

Birmingham City Council

Planning Committee

27 August 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Determine	6	2019/06951/PA Laurels Court 65 Frederick Road Stechford Birmingham B33 8AE Change of use of the existing buildings to provide supported living residential accommodation (sui generis) and erection of first floor side extension and construction of a new two storey building to provide additional supported living residential accommodation (sui generis) and amendments to the car park and other associated works1
Section 191/192 Permission not required	7	2020/03934/PA 82 Frances Road Stockland Green Birmingham B23 7LE Application for a Certificate of Lawfulness for an existing use as a 6-bed HMO (Use Class C4).

Committee Date:	27/08/2020	Application Number:	2019/06951/pa
Accepted:	19/08/2019	Application Type:	Full Planning
Target Date:	31/01/2020		
Ward:	Yardley West & Stechford		

Laurels Court, 65 Frederick Road, Stechford, Birmingham, B33 8AE

Change of use of the existing buildings to provide supported living residential accommodation (sui generis) and erection of first floor side extension and construction of a new two storey building to provide additional supported living residential accommodation (sui generis) and amendments to the car park and other associated works

Recommendation
Determine

Report Back

- 1.1. Members will recall that this application was deferred on 30th January, 2020 for further information regarding the management of the premises to provide measures to ensure that there was no fear of crime/recurrent anti-social behaviour and to ensure that local residential amenity was not compromised. Further details have been received and this includes how the management structure of the provision is separated.
- 1.2. The application is made on behalf of Talem Care Group. 'Talem Care' is the specialist provider/developer in terms of the provision of the units with 'New Start Supported Housing' being the Housing Provider managing the units, and 'Aspirations Care' will be the Support provider.
- 1.3. The management report states that through housing assessments are made by the Housing Provider (New Start) for each tenant to ensure they can hold a short term tenancy and that they can live/reside independently. This is achieved through the Housing Provider (New Start) and the Support Provider (Aspirations) Working together to develop co-ordinated service. This also includes funding through the housing benefit system. 'Aspirations' has been established since 2011 and is a national specialist supported living provider. Their services cover over 560 people nationally and include support for people with disabilities, mental health and autism. This type of healthcare support is personalised for each client.
- 1.4. Aspirations are the organisation registered with the Care Quality Commission (CQC) and are also regulated by the CQC Regulations 2009 and the Health and Social Care Act 2008 (Regulated Activities). Members will appreciate there is a clear minimum standard for personal support which is the type of support offered at Laurels Court. There are clear fundamental and minimum standards in respect to supported living providers and breaches are considered for enforcement action by the CQC if these are breaches to care standards. Included in this are regulated activities in the form of the Health and Social Care Act which shape their operations which include Registered managers, Person Centred Care, Dignity and Respect, Safe Care and

Treatment, Receiving and Auctioning Complaints, Good Governance (not an exhaustive list)

- 1.5. Members raised particular reference to concerns of how the site is managed. The amended documentation states that general site operations are dealt with by the housing provider. In this instance it is 'New Start Housing'. This would be enforced in a similar way that a generic landlord would deal with challenging situation. New Start housing would initially assess the severity of the breach and if found that there an issue is warning letters would be served. Continuation of the same issue, without resolution, could lead to service of a 'possession order' under the tenancy.
- 1.6. Aspirations Statement of Purpose covers all the 'providers obligations' and how issues may be managed which would be bespoke for every individual. Complaints regarding the provision of support to residents is regulated by Regulation 16 of the Health and Social Care Act 2008 and is covered in Aspirations Care Statement of Purpose which also identifies how these matters are governed which is utilised if the residents of the care provider wish to raise issues where they feel they have a complaint, this does clearly not relate to external concerns about how the unit is operated as outlined in the process above.
- 1.7. Since this, additional information has been provided to the LPA back in March. The Local Planning Authority has been made aware of ongoing and what appears to be escalating issues from the premises and has considered these comments in light of the updated report as provided.
- 1.8. It is noted that there were no formal objections from the Police service at the time of the original consultation however the LPA have again been in contact with the Police service who acknowledges that they have reports of a number of serious incidents (including multiple assaults thefts and harassment amongst others) in relation to the premises and have verbally expressed their ongoing concerns to these events and the associated impacts on the emergency services. An update is expected and will be reported accordingly.
- 1.9. Despite requesting further information from the agent and in light of these further incidents none has been forthcoming.
- 1.10. It is important to weigh the planning merits of proposal with what can be conditioned and enforced successfully in planning terms especially in light of the most recent events and by way of a careful 'planning' balance with the appropriate weigh applied to the development as proposed alongside the harm to the local area.
- 1.11. Both the NPPF (paras 97 and 127) and Policy PG3 require developments that create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. In this instance, especially in light of documented recent events, the LPA cannot now be satisfied that the development meets with the requirements of the NPPF or the Birmingham Development Plan policy and have therefore reconsidered the planning position in terms of the management of the premises.
- 1.12. Furthermore whether the proposed use of the premises could be effectively managed/controlled through the application of a suitably worded 'management' condition and how if such a condition were imposed whether this could be successfully enforced (test of reasonableness) especially when balanced against the

considerations of the harm to amenity of the existing local residents and have now concluded that presently the LPA remain unsatisfied that the most up to date management report, as provided, can effectively deal with the concerns raised by Members or the local residents and that any condition could even be satisfactorily imposed or in fact enforced through the planning process to ensure that there are no regular incidents especially when care is regulated through one organisation and housing tenancy by a separate one and effectively no measures to protect neighbours in the wider community.

Addendum

- 1.13. Updates from original report noted 14 parking spaces (13 plus 1 disabled space)
 - 1.14. 2 audio files received which contained evidence of shouting and banging noises
 - 1.15. Since the original report and updated report in March were presented/received there have been numerous updates/further commentary received in respect to further anti-social behaviour, regular police attendance at the property this has involved matters relating assault, theft and harassment (on and off site) and also including bad/abusive language being aimed at local residents. The Local Planning Authority have been duly made aware of ongoing and what appears to be escalating issues from the premises and has considered these comments 'in light' of the updated report as provided.
-
- 2.2. Recommendation
 - 2.3. That the application recommendation be changed to reflect the concerns raised.
 - 2.4. That planning permission be Refused for the following reason:
 - 2.5. The existing impacts of the development created by this use and already evidenced will be wholly exacerbated by further extensions to the premises/creation of additional units at the property. The evidence clearly demonstrates associated issues of the lack of management of the premises which does not provide adequate reassurance that the development would not adversely affect the amenities of occupiers of adjoining dwellings by reason of noise and general disturbance, crime and disorder, and the fear of crime, which undermine the quality of life or community cohesion and resilience. As such the proposal would be contrary to Policy PG3 of the Birmingham Development Plan 2017, saved paragraph 8.7 of the Birmingham Unitary Development Plan 2005 and the National Planning Policy Framework.

ORIGINAL REPORT

1. Proposal
- 1.1. This planning application is a change of use from Residential Institution (Use Class C2) to Supported Living Residential Accommodation (Sui Generis Use) and submission also includes a first floor extension on part of the existing care unit and the construction of a new two storey, four unit care facility. The new facility provides for independent residential accommodation for adults with disabilities that need assistance in their daily lives.

- 1.2. It is clear that the units are not designed as a secure facility and residents in these units are able to lead independent lives within their abilities and this will ultimately also involve residents leaving the premises. The premises are designed as a home where the resident can lead an independent existence, as far possible drawing on help as required by their needs.
- 1.3. The development will provide 5 additional units over and above the 14 presently on site. This will result in 19 units in total.
- 1.4. The first floor extension is proposed to be constructed on the eastern section of the building. It is proposed to be of a mono pitch design adjoining a similar mono pitch roof element of the existing building. It is proposed to be approximately 6.8 metres tall, 5.5 metres wide and 3.2 metres deep. It is proposed to provide an additional unit of accommodation.
- 1.5. The new two storey building is proposed to be built within the south west part of the site. It is proposed to be 16.8 metres long, 10.8 metres deep and 5 metres tall to the eaves and 6.8 metres tall to the ridge. It is proposed to provide 4 new care/independent units.
- 1.6. Each individual unit would comprise of a bedroom, bathroom, living room and a kitchen/dining room.
- 1.7. The units will be supported by 25 FTE staff, 3 PT staff and 1 FTE equivalent working shift patterns. 8 members of staff are proposed on site at any one time. Staff will not be residing/sleeping on site. Members will note staff rest room (table and chairs), lockers, and toilets are provided separately for staff.
- 1.8. 13 car parking spaces are proposed including 1 disabled car parking space.
- 1.9. The application is supported by;
- 1.10. Existing and proposed plans
- 1.11. Existing and proposed Elevations (amended)
- 1.12. Design and Access & Planning Statement
- 1.13. Noise Assessment
- 1.14. Energy Statement
- 1.15. Flood Risk Assessment
- 1.16. Addendum statement in support of the Application

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is presently in use as a two storey care facility. The building has been recently refurbished and is finished at the ground floor in white render and at the first floor grey timber clad.

- 2.2. To the north, east and south of the building are residential dwellings and sheltered accommodation directly to the south of the application site is a car parking area. To the west of the application site is Bordesley Green Recreation Ground, the site and its access is at the end of Frederick Road adjacent to this.
- 2.3. The application site is enclosed with fencing set back from the highways and the frontage to Frederick Road and Mary Road is heavily landscaped with mature trees and shrubs.

[Site Location](#)

3. Planning History

- 3.1 1994/01113/PA - new lift shaft and minor alterations to elevation – Approved 16/06/1994.
- 3.2. 2018/00190/PA - External alterations to building including replacement windows and doors, creation of 6 no. car parking spaces/pedestrian refuges and erection of areas of timber fencing – Approved 23/08/2018.
- 3.3. 2018/10376/PA – Erection of an extension to provide additional care unit and construction of a new storey, four unit care facility. – Approved 04/06/19.
Planning enforcement history
- 3.4 2018/0079/ENF - Alleged unauthorised external alterations to building, creation of 8 no. car parking spaces and erection of perimeter timber fencing without consent Matter closed as application submitted 24/08/2018.

4. Consultation/PP Responses

- 4.1. Transportation Development – No objection, subject to a condition restricting the use to Supported Living Residential Accommodation.
- 4.2. Regulatory Services – No objection.
- 4.3. Environment Agency – No objection - built areas in Flood zone 1 so no increase in flood risk.
- 4.4. West Mids. police – No objection.
- 4.5. Adjoining neighbours and ward Councillor Notification has taken place.
- 4.6. Site notices posted.
- 4.7. Petition received (145 signatures) - objections on grounds of unsuitable use adjacent to residential properties. Residents and their children have suffered from verbal abuse and shouting and noise at night.
- 4.8. 6 Individual responses received and a number received from one party. Comments received on the application are as follows:

- Not at all happy with the proposed plan to extend the building and the change of usage.
- Residents have to put up with cars parked on our scheme, traffic parked on the road which blocks a lot of traffic to Colbourne.
- Anti-social behaviour from the residents. Abusive behaviour towards the residents in the street with swearing and obscenities. Local residents feel unable to be in their own gardens and reluctance to let their children out. Police have been called on numerous occasions.
- Concerns for the residents in the sheltered housing scheme directly opposite who have been subject to nuisance and disturbances.
- Concerns about the use and the changes as proposed. Originally owned by BCC the building was sold to a private company to run the residential home. There have been instances in the road with people being disruptive in and around their accommodation and as a local resident find this situation unacceptable.

4.9. Objections have been supported with photos/video of certain event.

5. Policy Context

- National Planning Policy Framework (2019)
- Birmingham Development Plan (2017);
- Saved Policies within Birmingham Unitary Development Plan (2005);
- Places for All (Adopted Supplementary Planning Guidance 2001)
- Places for Living (Adopted Supplementary Planning Guidance 2001);
- The 45 Degree Code (Adopted Supplementary Planning Guidance 2006);
- Special Needs Residential Uses SPG (2002);
- Access for people with Disabilities (Supplementary Planning Guidance 2006);
- Car parking Supplementary guidance.

6. Planning Considerations

Background to the Development

- 6.1. The aim of the proposed change of use from C2 care to flats with care (Sui Generis) is to provide individual housing to provide a small community development of specialist supported living. This will consist of self-contained accommodation for adults with disabilities. However, in this case the residents will continue to have access to help and support to meet their individual needs in each case with more or less as required by their circumstances whether this be mental or physical disability.
- 6.2. The registered provider is a registered healthcare provider (New Start Supported Housing) who is registered with the CQC.
- 6.3. The apartments are self-contained and some are also adapted as fully accessible and are adapted for residents with physical disabilities this is designed to increase the residents' feeling of independence.

- 6.4. A specialist care package is provided via the support provider (Aspiration Care) for each resident and this may be adaptations to the unit or help with daily life and activities/transport to training/work. In terms of the development, the benefit of having the units all in one location/centralised helps reduce costs and drive operational efficiencies and support staff can be centralised to meet the diverse needs.

Principle

- 6.5. This application has been assessed against the objectives and details of the policies as set out above.
- 6.6. The NPPF suggests that there would be a presumption in favour of sustainable development, however the starting point would always be the development plan. The Council plan and Birmingham Development Plan aims to ensure Birmingham's residents experience a high quality of life, living within attractive and well-designed sustainable neighbourhoods. It is expected that across the City all development must be well-designed. It is also expected that all new development will be expected to demonstrate high design quality design and appearance.
- 6.7. Policy GA8 advises that housing growth should be encouraged with the Growth Triangle and Stechford falls into this area and the proposal is for the provision of specialist housing. Policy TP27 advises that housing should help support sustainable neighbourhoods and this can be achieved through a wide choice of housing sizes, types and tenures to ensure balanced communities where this type of proposal would fall.
- 6.8. Members will also note that the previous application under reference 2018/10376/PA (as noted in the history) for extensions and alterations to the premises along with a new 2 storey block.
- 6.9. This permission to extend has not yet been implemented however is 'extant' and in this case represents a strong 'fallback' position in terms of this proposal as the extensions proposed in this submission represent the same works and are in the same format that have previously been approved.

Design

- 6.10. Policy PG3 of the BDP requires new development to ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term.
- 6.11. The proposed change will provide for 8 units at ground floor and five units at first floor within the existing (main) building with one new extension/unit over the existing corner unit, which is present single storey.
- 6.12. The separate single storey building which faces Mary Road is proposed to be converted into 2 units.
- 6.13. The new two storey new building is proposed to the rear of the exiting building and will create 4 separate units served by a lobby/staircase and separate staff room. Access doors face onto the private drive, towards the existing units and out onto the internal courtyard.

- 6.14. The whole development will be finished with materials which match those within the existing building. The mono pitch roof of the extension and pitched roof of the two storey new building match roof styles within the existing building and are of an appropriate scale of development in this location.
- 6.15. Members will note that the extensions as proposed have already been previously approved and the design and appearance remains unchanged externally and therefore the design and appearance of the work is considered acceptable.
- 6.16. It is considered that the new building and first floor extension would not dominate the existing building and would not harm the character and appearance of the existing building or the locality in accordance with policy PG3 of the Birmingham Plan.

Access/parking

- 6.17. The development is accessed from the original access in Frederick Road. The driveway provides access to 6 spaces along with one wider space allocated for disabled users and the 6 spaces on the frontage to Frederick Road as previously approved. There will be 13 spaces in total.
- 6.18. In accordance with the car parking SPD parking provision for a C2 would require 6 spaces for the 19 bed use. Transportation have noted concerns over car parking provision and for a typical C3 residential development the level of car parking provision would not be considered wholly adequate. However these units do not classically fall within the C3 remit as many of the residents do not own or have access to a vehicle and if leaving and returning would be doing so by taxi or nearby public transport.
- 6.19. Members will note that there are comments in relation to parking in the vicinity however on the day of my visit whilst the spaces in the main yard were in majority full (1 space free), the frontage spaces in Frederick Road were only partially occupied. It was understood parking was an issue recently with someone moving into a property.
- 6.20. Following the observations and comments the applicant has also sought to remind staff of utilising/parking in designated spaces only. Future parking demands can also be managed by the impositions of a car park and travel plan condition.
- 6.21. Transportation have noted the comments raised by neighbouring responses however remain satisfied in this instance that the imposition of conditions would restrict the use and ensure parking demand is met by the facility in accordance with policy TP44 of the Birmingham Plan.

Landscaping

- 6.22. The perimeter of the site is set in a landscape area which is lined with trees. The main frontage is grassed. The outside areas are partially enclosed into small outside spaces to serve separate units.
- 6.23. The landscaping on the boundary with the park is retained along with the main communal space located towards the centre of the development. The trees on the site are being retained and the Tree officer has raised no objections as there would no impact on the trees in this location. I consider a suitable landscaping condition would ensure a satisfactory appearance to the development and increase the potential for biodiversity improvement in this case.

Flooding

- 6.24. The site is mainly located in Flood Zone one with only part of the site (i.e part of the fencing) is in Flood zone 2. In this instance the Environment Agency have raised no objections to the proposal as the buildings as proposed are located in Flood Zone 1 and the fencing is considered low risk and therefore this ensures the development is compliant with policy TP6 of the Birmingham plan.

Residential amenity

- 6.25. The proposed units will provide adequate space standards for each unit and amenity space for the residents as proposed and each ground floor unit will have an element of outdoor space. The new building is sufficient distance away from adjacent residential dwellings (24m offset not direct relationship and already approved), not to cause any loss of light issues or result in an overbearing development. Due to the position of windows, the development would not result in any overlooking of residential amenity areas.
- 6.26. The proposed extension to the existing ground floor unit proposes a secondary first floor window looking towards Mary Road; the window does not overlook any private amenity area of surrounding properties. The extension would not result in any overlooking, loss of light or be overbearing. It is therefore considered it would not result in any harm to the residential amenity of adjacent residents.
- 6.27. Members will note that there are comments with regard to light pollution. In this instance conditions may be imposed to ensure a scheme for any proposed lighting is provided to the Local Planning Authority for approval.
- 6.28. The Local Planning Authority note that there have been a number of comments and concerns in regards to the behaviour of residents in and around the units and towards the existing neighbours. It is understood that this has on occasion led to the police attending the property.
- 6.29. The Local Planning Authority have raised these concerns with the site operators who have also confirmed that inappropriate behaviour was reported to and dealt with by the Police and meetings with the Operator, neighbours and the Police have occurred.
- 6.30. Recent incidents relate to a new resident who had recently moved in had caused some disruption but this situation has now improved and been dealt with. Also staff arrangements have changed to ensure senior staff are on shift overnight to ensure noise is monitored and dealt with appropriately. In this instance a management condition is proposed to ensure these measures continue in perpetuity.
- 6.31. It is clear that this facility is to provide care but also a degree of independence to the residents. It is also clear that the behaviour of the residents has caused local concerns and the issues raised are not in dispute and it is unfortunate that these issues have occurred. The units are not designed as a secure facility and residents in these units are able to lead independent lives within their abilities and this which will ultimately also involve residents leaving the premises. The premises are designed as a home where the resident can lead an independent existence and drawing on help as required by their needs.

- 6.32. Aspirations Healthcare and Talem Healthcare (which provides on-site support) is one of the UK's leading providers of support services for people with a range of diverse needs. A 'person-centred approach is engaged', to ensure the properties managed meet the needs of tenants. Each resident undergoes an assessment, including liaison with all groups who support them, to build a profile of the type of property, location, size and special requirements (similar to that of a care package) that will suit the individual. Tenants are granted individual tenancies and the Registered Provider then works with Talem Healthcare to deliver support to the residents, as set out above.

S106 and Other matters

- 6.33. The scheme will provide for 19 units. As these would be classed as 'sui generis' they would not trigger the need for a financial contribution towards affordable housing. In addition, the units would provide accommodation which is specialist in nature.
- 6.34. Issues have been raised in terms of works being carried out without the benefit of planning permission. Members will note the enforcement history on the site. It appears that some time ago that the building was being refurbished along with new fencing that was erected and a car parking area was formed on Frederick Road. It appears that the applicant was made aware of the requirements and a retrospective application was made to retain the works (as amended). This work was later approved (noted in history).

7. Conclusion

- 7.1. The development is considered to be acceptable in principle especially given the previous permission and extant consent. The design and appearance of the units would match the host building and is an acceptable design. The character of the locations will continue to be consistent with the existing premises and will not harm the character of the locality.
- 7.2. The proposed change of use and extension works would not result in harm to adjacent residential amenity.

8. Recommendation

- 8.1. Approval subject to conditions

-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires that the materials used match the main building |
| 3 | Requires the submission of a parking management strategy |
| 4 | Requires the submission of hard and/or soft landscape details |
| 5 | Requires the submission of a landscape management plan |
| 6 | Requires the submission of a lighting scheme |
-

-
- 7 Prevents the use from changing within the use class
 - 8 Requires the submission of a commercial travel plan
 - 9 Use/management of premises.
 - 10 Requires the prior submission of details of bird/bat boxes
 - 11 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 12 Implement within 3 years (Full)
-

Case Officer: Sarah Willetts

Photo(s)



FIG 1 -View of Property on right from Frederick Road



FIG 2 -View of Vehicular Entrance on Right

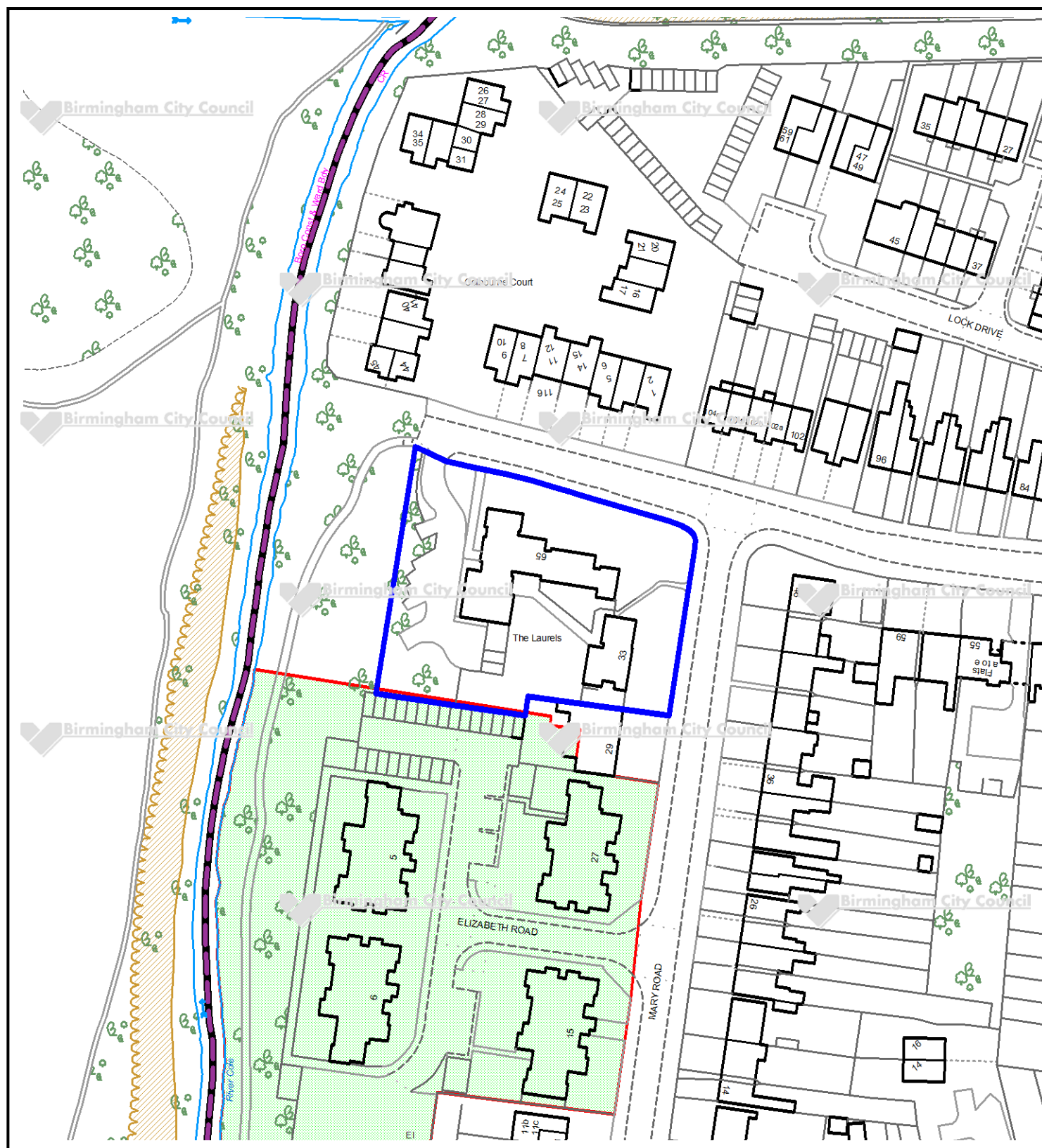


FIG 3 View from internal parking area back towards entrance gate



FIG 4 Google Image of location of unit

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:	27/08/2020	Application Number:	2020/03934/PA
Accepted:	08/06/2020	Application Type:	Existing Lawful Use/Development
Target Date:	28/08/2020		
Ward:	Stockland Green		

82 Frances Road, Stockland Green, Birmingham, B23 7LE

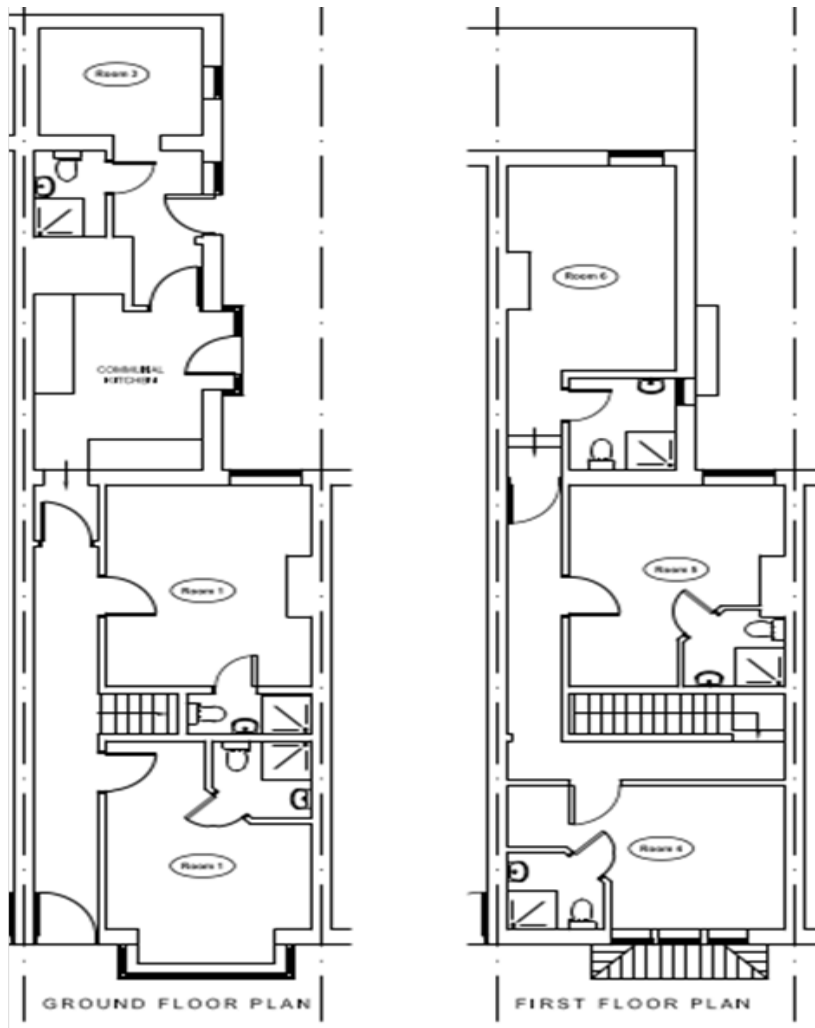
Application for a Certificate of Lawfulness for an existing use as a 6-bed HMO (Use Class C4)

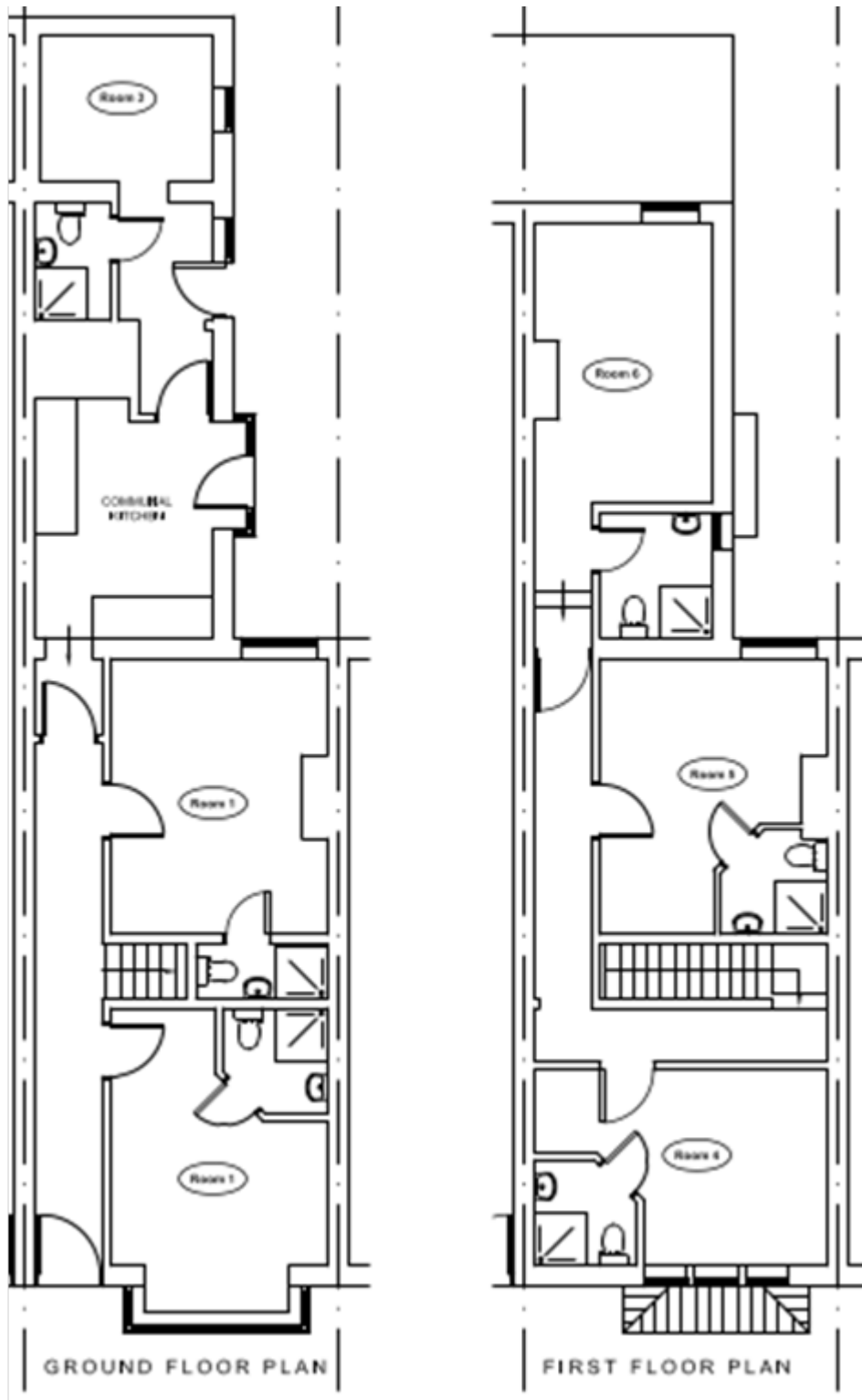
Recommendation

Section 191 / 192 Permission not Required (Certificate Issued)

1. Proposal

- 1.1. This application seeks a lawful development certificate to confirm that the existing use of the property as a six bedroom House in Multiple Occupation (HMO) (Use Class C4) at 82 Frances Road, Stockland Green, Birmingham, B23 7LE is lawful.
- 1.2. The application is supported by the following documents:
 - Existing floor plans, Location plan and Site plan;
 - 3 no. Statutory Declarations; and
 - Photographs.
- 1.3. The existing ground floor plan shows three bedrooms (each with en-suites) and a shared kitchen. The first floor plan shows three bedrooms (each with en-suites)





[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site relates to a two storey terraced property located in a predominantly residential area and within the Stockland Green Ward.

[Site Location](#)

3. Planning History

3.1. None.

4. Consultation/PP Responses

- 4.1. Legal Services – The application was submitted prior to the city-wide Article 4 Direction coming into effect in June 2020 and any change of use from C3 to C4 would fall within permitted development rights. The statutory declarations and evidence with the supporting evidence also confirms that there is no break in use since August 2019. A lawful development certificate should be granted.
- 4.2. Site Notice displayed for 21 days. Neighbouring occupiers and Ward Councillors have been notified.
- 4.3. Jack Dromey MP– representation received on the following grounds:
- Great concern regarding the proliferation of HMOs in Stockland Green ward.
 - Constituents feel Stockland Green has become a 'dumping ground' for HMO's.
- 4.4. 38 further objections have been received from local residents on following grounds.
- Overconcentration of HMOs in the Stockland Green area on Kings Road, Queens Road, Frances Road and Mere Road.
 - HMO's on Frances Road are well over the 10% allowance and unsustainable.
 - The Council gives no material consideration to the consequences of issuing HMO licenses.
 - The Council promised that it would not allow HMO's next to each other.
 - No 80 and 82 Frances Road can potentially become an 11 Bed HMO.
 - Anti-social behaviour, crime, violence, noise/ disturbance, open drug dealing, alcohol, prostitution, domestic abuse etc. from HMO's.
 - Residents in HMO's have impoverished lifestyle and have complex needs and suffer from drug and alcohol misuse or are ex-offenders etc.
 - Area is deteriorating with overcrowding, litter/ insufficient disposal facilities, fly tipping and rat infestation.
 - HMO's have an extremely negative and depressing impact on the area.
 - Residents feel unsafe, stressed, vulnerable, fearful, intimidated and hopeless.
 - Social and environmental issues associated with HMO's.
 - Police are not dealing with HMO crime as they are dealing with other crime.
 - Proposal would add additional parking and traffic to an already congested road.
 - Residents have not been provided with notice of the application.
 - A site notice does not give residents a fair opportunity to comment.
 - Devalue property prices.
 - Current HMO's are managed poorly by greedy landlords.
 - Child safety/ safeguarding concerns.
 - These properties should be given to families who make a positive contribution to society and the local area.

5. Policy Context

5.1. Town and Country Planning Act 1990 (section 191) (as amended);

Town and Country Planning (General Permitted Development) Order 2015 (as amended);
Town & Country (Use Classes) Order 1987 (As Amended),
NPPG (Updated 2019) - Guidance: Lawful development certificates

6. Planning Considerations

- 6.1. Section 191(4) sets out the test to be applied when considering an application for a certificate of lawfulness. This states that if the Local Planning Authority are provided with information satisfying them of the lawfulness of the use at the time of the application, they shall issue a certificate; and if not they shall refuse the application.
- 6.2. The burden of proof is on the applicant to show that on a balance of probabilities a lawful development certificate should be granted. The evidence must be clear and precise in order to justify granting a certificate and should be accepted unless the LPA has any evidence to the contrary.
- 6.3. The application was submitted prior to the city-wide Article 4 Direction coming into effect in June 2020. The GPDO 2015 allows the change of use from single dwellings (Use Class C3) to small HMOs (Use Class C4) of up to 6 occupants without the need for planning permission and a change of use of 82 Frances Road from C3 to C4 would fall within permitted development rights.
- 6.4. The Town and Country (Use Classes) Order 1987 (as amended) - 'Use Class C4: Houses in Multiple Occupation' includes small shared dwelling houses occupied as their main residence by between 3 and 6 unrelated individuals who share basic amenities such as a kitchen or bathroom.
- 6.5. There have also been statutory declarations submitted together with supporting evidence to include from the registered provider amounts to first-hand knowledge from when the premises were let out as a 6-bed HMO and also confirms there have been no breaks in use since August 2019. No evidence has been submitted to contradict the applicant's description of events. Your officers therefore conclude that the evidence submitted by the applicant is sufficiently precise and unambiguous on the balance of probability to justify the grant of a certificate.
- 6.6. I note objections have been received from MP and local residents on a number of grounds such as overconcentration of HMO's, crime/ anti-social behaviour, parking, litter, etc. These concerns, whilst noted, cannot be taken into consideration in the determination of this application for certificate of lawfulness. The views expressed by local residents and MP on the planning merits of the case cannot be considered in the determination of this application for a Lawful Development Certificate.

7. Conclusion

- 7.1. On the basis of the above, the lawful development certificate should be granted because the change to small HMO (Use Class C4) is permitted development as it was in use before Article 4 Direction came into effect in June 2020 and the evidence is sufficiently precise and unambiguous on the balance of probability to justify grant of certificate of lawfulness for the development.

8. Recommendation

- 8.1. Lawful development certificate issued.

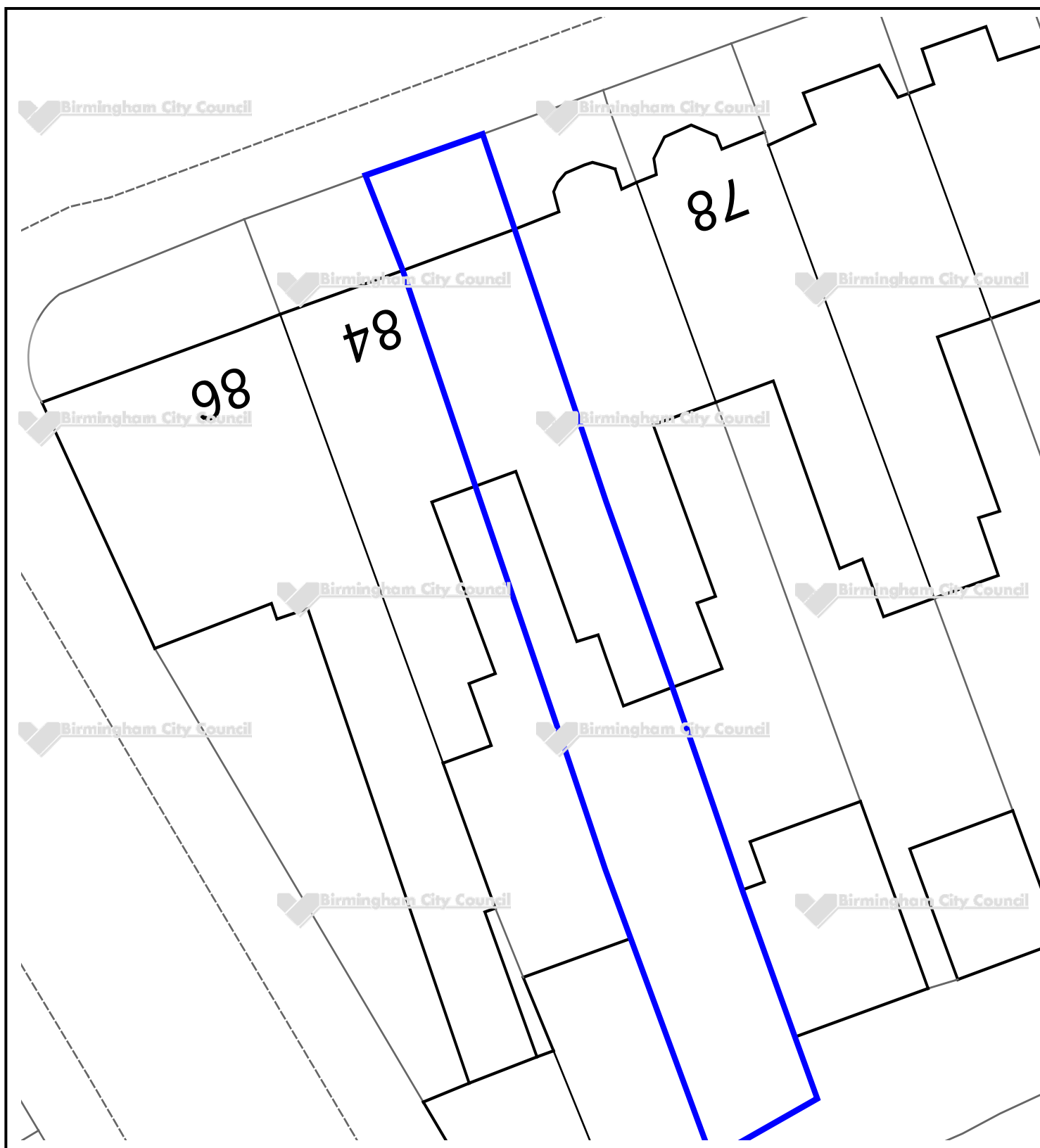
Case Officer: Harjap Rajwanshi

Photo(s)

Figure 1 – Front elevation



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

27 August 2020

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	8	2018/07488/PA African Village Former Crown and Cushion Birchfield Road Perry Barr Birmingham B20 3JE Erection of a new build eight storey high building containing 95 apartments on the upper levels and Use Class A1 (Retail) and/or Use Class A2 (Professional and Financial Services) units on the ground floor together with associated parking and landscaping.
Approve - Conditions	9	2020/03831/PA 52 Gibson Road Handsworth Birmingham B20 3UD Erection of single storey forward and first floor rear extensions

Committee Date:	27/08/2020	Application Number:	2018/07488/PA
Accepted:	18/09/2018	Application Type:	Full Planning
Target Date:	07/11/2020		
Ward:	Birchfield		

African Village, Former Crown and Cushion, Birchfield Road, Perry Barr, Birmingham, B20 3JE

Erection of a new build eight storey high building containing 95 apartments on the upper levels and Use Class A1 (Retail) and/or Use Class A2 (Professional and Financial Services) units on the ground floor together with associated parking and landscaping.

Recommendation

Approve subject to Conditions

Report back

This application was brought to Planning Committee on the 30th of July 2020, where members agreed to its approval subject to the agreement of a S106 that secured 10 low cost ownership dwellings. Following that decision, legal advice provided has clarified that because the land is in the ownership of the City Council, the City Council would not be able to enter into a S106 agreement with itself and the applicant would not have a sufficient interest in the site to enter into a S106 with the LPA

As such, a negatively worded pre-commencement condition should be attached stating that no development can take place until all persons with a legal interest in the site have entered into a S106 agreement to secure the appropriate obligations, which would future proof the position of the City Council if it decided for any reason to sell on the site to a developer.

In terms of the authority currently in place, due to the above, the committee resolution approving the application subject to a S106 will need to be replaced with a recommendation to approve subject to conditions with the addition of the following condition:

Prior to Commencement of Development - S106 Obligation

No development hereby permitted shall be commenced unless and until all estates and interests in the site required to be bound to ensure satisfactory enforcement of the obligations contained in a Section 106 Agreement relating to this planning permission, have been bound or made subject to the Planning Obligations and other provisions relating thereto, to the satisfaction (as confirmed in writing) of the Local Planning Authority. The Section 106 Agreement shall secure the provision of 10 low cost ownership dwellings, consisting of 5 no. two bed and 5 no. one bed, on site (at 20% discount); and the payment of a monitoring and administration fee associated with the legal agreement of £1,500.

Reason: In order to secure the provision of affordable housing in accordance with Policies PG3 and TP31 of the Birmingham Development Plan 2017 and the NPPF.

Original Report

1. Proposal

- 1.1. This application proposes the erection of a 8 storey apartment building which would contain 95 apartments together with associated parking on land at the corner of Birchfield Road and Wellington Road which was formerly occupied by the African Village bar and restaurant.
- 1.2. The building would measure 26.3 metres high and have a curved frontage at the junction of Birchfield Road and Wellington Road and extend almost the full depth of the site frontages along Birchfield Road and Wellington Road. The building would taper down from 8 storeys, from its peak on the corner of Birchfield Road and Wellington Road, to 5 storeys on Wellington Road and Birchfield Road frontages.
- 1.3. The exterior façade of the building would be mainly clad in bricks using a variant of three colours. The ground floor front façade to both Wellington Road and Birchfield Road would largely have ground to ceiling shopfronts with windows and doors that would serve Use Class A1 (Retail) and/or Use Class A2 (Professional and Financial Services) units on the ground floor. The remainder of the external façade would incorporate vertically laid windows of varying widths upwards. Other notable material types to be used include upper floor level cladding.
- 1.4. The ground floor layout would provide 5 commercial units as well as plant room, bin/cycle store rooms, staircases and lift. The communal staircases and lift would be accessible from the front and rear of the building. The upper levels would consist of 58 no. 2 bed and 37 no. 1 bed apartments.
- 1.5. Vehicular access to the rear car park and service yard would be achievable from Wellington Road over land that is shared with the western part of the curtilage of the former African Village Restaurant and Bar. A total of 33 car parking spaces would be provided in that rear car park.



CGI image of the proposed new building.



Ground floor and external site layout

- 1.6. The application has been submitted with the following supporting information:-Site contamination report; Planning and sustainability statement, Transport Statement, Drainage Strategy and SUDS Assessment, Arboricultural Report, Air Quality Assessment, Financial Viability report, Noise Assessment and Preliminary Bat roost Assessment.
- 1.7. The site area measure 0.265 hectares which equates to development density of approximately 358 residential units per hectare.
- 1.8. [Link to Documents](#)
2. Site & Surroundings
 - 2.1. The application site was previously occupied by the African Village Bar and Restaurant which has now been demolished. The other part of the curtilage (to the west) would be left over to come forward as separate development plot. The site is now in the ownership of the City Council having been compulsory purchased with a wider view to supporting the delivery of the Commonwealth Games (this application is however by the previous owner of the site).
 - 2.2. Further to the west are garage premises. To the north is part of the external curtilage boundary of a garage and a void piece of land belonging to the City Council. Further beyond that land are commercial premises and railway station (with One Stop Shopping Centre further north). Across Wellington Road to the south of the site is a 3 and 4 storey high block with commercial parade of premises on the ground floor and residential flats above. The site falls with the boundary of the Perry Barr Local Centre and the site has been identified in the SHLAA 2016 strategy of capable of providing residential development that may help meet the City's future housing needs. The red line site boundary is included within the boundary of TPO designation 498.
 - 2.3. [Site location](#)
3. Planning History

- 3.1. 30.01.2020- 2020/00125/PA- Application for Prior Notification for the proposed demolition of the former African Village, garages and commercial unit- Prior approval required and approved with conditions.
- 3.2. Site to the west
- 3.3. 14.02.2019- 2018/08668/PA- Erection of a 5 storey apartment building containing 55 apartments together with associated parking- Refused on the grounds of non compliance with requirements for S106 contributions and also lack of tracking information with regard to demonstrating larger vehicles can access and egress the site.
- 3.4. 26.10.2017- 2016/08154/PA- Erection of 5 storey apartment building containing 55 apartments together with associated parking – appeal dismissed on the basis that there was no S106 in place to tie an appeal approval to.
- 3.5. 23.09.2010- 2010/03124/PA- Application for a new planning permission to replace extant planning permission 2007/03284/PA [Redevelopment of vacant land & car park to provide accommodation for 103 students within a 3 & 4 storey development with concierge & parking. Amendment to N/07712/05/FUL] in order to extend the time limit for implementation- Approved with conditions.
- 3.6. 03.08.2006- 2005/07712/PA- Redevelopment of vacant land and car park to provide accommodation for 115 student bedrooms within 3 and 4 storey building with concierge and 12 on-site parking spaces. Redesign car park to adjoining public house- Approved subject to conditions.
- 3.7. 23.08.2007- 2007/03284/PA- Redevelopment of vacant land & car park to provide accommodation for 103 students within a 3 & 4 storey development with concierge & parking. Amendment to N/07712/05/FUL- Approved subject to conditions.
4. Consultation/PP Responses
 - 4.1. Nearby occupiers, local councillors, Residents group and MP notified as well as site and press notices displayed- 1 letter of support and 1 letter of comment received. The comments/and expression of support can be summarised as follows:-
 - good for Birmingham; provide high quality homes, currently have a housing crises so the development benefit the council and the community, African Village caused a nuisance and comments about access and amenity within the building.
 - 4.2. Responses received from Councillor Muhammad Afzal and Councillor Mahmood Hussain who set out they support the proposal. It is expressed the proposal will help meet some of the significant housing need in the area.
 - 4.3. 3 responses received which object to the development. The objectors object/comment on the following aspects of the proposal:-
 - Scale and design; question whether it meets the same sustainability brief expected of the Athletes Village and other buildings for the Games, that the site is a historic site which has been blighted by development and speculative planning applications in the past, question its parking and highway impact, will take away jobs at the African Village Restaurant and Bar and families of those employees affected (and remove the business and also affect the community).

- 4.4. Transportation Development- no objection subject to conditions .
- 4.5. Regulatory Services- Requests the application of conditions, if minded to approve the development.
- 4.6. West Midlands Fire Service- request water supplies for fire fighting should be in accordance with their specified guidance, that the approval of Building Control will be required with regard to Part B of Building Regulations 2010 and where fire mains are provided in the building there should be access to the riser inlet within 18 metres and each access point should be clearly visible.
- 4.7. Environment Agency- no objection in principle subject to the application of condition related to dealing with unsuspected contamination that may be discovered during the development process. The also provide advice to the applicant with regard to other environmental matters.
- 4.8. West Midlands Police- ask that if the application is approved conditions are applied to help limit the limit the opportunity for and also detect crime.
- 4.9. Leisure Services- no objection to the application but require £242, 275 to be spent on the provision, improvement and or maintenance of POS and Play facilities at Perry Hall Park within the Perry Barr ward.
- 4.10. LLFA- no objection subject to conditions to secure a detailed sustainable drainage scheme and also sustainable drainage operation and maintenance plan.
- 4.11. Network Rail- Have not stated an objection to the scheme and have set out various steps that they would expect the developer and LPA to undertake at various stages in the development process.
- 4.12. Wildlife Trust- state they have no objection in principle subject to conditions related to protecting bats on site and the provision of a Construction and Ecological Management Plan detailing the measures taken to protect the adjacent habitats specifically a nearby PSI during site enabling works and construction
- 4.13. Severn Trent Water - no objection subject to a drainage condition.

5. Policy Context

- 5.1. Birmingham Development Plan (2017); Saved policies UDP (2005), Places for Living SPG, Places for All SPG, Car Parking Guidelines SPD, Aston, Newtown and Lozells Area Action Plan (AAP), Shopping and Local Centres SPD, Draft Urban Centres Framework and the NPPF.

6. Planning Considerations

Principle

- 6.1. Local Planning Authorities must determine planning applications in accordance with the Statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision. The Development Plan

comprises the saved policies of the Birmingham Unitary Development Plan 2005 and the Birmingham Development Plan 2017. The NPPF and the Aston, Newtown and Lozells Area Action Plan are also material considerations. Furthermore, the Draft Urban Centres Framework, which though not adopted as policy yet has been through consultation and therefore carries some weight in the assessment of this application.

- 6.2. In policy GA3 of the BDP, and the Aston, Newtown and Lozells AAP is identified as a key area for growth, including for over 700 new homes and Perry Barr is identified as a District Centre growth point. The AAP also highlights that the Crown and Cushion PH (African Village Restaurant and Bar) is suitable for new development for local centre uses. This view of Perry Barr district centre being a focus for significant growth for homes, jobs and services is also emphasised by the Draft Urban Centres Framework which identifies this application site as part of wider site of opportunity for development. The NPPF recognises that residential development can play an important role in ensuring the vitality of centres. Taking the above into account, no objection is raised in principle to residential development on the site.

- 6.3. I set out below my consideration of the other matters relevant to the proposal which all together are matters that need to be considered in arriving at a conclusion as to whether or not this proposal represents sustainable development.

Design and layout

- 6.4. This application has been the subject to extensive discussion and negotiation, in order to try and arrive at the most appropriate solution for the site. In contextual layout terms, the applicant has submitted an indicative master plan that I consider satisfactorily demonstrates that the development of the scheme could be built without hindering the prospective future redevelopment of neighbouring plots of land.
- 6.5. With respect to the overall mass and scale of the new building, street scene drawings have been provided which confirm that the new building would appear acceptable in relation to the 4 storey block across Wellington Road. Though the building would be taller than any other buildings along this side of Wellington Road, it is situated where buildings of such a size are deemed acceptable.
- 6.6. Turning to the design of the building, I now consider that the scheme as now presented before members is of a design that meets best principles of good design. The development would have front facing entrances and a clear definition between pedestrian and vehicular access to and from the site. The use of lightly contrasting brick facades, coupled with the large number of and varying sizes of windows, break up the large elevations of the building. This would help create a modern signature development for this location which is important given that it is expected to act as a catalyst for the redevelopment of this area. The mass, scale and design (which includes its positioning and general layout) of the new development meets good urban design principle and would fit into the wider vision for the future of this local growth centre. In summary, no adverse visual or urban design impact identified subject to safeguarding conditions. The City Design officer concurs with this view.

Residential amenity

- 6.7. In their assessment of the proposal Regulatory Services have considered noise and vibration as well as air quality and they request the application of conditions, if minded to approve the development, that would secure full details of site

contamination investigation and remediation strategy; noise insulation between commercial and residential, control on any plant and equipment, ventilation and glazing specification. I concur with this view.

- 6.8. The site falls within the boundary of the Perry Barr Local Centre and the site has been identified in the SHLAA 2016 strategy as capable of providing residential development that may help meet the City's future housing needs, therefore the principle of introducing of residential development into this location is acceptable. I consider that the development site is suitable for the proposed development from an environmental perspective and consider the aforementioned conditions as well as others requested by other bodies such as the Environment Agency should address any environmental concerns related to the development of the site and the protection of the residential amenity of future occupiers. I consider it is reasonable to attach the conditions recommended by my environmental advisor rather than have to try and address them before the determination of this application.

Internal layout sizes

- 6.9. Bedroom 1 to units 8, 25, 42, 59 and 74 would measure 11.034 sq.m; bedroom 1 to units 9, 26, 43, 60 and 75 would measure 11.463 sq.m whilst bedroom 1 to units 16; 33, 50, 67, 80 88 and 95 would measure 11.44 sq.m. Whilst these sizes would fall short of the desired 11.5 sq.m set in National Technical Standards, given that the shortfall is very minimal, I raise no objection to this.
- 6.10. In summary, other than the shortfall mentioned above, which are deemed to be acceptable, the overall size of all the other bedrooms and units within the development would comply or exceed National Technical Space Standards.

Overlooking/intrusion of privacy

- 6.11. The nearest directly facing residential dwellings are the flats situated above the commercial premises across Wellington Road to the south of the site which are approximately 40 metres from where the new building would be erected. The nearest garden of a residential dwelling is the rear garden of number 309 Wellington Road which is situated approximately 86 metres away to the west of the application site. These distances are considered acceptable in terms of protecting nearby occupiers from overlooking/intrusion of privacy.
- 6.12. The indicative masterplan shows that a prospective residential block that may be erected to the west would be situated approximately 19.5 metres from the nearest windows on the western elevations of the application building. Whilst this distance is shorter than the 21 metre distance separation guidance figure set out in adopted SPG Places for Living I do not consider this warrants refusal of this application. The reasons for this are that I consider that it is a marginal shortfall and the clustering of taller buildings in designated centres such as this naturally allows for a reasonable degree of flexibility in the application of such distance separation where residents may be more accustomed to development being closer to them than would typically be the case in a low level residential suburban setting. Overall, I do not consider the separation distance would undermine the privacy of the future occupiers of this and the prospective development to the west.
- 6.13. A roof terrace (residential amenity area) along Wellington Road that would be located on the 6th floor of the new building would be situated approx. 13 metres from the indicative new apartment block to the west shown in the masterplan. I also note that another roof terrace would be provided on the 6th floor set approximately

19.9 metres from the indicative new apartment the west and also a roof terrace one would be provided on the 5th floor set 19.5 metres from the aforementioned property. In order to reduce the potential for intrusion of privacy to future development nearby from the these amenity areas, it is recommended that those amenity areas are screened by an appropriate boundary treatment (in lieu of what has been shown on the submitted drawings) to both help safeguard the privacy of nearby occupiers and also in providing a more taller perimeter treatment than which is currently shown at as 1.1 metre high. This can be secured by condition.

- 6.14. In summary, no adverse overlooking or intrusion of privacy issue identified subject to safeguarding conditions.

Amenity area

- 6.15. The development would provide approximately 679 sq.metres of cumulative external amenity area for residents. These spaces would be located on the roof tops at 5th and 6th floor level. This would equate to just over 7 sq.metres per unit. Whilst this is below the target guidance of 30 sq.m per flat in adopted SPG Places for Living, I note that given the site's location in a local centre, it is not normal to provide such a level of external amenity area in such locations and as such, I consider the amenity area shown should be welcome and would allow residents to utilise such space as well as nearby public open spaces in Perry Barr.

Parking/highway impact

- 6.16. Transportation Development raise no objection subject to conditions that require parking areas to be formally marked out; vehicle circulation areas to not be used for any other purpose, secure and covered cycle storage to be provided and the commercial units are restricted to the size shown as larger units may not be serviceable by larger lorries on this site. I concur with this view.
- 6.17. The applicant has provided a tracking plan which shows that the site would be capable of being serviced in site by a refuse vehicle. He has also provided a justification for the level of parking proposed, and I am satisfied that these show the site is capable of being serviced by larger vehicles and the level of parking shown is justified. The application site falls within area 2 as set out in adopted Car Parking Guidelines SPD due to its proximity to Perry Barr Railway Station. The proposed development would provide 33 car parking spaces for the 95 units (34.75%). Despite that the provision of parking would fall below 1 space per residential unit I do not consider this would lead to an adverse parking or highway safety impact. The reasons for this includes the fact that the site is located in the defined boundary of Perry Barr District Centre where access to everyday goods and services are within walking distance and the site is well serviced by public transport including bus and rail services.
- 6.18. For the above reasons I do not raise any objection to the scheme on parking or highway safety grounds.

Ecology

- 6.19. Further to the Wildlife Trust comments which raised no objection in principle to the proposal but at that time noted that the application was not accompanied by an ecological assessment, I can advise that a Preliminary Roost Assessment (PSA) was subsequently submitted by the applicant. My Ecological advisor has reviewed this and raises no objection. The Bat report does go on to say that as some

features will be lost and that replacement features should be included in the new build (to enhance the potential for bat roosting). This can be secured by condition. I concur with this view.

- 6.20. With respect to the Wildlife Trusts comments that because the site lies approximately 15 m south of Perry Barr North Junction, a Potential Site of Importance (PSI) and subsequently they seek a Construction and Ecological Management Plan detailing the measures taken to protect the adjacent habitats specifically the PSI during site enabling works and construction. I recommend a condition to secure such is applied to this application in the event it is approved.

S106 Planning obligation

- 6.21. The applicant has submitted a financial viability report. An independent assessment of that submission has concluded that the provision of 10 on site affordable units (10%), being an equal mix of 1 and 2 bedroom apartments to be sold at 20% discount of market value in perpetuity, is the most that can be sustained by the development without impacting on viability and deliverability. This is equivalent to £280,000 in lieu of the on-site affordable housing provision. The on-site affordable housing provision has been agreed by the applicants advisor.

7. Conclusion

- 7.1. The scheme is acceptable in terms of its proposed use, design, impact on visual amenity, residential amenity of neighbouring uses, highway safety and planning obligations.

8. Recommendation

- 8.1. That consideration of application 2018/07488/PA be deferred pending the completion of Section 106 Legal agreement to ensure the following is secured:

- a) The provision of 10 low cost ownership dwellings, consisting of 5 no. two bed and 5 no. one bed, on site (at 20% discount);
- b) Payment of a monitoring and administration fee associated with the legal agreement of £1,500.

- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 30th October 2020, planning permission be refused for the following reason:

In the absence of a legal agreement to secure the provision of affordable housing, the proposal would conflict with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017, the Affordable Housing SPG, and the National Planning Policy Framework.

- 8.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 8.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority on or before the 30th October 2020, favourable consideration be given to this application, subject to the conditions listed below.

-
- 1 Requires the prior submission of a contamination remediation scheme
 - 2 Requires the submission of a contaminated land verification report
 - 3 Requires unsuspected contamination to be addressed.
 - 4 Requires the submission of sample materials
 - 5 Requires the submission of architectural details
 - 6 Requires amended details of proposed parapet features to the fifth and sixth floor flat roof amenity areas.
 - 7 Requires the prior submission of a detailed sustainable drainage scheme
 - 8 Requires the submission of a drainage scheme for the disposal of foul and surface water flows
 - 9 Requires the submission of a Submission of a Sustainable Drainage Operation & Maintenance plan
 - 10 Requires the submission of boundary treatment details
 - 11 Requires the submission of hard and/or soft landscape details
 - 12 Requires the submission of hard surfacing materials
 - 13 Requires the submission of a lighting scheme
 - 14 Requires the prior submission of level details
 - 15 Requires the submission of a CCTV scheme
 - 16 Requires the submission of cycle storage details
 - 17 Requires the parking area to be laid out prior to use
 - 18 Requires details of the proposed vehicle access gate to be provided.
 - 19 Requires the submission of an overheating assessment.
 - 20 Requires the prior submission of a scheme of glazing insulation and ventilation
 - 21 Requires the prior submission of an internal noise validation report
 - 22 Requires the prior submission of a construction ecological mitigation plan
 - 23 Requires the prior submission of details of bird/bat boxes
 - 24 Restricts the dimensions of the ground floor units to that shown on the approved plans.
 - 25 Limits the noise levels for Plant and Machinery
-

-
- | | |
|----|--|
| 26 | Requires the prior submission of noise insulation between the commercial and residential units |
| 27 | Limits the hours of use 8am - 11pm |
| 28 | Removes PD rights for telecom equipment |
| 29 | Requires the submission of details of green/brown roofs |
| 30 | Requires the prior submission of a construction employment plan. |
| 31 | Requirements within pre-defined tree protection areas |
| 32 | Limits agreed trees works to 2 years |
| 33 | Requires the scheme to be in accordance with the listed approved plans |
| 34 | Implement within 3 years (Full) |
-

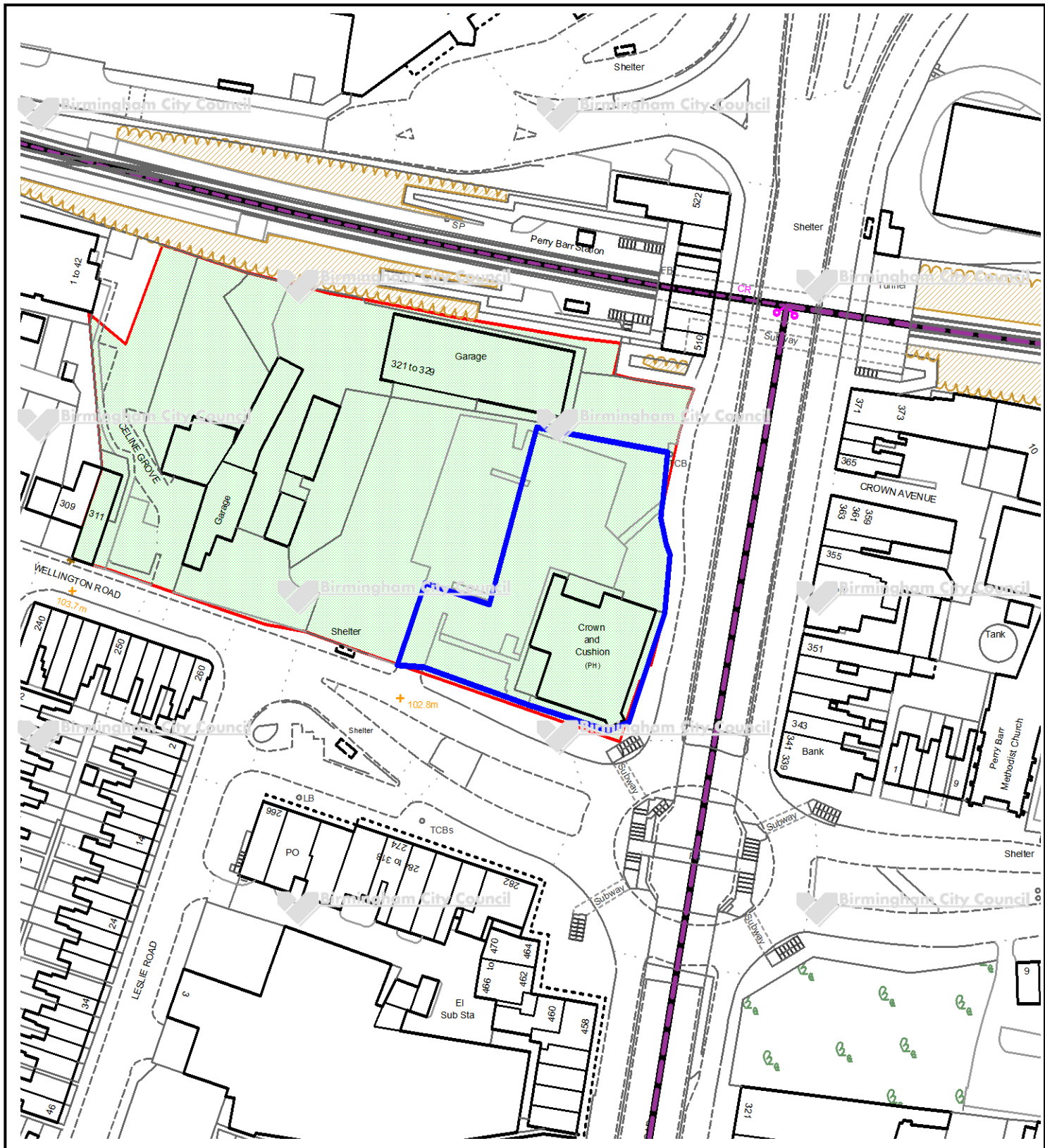
Case Officer: Wahid Gul

Photo(s)



Aerial photo of the site (African Village building now demolished) and wider context

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 Stationary 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:	27/08/2020	Application Number:	2020/03831/PA
Accepted:	26/05/2020	Application Type:	Householder
Target Date:	21/08/2020		
Ward:	Birchfield		

52 Gibson Road, Handsworth, Birmingham, B20 3UD

Erection of single storey forward and first floor rear extensions

Recommendation

Approve subject to Conditions

1. Proposal

- 1.1. Consent is sought for the erection of a first floor rear extension and single storey forward extension.
- 1.2. This application is to be determined by Planning Committee because the applicant is an Elected Cabinet Member of the Council.
- 1.3. The proposed first floor rear extension would have a hipped roof design which would be the same height as the original hipped roof of the dwelling. The extension would be 3m in depth and 6.3m in width and would be built above the recently constructed 8m deep single storey rear extension built under the Government's Larger Home Extensions Scheme (2020/02554/PA).
- 1.4. The proposed single storey forward extension would be 5.4m in width; 1.4m maximum depth and 3.7m maximum height.
- 1.5. The proposed extensions would be brick built with a tiled hipped roof to the first floor rear extension and a mono-pitch tiled roof to the single storey forward extension. All materials are to match existing dwelling.
- 1.6. Amended plans have been received which have made the following changes; 1) the two first floor rear external balconies have been omitted from this application; 2) the single storey forward extension has been reduced in width in order to retain the original ground floor front bay window and 3) the existing and proposed floor plans now clearly show the internal layout of the application dwelling.

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site consists of a detached dwelling with a hipped roof and two storey forward bay window. The original attached garage has been previously converted into a habitable room and there is an existing front porch with a mono-pitch roof.

- 2.2. To the rear is a double bay window and single storey side/rear original brick built wing style feature adjacent the boundary with No. 54 Gibson Road. An 8m deep single storey rear extension has recently been constructed at the application site under the Government's Larger Home Extensions Scheme (2020/02554/PA).
- 2.3. The boundary treatment consists of 1.8m-2m wooden fencing.
- 2.4. The neighbouring dwelling No. 50 Gibson Road is a mirror image of the application dwelling and to the rear has a conservatory. The nearest affected window is to first floor rear bedroom window which is above the neighbour's garage. However, there is also a window in the first floor front elevation which also sources light to this room.
- 2.5. The neighbouring dwelling No. 54 Gibson Road is also a mirror image of the application dwelling. The nearest affected window is to a first floor rear non-habitable bathroom window.
- 2.6. The application site is located in a residential area comprising of a mix of dwelling types and styles. However, the immediate properties along this part of Gibson Road are similar in scale and design to the application dwelling.

[Site location](#)

3. Planning History

- 3.1. 16/03/2020 - 2020/02175/PA - Erection of 8 metre deep single storey rear extension. Maximum height 4 metres, eaves height 3 metres – Withdrawn.
- 3.2. 04/05/2020 - 2020/02554/PA - Erection of 8 metre deep single storey rear extension. Maximum height 4 metres, eaves height 3 metres - accepted as not needing prior approval from the Council.

4. Consultation/PP Responses

- 4.1. Adjoining residents, and local ward councillors notified – 2 objections have been received from local residents; Objections raised to the proposed development on the grounds of:-
 - Scale
 - Out of character
 - Loss of light
 - Loss of privacy
 - Loss of view
 - Potential access-way issues from construction works
 - Rear balconies out of character and impact on neighbour amenities

5. Policy Context

- 5.1. The following local policies are applicable:

- Birmingham Unitary Development Plan 2005 (saved policies 3.14-3.14D & Chapter 8).

- Birmingham Development Plan (2017).
- Places For Living 2001.
- Extending Your Home 2007.
- 45 Degree Code SPD.

5.2. The following national policies are applicable:

- National Planning Policy Framework.

6. Planning Considerations

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

6.2. The scale, mass and design of the proposed first floor rear extension as amended is acceptable and would be in accordance with the principles contained within 'Extending Your Home' Design Guide. It is considered the proposed first floor rear extension is modest in size (3m in depth) and would have no significant impact on the character of the existing dwelling or the visual amenity of the local area.

6.3. Amended plans have reduced the width of the proposed forward extension so that the original front bay window column is retained. As such it would have no significant impact on the character of the original dwelling or the character of the forward street scene.

6.4. The proposed first floor rear bedroom extension adjacent to No. 50 Gibson Road would the 45 Degree Code if applied to the nearest first floor rear bedroom window of this neighbouring dwelling. However, this window is not the only source of light to this room; there is an additional larger window in the front elevation of the neighbouring dwelling which I consider provides sufficient light to this room. As such, there would be no significant detrimental impact on the light and outlook of the adjacent neighbouring dwelling.

6.5. Notwithstanding the objections received by local residents; I consider that the concerns raised regarding loss of light and loss of privacy have been considered and the proposed development would not compromise neighbouring occupiers light, outlook or private amenity. Amended plans received have omitted the two external first floor rear balconies. Conditions are attached in order to safeguard neighbouring amenities; 1) the first floor side en-suite windows positioned within the original side flank walls of the dwelling are to be installed with obscure glazing and 2) permitted development rights are to be removed for any new windows to the proposed first floor rear extension.

6.6. In regard to concerns raised about the scale and the proposal being out of character with the area; these concerns have been taken into account and addressed in the above paragraphs.

6.7. In regard to concerns of loss of view and access-way issues from construction work; these issues raised are non-material planning considerations and cannot therefore be taken into account in the determination of this application.

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 | Requires that the materials used match the main building |
| 3 | Implement within 3 years (Full) |
| 4 | Requires obscure glazing for specific areas of the approved building |
| 5 | Removes PD rights for new windows |
-

Case Officer: Ricky Chima

Photo(s)

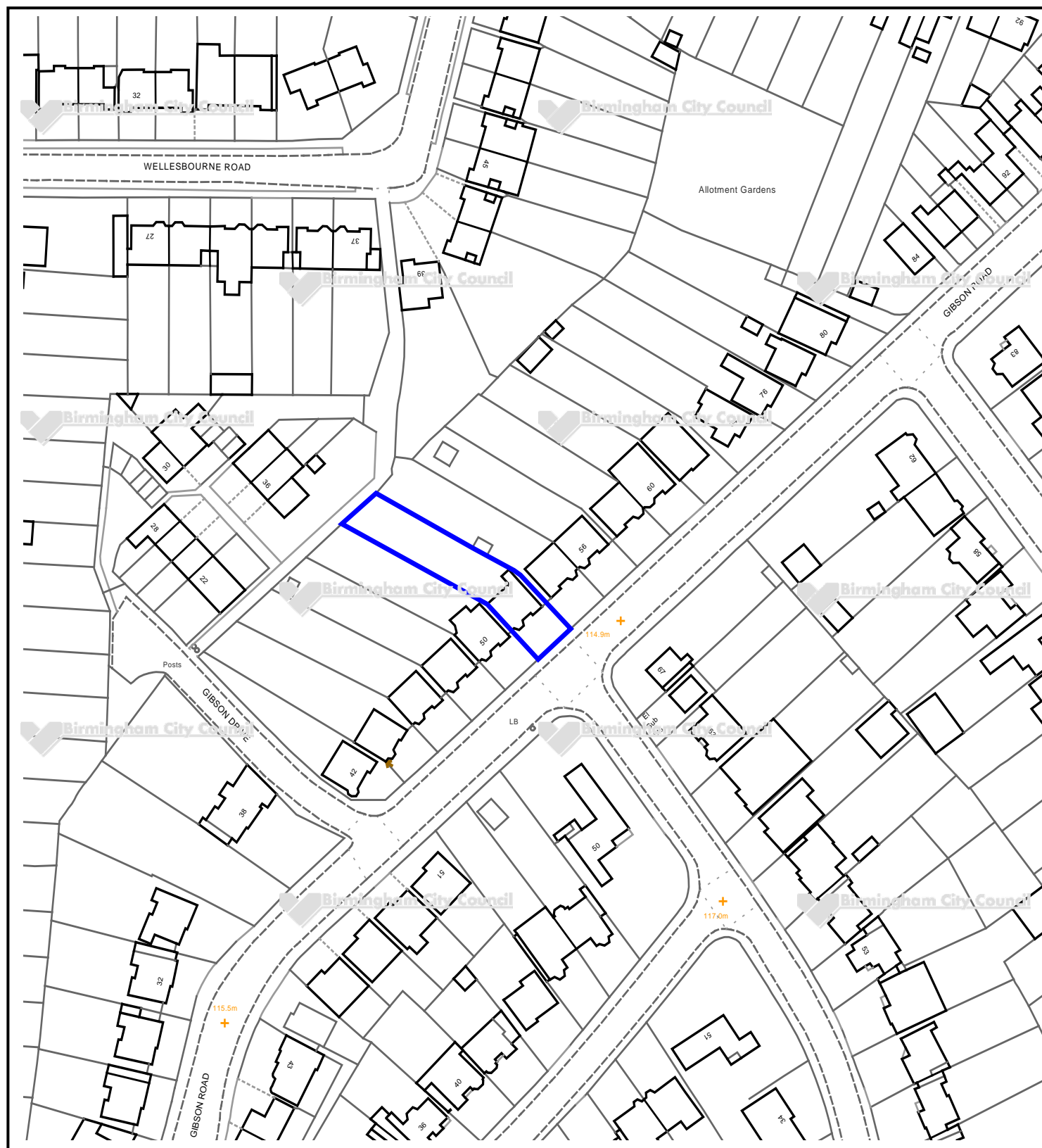


Photo 1 – Front Elevation



Photo 2 – Rear Elevation

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