and facilities appropriate to meet the needs of its intended occupiers.
- d) The scale and intensity of the proposed use is appropriate to the size of the building.
- e) It will not result in the loss of an existing use that makes an important contribution to the Council's objectives, strategies and policies.

Principle of Development

- 7.5. As evidenced by the Birmingham Housing and Economic Development Needs Assessment (HEDNA) (updated in 2022), the City's housing needs are not currently being met, particularly in relation to 3 (16.4%) and 4+ bed (13.3%) family properties. HEDNA completions from 2011 to 2021 show that most new housing delivered has been in the form of 1 and 2-bed properties. As such, without appropriate justification, there is an even greater need to retain the City's existing family housing stock. However, Policy DM12 does allow for the conversion of existing dwellings to specialist accommodation where justified.
- 7.6. The proposed change of use from a four-bedroom family dwelling to a Women's Refugee Home is considered acceptable under Policy DM12 (Residential Conversions and Specialist Accommodation), which outlines criteria for supporting applications for specialist accommodation. While the proposal results in the loss of a family dwelling, the site will continue to serve a residential function, accommodating 6no. occupants. The use would cause the loss of a family dwelling, however, the proposal is for a temporary housing scheme for vulnerable women, and as such, the proposed use of the property is considered to be that of a hostel/specialist accommodation rather than an HMO, given the temporary nature of the accommodation.
- 7.7. The HEDNA states that Perry Barr has a 17% need of 4+ bedroom homes in comparison to 2/3-bedroom homes is 30% and 47%. The loss of such home for a property use as a women's home which would be seen to add a wider benefit to the city would be seen as an acceptable use. I also see no evidence before me, which suggests that the loss of this family dwelling, would have such a large impact upon the supply of family homes within the area, to warrant a refusal for the current scheme, when considering the intended purpose and the vulnerability of the women the proposal would house. As such, I deem the current loss as acceptable, given the intended end use of the site.
- 7.8. The site is also well-positioned with suitable access to local services and amenities (DM12c), ensuring that the proposal will not result in significant harm to neighbouring properties or the broader amenity of the area.
- 7.9. Currently, only 4 properties of 72 properties within 100m (5.56%) are in use as a House in Multiple Occupation (HMO) or Exempt Accommodation. The addition of a fifth non-family residential property would not result in an undue concentration of such uses, thereby maintaining the area's predominantly residential character. Given this low concentration, the proposal is unlikely to cause harm to the amenity of neighbouring properties or alter the character of the locality (DM12d). Additionally, the proposal supports paragraph 63 of the NPPF, which requires Local Authorities to cater to groups with specific housing needs, ensuring a balanced and inclusive housing mix.
- 7.10. No.98 Earlsbury Gardens is an existing HMO, the proposed new use for no.99 would put 2 non-family uses together. Policy DM11 states that three or more non-family uses in a row would be unacceptable, in this instance it would be 2 non-family uses in a row and would be seen as non-contrary to the policy above. It should also be noted that the application site is not a terraced property, but an end-terraced property, and thus there would be no residential adjoining use to the other side.

- 7.11. Additionally, Policy TP35 of the Birmingham Development Plan states that the loss of residential accommodation is only permissible where there is strong planning justification or an identified social need. In this case, supporting information which breaks down what the housing association provide has been provided with this submission. Although the premises would function as a residential institution, it would retain characteristics of C3 residential use, catering to individuals requiring supported living. Furthermore, appropriate measures will be in place to manage potential impacts on noise, traffic, and neighbouring amenity, ensuring the living conditions of surrounding residents are safeguarded. Given these considerations, the proposal is supported by both social and planning justifications, aligning with Policy TP35 and meeting the requirements of Policy DM12(a) and (e).
- 7.12. A management plan has been provided which elaborates how the applicant proposes to run the property. However, in such plan staffing numbers are not included. The women will be referred from variety of trusted partners, including Birmingham City Council, West Midlands Police, and other domestic violence support agencies. The plan also refers to the relevant ways the applicant proposes to enhance the security measures of the property such as CCTV system but also not permitting guests to the property.
- 7.13. In conclusion, the principle of changing the use from a residential dwellinghouse (Use Class C3) to a Refuge Supported Living (Sui Generis) is deemed acceptable, subject to other material planning considerations, including the provision of high-quality accommodation and measures to ensure neighbour amenity is safeguarded.

Visual Amenity

- 7.14. The proposed dwelling would have no changes made to the front elevation of the building. However, the applicant seeks to demolish the garage to the rear to create open car parking space. This would have a neutral impact upon the property and the surrounding area, such change is seen to be acceptable in this regard.

Impact on residential amenity

- 7.15. It is acknowledged that policy DM12 states that specialist uses would not be supported on semi-detached or terraced properties unless the amenity of adjoining occupiers can be protected. The application site is an end terraced dwelling where such noise and disturbances would not be as impactful as they would be in comparison to terraced dwellings. As the proposed dwelling is an end-terraced dwelling the policy above would not be breached but also would limit the amount of noise and disturbances which may occur, given that there would only be a single adjoining occupier. The proposed change of use would disallow guests to visit the property this would not only protect the women residing in the property but also minimise the amount noise generated from the property and as such, although not a detached dwelling, on this basis I deem the scheme acceptable.
- 7.16. Furthermore, regulatory services have been consulted, and no request for a noise insulation scheme has been made. As such, it is not deemed necessary. However, to control the intensity of the use and protect residential amenity, it is considered necessary to restrict the number of occupiers to six by way of condition will be attached.

Standard of accommodation for occupants

- 7.17. While Policy DM12 does not require bedrooms in specialist accommodation to comply with any prescribed standards, the bedrooms and communal space is considered

acceptable for the proposed 6 occupants. In addition, each bedroom would be afforded an adequate standard of light, outlook and privacy.

- 7.18. Regarding outdoor amenity space, Policy DM12 requires 16sqm amenity space per resident, totalling to 96sqm of amenity space. The site will offer approximately 77sqm of outdoor amenity space which would not include the proposed car parking spaces to the rear. This amount would be significantly short in comparison to the minimum standard requirements. Although short, the garden size is similar against the neighbouring dwellings. The shortfall is seen as an acceptable compromise for the accommodation which is being provided due to the benefits that it would bring.

Highway Safety

- 7.19. The applicant has provided 2no off street car parking spaces to the rear of the site with a depth of 4.8m. The site is well-served by regular bus routes, and unrestricted on-street parking is available to the front of the site and to the rear.
- 7.20. Transportation Development have raised no object to the proposal and deemed it to be acceptable to not causing harm to highway and public safety.
- 7.21. The applicant has proposed to install cycle parking within the site, this is seen to be an acceptable addition to the application to promote more sustainable methods of transport.

Public Sector Equality Duty (PSED)

- 7.22. The planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development should be allowed to proceed. The rights of the occupiers of the proposed Women's Refuge Centre have been taken into account in the assessment of this application, as they fall within a protected characteristic (sex). The LPA has therefore applied Section 149 of the PSED contained within the Equality Act 2010.

Other Issues

- 7.23. West Midlands Police have requested that the proposal adheres to Secure by Design standards. The applicant has been advised of this by way of informative. The applicant has also included within their management plan that they are willing to work with West Midlands Police to ensure the safety of their residents. The applicant has also advised that they will be installing a CCTV system and a secure entry system.
- 7.24. Objections received related to an increase in anti-social behaviour, however West Midlands Police raise no objections to the proposal. And there is further no evidence to suggest that the current proposals being approved would result in an increase in anti-social behaviour within the area, no formal evidence to back this claim has been submitted as part of the consultation comments and as such I am unable to give this claim due weight as part of my assessment.
- 7.25. Decline in Property Values is not a planning consideration.
- 7.26. The proposal is exempt from providing biodiversity net gain (BNG) as it relates to a change of use application only.

8. **Conclusion**

- 8.1. The application is considered acceptable, satisfying the criteria of Policy DM12 of the Development Management in Birmingham DPD for residential conversions and specialist accommodation. It also complies with the other relevant local and national policies outlined in this report, with no significant harm identified that would warrant refusal.

9. **Recommendation:**

- 9.1. Approval Subject to Conditions.

-
- | | |
|---|---|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the scheme to be in accordance with the management statement |
| 4 | Limits the use of the property to provide temporary accommodation for no more than 6 occupants. |
-

Case Officer: Hamzah Rehman

Photo(s)



Figure 2 Front View of Application property



Figure 3 South View from application property of Earslbury Gardens



Figure 4 North View from application property on Earlsbury Gardens.

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date:	05/06/2025	Application Number:	2025/01886/PA
Accepted:	04/03/2025	Application Type:	Section 106 Modification of Planning Obligation
Target Date:	29/04/2025		
Ward:	Bromford & Hodge Hill		

Land at former Comet PH, Collingbourne Avenue, Hodge Hill, Birmingham, B36 8PE

Revision to section 106 Agreement to application reference 2018/03568/PA (section 106 dated 11th January 2019) (reduced contribution of £90,000 (£70,000 towards off site affordable housing and £20,000 loss of Public Open Space))

Applicant: AJS Properties Ltd
Swiss Cottage, 28 Willows Road, Walsall, West Midlands, WS1 2DR
Agent: Architecture & Interior Design
17 Coleshill Road, Hodge Hill, Birmingham, B36 8DT

Recommendation

Approve

1. Report Back.

- 1.1. Members may recall that a request to vary the Section 106 deal agreement signed under ref. 2018/03568/PA was denied at the 3rd October 2024 Planning Committee meeting (see report below).
- 1.2. The owners have now submitted a formal application to vary the Section 106 agreement ref. 2025/01886/PA seeking the same terms as previously presented to planning committee. Albeit, the subtle difference between a request and a formal application is that if the application is refused by Members, an appeal can be submitted for adjudication by the Planning Inspectorate under the provisions of Section 106B of the Town & Country Planning Act. If refused, the Council is also obliged to provide a refusal reason(s).
- 1.3. The terms remain the same as set out in the previous report (attached): i.e. the application seeks approval for the same reduced contribution as the request:
 - Variation to provide for a reduced contribution of £90,000 (Breakdown: £70,000 will contribute towards off site affordable housing and £20,000 to compensate for the loss of Public Open Space (POS).
 - Variation to the wording of the affordable housing contribution.

- 1.4. Lambert Smith Hampton (LSH), the Council's appointed independent viability assessor, has commented in relation to the application that:-

'Costs and values have remained fairly stable over the last 12 months and I am content that the viability position will not have materially changed.'

Their assessment therefore remains valid and can be relied upon for decision making.

1.5. (End of report back).

Original report

Background

- 1.1 On 22nd November 2018 the Planning Committee resolved to grant conditional planning permission for the erection of 20no. dwellings with associated landscaping and external works, at Land at former Comet PH, Collingbourne Avenue, Hodge Hill, Birmingham, B36 8PE subject to a Section 106 legal agreement Ref. 2018/03568/PA. (For reference, the original 2018 report to Planning Committee is appended as appendix 1 to this report). The Section 106 legal agreement provided for:-
- 10% affordable housing (2no. units) as a commuted sum to the amount of £70,000 (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) to support the Council's current BMHT building programme.
 - The payment of £14,025 to compensate for the loss of the bowling green (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision and improvement of sports facilities within Hodge Hill Ward that shall be agreed in writing between the Council and the party responsible for paying the sum provided that any alternative spend purpose has been agreed by the Council's Planning Committee.
 - The payment of £155,975 to compensate for the loss of public open space and to address the public open space needs of new residential dwellings (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision, improvement and maintenance of public open space at the adjacent Bromford Bridge Estate POS within the Hodge Hill Ward that shall be agreed in writing between the Council and the party responsible for paying the sum provided that any alternative spend purpose has been agreed by the Council's Planning Committee.
 - Payment of a monitoring and administration fee associated with the legal agreement subject to a contribution of £8,400.
- 1.2. The Section 106 legal agreement was signed, and the Decision Notice issued on 11th January 2019. Note, that clauses in the Section 106 agreement required payment of the contributions upon reaching different stages during the implementation of the development. In the case of the affordable housing contribution 'prior to the occupation of the 9th dwelling'.

2. Implementation

- 2.1. AJS Properties Ltd., the original applicant and developer, commenced works Phase 1 (Plots 1-8), with all eight plots at differing stages of development before going into receivership owing to higher and some unforeseen costs in building out the scheme. The site was bought at auction by Howard Property, the current owner, in November 2020. Howard Property have completed, Phase 1 (Plots 1-8) and Phase 2 (Plots 13-16). Phase 1 has been sold. Phase 3 has not yet started and consists of the construction of the final eight plots (Plots 9-12 and 17-20), including infrastructure and landscaping.

3. Proposed Variation

- 3.1. In early 2023 Howard Property approached the Council with a view to postponing payment of the affordable housing contribution until occupation of the 15th rather than 9th dwelling. The reasons given were unexpected build costs and cash flow. A deed of variation to the Section 106 legal agreement was approved by officers 20th December 2023. As it did not change the substantive sums or vary the 'Heads of terms' listed in the original report to Planning Committee, this was agreed by officers under delegated powers.
- 3.2. Subsequently, Howard Property approached the Council requesting a further variation to remove the contributions altogether. They maintained that even without an allowance for developer profit and removal of the remaining outstanding Section 106 provisions the proposal would make a loss. This time, Howard Property was advised that such a variation would need to be supported by an updated Financial Viability Assessment (FVA), independently verified, and referred back to Planning Committee, in the event that it was supported. What is now being sought goes beyond an adjustment to the timing of payment and involves a change to the 'Heads of terms' that had been agreed by the Planning Committee for the original permission. A new FVA for the development was prepared, and independently assessed by Lambert Smith Hampton (LSH), the Council's independent valuers. The LSH's report concludes:-
- *'The Applicant recognises there is a need to contribute some of the originally agreed Section 106 contributions and has provisionally agreed to provide a Section 106 contribution of £90,000 plus indexation. This represents 37.5% of the originally agreed Section 106 contributions, which having regard to the above, has subsequently been proven to be too high for the development to viably sustain.*
 - *'Having regard to the output of our appraisal, we are content that a Section 106 contribution of £90, 000 plus indexation is fair and reasonable, and the most that the development can viably sustain.'*

- 3.3. The applicant has subsequently removed the qualifier 'provisionally' and agreed that this is the offer.
- 3.4. It is important to note that viability can fluctuate, for example increased sales values or reduced build costs can improve the situation, but equally reduced sales values and increased build costs can weaken it. Furthermore, unpredictable events such as the Covid pandemic and increases in the base rate can also influence viability. Viability assessments are therefore a 'snapshot'. Nevertheless, delays generally add to developer costs, their ability to make the offered contribution and, obviously, the delivery of new housing stock for the city.
- 3.5. In light of the above, officers are of the opinion that, if this should be accepted, the £70,000 contribution, identified for affordable housing, should be retained for that purpose with the remaining £20,000 provided as a reduced open space contribution. There would also need to be a variation to the wording of the affordable housing contribution to reflect that the Council's BMHT organisation is undergoing name and management changes because of internal restructuring driven by Birmingham City Council's budget situation.

4. Consideration

- 4.1. There is a significant unmet need for new housing in Birmingham. For a variety of reasons new housing delivery has not met the targets set out in the Birmingham Development Plan (BDP) which is now 7 years old. The shortfall in supply is particularly acute in relation to both affordable housing and family sized dwellings. The proposed variation would enable the completion of the development and the provision of new family sized housing (four- and five-bedroom houses) to the city's housing stock. Hodge Hill is defined, by the valuers LSH, as one of the moderate value property areas within the city and, in terms of general affordability, the market houses would be attractive. In support of their request, Howard Property have stated that they are in discussions about sale (at market price) of remaining houses to the City Council, for additions to Council stock. This is a minor consideration in the assessment of the variation request, but it illustrates the point that the area delivers 'good value' in terms of provision of affordable family sized houses – of a type sought by the City and Housing Associations.
- 4.2. There would also be a benefit to existing residents of the development and surrounding area, who would appreciate completion of the landscaping and associated works and removal of the uncertainty of living next to a potential future building site.
- 4.3. Agreeing to a reduction in Section 106 contributions, even when supported by a FVA, is never welcome to a Local Planning Authority. There is an understandable concern that it sets a precedent for developers to passport the consequences of risk of a poor investment decision, to the Local Planning Authority. However, in this case, the history of the site: where the original developer going into receivership and the current one having

experiences challenges associated with unexpected costs, points to an unusual set of circumstances that are unlikely to be replicated elsewhere. The likelihood of it setting an unwelcome precedent that can be used elsewhere is slim.

- 4.4. The consequences of denying the request are a potential abandonment of an incomplete site, or submission of a formal application to vary and, if refused, an appeal. During the first five years after signing a Section 106 legal agreement it can be varied only with the agreement of the signatory parties. The original Section 106 legal agreement, attached to ref. 2018/03568/PA, is now over 5 years old. After five years, if the Local Planning Authority refuse a request, to vary the agreement, a formal application to vary the agreement can be submitted and if that is refused the decision can be appealed to the Secretary of State (Planning Inspectorate). Since 8th July, when the new emerging local plan reached Regulation 18 stage, the Council has been able to demonstrate a 4.38-year housing supply figure, which satisfies current national housing targets. Crucially, this means that the 'tilted balance' (weighting towards approval of housing schemes when contested at appeal) is not currently engaged. But the city's housing needs remain high, and the new government has indicated its' intentions to increase housing provision nationally and restore five-year housing land supply targets, albeit with new figures that Birmingham may be better placed to meet.
- 4.5. A refusal of the request, backed by an independently verified FVA, is considered to be difficult to defend at a subsequent appeal.

5. Conclusion

- 5.1. The benefits of agreeing the request to vary the Section 106 legal agreement in terms of delivery of family sized houses and completion of the development of the site, are considered to outweigh the reduction in funds towards public open space and historic loss of the bowling green. The applicant has made the request in an appropriate way and justified it in an independently verified FVA addendum. The circumstances leading up to the request are exceptional and the risk to the LPA of setting a more general precedent for future reductions to affordable housing contributions on other sites, post approval, are slim.

6. Recommendation:

- 6.1. Variation to provide for reduced contribution of £90,000 (Breakdown: £70,000 will contribute towards off site affordable housing and £20,000 to compensate for the loss of Public Open Space (POS)).
- 6.2. Variation to the wording of the affordable housing contribution.

Case Officer: Jeremy Guise

Photo(s)



Picture 1 from Collingbourne Avenue – looking at Plots 1 and 2 which have been built.



Picture 2 from Collingbourne Avenue – looking at Plots 3-6 and 15 and 16 which have been built.

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Committee Date:	05/06/2025	Application Number:	2024/07553/PA
Accepted:	28/11/2024	Application Type:	Outline
Target Date:	09/05/2025		
Ward:	Sutton Walmley & Minworth		

Former Severn Trent Land, Wishaw Lane, Birmingham, B76

Outline planning application with all matters reserved except for access for up to 21,000 sqm of employment floor space (Use Classes B2, B8 and E(g ((iii))) with ancillary offices and parking and wider enabling infrastructure including drainage, groundworks and landscaping

Applicant:	Mr Robert Eaton Severn Trent Centre, 2 St. John's Street,, Coventry, CV1 2LZ
Agent:	RPS Consulting Services Ltd 4th Floor, 1 Newhall Street, Birmingham, B3 3NH

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. Proposal

- 1.1. Outline planning permission is sought with all matters reserved except for access (scale, appearance layout and landscaping) for up to 21,000 sq.m of employment floor space (Use Classes B2, B8 and E(g ((iii))) with ancillary offices and parking and wider enabling infrastructure including drainage, groundworks and landscaping. The site forms part of the wider Peddimore employment site allocation (Policy GA6) within the Birmingham Development Plan.

1.2. [Link to documents](#)



Figure 1: Site Location Plan

2. Site & Surroundings

- 2.1. The application site extends to 9.75 hectares and is currently in agricultural use with a generally flat topography, but with a lower area of land on the western part of the site adjacent to Peddimore Brook, a Potential Site of Importance Area. The northern boundary is a small area off Wishaw Lane. The western boundary is marked by a line of mature hedgerows with the Wishaw Lane Playing fields, which demark the limits to an area of residential housing. To the south is an area of planting with many mature trees, though there is a more open area along eastern part of the southern boundary. Beyond the southern boundary is the Birmingham and Fazeley Canal, which is identified as a Site of Local Importance for Nature Conservation (SLINC), with several industrial units located further south on the north side of Kingsbury Road, along with the Minworth sewage works to the south of Kingsbury Road. The site lies outside of the West Midlands Green Belt, which is located further to the east and south of the proposed development.
- 2.2. The Moated site at Peddimore Hall is a Scheduled Ancient Monument which is located approximately one kilometre north-west of the site. There is a collection of Grade II heritage assets along Wiggins Hill Road associated with Wiggins Hill Farm to the east, and to the south is the Minworth Greaves Farmhouse, another Grade II listed building.
- 2.3. [Link to site location](#)

3. Relevant Planning History

- 3.1. No onsite planning history. Adjacent planning history on the wider Peddimore allocation:
- 3.2. 2019/00108/PA - Hybrid planning application comprising: Outline application with all matters reserved for an employment park comprising B1b, B1c, B2 and/or B8 uses, including ancillary offices (B1a), gatehouses and security facilities, service yards and HGV parking, plant, vehicular and cycle parking, landscaping, pedestrian and cycle infrastructure, green and blue infrastructure, ancillary business and community facilities (D1/D2/B1a/A3/Sui Generis) including a multi-purpose hub building and associated development. Full planning application for a new roundabout access from the A38, construction access and compound area, internal spine road, site gatehouse, primary substation and tower, engineering operations including foul pumping station, acoustic fencing, earthworks (including creation of development plot plateaus), pedestrian and cycle infrastructure and structural landscaping including drainage infrastructure and development platform within Peddimore Brook corridor for ancillary business and community facilities. Approved with conditions and S106 Agreement (02.09.2019).
- 3.3. 2021/02972/PA – Section 73 application to vary conditions 3, 17, 19, 20, 21, 22, 34 and 35 attached to planning permission 2019/00108/PA to relocate Peddimore Brook vehicular crossing, re-align northern boundary of Development Zone 1A, incorporate minor changes to the internal spine road and structural landscaping (including paths), reposition pumping station, reduce plateau levels of Development Zones 1A, 1B and 2, rationalise quantum of maximum floorspace and increase maximum building heights at Development Zone 1A, and variation of conditions 5, 7, 8, 9, 14, 24, 25 and 37 to reflect approved non-material amendments and details approved to discharge conditions pursuant to 2019/00108/PA. Approved with conditions and Deed of Variation to the S106 Agreement (09.09.2021).

- 3.4. 2021/04566/PA - Reserved matters application for access, landscaping, appearance, layout and scale for erection of storage and distribution centre (B8) including ancillary offices and welfare facilities and all associated works following hybrid planning permission 2021/02972/PA. Approved with conditions (09.09.2021)
- 3.5. 2021/07129/PA - Reserved matters approval for access only, in respect of an access spur into Development Zone 1A. Approved with conditions (13.10.2021)
- 3.6. 2022/01185/PA - Reserved matters application for access, appearance, landscaping, layout and scale for erection of warehouse for research and development, industrial and/or storage and distribution (E(g)(ii) and/or (iii), B2 and/or B8) including ancillary offices and all associated works following hybrid planning permission 2021/02972/PA. Approved with conditions (26.05.2022)
- 3.7. 2024/07826/PA - Section 73 application to vary conditions 3 (approved plans) and 35 (minimum land provision for manufacturing use) of s73 planning permission 2021/02972/PA to increase the height parameter for Development Zone 1B (DZ1B) from 19.5m to 22.5m above Finished Floor Level and amend the bell mouth access to DZ1B. Approved with conditions (21.03.2025)
- 3.8. 2025/00802/PA - Section 73 application to vary condition 3 (approved plans) of planning permission 2021/02972/PA to increase the height parameter for Development Zone 2 (DZ2) to include one specified area of the zone from 23.5m to 35m above finished floor level (FFL) and to allow chimney stacks in two locations of up to 75m in height above FFL.

4. Consultation

- 4.1. Comments have been summarised by the Case Officer.
- 4.2. BCC Transportation – No objection subject to conditions for the access to be completed before occupation, the Travel Plan to be adopted into the wider Green Travel District, and a Freight Management Plan. A financial contribution of £2,209,072 (indexed linked) is also required to mitigate the impact of the proposed development on the wider transport network and promote active travel.
- 4.3. BCC Trees – No objection
- 4.4. BCC Conservation – No objection subject to a condition for a written scheme of investigation for a programme of archaeological work.
- 4.5. BCC Design & Landscape – No objection subject to conditions for earthworks details and building and site levels.
- 4.6. BCC Employment – No objection subject to a condition for a local employment obligation.
- 4.7. BCC Ecology – No objection subject to conditions for a further bat survey, a scheme for ecological/biodiversity enhancement measures, a construction ecological management plan (CEcMP), a Lighting Design Strategy for biodiversity, a Biodiversity Gain Plan, a Habitat Management and Monitoring Plan (HMMP), a Landscape and Ecology Management Plan, and a BNG monitoring fee of £10,871.54 to be secured through a s106 agreement.
- 4.8. BCC Environmental Pollution – No objections subject to conditions for a noise impact assessment, unexpected contaminated land, external lighting, a construction management plan and stacks.

- 4.9. LLFA – No objection subject to conditions for the requirement for the proposal to be implemented in accordance with the submitted Flood Risk Assessment; prevention of works within the river/stream bank; and the prior submission of a Sustainable Drainage Operation and Maintenance Plan.
- 4.10. Birmingham Public Health – The proposals should support local employment both during operation and construction. Active travel and public transport are essential for a healthy workforce and a Travel Plan Co-ordinator would support this aim. Bike storage and Shower and Changing Facilities should also be secured.
- 4.11. Canal & River Trust - No objection subject to a condition for Risk Assessments and Method Statements covering all construction works.
- 4.12. National Highways – No objection
- 4.13. Historic England – No objection
- 4.14. Network Rail – No objection.
- 4.15. Severn Trent Water – No objection subject to a condition for drainage plans for the disposal of foul and surface water flows.
- 4.16. Warwickshire Ramblers – No objection
- 4.17. West Midlands Fire Service – The proposal will need to accord with the building control requirements set out under B5: Access and facilities for the fire service of Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 and 2022 amendments for use in England.
- 4.18. Birmingham Airport – No objection subject to conditions for a construction management strategy, SuDS details, and a Bird Hazard Management Plan.
- 4.19. Royal Sutton Coldfield Town Council – Some of the proposed site appears to be outside of the Peddimore permission (but within the BDP allocation). Clarity is sought as to whether this unallocated portion of land is designated as Green Belt. Detail contained in the planning application in regard to the intended use is ambiguous and lacks detail regarding the proportion of the land sited on a floodplain. Quality of the design of the proposed building is considered to be uninspiring, and further opportunities need to be explored to ensure it sits well within the wider landscape context and from views from nearby residential properties. Commitment to energy standards is questionable. There appears to be only one vehicle access point, which could impact on access for emergency vehicles.

5. Third Party Responses:

5.1. Eight letters of objection received. The issues raised are summarised below:

- Strain on already poor internet and broadband signal.
- Noise levels during construction for nearby properties.
- Operational noise limited should be put in place.
- Existing landscaping trees that have died are not being replaced.
- Light pollution.
- Additional road traffic congestion.
- Environmental and wildlife concerns.
- Impact on local biodiversity.

- Loss of further Green Belt.
- Outlook form residential properties.
- No requirement for further commercial development.
- The development must proportionally contribute to highways mitigation measures that have already been established for the wider Peddimore site.

6. Relevant National & Local Policy Context:

- 6.1. National Planning Policy Framework
Birmingham Development Plan 2017
Development Management DPD 2021
Birmingham Parking SPD 2021
Birmingham Design Guide SPD 2022
Peddimore SPD 2019

7. Planning Considerations

Principle of Development

- 7.1. The application site falls within the Peddimore Growth Area and Core Employment Area and, therefore, policies GA6 and TP19 of the Birmingham Development Plan (BDP) apply to this proposal. Policy GA6 requires development at Peddimore to deliver high quality design and landscaping, access improvements, enhanced biodiversity and the protection of heritage assets. The requirements of Policy GA6 are further supported by the Peddimore SPD, which adds further detail and guidance for development proposals within this area.
- 7.2. Policy GA6 states that Peddimore will deliver 71 hectares of new employment land and that 40 hectares of the site should be safeguarded for B1(c) or B2 uses. Peddimore was released from the Green Belt and allocated for employment development on the basis that there were exceptional circumstances in favour of doing so, due to there being no other comparable sites of the same quality, and the need for such sites to support both the economy of Birmingham and the wider West Midlands. The particular benefit of the Peddimore site, as shown in the most recent Birmingham Housing and Economic Needs Assessment (HEDNA), is that it has the unique ability to provide for the largest (10,000+ sq.m) units which have one of the lowest availability rates within the city.
- 7.3. To progress towards the achievement of the 40 hectare figure, Condition 35 of the adjacent hybrid planning approval for Peddimore (ref: 2019/00108/PA) established that 5.09 hectares of Zones 1A and 1B and all of Zone 2 (24.64 hectares) should be developed specifically for B1c (now E(g)(iii)) and B2 uses. Together these dedicated areas of Zones 1A, 1B and 2 amount to 29.73 hectares.
- 7.4. The application site extends to 9.75 hectares and, therefore, the provision of the B2 and/or E(g)(iii) use elements of the proposal would allow for the 40 hectare provision to be met.
- 7.5. The Council is currently in the process of preparing the emerging Birmingham Local Plan, which recently underwent a Preferred Options Regulation 18 Consultation. As part of this process the evidence base for the city's employment needs has been updated.
- 7.6. The Birmingham Housing and Economic Needs Assessment (HEDNA) April 2022 clarifies the amount of employment land forecasted to be required over the plan period of the emerging BLP. It states that the range of labour demand over the period of 2020 to 2045 is between 43,700 - 86,400 new jobs depending on

population growth scenarios. The HEDNA identifies a reduced demand over the plan period for industrial floorspace both in terms of the baseline and growth population models, and conversely an increased demand for distribution floorspace. The HEDNA also confirms there is particular market demand for larger units of between 100,000 sq.ft and 200,000 sq.ft (equivalent to circa 10,000 sq.m to 20,000 sq.m).

- 7.7. This more recent evidence indicates that there has been a material change in the make-up of Birmingham's forecasted employment needs compared to the evidence that underpinned the BDP, which consists primarily of the Employment Land and Office Targets Study prepared in 2013. This suggests that future employment growth on employment land is likely to be focused in the distribution sector, and that looking forwards there will be a reduction in the overall number of jobs within the industrial sector.
- 7.8. While the emerging BLP has not yet been subject to Examination and, as such, can only be afforded limited weight, it is noteworthy that the emerging policy for Peddimore in the BLP no longer seeks to expressly safeguard a proportion of the overall development for B1(c) and B2 use, reflecting the more up-to-date evidence base.
- 7.9. In terms of the proposed B8 use, whilst acknowledging the changing evidence and circumstances, it is still considered that the Peddimore site should, where possible, seek to maximise the industrial uses in line with Policy GA6.
- 7.10. On balance, given the new and emerging evidence bases and the Council's need to provide high-quality employment development, I consider a flexible permission that allows for either a B2, B8 or E(g)(iii) use to be acceptable in principle.

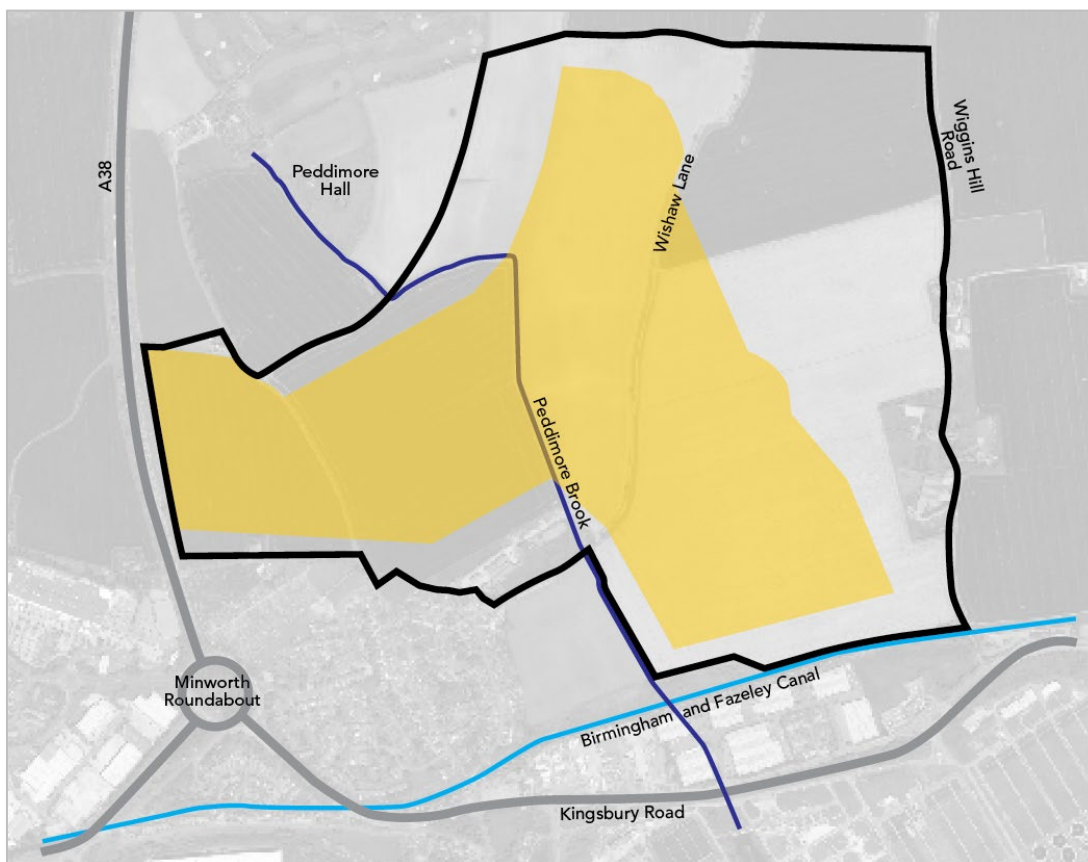


Figure 2: Peddimore Spatial Plan from Policy GA6 of the BDP

Access

- 7.11. The wider Peddimore employment site, originally approved in 2019, provided a new roundabout onto the A38 which now provides the primary vehicular access to the site. The proposed development would utilise this access and the constructed internal road network.
- 7.12. The development site was included in previous traffic modelling with the BDP assuming a total 18,000 sq.m for this site. The Travel Demand Model agreed trip rates for the use classes and this proposal seeks a floor area of up to 21,000 sq.m, so potentially an additional 3,000 sq.m. With the agreed trip rates, that equates to a total of 12 extra two-way vehicle trips in both the AM and PM peak periods, which is considered negligible and does not give rise to the need for any further traffic modelling.
- 7.13. The proposed access to the plot is consistent with the previous consents but is slightly modified based on tracking plans. Vehicle parking and cycle provision has been indicatively shown, and these would be consistent with the requirements of the Car Parking SPD, whilst also matching previous levels in the other consented zones. Any forthcoming reserved matters submission would be expected to maintain these standards.
- 7.14. Furthermore, the site would benefit from the existing bus network services which were established and implemented through the existing outline permission and the Green Travel District (Services 64, 68 and X64).
- 7.15. The Transport Officer has raised no objection to the proposed access, and I consider the proposal accords with Policy GA6 in that it would provide a safe and suitable access for the development.

Other Considerations

- 7.16. Whilst the application is in outline with all matters barring access reserved, an assessment is still required as to the site's suitability to accommodate the level of development proposed and evaluate if it could be accommodated without undue harm to other material planning matters. To enable this assessment, indicative plans and details have been submitted showing a potential scale, layout, Landscaping, and appearance for the proposed development.
- 7.17. The indicative site plan shows the southern portion of the proposed building outside of the identified developable area for Peddimore, as shown in yellow on Figure 2 above. Whilst the plan is for indicative purposes only and layout is a matter reserved for later consideration in the event that outline permission is granted, it is worth stating at this stage that, ideally, the entirety of the development should be within this area. Robust justification and suitable mitigation would need to be exhibited at reserved matters stage to permit encroachment beyond the developable area identified with Policy GA6.

Character of the Area, Visual Amenity, Heritage and Design

- 7.18. The indicative plans submitted show a single, large, rectangular building, positioned at a 45-degree angle to the Birmingham and Fazeley Canal to the south. HGV parking would be to the south-east and north-east of the building, with standard vehicular parking to the north-west, directly adjacent to the site access.
- 7.19. A generous belt of extra-heavy standard trees is shown to the southern and western boundaries, and these would be very important to help lessen the development's

impact from surrounding residential properties and wider views. To ensure year-round screening, any future landscape reserved matter application should include some appropriate evergreen species within the tree mix.

- 7.20. The nearest residential properties to the site are located around 110m to the south along Sutton Square, which is surrounded by the Kingsbury Business Park, and those within the Grade II listed The Greeves development, around 225m to the south-east. Further dwellings along Summer Lane to the south-west have a more direct view of the development site and are around 250m away, across the Wishaw Lane Playing Fields. The Grade II listed buildings on Wiggins Hill Road, Wiggins Hill Farm, Old Barn Cottage and Quaker Cottage are also located around 425m to the north-east.



Figure 3: Indicative Site Layout

- 7.21. Peddimore Hall with its listed buildings, locally listed buildings and scheduled monument lies about 1km to the north of the site. The large, recently completed warehouse development with its associated landscaping and the infrastructure sits between the application site and the heritage assets. This already represents a significant change in the setting of the Peddimore moat and hall which has been subject to mitigation through design and landscaping. The current site and the heritage assets are not intervisible with the completed development between them and so the changes to the current site would not impact upon the significance of the assets.
- 7.22. The potential impact is upon the setting to the listed buildings along Wiggins Hill Road, which have a slightly elevated position looking down on to the site from the east. In theory an already identified, but not yet completed element of the Peddimore development (Development Zone 2) will sit between the heritage assets and the current site. This means that, so long as this development is completed, the impact of the proposed development on Wiggins Hill Farm should be quite limited due to the distance, buildings and landscaping between it.
- 7.23. The greatest impact would be upon the canal along the southern boundary, but this is a lengthy heritage asset, and the development would only affect a small proportion of it. The canal in this location has just emerged from urban Birmingham and so it is quite appropriate to have canals in urban or industrial locations and it does not detract from its significance.

- 7.24. Overall, the proposed development is not considered to have an unacceptable harmful impact upon the surrounding heritage assets so long as the landscaping at Development Zone 2 and the landscaping of the proposed scheme are implemented.
- 7.25. Sufficient space within the site is considered to be available to provide an adequate landscape buffer to the edges of the wider Peddimore site to ensure that the amenity of adjacent and nearby uses is not unacceptable impacted by the development.
- 7.26. The scale and appearance of the proposed development can be secured through reserved matters to ensure that the building would be acceptable in terms of the character of the area, visual amenity and design. Furthermore, the building height would be restricted to a maximum height of 19.5m above FFL, which would be secured by condition if permission was forthcoming.

Drainage and Flooding

The application site falls within Flood Zone 1, where there is a low probability of flooding. However, BCC's Level Strategic Flood Risk Assessment report states that the site is susceptible to groundwater floods and a high-water table. There is also some risk of surface water flooding in the southwest corner nearer Peddimore Brook.

- 7.27. The FRA states that sustainable drainage strategies (SuDS) are proposed to mitigate and minimise the surface water flood risk. The proposed site has been split into catchment areas, with the main catchment consisting of the main car park and service yard with the access road. The other catchment comes from the roofs of the unit. Both catchments would drain towards a detention basin for storage and treatment. It has been demonstrated that this would incorporate sufficient attenuation to accommodate rainfall events up to and including the 1 in 100 years plus 40% climate change event. The site would be covered with impermeable surfacing, and groundwater mitigation would be mitigated with flood routing considered for any remaining soft landscaped area.
- 7.28. The LLFA have stated that they strongly support the introduction of the swale to discharge surface water to the watercourse and the introduction of a screen on the watercourse to prevent blockages to the culvert under the canal. This would have the benefit of improved biodiversity and water quality treatment over a conventional engineered outfall and would ensure that the drainage network can discharge water into the watercourse without a risk of tide locking during high river flows.
- 7.29. The proposed attenuation bason demonstrates a commitment to the sustainable management of surface water, retaining surface water flows to meet the QBAR greenfield discharge rate for the entire site, with a freeboard allowance. This nature-based solution to water management would provide amenity, create habitat, and would have water quality and ecological benefits which, in close proximity to the watercourse, extends the river corridor habitat.
- 7.30. Currently, there is no foul drainage for foul flows from the site, with the nearest connection located at the northern end of Wishaw Lane. The FRA states that Severn Trent Water has confirmed that it would be possible to reach this via a private package to be agreed as part of a Section 185 agreement. To ensure this, an appropriate condition would be attached to any grant of permission. With the imposition of such a condition, the proposal is considered to accord with Policy TP6 of the BDP.

Ecology

- 7.31. The site comprises managed arable farmland with areas of woodland and scrub to the south. Birmingham and Fazeley Canal SLINC is adjacent to the southern boundary. A mature hedgerow and Peddimore Brook (Peddimore Valley PSI) demarcate the western boundary, beyond which is Wishaw Lane playing fields. The canal itself is outside the site, but there is woodland and scrub between the canal and the arable field which also lie within the SLINC. These habitats would mostly be retained, but some minor loss of scrub habitat is proposed. Similarly, Peddimore Brook would be retained, although a short section of the eastern bank would be impacted by construction of an outfall to discharge surface water from the development once it has been passed through the proposed SuDS infrastructure.
- 7.32. There is potential for both the SLINC and PSI to be impacted during construction. The submitted Ecological Impact Assessment (EclA) advises a Construction Environmental Management Plan (CEMP) would be prepared at the detailed design stage to set out mitigation measures, such as pollution control measures to avoid contamination of the canal and brook. Effective protection measures must also be implemented to avoid degradation of retained woodland and scrub habitats within the SLINC. I consider that these can be secured through a suitably worded condition to require the submission, approval and implementation of a Construction Ecological Management Plan (CEcMP) if permission is forthcoming.
- 7.33. The submitted indicative Landscape Strategy Plan shows the retained SLINC and PSI would be buffered from construction and operational impacts by additional planting, which would create a continuous green corridor along the southern and western edges of the site. A detailed planting scheme must be submitted and approved at reserved matters stage and appropriate long-term management and monitoring of the SLINC and PSI habitats within the site would need to be secured.
- 7.34. The detailed design for the new brook outfall must also be secured; methods of construction of this feature must be set out in the CEMP / CEcMP to ensure loss and disturbance of habitats within the brook corridor are minimised and pollution / contamination avoided. Effective pollution control measures must be included as part of the wider drainage strategy to ensure no polluted surface water discharges to the brook once the development is operational.

Biodiversity Net Gain

- 7.35. The proposals seek to retain semi-natural habitats around the site's peripheries, notably woodland and scrub along the southern boundary and individual trees and hedgerow around the north-west edge of the site. Site access would require removal of a section of recently planted hedgerow and a number of recently planted trees. The most significant loss is of tree T7, a large mature Pedunculate Oak (Category A tree) along the northern edge of the arable field.
- 7.36. The application is subject to mandatory BNG, and this provides an approach for evaluating the habitats present and demonstrating habitat impacts are adequately mitigated and compensated for, and a net gain for biodiversity, of at least 10% (as measured using the Statutory Biodiversity Metric [SBM]), is delivered.
- 7.37. The baseline biodiversity value is calculated as 18.42 habitat units, 0.26 hedgerow units and 2.76 watercourse units. The scheme's post-development biodiversity value has been calculated with reference to the development parameters set out in the submitted Landscape Strategy Plan. The commentary regarding adherence to the Biodiversity Gain Hierarchy and the assumptions made regarding habitat classification and condition of post-development habitats are accepted.

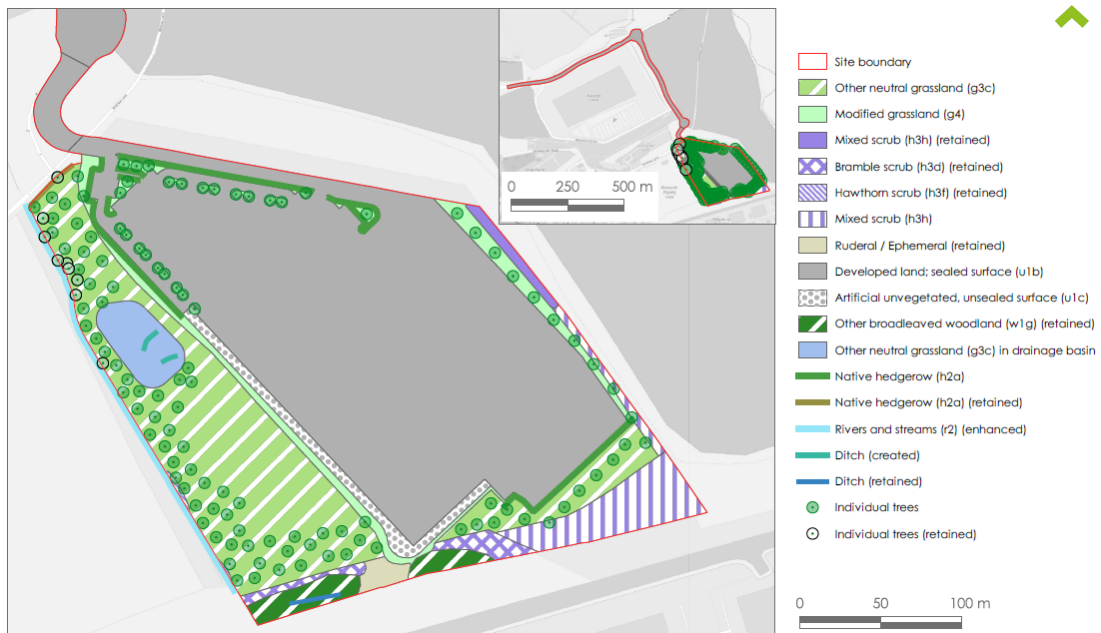


Figure 4: Proposed Habitats Plan

- 7.38. Based on the Proposed Habitats Plan (Figure 4, above), the scheme's post-development biodiversity value is calculated as 23.02 habitat units (net change of +4.6 units / +24.95%), 1.15 hedgerow units (net change of +0.89 units / +341.19%) and 3.1 watercourse units (net change of +0.42 units / +12.16%). The uplift in watercourse units is achieved by a reduction in riparian zone encroachment within the red line boundary (due to cessation of the existing agricultural management of land within the riparian zone and creation of new semi-natural habitats) rather than by enhancing the moderate condition of the watercourse channel itself. These calculations demonstrate the scheme would meet its mandatory BNG requirements for habitat, hedgerow and watercourse units; relevant trading rules would also be satisfied.
- 7.39. Retained and new habitats will need to be appropriately managed to ensure that the target habitat conditions stated in the post-development SBM are maintained / achieved, so that these habitats deliver the biodiversity units predicted in the post-development SBM at the end of the minimum 30-year mandatory BNG duration post-completion. Habitat monitoring will also be required to check progress towards achieving target condition and to identify if remedial action or adaptive management is required. If permission is forthcoming, a condition to secure the significant on-site enhancements would be required, along with an obligation within the section 106 agreement to secure a monitoring fee covering the cost of the Ecology team's work to review the developers' monitoring reports over the mandatory 30-year period post-completion. This is in order to assess the effectiveness of the management being undertaken in achieving the projected target condition of the habitats being created or enhanced.

Sustainability and Energy Efficiency

- 7.40. 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. Non-residential development of more than 1,000 sq.m or 0.5ha should aim to meet BREEAM Excellent standard, unless it is proven to be financially unviable.

- 7.41. 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, unless financially unviable.
- 7.42. An Outline Energy and Sustainability Statement has been submitted, which comprehensively sets out the sustainable constructure measures that would be implemented to accord with the requirements of Policy TP3. In addition, the statement commits to carry out a BREEAM pre-assessment and states that the proposed building would be capable of targeting Excellent standard. The proposed development can therefore demonstrate strong conformity with the requirements of Policy TP3 at outline stage.
- 7.43. In regard to Policy TP4, the submitted statement includes a commitment to investigate opportunities to employ low and zero carbon energy generation technologies. At outline stage, it also suggests that photovoltaic panels could be incorporated into the design. If permission is forthcoming, the subsequent reserved matters planning application should include a more detailed and comprehensive assessment of the different types of low or zero carbon energy generation technologies that can technically and viably incorporated into the development proposal.

Other Issues

- 7.44. A Noise Impact Assessment has been submitted as part of the proposal. The assessment considered noise impacts from the proposed development on surrounding residential noise-sensitive receptors, including properties at Sutton Square to the south, Summer Lane to the west and Wiggins Hill to the east. The assessment demonstrated that there is a likelihood of adverse noise impacts on some of these residential properties during the daytime and significant adverse impacts during the nighttime period. To mitigate these impacts the assessment recommends that all loading bay doors are to remain closed unless occupied by a HGV and that all vehicles on site are to have broadband white noise reverse alarms to remove any tonal element.
- 7.45. The Council's Environmental Pollution Officer considers that a further Noise Impact Assessment should be submitted alongside the reserved matters in order to provide a more comprehensive and specific set of mitigation measures. With the imposition of such a condition, I consider that the proposed development to be compliant with Paragraphs 180, 191 and 193 of the NPPF, Policy TP37 of the BDP and Policy DM1 of the DMB DPD.
- 7.46. Concerns have been raised within the submitted comments as to the lighting for proposed development and I consider it prudent to secure these details by condition to ensure that no unacceptable harm is caused to surrounding uses.

Length of Permission

- 7.47. The standard length of permission for outline consent is for the submission of reserved matters within three years and commencement within two years of the submission of reserved matters. The legislation does allow Local Planning Authorities to give longer periods of time to submit and the National Planning Guidance advises that clear justification is required.
- 7.48. The Applicant has requested a further two-year period (five years in total) for the submission of reserved matters to allow for detailed site negotiations to conclude to enable the delivery of the site. On balance, given the timescales for the rest of the Peddimore site, I consider this request to be acceptable in this case.

Planning Obligations

- 7.49. The proposal is subject to S106 planning obligations in relation to the following matters:

Off-Site Highways Improvements

- 7.50. The 2019 hybrid planning permission (ref: 2019/00108/PA) for the majority of the Peddimore site allocation included a comprehensive assessment of the off-site transport mitigation/improvement measures that would be required for the entirety of the Peddimore and Langley developments. This including an appropriate apportionment of financial contributions between the developments. The contributions apportioned to the Langley and Peddimore allocations were £32m and £16.8m, respectively. However, as the Applicants were contractually obliged to directly provide specific infrastructure (A38 roundabout, bridge over the A38 and bus gate and a cycle route to Chester Road train station) these costs (£11m) were deducted from the Peddimore 'apportionment', which resulted in the 2019 planning application having a financial contribution towards highway mitigation, public transport and active travel (secured through a S106 obligation) of £3.9m.
- 7.51. Significantly for this application, the assessment and calculation of transport mitigation had regard to the whole of the Peddimore allocation, including the proposed application site. This is summarised at paragraph 6.2.36 of the 2019 Planning Committee Report:

"The remainder of the contribution up to the £16.8m (the overall cost of all the works allocated to Peddimore) is approximately £1.8m which will be required from the other landowners of the Peddimore allocated site as and when they come forward for planning permission".

- 7.52. Given that this £1,840,894 (exact) figure was based upon 2019 prices, the amount has been index linked to the present, which results in a required contribution of £2,209,072.

Air Quality

- 7.53. For developments where an overall significant impact to local air quality is determined, a damage cost calculation should be undertaken to determine an appropriate sum to be spent on mitigating the impact on air quality. In this case, it is considered appropriate that the damage cost calculation should be secured through a s106 agreement to ensure that any identified sum can be appropriately spent on mitigating the impacts of the development.

BNG Monitoring

- 7.54. As discussed above, an obligation within the section 106 agreement to secure a monitoring fee covering the cost of the Ecology team's work to review the developers' monitoring reports over the mandatory 30-year period post-completion is required to support the proposal. This amounts to £10,871.54.

Community Infrastructure Levy (CIL)

- 7.55. The proposal is not liable for any CIL payment as the site is in a nil rated area.

Planning Balance

- 7.56. NPPF Paragraph 11 sets a presumption in favour of sustainable development which for decision taking means approving development proposals that accord with the development plan without delay. This is confirmed by Section 38(6) of the Planning and Compulsory Purchase Act 2004 which clarifies that planning decisions are to be made in accordance with the adopted development plan unless material consideration state otherwise.
- 7.57. 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

- Provision of Best Quality employment land that can accommodate a large floor area in line with local demand.
- Investment and job creation in the local market.
- Employment generation during construction and subsequent operation

Social

- Provide jobs for local people during and following construction.
- Support the supply and use of the local bus network.
- Provision of active walking and cycling options in the workplace as part of the wider Peddimore site and Green Travel District.

Environmental

- Ecological and biodiversity enhancements through new planting (conditioned)
- 7.58. 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 CEcMP).
 - Loss of 9.4 ha of BMV agricultural land. Although this was considered by the Local Plan Inspector when allocating the site.
 - Loss of some trees and hedgerows to create the proposed access route.
- 7.59. 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 Outline Planning Permission should be granted with delay.

8. Conclusion

- 8.1. Whilst limited harm may exist in the form of the loss of countryside and agricultural land, this is far outweighed by the benefits, and it is amongst the city's most sustainable available locations for Best Quality employment land of which there is a continued identified need in the most recent HEDNA. Whilst certain issues have been raised with regards to the details submitted, the application as submitted is in outline only and these points are considered to be addressable at the reserved matters stage. To this end, suitable conditions are proposed to be attached to any grant of outline permission and the Applicant is advised to carefully assess all of the

issues raised through this application in order to develop a suitable design that achieves the requisite standards and policies. On this basis, I have concluded that the proposal is sustainable development and recommend outline permission is granted without delay subject to conditions and the completion of a section 106 agreement.

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 outline application be GRANTED subject to the following conditions and notes (that may be amended, deleted or added to providing that the amendments do not materially alter the permission) and prior completion of a S106 agreement to secure the following:

- A financial contribution of £2,209,072 (indexed linked) towards Walking and Cycling Measures; Highway Improvement Works; and Public Transport Services.
- Biodiversity net gain monitoring fee of £10,871.54
- Air quality damage cost assessment
- Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £13,000.

9.3. That the Council's Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.

9.4. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 5th September 2025 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason:

- In the absence of any suitable legal agreement to secure the provision of an off-site contribution for highways mitigation, biodiversity net gain monitoring and an air quality damage cost assessment the proposed development would not be able to acceptably mitigate the impacts of the proposal. Therefore, the development would conflict with Policies GA6, TP8, and TP47 of the Birmingham Development Plan, Policy DM1 of the Development Management in Birmingham DPD, the Peddimore SPD and the NPPF.

-
- | | |
|---|--|
| 1 | Implement within 5 years (outline) |
| 2 | Requires the submission of reserved matter details following an outline approval |
| 3 | Requires the scheme to be in accordance with the listed approved plans |
| 4 | Limits the layout plans to being indicative only |
| 5 | Requires the prior submission of a construction ecological mitigation plan (CEcMP) |
| 6 | Requires a Construction Management Plan (CMP) |
| 7 | Requires the prior submission of a contamination remediation scheme |
| 8 | Requires the submission of a contaminated land verification report |
-

9	Requires the prior submission of earthworks details
10	Requires the submission of details of refuse storage
11	Requires a Noise Impact Assessment
12	Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
13	Requires the prior submission of a sustainable drainage scheme
14	Requires the prior submission of a Bird Hazard Management Plan
15	Requires the prior submission of Construction Works Risk Assessments and Method Statements
16	To ensure information on the proposed low/zero carbon energy technology is submitted
17	To ensure that the development achieves BREEAM Excellent rating level
18	Requires the submission of building and site level details
19	Development restricted to 19.5m above finished floor levels
20	Requires the implementation of the Flood Risk Assessment
21	Prevents works within the river/stream bank
22	Requires the prior submission of earthworks details
23	Requires the prior submission of unexpected contamination details (if found)
24	Requires the submission of a lighting scheme
25	Requires Noise Impact Assessment
26	Details of stack, vent or extract system to be submitted.
27	Requires a Freight Management Plan
28	Provision of site accesses and visibility splays
29	Travel Plan and Green Travel District
30	Requires a written scheme of investigation for a programme of archaeological work
31	Prevents outside storage
32	Local employment during construction
33	Requires the prior submission of an additional bat survey
34	Requires the submission of a scheme for ecological/biodiversity enhancement measures
35	Requires a Biodiversity Gain Plan

-
- 36 Requires a Habitat Management and Monitoring Plan (HMMP)
 - 37 Requires completion and monitoring reports for BNG
 - 38 Required landscape details with reserved matter submission
-

Case Officer: Eddie Wrench

Photo(s)



Photo 1: View from Wishaw Lane



Photo 2: View from near to proposed access adjacent to Amazon warehouse



Photo 3: View from Bridleway east of proposed site

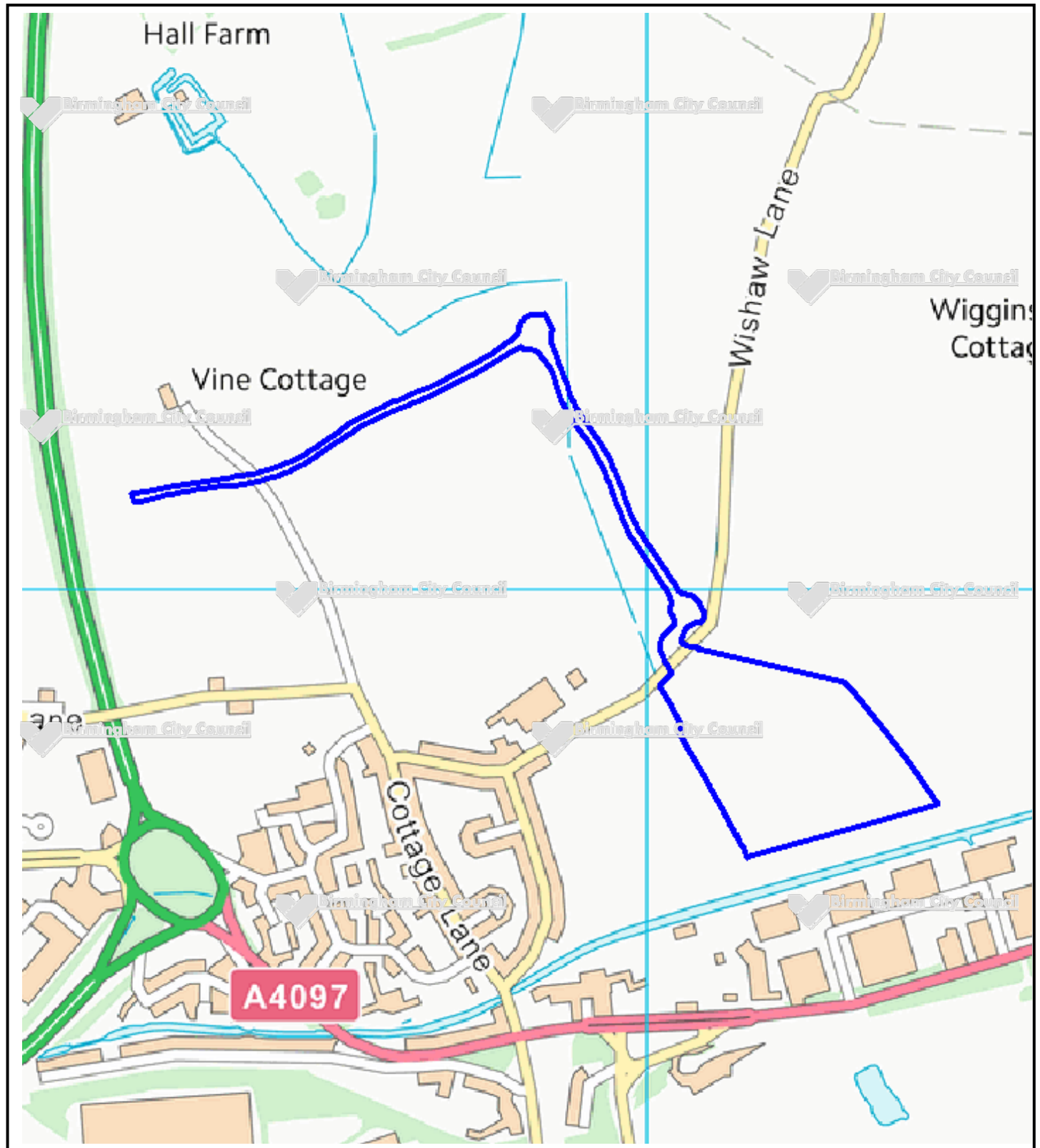


Photo 4: View from Birmingham and Fazeley Canal



Photo 5: View from Birmingham and Fazeley Canal

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010

Birmingham City Council

Planning Committee

5th June 2025

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Determine	14	2023/07902/PA Land at Bristol Street, Bromsgrove Street and Essex Street Birmingham B5 7AA Demolition of all existing buildings and the erection of three buildings (phased) between 7 and 40 storeys for residential use and associated amenity floor space (Use Class C3), ground floor commercial spaces (flexible within Use Class E (a- g(i))), hard and soft landscaping, access, drainage, and all other associated works.

Committee Date:	05/06/2025	Application Number:	2023/07902/PA
Accepted:	23/11/2023	Application Type:	Full Planning
Target Date:	29/11/2024		
Ward:	Bordesley & Highgate		

Land at Bristol Street, Bromsgrove Street and Essex Street,
Birmingham, B5 7AA

Demolition of all existing buildings and the erection of three buildings (phased) between 7 and 40 storeys for residential use and associated amenity floor space (Use Class C3), ground floor commercial spaces (flexible within Use Class E (a-g(i))), hard and soft landscaping, access, drainage, and all other associated works

Applicant:	Markou Dynamis House, 6-8 Sycamore Street, London, EC1Y 0SW
Agent:	Williams Gallagher Somerset House, 37 Temple Street, Birmingham, B2 5DP

Recommendation
Determine

1. Report Back

- 1.1. Members will recall that this application was brought before Planning Committee at your meeting of 28th November 2024 (and 5th September 2024 before that), where it was resolved that the application be deferred to allow for further consideration of the proposed housing mix, harm to heritage assets through demolition, and impact upon surrounding businesses.
- 1.2. Amendments have been made to the scheme following comments from Members at the Committee in November 2024 and September 2024. Therefore, this report back sets out an amended housing mix, amended building design and reiterates the heritage impact and sets out the benefits of the proposed scheme to be balanced against identified harm.
- 1.3. The amended housing mix reduces the overall number of units, increases the number of three-bedroom apartments and the design changes to the Bristol Street/ Bromsgrove Street junction are intended to address Members comments on the relationship with the wider townscape and the Listed former Wellington Public House.
- 1.4. The affordable housing offer remains the same, despite a decrease in overall units, therefore, rises to an off-site contribution equivalent to 10% affordable housing.
- 1.5. The applicant also provided further detail on the occupiers of the existing buildings.



Previous proposed design to left, current proposal to right.

- 1.6. The amendments are discussed further in the Report Back below.

2. Policy Update

- 2.1. Since the scheme was last presented to Planning Committee a new National Planning Policy Framework (NPPF) has been published (December 2024).
 - 2.2. Paragraph 11 of the December 2024 NPPF sets a presumption in favour of sustainable development, under which there is a 'tilted balance' in favour of granting planning permission where local authorities cannot demonstrate a 5 year supply of land for housing development or where the delivery of new housing over the past three years has been less than 75% of the government's targets under the Housing Delivery Test.
 - 2.3. The City Council achieved 79% under the Housing Delivery Test 2023, resulting in a requirement to apply a 20% uplift to the city's local housing need requirement for the next five years from 22,240 to 26,688 new dwellings. As of 1st April 2024 a deliverable housing land supply of 29,959 new dwellings has been identified. When compared with the uplifted housing requirement this results in a housing land supply of 5.61 years. As this is above 5 years and because the city did not fall below the 75% Housing Delivery Test threshold, this means that the 'tilted balance' under national planning policy does not apply to applications for new housing development.
 - 2.4. While the tilted balance does not now currently apply, there is still an ongoing need for new dwellings across the city and these should be permitted where they accord with local and national planning policy unless material considerations suggest otherwise.
 - 2.5. Furthermore, paragraph 125 of the NPPF has placed greater weight on the use of Brownfield Land for providing homes and states that planning policies and decision should "*give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused*".
 - 2.6. There has also been the publication of the Historic Environment Supplementary Planning Document. This SPD makes no change to the assessment of harm to heritage assets or the requirements of TP12 or the NPPF.
- ## **3. Housing Mix & Tenure**
- 3.1. Following comments from Members at the last report to Committee in November, the applicant has sought to amend the proposed housing mix. There has been a reduction in overall units by 19, a reduction in 1 bed units and increase in 3 bed units.

Bedroom mix	Previous proposal	Amended Proposal
1bed1person	(65) 11.8%	(65) 12.3%
1bed2person	(167) 30.4%	(129) 24.3%
2bed3people	(143) 26%	(143) 26.9%
2bed4people	(159) 28.9%	(159) 29.9%
3bed5people	(14) 2.5%	(33) 6.2%
4bed8people	(2) 0.4%	(2) 0.4%
Total	550	531

- 3.2. This is a significant uplift in the number of three bedroom units, with the overall mix comparing favourably to other approved schemes – refer to Figure 1 in November Report Back below.
- 3.3. In addition to the changes made above, it is important to consider this in the context of the proposed scheme's location within the inner central area of the City, as described by the HEDNA. The original Officer's report refers to the inner and outer central areas described within the HEDNA and their differing characteristics. In the inner central area 92% of dwellings are flats (compared to 23% for outer Birmingham). Whilst the number of flats and smaller units are concentrated in the city centre, it is important to note that there are significantly more dwellings overall, outside of the city centre, which together make up the housing stock for the city as a whole. The outer city has a much higher concentration of houses which account for 77% of dwelling types in the suburbs.
- 3.4. The HEDNA suggests that the Outer Central Sub-Area is likely to see greater demand for larger homes as families grow and are better able to access schools and other infrastructure, leaving the inner area which has a lack of social infrastructure able to accommodate smaller homes for singles and couples. It states, *'This also responds to the type of sites that are likely to come forward in the respective areas i.e. higher density more centrally.'* Where there are schools and surgeries in the central area, especially primary schools, these are located towards the periphery of Central Sub-Area. The HEDNA also states *'brownfield sites in the City Centre (particularly the inner sub-area) may be more suited to flatted development ... whereas a more suburban site may be more appropriate for family housing'*.
- 3.5. The HEDNA, whilst suggesting a different mix for the wider central area than the application proposes, also comments that Build to Rent (and flatted) development would be appropriately located in the inner central area with a focus primarily on 1 and 2-bed units, with some 3-bed, which the application mix reflects.
- 3.6. When considering the housing stock of the city as a whole, the delivery of one and two bedroom apartments, whilst high, is just a proportion of housing available in the city. The Annual Monitoring Report 23/24, shows that whilst there are large number of 1 and 2 bedroom apartments approved, the number of 3 bedrooms being approved has also risen, along with the overall number of dwellings each year. Therefore, the delivery of apartments is increasing the authorities overall supply, rather than reducing the number of family homes delivered.

Year	1 bed	2 bed	3 bed	4+ bed	Total
2011/12	335	557	291	336	1,519
2012/13	283	564	350	337	1,534
2013/14	331	784	342	265	1,722
2014/15	367	721	529	449	2,066
2015/16	548	740	349	370	2,007
2016/17	518	644	374	263	1,799
2017/18	993	1,242	478	320	3,033
2018/19	1,847	1,441	305	272	3,865
2019/20	1,352	1,294	503	277	3,426
2020/21	1,227	1,247	372	246	3,092
2021/22	1,368	1,310	386	131	3,195
2022/23	1,052	1,205	422	211	2,890
2023/24	1,767	1,710	461	167	4,105
Total	11,988	13,486	5,162	3,644	34,253
%	35%	39%	15%	11%	100%

AMR housing delivery by mix

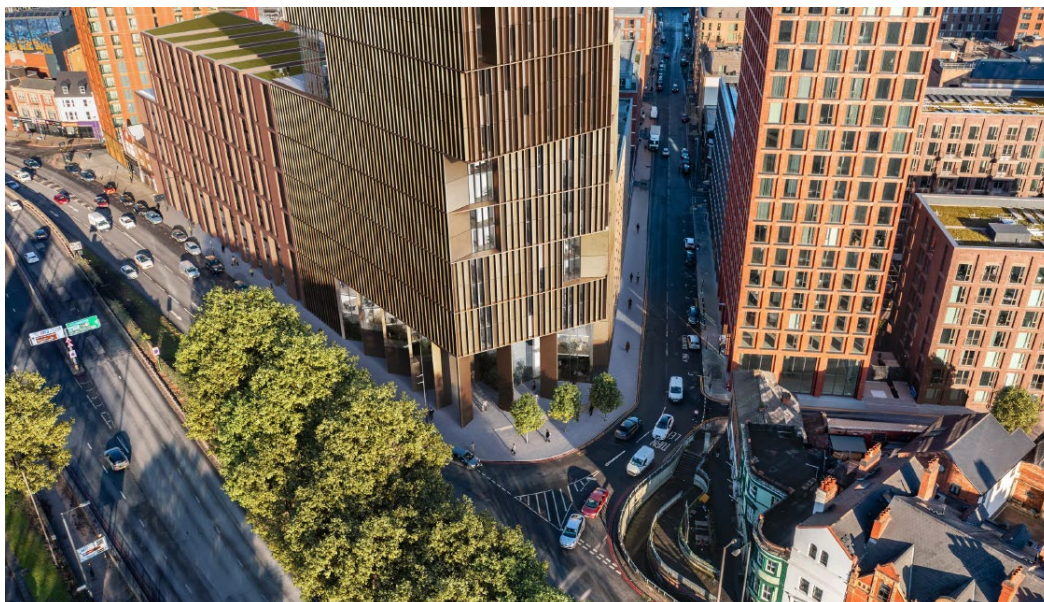
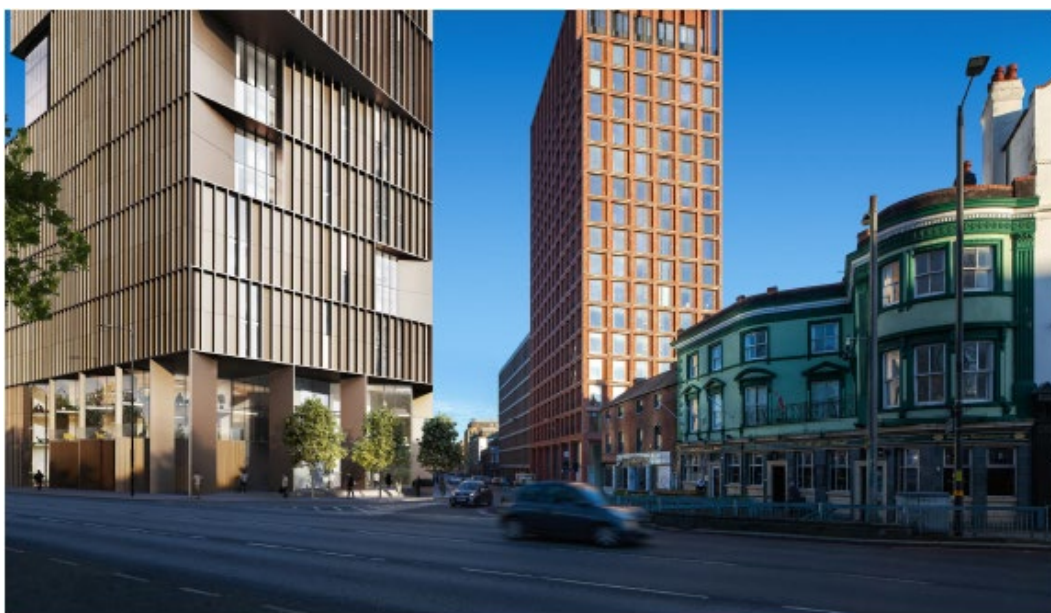
- 3.7. Therefore, the mix of housing does reflect the characteristics and type of development suited to the inner central area. The below Report Back from November also sets out how the proposed development mix is favourable compared to other similar development approved in the inner central area, see figure 1 of the previous report back, and the proposed mix has been further amended increasing the number of three bed apartments.
- 3.8. It is clear from the above monitoring data that the Planning Authority continues to deliver family housing, however, much of this is provided on smaller brownfield and windfall sites across the city. The Councils Scheme of Delegation allows for Officers to determine applications of less than 40 residential units, under delegated authority. This means that Members of the Committee see a large proportion of city centre developments, which are often tall buildings of high density, made up of 1 and two bedroom units. However, Officers continue to use the data in the HEDNA and advice from Strategic Housing colleagues to support family housing where proposed (and meet the relevant Policies of the BDP).
- 3.9. Therefore, taking the evidence set out in the HEDNA as a whole, rather than just the suggested mix for the wider central area in isolation, the housing mix can be supported in this inner central location.
- 3.10. Officers advise that substantiating a reason for refusal on housing mix would be challenging, as much of the wider analysis within the HEDNA supports this type of development, in this location.
- 3.11. Overall, it is considered that the proposed amended mix goes some way to addressing comments made by Members and delivers homes in a highly sustainable location, which should be given substantial weight.
4. **Affordable Housing contribution**
- 4.1. For clarification, the Affordable Housing contribution is unchanged from the previous proposed, despite the changes in mix and reduction in overall numbers. The Applicant has chosen to accept a reduction in accepted profit margin, that would generally otherwise discourage development. Therefore, there is a percentage increase in the offer being made from the previous scheme.
- 4.2. At the last Committee Members commented that in this instance they felt an offsite affordable housing contribution would be preferable, therefore the resolution, should Members approve the application, is to seek a financial contribution off-site. This would allow BCC to purchase properties for its own stock, that would be for social

rent and would meet the greatest affordable housing needs of the City.

- 4.3. The Council's independent viability assessor reviewed the Affordable Housing offer and comment that the offsite contribution of £3,170,000 was equivalent to around 10% affordable housing, at a 20% discount.

5. **Design and Heritage**

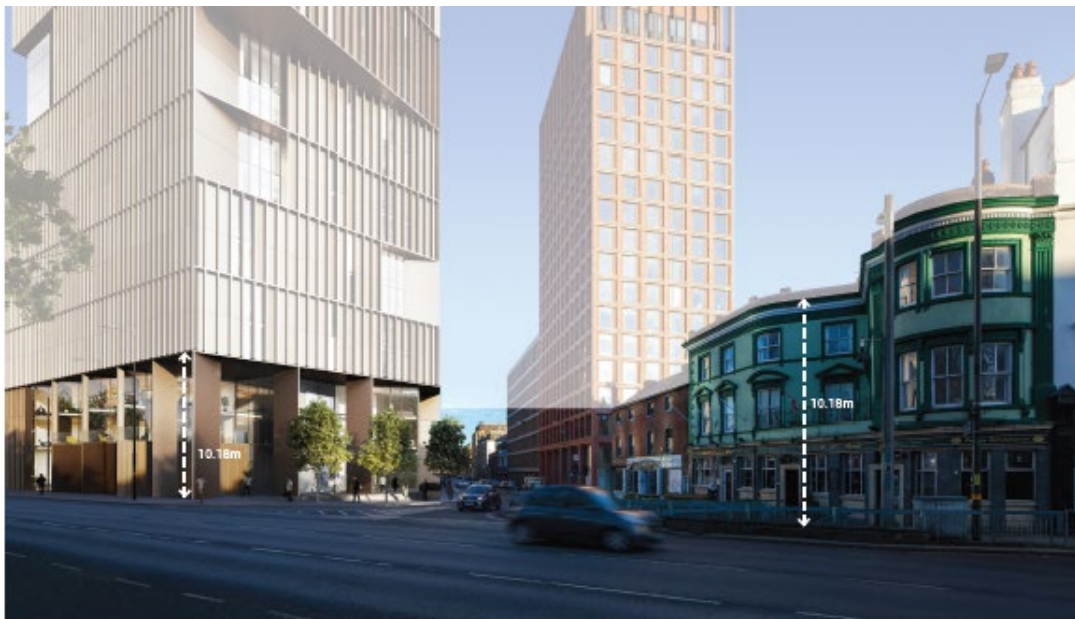
- 5.1. Since the previous Report Back, the scheme has been amended. These amendments include a redesigned corner to Bristol Street / Bromsgrove Street, enhancing the active frontage and creating a three-storey base with colonnade. There are also façade changes with two conjoined window recess at upper floor areas (between floors 5 and 6, as well as between floors seven and ten) with splayed reveals.



- 5.2. The three-storey base and colonnade mirrors the height of the Wellington within the street scene.



- 5.3. These changes increase ground floor activity and overlooking, create an interesting and well designed entrance at the junction and create a direct relationship to the adjacent Listed Building and wider street scene along Bristol Street.



- 5.4. The City Design Manager notes that these changes “*transform the relationship of the tower with the street and improve its presence on the approach into the city from the south*”.
- 5.5. In accordance with the guidance the applicant provided an extensive TVIA and detailed Design and Access Statement to help justify why the proposed site is suitable for a tall building. The City Design Manager found these assessments to be fair and follow best practice guidance (Landscape Institute’s Guidelines for Landscape and Visual Impact Assessment (GLVIA3)). Good Urban Design principles are followed.
- 5.6. Further to the above, following comments from members, an obligation has been added to the resolution requiring the retention of the architect through delivery of the

scheme, with the aim of securing architectural quality.

- 5.7. The Officer's report to Committee notes that the application is supported by a Heritage Assessment and concludes that the proposed development would result in varying degrees of less than substantial harm to the setting of nearby designated heritage assets as well as the demolition of some non-designated assets. This is set out in full from paragraph 7.29 onwards of the Officer's report to Committee.
- 5.8. However, the NPPF also encourages the best use of brownfield sites, and states substantial harm must be found in order to refuse applications that utilise brownfield land for homes. This is not suggesting approval at any cost, and significant weight is given to the identified harm to heritage assets, however, as the Officer report to Committee sets out, the level of harm identified has been weighed against the public benefits that the proposed development, in accordance with paragraph 214 of the NPPF and Policy TP12. Officers concluded that there are enough public benefits to outweigh the identified harm, and therefore recommend the application is approved.
- 5.9. Whilst the proposal would result in the demolition of existing buildings, there are no local Development Plan policies which require the retention of existing buildings or that create a presumption in favour of reusing existing buildings.
- 5.10. However, paragraph 161 of the NPPF states that the planning system should *"encourage the reuse of existing resources, including the conversion of existing buildings"*. However, the NPPF is also clear whilst re-use of buildings should be encouraged, the delivery of housing on brownfield land within existing settlements should be given substantial weight. Weight is also attached to the efficient use of underutilised land, such as this.
- 5.11. The Birmingham Design Guide City Note EF - 5 says *"the construction of developments utilises a range of resources and energy, which developers should seek to reduce. This could be aided through the use of sustainable building techniques, low carbon materials and re-using existing built fabric"* and *"Where a site contains an existing building, the feasibility (considering viability and site constraint) of retaining it (in whole or part) should be appropriately considered by any development proposal. Scenarios must consider how the building could be refurbished and/or modified to successfully accommodate the new uses sought"*. However, given this is guidance only and not policy, greater weight is afforded to the use of brownfield land for the delivery of homes.
- 5.12. The application of this Policy and Guidance test has been previously reviewed by a Judicial Review and was found to be appropriate.

Existing Uses

- 5.13. The majority of existing occupiers are small business of 3-7 members of staff. The occupiers have short term leases which the applicant states is on the basis of the re-development potential and leaseholders were made aware of this.
- 5.14. The existing largest tenant (50-59 staff) is working with the applicant to relocate.
- 5.15. However, as set out in the Officer report to Committee, there is no policy that specifically protects the types of uses that exist at the site. Uses that are afforded protection by Policy are employment uses that fall within B1, B2 and B8 (albeit B1 use class no longer exists, now falling within E).
- 5.16. Furthermore, the proposed development would see an increase in the population and footfall in this location that would add to the local economy and help support other existing businesses in the surrounding area.

6. Benefits of the proposed development

6.1. Economic

- Temporary construction jobs over the construction period

- Creation of skills and training opportunities during construction
- Jobs in operation
- Net additional GVA to the economic output from additional residents within the city centre

Social

- The provision of housing
- A financial obligation of £3,170,000 towards affordable housing
- The provision of homes on underutilised brownfield land in a sustainable location
- Mixed communities

Environmental

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

7. Conclusion

- 7.1. Taking the above issues together, it is Officer's view that the proposed amended housing mix can be supported in the inner central area, given the HEDNA finds this location to be appropriate for flatted, Build to Rent development and varies in character compared to the outer central area and wider City.
- 7.2. Whilst the NPPF states that affordable homes should first be on-site, in this instance, given the nature of the development and cabinet approval for purchase of homes using allocated s.106 monies, this can be supported. Helping to deliver family housing for social rent, taking people off the housing register.
- 7.3. The proposed design and associated landscaping and public realm is considered to be of high quality. Substantial weight is afforded to the use of a brownfield site in a highly sustainable location to deliver homes.
- 7.4. There is less than substantial harm identified to designated heritage assets, and would result in the demolition of some non-designated assets, which is afforded significant weight. However, when weighed against the benefits of the proposal set out, the identified harm is not considered substantial to warrant refusal of the application.
- 7.5. Therefore, the proposed development is found to accord with the development plan as a whole and planning permission should be granted in accordance with the recommendation below, subject to conditions and a suitable legal agreement.

8. Recommendation

- 8.1. That application 2023/07902/PA be APPROVED subject to the prior completion of a Legal Agreement to secure the following:
 - off-site contribution towards affordable housing of £3,170,000 [Indexed Linked]
 - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £13,000.
 - Retention of architect during delivery
- 8.2. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 30th June 2025 or such later date as may

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

- 8.3. In the absence of any suitable legal agreement to secure the provision of affordable housing the development does not deliver the significant benefits considered when weighing the benefits of the proposal against identified adverse impacts. Therefore, the proposal conflicts with Policies TP31, TP47 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 8.4. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 8.5. That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 30th June 2025, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/07902/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

[End of report back]

9. **Report Back (28th November 2024)**

- 9.1. Members will recall that this application was brought before Planning Committee at your meeting of 5th September 2024, where it was resolved that the application be deferred to allow for further consideration of the proposed housing mix and affordable housing contribution.
- 9.2. The proposed housing mix previously reported to Committee;
 - 1-bed: 42.2%
 - 2-bed: 54.9%
 - 3-bed: 2.5%
 - 4-bed: 0.4%
- 9.3. The affordable housing offer reported to Committee, based on the review of a financial viability assessment;
 - 7.5% provision at 20% discount on Open Market Value – equating to 42 units; or
 - 5.6% provision at 30% discount on Open Market Value – equating to 31 units

The Council's viability advisor has concluded this to have an equivalent value of £2,475,000.

- 9.4. This report back seeks to set out in more detail the justification for the proposed housing mix, which remains unchanged and provides an alternative affordable housing provision.

10. **Verbal updates** (of 5th September 2024 Committee)

- 10.1. There were verbal updates made at the Committee in September, that need to be considered along with the main body of the report, below.
- 10.2. There were two late representations received objecting to the proposals and the issues raised were summarised as;
 - Low level of affordable housing
 - Poor housing mix
 - Carbon impact, and embodied carbon of the existing buildings to be demolished
 - Scale of tower and its impact on heritage
 - Lack of infrastructure to meet need of residents

11. Housing Mix

- 11.1. The applicant provided additional information that included a comparison to other City Centre developments, approved by Planning Committee. This demonstrates that the proposed mix favours well, when compared to similar approved developments.

Address	Application Type	Ref	1bed %	2bed %	3bed %	4bed %	Approved/Resolution to Grant
Trifecta Scheme	Full		42.2	54.9	2.5	0.4	Committee deferred 5 Sept -024
HEDNA			17	37	31	15	
New Garden Square, Edgbaston	Full	2023/08705/PA	48.9	45.4	5.6	0	Committee 8 Aug 2024
Smithfield	Hybrid	2022/09643/PA					Committee 16 May 2024
	Outline Element		0-50	35-55	3-15		
	Full Element		46	51	3		
South Moseley Street, Southside	Hybrid	2022/00135/PA					Committee 16 May 2024
	Outline Element		tbc	tbc	tbc		
	Full Element		57	39	4		
South Moseley Street, Southside	Outline	2022/00136/PA	tbc	tbc	tbc		Committee 16 May 2024
30 - 33 Sherbourne Street	Full	2023/08342/PA	64	36			Committee 16 May 2024
Clyde Street/High Street Digbeth	Full	2023/07135/PA	35	64	1		Committee 25 April 2024
90-97 Broad Street	Full	2023/01324/PA	44	56			Committee 14 March 2024
131-137 High Street Bordesley	Full	2023/03450/PA	43	54	3		Committee 22 Feb 2024
Ringway (SBO)	Hybrid	2022/08496/PA					Committee 1 Feb 2024
	Full		44.79	49.36	5.85		
	Outline		tbc	tbc	tbc		
Garrison Circus	Full	2023/04130/PA	53.5	39.7	6.7		Committee 1 Feb 2024
100 Broad Street	Full	2023/04261/PA	45.5	48.3	6.2		Committee 1 Feb 2024
Queens Hospital Close, Bath Row	Full	2023/02925/PA	46	50	4		Committee 1 Feb 2024
240 Holliday Street	Full	2022/04557/PA	61	32	7		Committee 11 Jan 2024

Figure 1. Housing mix approvals (Trifecta is application scheme)

- 11.2. The applicant also set out that the proposals represent a deliverable mix and any changes to this mix would affect the potential deliverability of the project, further impact on viability and in turn affect the potential to deliver affordable housing.
- 11.3. The applicant also re-iterated the points made in the original Officers report at paragraph 7.10, which refers to the inner and outer central areas described within the HEDNA and their differing characteristics. The application site is located within the inner central area where approx. 85% of homes have 2 bedrooms or less and there are fewer schools and GP surgeries. Where there are schools and surgeries, especially primary schools, these are located towards the periphery of the Inner Central Sub-Area. In the Outer Central Sub-Area, 3 bed homes make up the largest group at 38.1% and combine with 2 beds to account for 67% of all homes in this sub-area.
- 11.4. The HEDNA therefore suggests that the Outer Central Sub-Area is likely to see greater demand for larger homes as families grow and are better able to access schools, leaving the inner area which has a lack of social infrastructure able to accommodate smaller homes for singles and couples. It states, 'This also responds to the type of sites that are likely to come forward in the respective areas i.e. higher density more centrally .' (Para. 8.77).
- 11.5. The additional information submitted by the applicant also reinforces the suggestion that the HEDNA, whilst suggesting a different mix for the wider central area than the application proposes, also comments that Build to Rent (and flatted) development would be appropriately located in the inner central area with a focus primarily on 1

and 2-bed units, with some 3-bed, which the application mix reflects. The HEDNA also states 'brownfield sites in the City Centre (particularly the inner sub-area) may be more suited to flatted development ... whereas a more suburban site may be more appropriate for family housing'.

- 11.6. When considering the housing stock of the city as a whole, the delivery of one and bedroom apartments, whilst high, still makes up a small overall proportion of housing available in the city.
- 11.7. Therefore, the mix of housing whilst not reflecting the wider central area mix suggested by the HEDNA does reflect the characteristics and type of development suited to the inner central area and can be supported. In addition, amending the mix would have an impact upon the viability of the project and therefore the available contributions towards affordable housing.

12. Affordable Housing contribution

- 12.1. The applicant provided additional information on alternative scenarios to deliver additional affordable housing, compared to the original affordable housing offer, whilst also considering the viability context of the application.
- 12.2. These scenarios were;
 1. increasing the level of discount applied to the current affordable housing offer to 50% (based on the mix/offer set out in the Committee Report)
 2. reducing the proportion of 1-bed dwellings to 30% (thereby increasing the number of larger units and reducing the overall number to 521)
 3. reducing the proportion of 1-bed dwelling to 23% (thereby increasing the number of larger units and reducing the overall number to 507)
 4. providing an increased off-site affordable housing financial contribution in lieu of provision on-site

Scenario	Affordable housing (%)	Affordable housing (units)	Equivalent Value (£)
Current affordable housing (AH) offer (at 30% discount)	5.6	31	2,475,000
1. Current AH offer (at 50% discount)	3.27	18	2,475,000
2. 30% 1-bed with AH at 30% discount	3.45	18	1,500,000
3. 23% 1-bed with AH at 30% discount	2.96	15	1,230,000
4. Off-site AH contribution	0	-	3,170,000

Figure 2. Scenarios 1-4 affordable housing offer

- 12.3. It must be noted that the scenarios above are intended to illustrate viability, the lower levels of 1 beds is not viable and therefore this is theoretical and would not be deliverable, even should members accept a lower affordable housing offer on the basis of this housing mix being delivered.
- 12.4. Scenarios 2 and 3 show a greater % of 2 and 3 bed units, the applicant argues that this is not deliverable in the inner central area and the proposed mix reflects other developments approved by Planning Committee, as set out in figure 1. However, these scenarios also show a significantly reduced affordable housing offer, where both the number and equivalent value of the affordable housing that could be

supported as a consequence of the change of mix, is reduced.

- 12.5. Only in scenario 4 does the value of the affordable housing offer increase from the current contribution. This is only possible as the Applicant has taken the commercial decision to increase the offer on the basis that they would no longer be responsible for the for the letting/management of any on-site affordable dwellings and has therefore chosen to accept a reduction in accepted profit margin that would generally otherwise discourage development.
- 12.6. The Council's independent viability assessor reviewed the additional information and comment that the offsite contribution of £3,170,000 is equivalent to around 7.25% at 30% discount.
- 12.7. The Strategic Director for City Housing report to Cabinet dated 10th September 2024 (pg. 208) recommended that allocated s.106 monies from the Housing Revenue Account (HRA) be used to purchase properties, to add to the Council's Housing Stock. Therefore, in this instance, the off-site contribution could be used to purchase market housing to provide homes for those on the Council's Housing Register.

13. **Conclusion**

- 13.1. Taking the above issues together, it is Officers view that housing mix can be supported in the inner central area, given the flatted, Build to Rent nature of the development. Furthermore, it is evident that by amending the mix to include greater numbers of 2 and 3 bed units would have adverse consequences for the ability to support an increased affordable housing offer.
- 13.2. Whilst the NPPF states that affordable homes should first be on-site, should members consider the increased off-site offer, in this instance, to be the preference, that can be supported given cabinet approval for purchase of homes using allocated s.106 monies.
- 13.3. Therefore, planning permission should be granted in accordance with the recommendation below, subject to conditions and suitable legal agreement.

14. **Recommendation**

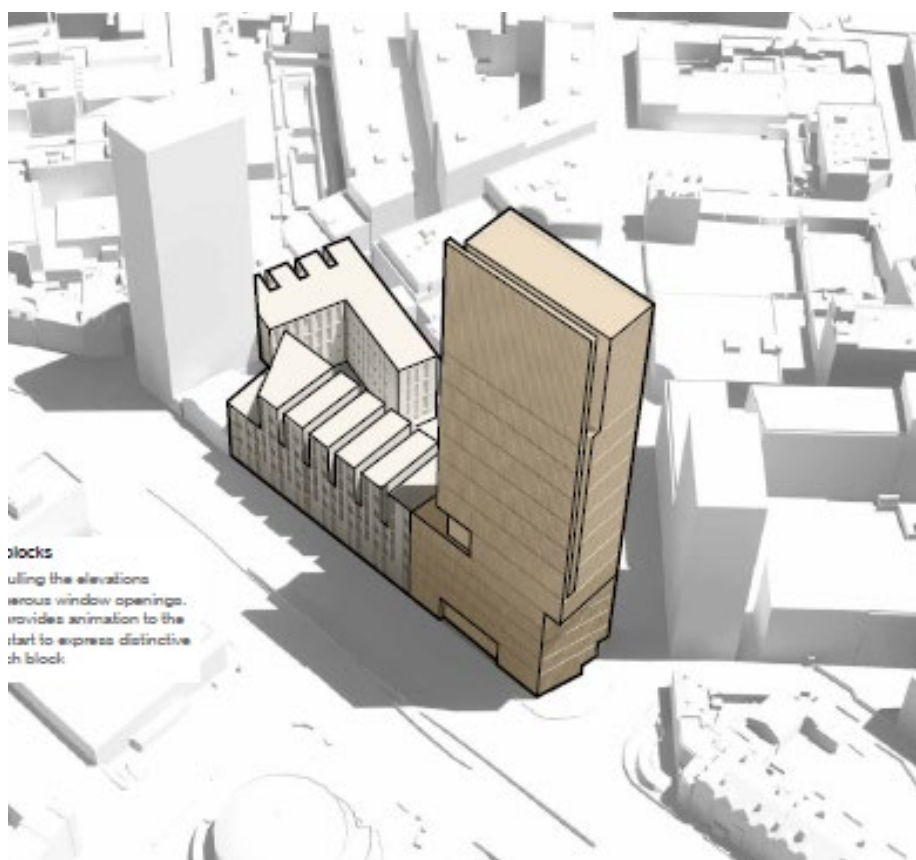
- 14.1. That application 2023/07902/PA be APPROVED subject to the prior completion of a Legal Agreement to secure the following:
 - 5.6% affordable housing (31 units) on site (equivalent value of (£2,475,000) or an off-site contribution towards affordable housing of £3,170,000.
 - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £13,000.
- 14.2. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 31st January 2025 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reasons:
- 14.3. In the absence of any suitable legal agreement to secure the provision of onsite affordable housing the development does not deliver the significant benefits considered when weighing the benefits of the proposal against identified adverse impacts. Therefore, the proposal conflicts with Policies TP31, TP47 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 14.4. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 14.5. That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 31st January 2025, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/07902/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not

materially alter the permission).

[End of report back]

1 **Proposal:**

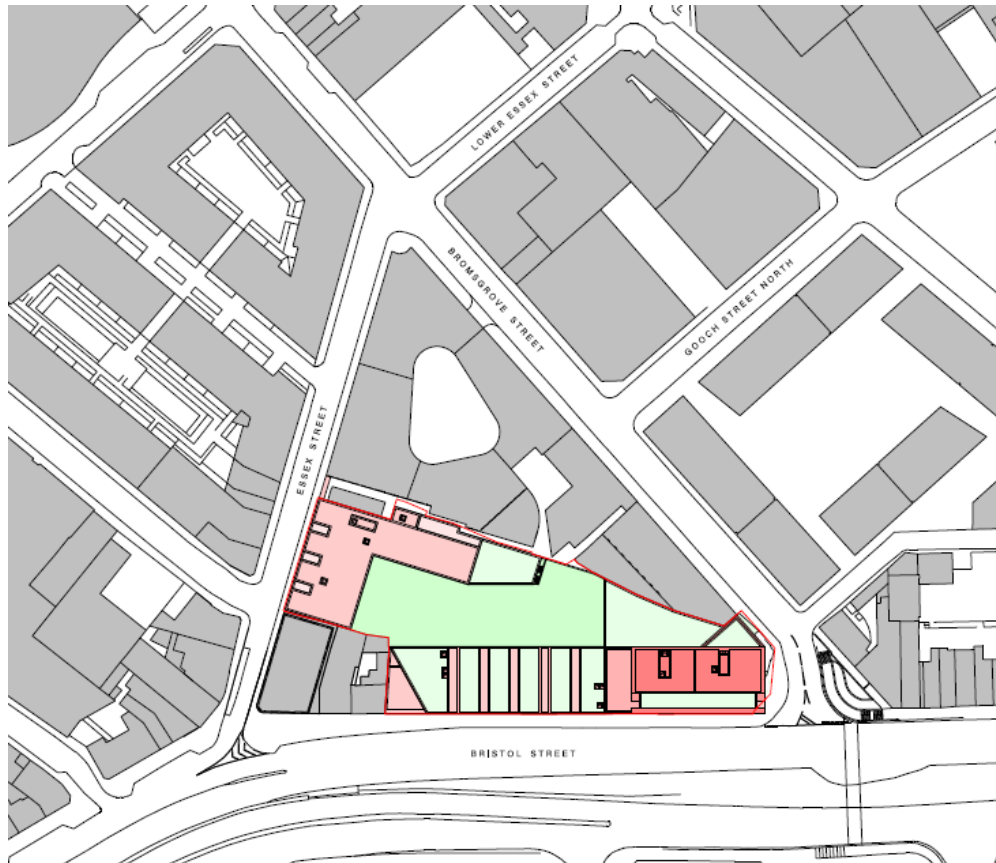
- 1.1 This planning application seeks consent for demolition of all existing buildings on site and the erection of three buildings comprised of 550 (C3) Build to Rent (BtR) dwellings.
- 1.2 Block 1 – a 41-storey tower at the corner of Bristol Street and Bromsgrove Street stepping down to a 14-storey shoulder element on Bromsgrove Street.
- 1.3 Block 2 – a primarily 11-storey block fronting Bristol Street stepping down to 7-stores.
- 1.4 Block 3 – a 7-storey building fronting to Essex Street with rear wing stepping down in height within the site.



Block 1-3 Layout

- 1.5 The proposed mix of dwellings is as follows;
- 65no. 1B1P (11.8%);
 - 167no 1B2P (30.4%);
 - 143no. 2B3P (26.0%);
 - 159no. 2B4P (28.9%);
 - 14no. 3B5P (2.5%);
 - 2no. 4B8P (0.4%);
- 1.6 The application also proposes 590 sqm of ground floor commercial space (use class E (a-g(i)))
- 1.7 2,062 sqm of outdoor communal roof gardens / amenity space is proposed, for use by all future occupiers. 1,911.4 sqm of shared internal amenity space is also

proposed.



Proposed Location and Block Plan



Proposed development CGI

- 1.8 The application is supported by; Statement of Community Involvement; Design and Access Statement; Landscape Design and Access Statement; Bat Survey; Urban Greening Factor Assessment; Daylight and Sunlight Assessment; Financial Viability Appraisal; Flood Risk Assessment, Sustainable Drainage Assessment and Sustainable Drainage Assessment including Sustainable Drainage Operation and Management Plan; Air Quality Assessment; Construction Dust Assessment; Aerodrome Safeguarding Assessment; IFP Assessment; Heritage Assessment and Townscape Visual Impact Assessment; Archaeological Assessment; Noise Impact Assessment; Part O Report; Phase 1 Geo-Environmental Desk Study; Sustainable Construction Statement; Transport Assessment and Framework Travel Plan; Energy Statement; Fire Statement; Residential Standards Statement Planning Statement Incorporating Tall Buildings Assessment; Affordable Housing Statement; Wind and Microclimate and Pedestrian Wind Comfort;
- 1.9 [Link to Documents](#)
- 2 **Site & Surroundings:**
 - 2.1 The site comprises approximately 0.59 ha of land at the junctions of Bristol Street/Bromsgrove Street/Essex Street. The site is occupied by a mix of single to 4-storey buildings and surface level pay and display car parking. Vehicle access is available from Bristol Street and Essex Street.
 - 2.2 Immediately adjacent to the site is Prestige student accommodation, an 8-storey development, adjacent to that is a residential building (i-land) a 7- 10 storey building.
 - 2.3 To the south of the site, the 3-storey, listed, Wellington Hotel sits on the southern corner of the junction of Bromsgrove Street and Bristol Street. Beyond, existing 4-

storey Victorian buildings have been refurbished to include a mix of Class E uses on the ground floor with Purpose Built Student Accommodation above.

- 2.4 Bristol Street (A38) itself is a key north-south route through the city and is a 6 lane dual carriageway.
- 2.5 the immediate Bristol Street corner with Essex Street is occupied by a tower which is under construction, this is separated from the site by retained early 20th century properties between 14-20 Bristol street.
- 2.6 The wider area to the east and south is under transition from a low-rise commercial district of the city centre to a medium to height-rise residential neighbourhood.
- 2.7 [Link to application site](#)



3 **Planning History:**

- 3.1 There is no relevant planning history relevant to the proposed development. There are varied applications relating to the individual existing buildings and land.

4 **Consultation Responses:**

- 4.1 BCC Transportation – no objection subject to conditions.
Requiring highway works subject to s.278 and TRO to be completed before development is occupied, the submission of a construction management plan, cycle parking to be provided before occupation, submission of details for the management of the car club spaces,
- 4.2 BCC Environmental Protection Unit – No objection, subject to conditions.
Requiring the submission of a Contamination Remediation and Contaminated Land Verification Report, a scheme of noise insulation, Construction Method Statement/Management Plan and a condition to limit noise levels for plant and machinery.
- 4.3 BCC Ecology – No objection, subject to conditions
Requiring submission of ecological enhancement strategy, bat and bird boxes, implementation of bat/bird mitigation scheme, lighting condition and biodiversity roof details.
- 4.4 BCC Archaeology – No objection, subject to conditions
Requiring submission of a written scheme of investigation for a programme of archaeology works

- 4.5 BCC City Design – No Objection, subject to conditions
Requiring the submission of materials details (including colour – notwithstanding the drawings), architectural details to be submitted and sample panels to be erected on site for approval.
- 4.6 BCC Planning Strategy – No objection.
- 4.7 BCC Conservation – No objection, harm found.
Demolition of non-designated heritage assets (NDHA) results in complete loss of asset and therefore high level of harm to NDHA. Proposed development leads to less than substantial harm to the setting of other designated heritage assets.
Building recording condition should be applied, if approved.
- 4.8 BCC Employment Access – No objection, subject to conditions.
Requiring the submission of a Construction Employment Plan.
- 4.9 BCC Education – No objection subject to financial obligation
Contribution requested (subject to surplus place analysis) - £1,455,166.96.
- 4.10 BCC Leisure Services – No objection
The architecture style is refreshingly bold and unique and will certainly form a landmark building within the City's skyline. The landscaped amenity space is very well considered and innovative, providing a great amount of interest and diversity within the space available.

Public Open Space contribution of £1,149,200. This would be put towards POS improvements and maintenance thereof at Sunset & Moonlit Park within Ladywood Ward and Highgate Park within Bordesley & Highgate Ward.
- 4.11 Lead Local Flood Authority – No objection subject to conditions
Requiring the submission of a Sustainable Urban Drainage Strategy and Operation and Maintenance Plan.
- 4.12 Southside BID – No objection
The design is in keeping with the ambition for towers in the area, if some of the commercial space on Bromsgrove St could be sacrificed to make a service area for the building where the bin stores could be accessed and deliveries/removals could be made etc, we have no objections to the development.
- 4.13 Historic England – No comments
With regards to embodied carbon and potential reuse of historic buildings see our website <https://historicengland.org.uk/advice/planning/historic-towns-and-high-streets/> and Adapting Historic Buildings for Energy and Carbon Efficiency <https://historicengland.org.uk/images-books/publications/adapting-historic-buildings-energy-carbon-efficiency-advice-note-18>. We also suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.
- 4.14 Birmingham Civic Society – Support.
- 4.15 Victorian Society – Objection.
The development results in the loss of non-designated heritage assets and the proposed tower causes harm to the setting of listed buildings.
- 4.16 20th Century Society – Objection.
Object to loss of buildings – considered high quality architecture and strong street presence and loss would have a high level of harm to townscape.

Presumption in favour of reusing buildings.

- 4.17 Health and Safety Executive (Fire- Gateway one) – no objection.
4.18 National Grid – No objection subject to diversion of existing National Grid services
4.19 Active Travel England – Further Information requested.

Clarification on the amount/type/location of cycle parking, clarification on access to the canal for disabled users, request the nearest bus stops are upgraded.

- 4.20 Birmingham International Airport – No response.
4.21 WM Police – no objection subject to conditions.

Requiring the submission of a lighting strategy, installation of CCTV,

- 4.22 West Midlands Fire Service – No objection.
4.23 Severn Trent Water – no objection subject to conditions.

Requiring the submission of foul and surface water drainage plans.

5 Third Party Responses:

- 5.1 The application has been publicised by sending out letters to neighbours, posting site notices within the vicinity of the site and a press notice.
5.2 Residents' Associations; Ward Members; the MP and local occupiers consulted with the following representations received.
5.3 30 objections have been received making the following points;

- Demolition of more of Birmingham's historic architecture.
- Adverse impact upon setting of listed buildings.
- A development nearing completion on Bromsgrove Street (2017/09434/PA), which is situated behind the listed block facing Bristol Street. The highest block on the development site is 19 storeys high and is located on the corner of Bromsgrove Street and Henstead Street. The conservation officer at the council, raised concerns about the impact this height would have on the Wellington Hotel and locally listed block 74-104 Bristol Street. The development proposed on the new application will be over twice the height and located closer, therefore, clearly having a far greater detrimental impact on these Listed and locally listed buildings.
- It cannot be ignored that this development with a 40 storey tower directly opposite and overshadowing the Wellington will be highly incongruous and have a detrimental impact on the neighbourhood as a whole
- Yes, build tall on the corner plot but the other buildings really should be retained.
- Demolition can contribute to increased waste, pollution, and disruption of natural ecosystems, which can be avoided through adaptive reuse or renovation.
- Renovating existing structures can often be more cost-effective than complete demolition and reconstruction, supporting economic sustainability.
- Demolition might displace residents or businesses, causing social upheaval and affecting livelihoods.
- The proposed 40 storey tower block is totally out of place and will completely dominate the landscape and nearby developments which are significantly lower.

- Tall buildings are an eyesore
- It will restrict the view from my apartment.
- The level of noise which will affect our rental property. This will in turn reduce the rental income that we currently receive. This is an investment property, and the building will shadow over the area to the properties on i-land and also the valuation of these properties will go down due to what is being planned
- This will result in loss of natural light, lack of privacy and additional noise for the residents of I-land and other adjacent blocks.
- It is not acceptable to argue that standards for levels of light are for suburbs and can not be achieved in cities with high rise buildings.
- request that the building be limited to a height of 8 floors or less to minimize the impact of sunlight on the existing lower-floor residents of i-land building.
- Disruption during construction from noise and air pollution
- Increased level of traffic
- Will impact available parking spaces
- The number of dwellings, primarily 1-2 bedrooms, will create a large influx of people into the area with similar demographics (singles/couples, not families), changing the nature of the current community and adversely impacting current residents in the area.
- It reduces amenities such as local businesses rather than increasing them and loss of jobs from existing businesses
- There are existing empty development, why do we need more
- Increased demand on existing infrastructure
- There has been little consultation and limited time to respond.
- Consultation letters were not sent direct to owners of units in iLand only to the address itself.
- Lack of green open space and no community spaces in Southside

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

6.1 **National Planning Policy Framework**

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

6.2 Birmingham Development Plan (2017)

- G1 Overall levels of growth
- GA1 Spatial Delivery of Growth: City Centre
- PG3 Place making.
- TP1 Reducing the City's carbon footprint.
- TP2 Adapting to climate change.
- TP3 Sustainable construction
- TP4 Low and zero carbon energy generation
- TP5 Low carbon economy
- TP6 Management of flood risk and water resources
- TP7 Green infrastructure network
- TP8 Biodiversity and geodiversity
- TP9 Open space, playing fields and allotments.
- TP12 Historic environment
- TP26 Local employment
- TP27 Sustainable neighbourhoods
- TP28 The location of new housing
- TP29 The housing trajectory
- TP30 The type, size and density of new housing
- TP31 Affordable Housing
- TP37 Heath
- TP38 A sustainable transport network
- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development
- TP47 Developer contributions

6.3 Development Management DPD (2021)

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

6.4 Supplementary Planning Documents & Guidance:

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

- 6.5 Birmingham City Council are currently in the process of producing an updated Local Plan and have recently published (8th July 2024) the Preferred Options. There are currently no draft policies that the Proposed Development can be assessed against, which hold any significant weight in the determination of this application. Notwithstanding, this is a material consideration.

7 **Planning Considerations:**

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

Principle of Development

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

Provision of Housing

- 7.5 The Birmingham Development Plan became 5 years old on 10th January 2022 and is currently being updated. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date.
- 7.6 Given that on the 8th July 2024 the Council published a Preferred Options and a new Housing Land Supply Position Statement, which demonstrates that the city has 4.38 years of deliverable housing land supply the 'titled balance' under paragraph 11(d) of the NPPF does not apply to decisions on planning applications relating to new housing development in the city, in accordance with Paragraph 226 of the NPPF.
- 7.7 Policy TP27 of the Birmingham Development Plan highlights the significance of housing and its importance in the creation of sustainable neighbourhoods; and how this is underpinned by the provision of a wide choice of housing sizes, types, and tenures to ensure balanced communities are created to cater for all incomes and ages. Policy TP28 'The location of new housing' requires new residential development to be well located listing several requirements a residential development site should meet. The application site is an appropriate location for housing, in accordance with this

policy.

- 7.8 TP30 requires proposals for new housing to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods in accordance with the most recent housing market assessments. TP30 also requires development to be delivered at a minimum target density of 100 dwellings per ha within the City Centre.
- 7.9 The Council's Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city, and replaces the existing SHMA referred to in Policy. The proposal would not replace existing housing and would therefore add to housing choice within the area. Figure 2 'Tenure of housing' as set out in the BDP (2017) required as a percentage, a mix of housing. This has been updated by the HEDNA which suggests the following mix for the central area.
- 1 bed: 17%
 - 2 beds: 37%
 - 3 beds: 31%
 - 4 beds 15%.
- 7.10 The 'Central Area' defined in the HEDNA covers more than just land within the ring road it analyses sub-areas within the Central Area which it defines as Inner and Outer Central Sub-Areas – broadly the Inner area corresponds with land within the ring road and the Outer area covers those areas within the Central Area wards which are outside of the ring road. The HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, which the site would be located within, it does however acknowledge its different characteristics compared to the Outer Central Sub-Area.
- 7.11 The proposed mix of dwellings within this development is;

Space Standard	Number of units	Development %	Bedroom %	HEDNA
1 bed 1 person	65	11.8%	42.2%	17%
1 bed 2 person	167	30.4%		
2 bed 3 person	143	26.0%	54.9%	37%
2 bed 4 person	159	28.9%		
3 bed 5 person	14	2.5%	2.5%	31%
4 bed 8 person	2	0.4%	0.4%	15%

- 7.12 Whilst it is not expected that every proposal would provide the exact mix suggested, it would be preferable to see more large units incorporated into the housing mix (3bed+). This would contribute to the aim of creating a more varied supply of family homes in the central area, suggested in the HEDNA and Policy GA1.
- 7.13 Nonetheless, the proposed mix can be supported in a City Centre location, on a site of this character given that the proposal adds to the mix available housing across the City as a whole. Further, the HEDNA (2022) considers that it is appropriate that *"the Council recognise the role of Build to Rent (BTR) development and develop a policy supporting it, which specifies the types of locations where such development is encouraged"*. It goes on to suggest that *"BTR is expected to be in the Central sub-area based on the demographics of those areas. These areas are also well connected to local services and transport, this would also support the night-time economy"* the HEDNA also recognises that brownfield sites within the central area are likely to be suited to flatted development, such as that being proposed.
- 7.14 The proposed development meets minimum density requirements set by Policy TP30.

There have been objections that relate to the amount of development on the site. However, Policy supports high density development of brownfield underutilised land, especially where it delivers housing within existing settlement boundaries.

Affordable Housing

- 7.15 In developments where more than 15 residential units are proposed, the Council seeks 35% affordable homes, in accordance with BDP policy TP31. BDP para. 8.21 states the Council is committed to providing high quality affordable housing for people who are unable to access or afford market housing and that this is an important commitment to ensure a choice of housing for all. The HEDNA concludes that there is a “notable need” and “it is clear that provision of new affordable housing is an important and pressing issue in the area.” Where meeting the 35% target would make the development unviable, the application must be supported by a financial viability appraisal (FVA) to demonstrate this. The FVA is independently assessed on behalf of the LPA, and it may be the case that a lower amount of affordable housing can be offered instead.
- 7.16 The NPPF sets out the definition of affordable housing (in planning terms), specifically defining affordable housing for rent. The proposed scheme is a build to rent development and therefore the NPPF requires the affordable provision on site to be at least 20% below local market rents (including service charges where applicable) in perpetuity.
- 7.17 In this instance the FVA has been assessed by independent consultants (Lambert Smith Hampton) and a position of 7.5% affordable housing (42 units) was reached at a 20% discount.
- 7.18 Therefore, an equivalent value of homes being provided at a greater discount would be preferable. Through discussions with BCC Affordable Housing Delivery Team, the need for a greater discount, to make the units truly affordable and helping to address the City’s greatest needs. Therefore, the affordable housing offer was updated to provide 31 units of affordable housing at a 30% discount (5.6%).
- 7.19 The value of on-site affordable homes is the equivalent of £2,475,000 in both instances.
- 7.20 The submitted FVA sets out estimated rental income for Build to Rent apartments in the City Centre.
 - Studios - £1,000 and £1,025 per calendar month
 - 1 Bedroom 2 Person Apartments - £1,150 per calendar month
 - 2 Bedroom 3 Person Apartments - £1,300 and £1,350 per calendar month
 - 2 Bedroom 4 Person Apartments - £1,450 and £1,800 per calendar month
 - 3 Bedroom 5 Person Apartments - £2,000 per calendar month
 - 4 Bedroom 8 Person Apartments - £3,250 per calendar month
- 7.21 Using the above estimation, for comparison an affordable discount of 20% on a 2 bedroom 3 person apartment would reduce to £1,040 and £1,080 pcm. A discount of 30% would reduce the rent to £910 and £945 on the same unit.
- 7.22 Overall, the proposal delivers a total of 550 (C3) units of residential accommodation on a brownfield site, within a very sustainable location, helping to deliver housing in accordance with the government’s commitment to significantly boosting the delivery of housing. This weighs heavily in favour of the application. Whilst the mix of housing does not provide a greater number of larger units of accommodation (3+ bedrooms), the proposed mix is weighted towards 2 and 3 bed units, this can be supported in the City Centre location, on a site of this character and is therefore afforded significant weight. Further to this, the scheme can support 5.6 % affordable housing at a 30% discount, helping to deliver affordable housing in line with the Council’s acute need.

Loss of existing commercial

- 7.23 The Council's adopted Loss of Industrial Land to Alternative Uses SPD defines industrial uses as those falling within use class B1(b and c) Light Industrial, B2 General Industrial and B8 warehousing, (Since its adoption use class B1 no longer exists). The existing buildings on site are in a range of use classes including retail, café/restaurant (E(a-b)), Drinking Establishments/ Hot Food Takeaway (Sui Generis) and some Office and professional services (E(c and g)). There is only one remaining commercial use that would fall within the previous B1/B2 use classes which is a printing shop (light industrial), there are no general industrial or storage uses currently present (B2/8). The remainder of the site is surface level car park. There have been a number of objections that comment on the loss of jobs from existing businesses on the site. However, it must be noted that as above policy only seeks to protect jobs generated from traditional 'employment/industrial' uses not general commercial.
- 7.24 Policy TP20 states that change of use from employment land to other uses will be permitted where it can be demonstrated that the site is considered a non-conforming use or is no longer attractive for employment use having been actively marketed. The 'Loss of industrial land to alternative uses' SPD sets out other factors to be considered in employment land loss and states that *'Within the City Centre it is recognised that a more flexible approach towards change of use from industrial to residential is required to support regeneration initiatives. Proposals involving the loss of industrial land will be supported, however, only where they lie in areas which have been identified in other planning policy documents, that have been approved by Birmingham City Council, as having potential for alternative uses'*.
- 7.25 The units that occupy the site, have a historic tight grain which is not concurrent with modern employment offers, with the only employment use having a small footprint. In this instance the application site falls outside of any Core Employment Area and is identified in Our Future City Framework as an area for growth. The Future City Framework is non-statutory and holds limited weight in making planning decisions. Nonetheless, it clearly and importantly highlights the City's aspirations for regeneration, specifically for this 'City Heart' of the central area.
- 7.26 Therefore, when considering the Policy support for mixed use re-development within this designated Growth Zone (GA1) and the clear regeneration aspirations of the City, highlighted in the Future City Framework, despite the loss of employment buildings, this is low scale, and of low quality employment buildings, therefore support can be found for re-development of the site in this context.

Proposed Commercial uses

- 7.27 Policy TP21 'The network and hierarchy of centres' supports proposals for main town centre uses within allocated centres, to ensure the vitality and viability of these centres. The site falls within the City Centre Boundary for main town centre uses but falls outside the retail core. The city centre boundary is however the focus for such uses, according with Policy TP21. Policy TP24 states that a mix of uses as defined by TP21 will be encouraged where they are consistent with the scale and function of the centre.
- 1.10 The application is inclusive of 590 sqm of ground floor commercial space (use class E (a-g(i)) at lower ground and ground floor. Whilst outside of the retail core it forms part of a mixed-use development supported by GA1 and is not proposed to be entirely E(a) retail (no retail impact assessment is required). In addition, there is existing commercial floorspace on site and so there is no significant net increase in this use class.
- 7.28 Overall, Policy PG1 and GA1.3 support development proposals in identified sustainable growth areas such as this. The proposal provides a satisfactory mix of housing and affordable housing, adding to the types of accommodation available across the city, in accordance with TP27, TP28, TP30 and TP31. The proposal also introduces ground floor commercial uses, outside of the retail core in accordance with

TP21 and T24, resulting in a mixed-use scheme on brownfield land. Therefore overall, the principle of the redevelopment for mixed use residential led purposes, with the proposed mix and level of affordable housing, can be supported.

Impact upon Heritage Assets

- 7.29 Policy TP12 establishes that the historic environment will be valued, protected, enhanced and managed for its contribution to character, local distinctiveness and sustainability and the Council will seek to manage new development in way which will make a positive contribution to its character.
- 7.30 Under the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA in considering applications for planning permission has a statutory duty to pay special regard to the desirability of preserving listed buildings, their setting or any features of special architectural or historical interest which they may possess (section 66 (1)).
- 7.31 The application site is not within or immediately adjacent to a conservation area. Neither are there any Listed Buildings directly impacted by the proposal, given that none exist within the site. However, there are listed buildings and other designated heritage assets within the vicinity of the site that the proposed development would be in the setting of and therefore indirectly impact.
- 7.32 Some of the existing buildings on site are considered to be of heritage value and are therefore identified as non-designated heritage assets.
- 7.33 The application is accompanied by a Heritage, townscape and visual assessment (HTVIA), which identifies those heritage assets with the potential to be impacted by the proposed development. The HTVIA identifies the heritage assets on the site, assesses their significance and setting, the direct impacts of their demolition on significance and indirect impacts of their demolition on setting. Heritage assets in the immediate and wider townscape are identified with the potential to be impacted by the development through both demolition and the proposed development. The identification of these assets is informed by a Zone of Theoretical Visibility (ZTV) and the scope of assessment as set out in the HTVIA is supported. A series of representative viewpoints are supplied in section 5 of the HTVIA and a recognised methodology is used for assessment and set out in Appendix B.

Built Heritage

Direct Impacts to Non-designated heritage assets

- 7.34 The proposed development results in the complete loss of all existing buildings on site. BCC Conservation Officer considers some of these buildings to be non-designated heritage assets.

Nos. 42-44 Bristol Street

- 7.35 The architectural significance of the building is summarised in the HTVIA as a good surviving example of Inter-war neo-classical commercial architecture but that buildings of this age, style and typology are not particularly rare in national or local context. Alterations to ground floor frontage and the loss of the rear showroom reduces significance through a reduced ability to understand the building's original designed function. BCC Conservation Officer considers significance to be high enough to be a non-designated heritage asset of moderate significance on a local level.
- 7.36 Its complete loss would therefore in the opinion of BCC Conservation case a very high degree of harm to a building of moderate significance.



Nos. 42-44 Bristol Street

Nos. 40-42 Bristol Street

- 7.37 is a 19th century dwelling, later converted to industrial and commercial uses including a saw mill and pram works with industrial units to the rear and shop fronts. only the front range of the building survives today. As such the HTVIA concludes that the buildings is unlikely to qualify as a non-designated heritage asset. BCC Conservation Officer concludes *“Acknowledging the age of this building, its relatively rare survival as a former domestic property of this age in the city centre and the oldest building on this street block, I would say that the building deserves some recognition as a non-designated heritage asset. Although blighted by poor preservation the surviving elements of its historic form and the arrangement of fenestration are still identifiable and could be relatively easily be restored. I would attach a low degree of local heritage significance to this building”*.
- 7.38 Its complete loss would therefore in the opinion of BCC Conservation case a very high degree of harm to a building of low significance.



Nos. 40-42 Bristol Street

Nos. 36-38 Bristol Street

- 7.39 Is the former Bank of Cyprus. In terms of significance the HTVIA considers that the building has some visual interest and attractive decorative features and significance increases from its associations to the Birmingham Municipal Bank and the continued ability to understand that former use from its principal elevation. Further local associative value is drawn from its architect, Walter Norman Twist, an individual associated to the design of an important landmark in the city (Hall of Memory GI Listed). The building is considered to be of a local level of heritage interest and a positive contributor to the street scene and of sufficient interest to warrant the status

of non-designated heritage asset.



Nos. 36-38 Bristol Street

- 7.40 BCC Conservation considers that “*its level of significance would be moderate on a local level*”. The loss of the building would equate to a total loss of significance this would cause a very high degree of harm to a building of moderate heritage significance.

Nos. 32-34 Bristol Street

- 7.41 is a neo-classical commercial unit possibly re-fronted c. 1925 to a design by J. George Gibbons.



Nos. 32-34 Bristol Street

- 7.42 Historic interest is identified as the building being an Inter-War commercial development like its neighbours. Its frontage has clear similarities to Nos. 14-16 Bristol Street to the north which were reconstructed to a design by Gibbons in 1925. and possibly formed part of a terrace of similar properties fronting Bristol Street.
- 7.43 In terms of significance the HTVIA considers that the building is a surviving, but not rare or particularly good example of Inter-War neo-classical commercial architecture. It does combine with its neighbours to give some illustration of local trends in historical development and therefore holds a degree of group value. The building's importance is limited to its slight contributions to the streetscene and is considered to be of only De Minimis significance and judged unlikely to be of sufficient interest to warrant the status of non-designated heritage asset.
- 7.44 However, BCC Conservation Officer considers that these buildings deserve some

recognition as a non-designated heritage asset, however attaches a low degree of local heritage significance.

- 7.45 The loss of the building would equate to a substantial/total loss of significance this would cause a very high degree of harm to a building of low heritage significance.

Nos. 10-12 Bristol Street and No. 35 Essex Street

- 7.46 is a car showroom of 1926 with a linked repair shop of original design by T. D. Griffiths for Cecil Kay Ltd., motor car agents. It is only the rear wing element onto Essex Street that is affected by the proposals.



Nos. 10-12 Bristol Street and No. 35 Essex Street

- 7.47 The connection between the frontage building and rear workshop is severed but the spatial relationship can still be red in plan. Neither the architect or original occupant are of any particular note. The building is a positive contributor to the streetscene. The HTVIA states that the building is of sufficient interest to warrant the status of a non-designated heritage asset. BCC Conservation Officer considered the level of significance to be moderate on a local level.
- 7.48 50% loss of the building and one of its Dutch gabled frontages would be lost as a result of development. The impact is reduced by the severed connection between the front and rear buildings and the capacity to understand the building's provenance not being wholly lost. The concluding position reached in the HTVIA is that there would be a moderate level of adverse impact to heritage significance, BCC Conservation Officer concurs which is expressed as "*a moderate degree of harm to a heritage asset of moderate local significance*".

In-direct Impact to designated and non-designated heritage assets

- 7.49 A total of fourteen designated heritage assets were assessed as experiencing harmful effects due to development in their setting. The significance and setting of these assets has been assessed in the HTVIA and BCC Conservation Officer considers the assessments to be "*generally fair and proportionate*". The nature and level of impacts are assessed for each asset and in all but one case the Conservation Officer agrees to the degrees of harm concluded and the reasons for this harm set out in the submitted HTVIA.
- 7.50 The designated assets identified, and the agreed level of harm reached is set out below, in all instances the level of harm is considered to be 'less than substantial'.
- White Lion P. H.- grade II – low level
 - Back-to-Backs- grade II – lowest level
 - The Rotunda- grade II – low level
 - St. Martin's Church- grade II* - low level

- Edgbaston and Ryland Road Conservation Areas to include the following grade II listed buildings: 37-42 Ryland Road, 74 and 75 Ryland Road, 78 Ryland Road (located within Ryland Road Conservation Area) 24-28 Spring Road, 17, 18 & 19 Spring Road (located outside the boundary of Edgbaston Conservation Area – low level
- 99-102 Bromsgrove Street- locally listed – low level
- 76-104 Bristol Street-locally listed – Low level
- Catholic Church of St. Catherine of Siena- locally listed – low level
- Traditional buildings of Horse Fair at the junction of Bristol Street, Essex Street and Inge Street- non-designated heritage assets: 39-41 Horse Fair, 36-38 Horse Fair, 28 Horse Fair, Formr Black Lion Pub at 27-29 Essex Street and Queen's Tavern at 23 Essex Street – low level.

7.51 The asset where the Conservation Officer places a higher degree of harm is the Wellington Hotel- grade II listed.

Wellington Hotel- grade II listed.

7.52 The Wellington Hotel is the closest of the designated heritage assets to the application site, being located at the junction with Bromsgrove Street.

7.53 The HTVIA identifies a minor level adverse impact equating to a low level of 'less than substantial harm' arising from the proposed development being dominant in its immediate setting as well as cumulatively with other developments along Bristol Street. The demolition of the existing street context also reduces the ability to appreciate the buildings historic context.

7.54 BCC Conservation Officer considers the assessment made in the HTVIA to be reasonable however, the level of harm concluded to be conservative. BCC Conservation Officer considers the demolition of the existing townscape and the prominence of the proposed tower in its immediate context to raise this level of harm to a moderate level of less than substantial harm.

Archaeology

7.55 An Archaeological Desk Based Assessment was submitted in support of the application. BCC Archaeology agree with the conclusions of the assessment and recommend a condition for a programme of archaeological work to be undertaken post-demolition and prior to development.

Summary of Heritage Harm

7.56 Paragraph 205 of the NPPF states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."

7.57 In accordance with para. 208 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The more important the asset the greater the weight should be. This balancing exercise is undertaken towards the end of this report. The identified level of less than substantial harm to designated assets are listed below;

- White Lion P. H.- grade II – low level, less than substantial
- Back-to-Backs- grade II – lowest level, less than substantial
- The Rotunda- grade II – low level, less than substantial
- St. Martin's Church- grade II* - low level, less than substantial
- Edgbaston and Ryland Road Conservation Areas to include the following grade II listed buildings: 37-42 Ryland Road, 74 and 75 Ryland Road, 78 Ryland Road (located within Ryland Road Conservation Area) 24-28 Spring Road, 17, 18 &

19 Spring Road (located outside the boundary of Edgbaston Conservation Area – low level, less than substantial

- 99-102 Bromsgrove Street- locally listed – low level, less than substantial
- 76-104 Bristol Street-locally listed – Low level, less than substantial
- Catholic Church of St. Catherine of Siena- locally listed – low level, less than substantial
- Traditional buildings of Horse Fair at the junction of Bristol Street, Essex Street and Inge Street- non-designated heritage assets: 39-41 Horse Fair, 36-38 Horse Fair, 28 Horse Fair, Former Black Lion Pub at 27-29 Essex Street and Queen's Tavern at 23 Essex Street – low level, less than substantial.
- Wellington Hotel – Moderate Level, less than substantial.

7.58 In accordance with para. 209, the effect of an application on the significance of a non-designated heritage, a balanced judgement will be required having regard to the loss of the asset and the significance of the asset. The identified levels of harm to non-designated assets is as follows;

- Nos. 42-44 Bristol Street - a very high degree of harm to a building of moderate significance.
- Nos. 40-42 Bristol Street - a very high degree of harm to a building of low significance.
- Nos. 36-38 Bristol Street - a very high degree of harm to a building of moderate significance.
- Nos. 32-34 Bristol Street- a very high degree of harm to a building of low significance.
- Nos. 10-12 Bristol Street and No. 35 Essex Street - a moderate degree of harm to a building of moderate local significance.

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

Design, Townscape and Visual Impact

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

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

7.62 The City Design Manager notes that consideration of impact upon heritage, does not affect an assessment of whether the proposed replacement townscape is or isn't acceptable, as a standalone matter. Therefore, the City Design Manager considers the merits of the application's design only.

Siting of Tall Buildings

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

and adjacent uses.

- 7.64 The submitted HTVIA has assessed the impact of the proposal within the immediate and wider townscape and concludes that it would have an overall beneficial effect on both the townscape and skyline. The proposed building would become part of a group of tall buildings along Bristol Street and would have a singular and distinct form and profile that will add interest to the skyline.
- 7.65 The City Design Manager comments that *“The proposal seeks to locate a tower on the Bristol Street/Bromsgrove Street corner, which responds to the existing/developing townscape of towers in this locality. Whilst Bromsgrove Street is not a significant junction that merits marking, a corridor of towers either side of Bristol Street is developing, and this site can contribute positively to this emerging high-rise townscape”*.



CGI Proposed tower from Bromsgrove Street



CGI proposed development from Suffolk Street Queensway



CGI of Proposed Development and Essex Street Tower (recently completed)

Layout

- 7.66 The three buildings are arranged around an internal landscaped courtyard and directly address their respective street frontages with active uses on the ground floor situated at back of pavement in all instances, other than the Bromsgrove Street corner where the tower is proposed set back slightly in order to accommodate a principal entrance point. This is acceptable.

Form, Scale and Mass

- 7.67 The tower is of an appropriate height and has become more slender during a pre-application process, which is a welcomed improvement. The City Design Manager considers *“the tower meets criteria around placement and form”*.
- 7.68 LW-43 discusses ‘Shoulder Elements, Ancillary Clusters and Plinths’ The height of the proposed shoulder element and adjacent buildings, along Bromsgrove Street and Essex Street are of an appropriate proportion to the tower, again according with the Design Guide. The scale to the rear responds appropriately to the scale of existing apartment blocks to the east.



CGI of proposed shoulder building

Architecture and Materiality

- 7.69 Block 1 – The tower is proposed with projecting pre-formed vertical anodised metal fins in bronze, anodised fascia panels, perforated panels, glazed curtain fixed panel curtain walling, glazed balustrades. The City Design Manager comments that *“This is the kind of architecture the City should be exploring in all its major projects. This will be a welcome addition to the skyline”*. However, notes that architectural details, materials and a mock up panel should be secured via condition to ensure a high-quality delivery and that attention should be paid to ensuring the soffits (particularly on the cantilevered sections) are matching.



Proposed Tower CGIs

- 7.70 Block 2 and 3 – pink/red brick façade including soldier course, hit and miss brickwork, rusticated brickwork, powder coated metal doors, windows and louvers plus windows including glass spandrels, glazed shopfronts (block 2). These are proposed to be constructed with a precast system. The City Design Manager states that the building “could very well be the best modern brick building in Birmingham if built”.



Proposed shoulder CGI and typical bay detail

- 7.71 Some of the imagery shown proposes the use of a buff brick, this has now been amended to a pink/red brick which is a welcomed changed as it will now reflect the Birmingham ID.
- 7.72 *Landscaping*
- 7.73 The majority of planting is proposed within a courtyard, straight in to ground. The landscaping masterplan details a mixture of open flexible spaces, accessible routes, grassed terraces with terrace seating, water features, raised planters, roof terraces (level 39 of the tower and level 03 of block 3), benches and arbour features. There is a good mixture of tree and shrub planting and high-quality hard landscaping. Final and full details should be secured via condition. There are also a number of green and brown roofs proposed. BCC Leisure Services lend support to the high quality landscaping proposed.



Landscape Masterplan



Landscape CGI

Gateway One – Fire and Accessibility

- 7.74 The Health and Safety Executive were consulted and did not object to the application. Their substantive response raises no objection and confirms the applicant will have to demonstrate suitable fire safety design standards at subsequent regulatory stages.
- 7.75 Overall, the City Design Manager concludes that the proposed replacement building on site is *“an exceptional building, which if constructed using a pre-cat system of construction stands to be one of the best building in Birmingham. The scale of the building encloses well this wide artery running through the city centre, and the tower will be of good proportions, have unique identity and contribute positively to the emerging townscape”*.

- 7.76 Objections have been made with regards to the scale of the tower and its impact upon the remaining townscape. However, the points above set out how in this instance a tall building, of this quality, at this location, can be supported, despite its scale in relation to buildings within its context.

Tall Building Assessments – Microclimate and Aviation Safeguarding

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

Wind

- 7.78 The application is supported by a wind microclimate study for the proposed development. Design Principle 19 (Creating tall buildings) of the Birmingham Design Guide SPD makes it clear that City Note LW-44 (Minimise and mitigate impacts on the local environment and microclimate) is relevant to the consideration of these applications for tall buildings. City Note LW-44 directs wind mitigation in the first instance to the buildings design (Para 2.240).
- 7.79 The Microclimate Assessment confirms that the impact of the proposed development on wind microclimate has been fully assessed through wind tunnel testing and that conditions at ground level will not be subject to any wind safety risks and that proposed external amenity areas will have appropriate levels of comfort for their function.

Overshadowing and loss of light

- 7.80 Paragraph 2.250 of the Birmingham Design Guide Healthy Living and Working Places City Manual (2022) states *"the City Council recognises the levels reflected within the BRE guidance relate to a suburban environment, whereas tall buildings are largely located in dense urban environments where levels of daylight and sunlight can typically be below these targets. Therefore, the weight attributed to the conclusion of these studies will be balanced against the scale of the impact, character and nature of the surroundings, site constraints, policy aspirations and other material planning considerations."*
- 7.81 The application is supported by Daylight and Sunlight Assessments. The overshadowing assessment acknowledges that shadow will be cast, however, when considering the March equinox, the shadow has minimal additional impact on surrounding residential development when compared to other tall development within the area. The Daylight and Sunlight Assessment acknowledges that the proposals will however change the outlook from neighbouring residential properties, including reducing the amount of natural daylight to some windows. Many of the windows assessed already fall below BRE Guidance due to the context they sit and relationship with other existing development. Therefore, an alternative Vertical Sky Component (VSC) target is used to calculate loss of daylight in its existing urban context, using this alternative VSC target many of the windows that would fail the BRE guidance achieve the reduced VSC target, demonstrating that the development whilst reducing daylight maintains an acceptable level of amenity when considering its existing context, albeit there are still a number of windows that fail.
- 7.82 However, when considering the location of the application site, its context and site constraints, along with city centre regeneration aspirations set by policy including the efficient use of underutilised land the impacts upon daylight are acceptable.
- 7.83 The impact to Bromsgrove House, that is set out in the Daylight Sunlight Assessment is student accommodation, and therefore occupied on a transient basis.

Aviation Safeguarding

- 7.84 An Aerodrome Safeguarding Assessment has been submitted in support of the application. This Assessment identifies that the tallest block of the proposed

development will infringe the Outer Horizontal Surface (pertaining to the Obstacle Limitation Surfaces for Birmingham Airport) by a margin of 7.6m. Physical safeguarding concerns are therefore predicted from the building structure itself. The submitted Instrument Flight Procedures (IFP) Safeguarding Report confirms that the proposals do not impinge on existing published IFP and the proposal is not considered to have any adverse effect on the safe operation of the airport or aviation.

- 7.85 Suitable measures including provision of appropriate aviation lighting of the proposed tower and crane management during construction, should be conditioned.

Residential Amenity

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

- 7.87 Design Note LW13 of the Birmingham Design Guide requires the following for private outdoor amenity space:

5sq.m (1 bed flat),

7sq.m (2 bed flat) and

9sq.m (3 bed flat).

- 7.88 This would therefore equate to a requirement of 3,418 sqm of private amenity space for the mix of apartments sought. The scheme provides a total of 3,976sqm.

- 7.89 Proposed dwelling sizes comply with the Nationally Described Space Standards as shown in the submitted Residential Standards Schedule. 179 (32.5%) of the dwellings are also Accessible Part M4(2) compliant, according with Policy DM10. 127 (32.5%) of the proposed dwellings would be dual aspect.

- 7.90 Bromsgrove House is PBSA situated to the east of the application site, immediately abutting the boundary. The two closest elevations to the site boundary have blank or non-habitable room windows, which are therefore not impacted. The northern elevation is set back from the boundary by a ground floor podium but has habitable windows facing towards the courtyard of the proposed development. These windows are set at an oblique angle to the east/rear elevation of the proposed development and so whilst there is a separation at the closest window of around 16m, this is not a direct view line. Therefore, acceptable levels of privacy are maintained to the existing building and is provided to potential future occupiers.

- 7.91 The next adjacent residential property is a new development to the other side of Bromsgrove Street ('Kent Street baths'). There is a tall building on to Bromsgrove Street, that would be set to the south-east of the proposed tower. There are proposed habitable room windows that face directly towards habitable room windows within this development. However, they are separated by the width of Bromsgrove Street which is around 16m. This is an acceptable separation distance across a highway and is the expected separation distance for residential developments that face one another across a highway, when set at back of pavement, such as this. Therefore, residential amenity is maintained to this development and the proposed.

- 7.92 I-Land is a residential development to the east of the application site and shares a boundary. The western elevation of this development has been deliberately designed to avoid habitable room windows that would directly face this adjacent site and is therefore blank. There are some windows within the southern elevations, which are set away from the boundary and at an angle. These windows would therefore have a view over the proposed roof terrace of the proposed block on to Essex Street and into the proposed courtyard. However, these are all shared amenity spaces, which are overlooked anyhow. The parapet of the terrace to the rear of i-land is at a similar

elevation to the proposed roof terrace, and so privacy can be achieved to both (other than from high level windows as existing). There are habitable windows that would face towards these existing windows in the proposed Bristol Street block, however, these are around 35m away at the closest point. Therefore, acceptable amenity is maintained.

- 7.93 There are residential properties that face the Essex Street Block, however, this is the expected separation distance across an established highway and is acceptable. The adjacent residential developments of i-land and southside apartments share this separation distance across Essex Street.
- 7.94 The recently constructed Essex Street tower, situated on the junction with Bristol Street has habitable room windows that face towards the application site on the southern elevation. However, these face the blank north elevation of the Bristol Street block and are separated by existing retained development, maintaining a separation of around 21m to this proposed blank elevation, which is acceptable. There are also habitable windows within this tower facing east, towards the Essex Street block, these begin at the 6th floor of the tower. The, proposed Essex Street block would therefore not obscure views out of any windows on this elevation, as it sits below the habitable windows on this elevation.
- 7.95 Therefore, the layout and positioning of windows in the proposed development and existing surrounding dwellings maintains and provides acceptable levels of privacy.

Sustainable Construction

- 7.96 Policy TP1 sets out that the Council is committed to 60% reduction in total CO2 emissions by 2027 from 1990 levels. This requires new development to be located in sustainable locations, reduced CO2 and water consumption, and to promote the use of LZC technologies.
- 7.97 Policy TP2, Adapting to Climate Change - Requires new development to demonstrate how it has considered the impacts of the future climate and extreme weather through the integration of adaptation and resilience measures.
- 7.98 The Guidance note on Sustainable Construction and Low and Zero Carbon Energy Generation (2022) provides guidance to developers on how to achieve the requirement of Policies TP3 and TP4. This sets out that new residential development building regulations came into effect in 2022. From 15th June 2022 all domestic development must achieve at least a 31% reduction in carbon dioxide emissions compared to the 2013 Building Regulation (Approved Document Part L) standards. For non-domestic buildings this figure is 27%. Policy TP3 of the adopted Birmingham Development Plan requires that development should seek to maximise energy efficiency and carbon reductions. Development proposals should therefore seek to achieve a betterment over the baseline national requirements against the Target Emission Rate (TER) of the 2021 Edition of the 2010 Building Regulation (Part L), where possible and where viable.
- 7.99 The submitted Sustainable Design and Construction Statement sets out that the development achieves CO2 reductions and energy use reductions beyond Part L of Building Regulations, as well as providing an electric only residential development, as to not use or rely on fossil fuels (should the grid be decarbonised). It also sets out the design measures considered from adapting to climate change and how during demolition and construction waste and recycling will be managed as to reduce the developments impact. The principles of which accord with the policies set out above.
- 7.100 The application is also supported by an Energy Statement which sets out the proposed development achieves a reduction in carbon dioxide emissions by at least 18.24% against the Target Emission Rate of the Building Regulations (Part L1) (2021);

Re-use of existing buildings and embodied carbon

- 7.101 The proposed development would involve the demolition of existing buildings on the site. Paragraph 157 of the NPPF states that the planning system should “encourage the reuse of existing resources, including the conversion of existing buildings”. However, there are no local development policies which require the retention of existing buildings or that create a presumption in favour of reusing existing buildings.
- 7.102 In addition to the above, the NPPF is also clear whilst re-use of buildings should be encouraged, the delivery of housing on brownfield land within existing settlements should be given substantial weight. Weight is also attached to the efficient use of underutilised land, such as this

Flood Risk and Drainage

- 7.103 BDP Policy TP6 ‘Management of flood risk and water resources’ requires a sustainable drainage assessment and maintenance plan for all major developments. The scale of the proposal also requires a Flood Risk Assessment. BDP Policy TP2 ‘Adapting to climate change’ and TP3 ‘Sustainable construction’ states that new development should be designed and constructed in ways to conserve water and reduce flood risk, promoting sustainable drainage systems.
- 7.104 The LLFA and Severn Trent Water do not object to the proposed development and supporting sustainable urban drainage strategy, subject to conditions securing final design details.
- 7.105 The proposed scheme restricts run off from the site to 1 l/s by attenuating rainwater on site and discharged at green field run off rate. This is supported by a STW developer enquiry accepting this discharge rate in to the existing sewer network at this rate. The Strategy confirms the proposed SUDS includes the use of Green/Brown roofs, underground attenuation and raingardens. The LLFA accept the strategy proposed and the evidence to the support the use of these methods and for discounting others.
- 7.106 An initial operation and maintenance plan has been provided for the proposed strategy, however, the final details should be conditioned.

Noise, Air Quality and Contamination

- 7.107 BCC EPU do not object to the application subject to conditions, set out below.
- 7.108 *Air Quality* – The site is located with a Air Quality Management Area and Clean Air Zone. However, the proposed development is largely vehicle free and so unlikely to impact upon air quality through operation. The supporting Air Quality Assessment concludes that the proposed residential use is acceptable in this location and potential future occupiers would not be exposed to excessive pollutants.
- 7.109 *Contaminated Land* – The application is supported by a Phase 1 Geo- environmental Desk Study. EPU accept the finding and a phase two intrusive assessment is recommended, this is covered by a proposed condition.
- 7.110 *Noise* – The application is supported by a Noise Impact Assessment which finds that the dominant noise is traffic noise, entertainment noise is present but found to be less significant.
- 7.111 A mitigation scheme is required for the proposed amenity gym, to prevent outbreak of amplified noise. This can be secured by condition. A mitigation strategy will also be required for noise insulation and extraction details for the proposed ground floor commercial uses. EPU recommend that this can be shown via details submitted via condition.
- 7.112 *Overheating* – The proposed development is shown to include MVHR which is supported by an overheating assessment, which sets out that habitable rooms are to have openable windows (openable panel behind a perforated vent), to be supplemented by mechanical ventilation where required. EPU accept this strategy.

Ecology

- 7.113 Policy TP8 'Biodiversity and Geodiversity' requires all development, to result in an enhancement of the natural environment.
- 7.114 The site's present condition results in it having no existing ecological value, the application is supported by the submission of an Urban Greening Factor Assessment as a measure of assessing the condition and potential for improvement/enhancement as a result of the proposals. This is satisfactory, given that the scheme was submitted before mandatory BNG net gain requirements. BCC Ecology do not object to the application subject to conditions as detailed below.
- 7.115 There are a number of Ecological Enhancement measures that are proposed including a Wildlife-friendly lighting scheme, bat and bird boxes, Inclusion of log piles and invertebrate nest boxes within the soft landscaped areas, native and ecologically beneficial planting in landscape design proposals, biodiverse green roofs. All of which should be secured by conditions along with an Ecological Construction Management Plan and Landscape Management Plans.

Transportation

- 7.116 A Transport Statement has been prepared in support of the development proposals. BCC Transportation do not object to the proposed development.
- 7.117 No parking is provided, with the exception of 7 car club spaces, which should be secured by condition. Servicing would be from Essex Street and Bristol Street (as it is existing) secured through appropriate s278 agreements and/or TRO amendments. The layby area has been accepted in principle to provide formal loading provision along with two disabled parking spaces and the rest retained as general limited waiting. 610 secure cycle storage spaces (550 for residents plus 60 for visitors) are proposed, the majority located within Block 3 but provision also made in Blocks 1 and 2, this accords with BCC Parking SPD (100% provision for residents). Dedicated bin storage for residential and commercial waste is proposed within each building.
- 7.118 There have been objections made in relation to the loss of the existing surface level parking and the impact this may have on the ability to park private vehicles in the locality. However, the application site is within Zone A as identified by the Birmingham Parking Guidelines SPD where parking provision is limited. The SPD sets out that *"To deliver high-density development, city centre land must be used as efficiently as possible. This will require a reduction in space hungry provision for residential and commuter parking. A key focus for the city centre is to reduce the need for private car journeys by ensuring viability of alternative modes"*. In this instance, the provision of cycle parking for residents and visitors, the parking club spaces and the sites location in very close proximity to sustainable transport hubs means that the lack of parking provision for the development and the loss of the existing surface level parking is supported and accords with Policy and guidance.

Planning Obligations and Financial Viability

- 7.119 The site falls within the Low Value Residential Area and therefore there is no CIL payment.

Affordable Housing

- 7.120 The provision of affordable private rent units will be secured in line with the affordable housing section in the above report.

Play and Open Space

- 7.121 Either on site public open space or contributions towards off site provision for developments of 20 or more dwellings is required by the Open Space in New Development SPD. However, the SPD also sets out that in the City Centre a more flexible approach may be required where dense urban environments do not allow for on site public open space. In these instances, financial obligations to be spent towards off site improvement of public realm is appropriate. BCC Leisure Services therefore

requested a contribution of £1,149,200 to be spend on improving existing public open spaces.

Education

7.122 BCC Education also request a s.106 contributions towards the expansion of existing education facilities.

7.123 However, the applicant has submitted a viability report with the application which has been independently assessed by the Council's independent viability consultant. Given the above viability assessment which demonstrates that the scheme is not able to support a policy compliant position, in this instance the money has been directed to Affordable Housing, which is the greatest priority at this time, with a financial equivalent of approximately £2,475,000.

Other Matters

7.124 The Employment Access Team have requested that the development provide an employment access plan that would accord with Policy TP26.

7.125 The site is not greater than 5ha and therefore is not supported by a waste strategy as mentioned in Policy TP13.

7.126 Active Travel England requested additional information in relation to assessment of further improvement to active travel in the vicinity, they also requested that a crossing over the A38 is provided and improvements to Bristol Street public realm. However, as above, the proposal is not financially viable. Moreover, the ATE request is not supported by an adopted policy to make such requests and is not evidenced or costed and so any such request would not be CIL compliant at this time.

7.127 Objections have been raised in relation to the pre-application public consultation carried out (by the applicant) not being adequate. It must be noted that whilst encouraged there is no obligation for pre-application consultation on the applicant, nonetheless the applicant did hold a public event. In addition, objections have been made by owners of some flats within the adjacent i-Land residential building, as well as the building owner/management, that they were not consulted directly. However, consultation letters were sent to address within the building, in accordance with statutory requirements, whether tenants then informed landlords is not a matter for the planning application.

Planning Balance

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

7.129 Given that on the 8th July 2024 the Council published a Preferred Options and a new Housing Land Supply Position Statement, which demonstrates that the city has 4.38 years of deliverable housing land supply the 'titled balance' under paragraph 11(d) of the NPPF does not apply to decisions on planning applications relating to new housing development in the city, in accordance with Paragraph 226 of the NPPF. Therefore, proposals that accord with the development plan, should be approved.

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

7.131 The identified harm to designated assets was as follows;

- White Lion P. H.- grade II – low level, less than substantial
- Back-to-Backs- grade II – lowest level, less than substantial
- The Rotunda- grade II – low level, less than substantial

- St. Martin's Church- grade II* - low level, less than substantial
- Edgbaston and Ryland Road Conservation Areas to include the following grade II listed buildings: 37-42 Ryland Road, 74 and 75 Ryland Road, 78 Ryland Road (located within Ryland Road Conservation Area) 24-28 Spring Road, 17, 18 & 19 Spring Road (located outside the boundary of Edgbaston Conservation Area – low level, less than substantial
- 99-102 Bromsgrove Street- locally listed – low level, less than substantial
- 76-104 Bristol Street-locally listed – Low level, less than substantial
- Catholic Church of St. Catherine of Siena- locally listed – low level, less than substantial
- Traditional buildings of Horse Fair at the junction of Bristol Street, Essex Street and Inge Street- non-designated heritage assets: 39-41 Horse Fair, 36-38 Horse Fair, 28 Horse Fair, Formr Black Lion Pub at 27-29 Essex Street and Queen's Tavern at 23 Essex Street – low level, less than substantial.
- Wellington Hotel – Moderate Level, less than substantial.

7.132 The harm to non-designated assets was identified as;

- Nos. 42-44 Bristol Street - a very high degree of harm to a building of moderate significance.
- Nos. 40-42 Bristol Street - a very high degree of harm to a building of low significance.
- Nos. 36-38 Bristol Street - a very high degree of harm to a building of moderate significance.
- Nos. 32-34 Bristol Street- a very high degree of harm to a building of low significance.
- Nos. 10-12 Bristol Street and No. 35 Essex Street - a moderate degree of harm to a building of moderate local significance.

7.133 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. A balanced judgment is also required with regards to the high level of harm (complete loss) of non-designated heritage assets.

7.134 Using the three strands of sustainable development the public benefits of the scheme are identified as

Economic

- Temporary construction jobs over the construction period
- Creation of skilled and training opportunities during construction
- Equivalent of around 40 FTE jobs in operation
- net additional GVA to the economic output from additional residents within the city centre

7.135 Para. 81 of the NPPF states that "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development" However, I also note that many of the new jobs would only be for a temporary period, and that whilst some permanent jobs would be created, the figure is not significant. However, given the scale of development, moderate weight is attached to these economic benefits.

Social

- The provision of housing, 550 build to rent units
- The provision of 5.6% affordable housing at 30% discount from market rent.

- 7.136 Taking account of the acute need for affordable housing, substantial weight is given to these social benefits.

Environmental

- The site would enhance the ecological and biodiversity offer at the site and contribute to the greening and biodiversification of the city centre.
 - Using suitable brownfield land within settlements for homes.
 - High quality design of replacement buildings
- 7.137 Moderate weight is afforded to the sustainability credentials of the built development, I note the carbon impact of demolition, however given the existing BDP Policies, this carries limited weight in this context. The site has very limited ecological value and the proposal does provide ecological gains. The NPPF is clear that substantial weight should be given to the value of using brownfield land in sustainable locations to deliver homes.
- 7.138 Set against these benefits is the less than substantial harm identified to designated heritage assets ranging in scale from low to moderate. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance. In addition, a balanced judgement is required with the high degree of harm resulting from the complete loss of non-designated heritage assets.
- 7.139 With specific regard to the impact of harm caused to the significance of heritage assets, both the BDP and NPPF place great weight on their conservation. Paragraph 205 of NPPF states that the more important the asset the greater the weight should be, additionally paragraph 208 calls for this harm to be weighed against the public benefits of the proposal.
- 7.140 The designated heritage assets hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation colleagues to reach low levels in most cases and moderate level to the setting of the grade II listed Wellington. However, in my view, I consider there are enough benefits associated with this proposal to outweigh the heritage harm, with particular reference to the delivery of homes and affordable homes. The paragraph 208 test of the NPPF is therefore favourable to the proposal.
- 7.141 Taking a balanced judgement, I do not consider the high level of harm (complete loss) of the non-designated heritage assets, to outweigh the identified significant public benefits of the proposal given their limited heritage value.
- 7.142 The Birmingham Development Plan became 5 years old on 10th January 2022 and is currently being updated. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date but the policies most important for determining the application remain consistent with the NPPF and are afforded full weight.
- 7.143 Therefore, the proposed development accords with the development plan and should be approved.

8 **Conclusion**

- 8.1 The proposed development would see the delivery of a high-quality residential led development, in a sustainable location on brownfield land. The proposed 550 residential units would make a meaningful contribution towards Birmingham's housing provision and the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver a minimum of 5.6% affordable housing, in accordance with local and national policies. The scheme would also provide economic, social and environmental benefits.
- 8.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the application would accord with the development plan taken as a whole and is

therefore acceptable subject to completion of a legal agreement and conditions.

9 Recommendation:

9.1 That application 2023/07902/PA be APPROVED subject to the prior completion of a Legal Agreement to secure the following:

- 5.6% affordable housing (31 units)
- Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £13,000.

9.2 In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 30th September or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reasons:

- In the absence of any suitable legal agreement to secure the provision of onsite affordable housing the development does not deliver the significant benefits considered when weighing the benefits of the proposal against identified adverse impacts. Therefore, the proposal conflicts with Policies TP31, TP47 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.

9.3 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.

9.4 That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 30th September 2024, or such later date as may be authorised by officers under delegated powers, planning permission for application 2023/07902/PA be APPROVED, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- | | |
|----|--|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the prior submission of Building Recording |
| 4 | No development shall take place until a programme of archaeological work is submitted and approved. |
| 5 | Prior to Demolition Submission of Demolition and Construction Environmental Method Statement and Management Plan |
| 6 | Requires the prior submission of contamination remediation scheme |
| 7 | Requires the submission of a contaminated land verification report |
| 8 | Requires the submission of details of the sound insulation for plant/machinery |
| 9 | Requires the submission of extraction and odour control details |
| 10 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
-

11	Requires the submission of sound insulation for proposed gym
12	Commercial Hours of operation
13	Prior to the Commencement of Development Submission of Construction Employment Plan
14	Requires the prior submission of a Sustainable Drainage Assessment
15	Prior Submission of a Sustainable Drainage Operation and Maintenance Plan
16	Requires the prior submission of a drainage scheme
17	Requires the submission and approval of external materials
18	Requires the submission and approval of architectural detailing
19	Requires the construction and approval of a sample panel on site
20	Prior submission of details for a pre-cast method of construction
21	Requires the completion of works for the s.278 (Highways)
22	Requires the prior submission of a construction method statement/management plan
23	Requires the submission of a residential travel plan
24	Requires the provision of cycle parking prior to occupation
25	Requires the submission of details in relation to the Car Club parking spaces
26	To ensure energy and sustainability measures are delivered in accordance with statement
27	Requires the submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis
28	Submission of a Construction Ecological Mitigation Plan
29	Requires the prior submission of details of bird/bat boxes
30	Requires the submission of hard and/or soft landscape details
31	Requires the submission of boundary treatment details for each phase of the development
32	Requires the submission of a lighting scheme
33	Requires the submission of a landscape management plan
34	Requires the submission of details of green/brown roofs
35	Requires the submission of a CCTV scheme
36	Submission of a Crane Management Plan

Reason for Approval

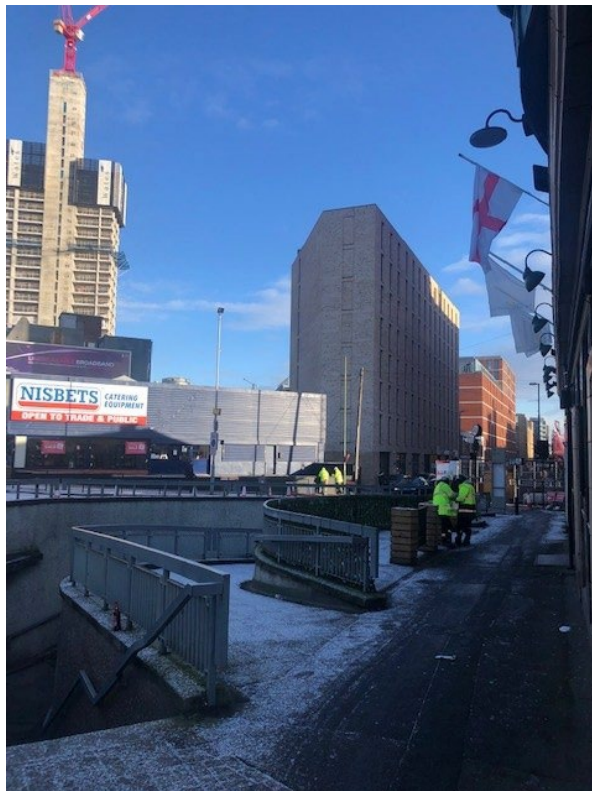
-
- 1 Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. In this case that the application for planning permission was made before 12 February 2024.
-

Case Officer: Rhiannon Hill

Photo(s)



View south along Bristol Street (Essex Street Tower under construction)



View along Bromsgrove Street – Bromsgrove House PBSA

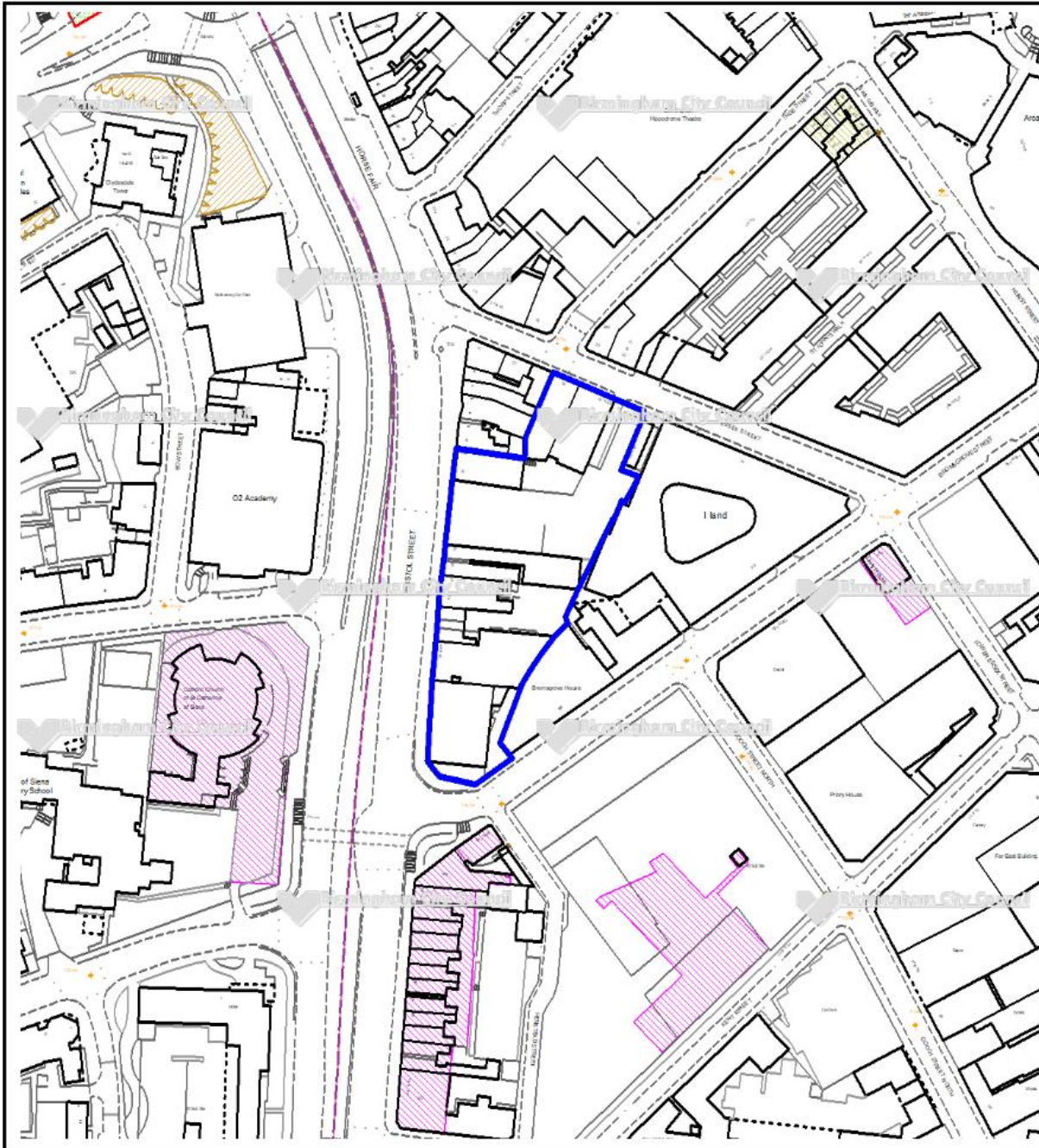


View from entrance to surface level parking – iLand residential to left and rear of Bromsgrove House PBSA



Existing Bristol Street frontage – NDHA's

Location Plan



This map is reproduced from the Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Birmingham City Council. Licence No.100021326, 2010