

# **Birmingham City Council**

## **Planning Committee**

**28 September 2023**

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	6	2022/08496/PA  The Ringway Centre Smallbrook Queensway 1-4 Smallbrook Queensway Birmingham  Hybrid planning application comprising: Full element for site clearance and phased demolition of all existing buildings (SBQ 1, 2 and 3) and the erection of a 48-storey residential building (SBQ 3) and associated amenity floor space (Use Class C3), lower and ground floor commercial spaces (Use Class E (a-d) and F2), public realm works, hard and soft landscaping, access, drainage, and all other associated works. Outline element (with all matters reserved) for the erection of two residential buildings (SBQ 1 and 2) (Use Class C3), with associated amenity floorspace (Use Class C3), lower and ground floor commercial uses (Class E (a-d), F2 and Sui Generis (drinking establishments, hot food takeaway and nightclub)), associated public realm works and landscaping, access, drainage, and all other associated works
Determine	7	2021/05811/PA  Land bounded by Bradford Street, Moseley Street, Barford Street and Rea Street Digbeth Birmingham  Demolition of existing buildings, erection of buildings of 7-23 storeys comprising residential apartments and 2,099sqm commercial space (Use Class E), with new public and private amenity areas

Approve – Subject to 106 Legal Agreement	8	<p data-bbox="766 114 973 145">2021/08880/PA</p> <p data-bbox="766 179 1077 313">30-33 Sherborne Street Ladywood Birmingham B16 8DE</p> <p data-bbox="766 347 1366 425">Construction of a part five and part six storey building to provide 30 apartments.</p>
Approve – Subject to 106 Legal Agreement	9	<p data-bbox="766 515 973 548">2022/07620/PA</p> <p data-bbox="766 582 1366 750">Car park land adjacent to Queensgate House Suffolk Street Queensway Birmingham B1 1LX</p> <p data-bbox="766 784 1366 990">Erection of a residential led development comprising 125 residential apartments (Use Class C3), ancillary internal and external residential amenity space, access, cycle parking, landscaping and all other associated works.</p>

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Committee Date:	28/09/2023	Application Number:	2022/08496/PA
Accepted:	15/11/2022	Application Type:	Full Planning
Target Date:	18/08/2023		
Ward:	Bordesley & Highgate		

**The Ringway Centre, Smallbrook Queensway 1-4, Smallbrook Queensway, Birmingham**

Hybrid planning application comprising: Full element for site clearance and phased demolition of all existing buildings (SBQ 1, 2 and 3) and the erection of a 48-storey residential building (SBQ 3) and associated amenity floor space (Use Class C3), lower and ground floor commercial spaces (Use Class E (a-d) and F2), public realm works, hard and soft landscaping, access, drainage, and all other associated works. Outline element (with all matters reserved) for the erection of two residential buildings (SBQ 1 and 2) (Use Class C3), with associated amenity floorspace (Use Class C3), lower and ground floor commercial uses (Class E (a-d), F2 and Sui Generis (drinking establishments, hot food takeaway and nightclub)), associated public realm works and landscaping, access, drainage, and all other associated works

Applicant: Commercial Estates Group (CEG)  
C/o Agent  
Agent: Turley  
9 Colmore Row, Birmingham, B3 2BJ

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Recommendation

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

**1. Proposal:**

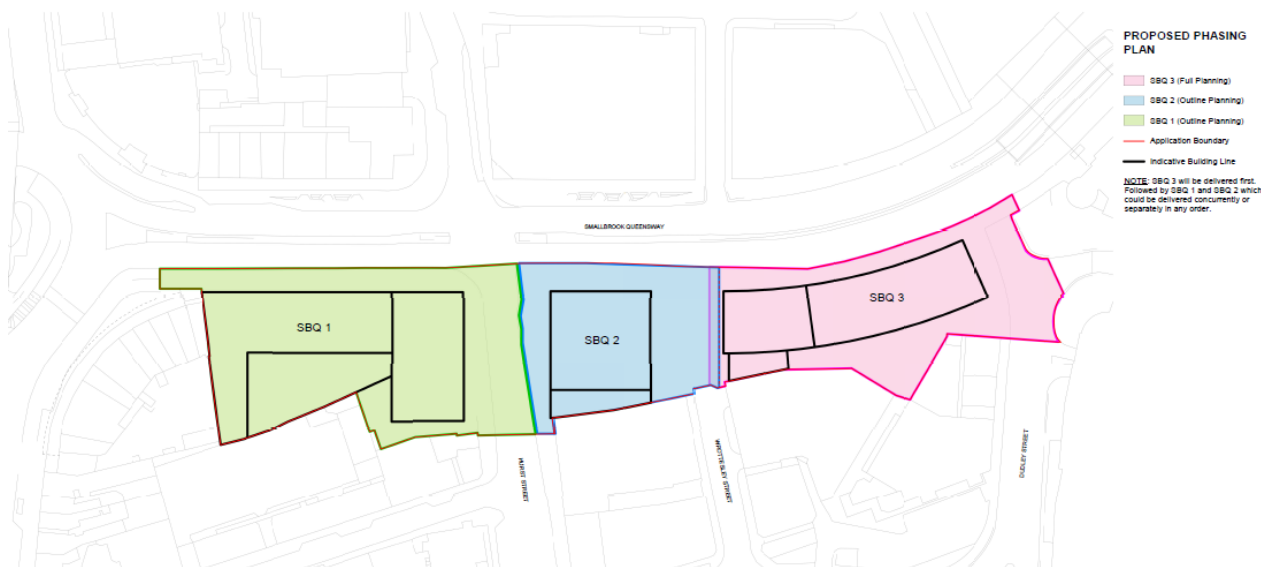
- 1.1 This is a hybrid application comprised of a full element for demolition of all existing buildings and the erection of a 48-storey residential building (SBQ 3) with lower and ground floor commercial spaces (Use Class E (a-d) and F2) along with public realm works and an Outline element (with all matters reserved for subsequent approval) for the erection of two residential buildings (SBQ 1 and 2) (Use Class C3) along with lower and ground floor commercial uses (Class E (a-d), F2 and Sui Generis (drinking establishments, hot food takeaway and nightclub)), associated public realm works and landscaping.
- 1.2 The full element (SBQ3) provides 44.79% (245 units) 1 beds, 49.36% (270 units) 2 beds, and 5.85% (32 units) 3 beds (547 total) served by 434 cycle parking spaces, 48 folding bike lockers and 60 scooter spaces. SBQ3 is inclusive of 701 sqm of lower ground and ground floor commercial spaces (shown as 5 individual smaller units).
- 1.3 The outline element (SBQ1 and 2) indicatively proposes up to 1085 residential units (C3) as well as 6,399 sqm of commercial floor space. The parameter plans set

maximum building heights of up to 44 storeys (+253m AOD) for SBQ 1; up to 56 storeys (+292m AOD) for SBQ 2.

- 1.4 The overall hybrid planning application however seeks planning permission, for a total of up to 1,750 units (greater than shown indicatively by the outline proposals at 1,635 units). All buildings are intended to be operated as 'Build to Rent' (BtR) along with up to 7,100 sq. m. commercial floorspace.
- 1.5 The development is proposed to be delivered in three phases, with the demolition of the existing Ringway Centre proposed in two phases. Phase 1 (demolition and full element) would involve the partial demolition of the Ringway Centre (existing SBQ buildings 2-4 including the link bridge), and construction of SBQ 3 as submitted in full. The following phases could come in a flexible manner in that both SBQ 1 and SBQ 2 could come forward in the second phase or in two independent phases. Development of SBQ 1, would necessitate the demolition of the remaining SBQ building 1.



**Demolition Phasing – Phase 1 in blue, Phase 2 in green.**



**Phases of development – SBQ 3 (pink), 2 (blue) and 1 (green)**

- 1.6 Should there be a delay between phase 1 demolition, delivery of SBQ 3 (full element) and the delivery of SBQ 2, a meanwhile use is proposed for this site, set out in a meanwhile use strategy.
- 1.7 The application also includes public realm improvements through the delivery of 'Hurst Plaza', 'Wrottesley Steps', 'Smithfield Steps' and enhancements to Smallbrook Queensway to the front of the application site.





### Illustrative Masterplan – SBQ1 - 3

- 1.8 This application is supported by an Archaeology Assessment, Aviation Assessment, Daylight, Sunlight and Overshadowing Assessment, Design and Access Statement, Design Code, Preliminary Ecology Survey, Bat Emergence Survey, Black Redstart Survey, Economic Benefits Statement, Energy Statement, Financial Viability Assessment, Fire Statement, Flue and Extraction Statement, Flood Risk Assessment and Drainage Strategy, Greenway Report, Ground Investigation, Health Impact Assessment, Heritage Townscape and Visual Impact Assessment, Lighting Assessment, Noise Impact Assessment, Planning Statement, Parameter Plans, Residential Standards Statement, Statement of Community Engagement, Sustainable Construction Statement, Telecommunications Impact Assessment, Television and Radio Report, Transport Assessment and Travel Plan, Tree Survey, Utilities Statement and Wind Microclimate Assessment.
- 1.9 This application is EIA development and is also therefore supported by an Environmental Statement pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Environmental Statement (ES) has been produced to assess the likely significant effects of the proposed redevelopment of the application site. The quantum of residential units within the ES differs from the quantum sought as part of the planning application. This is because the ES assesses an assumed maximum number of residential units giving a suitable level of flexibility within the assessments undertaken.
- 1.10 Birmingham City Council currently own the freehold of the application site.
- 1.11 [Link to Documents](#)
2. **Site & Surroundings:**
  - 2.1. The Site covers approximately 1.06 ha and is located within the northern part of the 'Southside' area of Birmingham City Centre. The application site is on the southern periphery of the city core where the commercial and retail centre along with the regional rail hub of New Street Station (to the north), meet the Bull Ring shopping centre and future Smithfield Markets regeneration area (to the east) and converge with the entertainment district, including China Town and the Gay Village (to the south).
  - 2.2. The Ringway Centre comprises four built elements SBQ 1-4. SBQ 1 is located between Scala House and the Smallbrook Queensway and Hurst Street junction. SBQ 2 comprises of a bridge link above Hurst Street and connects to the remainder of the building (SBQ 3 and 4) which abuts Dudley Street. The existing Ringway Centre building is relatively uniform in height, ranging between 5 and 6 storeys as

ground levels rise from west to east. The application site also incorporates the neighbouring building to the south along Hurst Street which currently accommodates a restaurant.



**Images of Existing Building**

- 2.3. The Ringway Centre is a sweeping concrete structure stretching to 230m, this large linear structure dominates the length of the southern side of Smallbrook Queensway, between the junction with Holloway Head (to the west) and Dudley Street (to the east where it meets the modern Bullring shopping centre). In its mid-section it creates a gateway to the Southside district, bridging over Hurst Street, carrying its principal form on splayed 'Y' framed pilloti, and has a different architectural expression.
- 2.4. The building is cantilevered over a part single, part double height base, which absorbs the dip in topography along Smallbrook Queensway, centring on Hurst Street. The existing building consists of a basement level providing nightclub accommodation; at ground and mezzanine level there are retail and nightclub uses with four floors of office accommodation above.
- 2.5. The facades of this concrete framed building incorporate decorative concrete panels, large metal framed glazed windows and projecting concrete uplighters positioned across the frontage. Unlike the upper levels at street level there is little harmony to the treatment of shop fronts, with varying designs evidenced along the building's frontage with Smallbrook Queensway.
- 2.6. On the plot it part shares to the western side of Hurst Street there is a former barracks/drill hall along Thorp Street and the listed former public house and associated buildings between 34-36 Horse Fair. To the rear of the block it shares to the east side of Hurst Street is a collection of low rise 20th century buildings accessed along Ladywell Walk, with a service road (Wrottesley Street) extending up towards the site.
- 2.7. Beyond these immediate city blocks to the west, crossing the major intersection of the Bristol Street/Suffolk Street Queensway, the topography rises up the Holloway Head district of the city centre, marked by the 1970's Sentinel Towers. Towers also feature in both a southerly and northerly direction, with two under construction on the eastern side of Bristol Street (to the south), and the Beetham Tower, Orion Tower, Aston Place Towers and Alpha Tower flanking Suffolk Street Queensway heading north towards the Paradise development that bridges the street.
- 2.8. The wider area accommodates a range of uses with the Ringway Centre situated at the junction with one of the city's key night time economies centring on the

Hippodrome / the Arcadian. Beetham Tower a residential / hotel building, at 39 storeys. The Holiday Inn also provides hotel accommodation on the northern side of the Queensway between Beetham Tower and Hill Street, with retail units at ground floor. Centre City, a tower with a lower level podium marks the opposite corner of Hill Street with ground floor retail with offices above (the Grade B Locally Listed Norfolk House) forming the remainder of this northern edge to the Queensway.

- 2.9. The Bullring Shopping Centre is situated to the east beyond Dudley Street, with a cylindrical tower providing pedestrian access to the lower street level of Dudley Street. In addition to being situated at a lower level the areas to the rear of the site have a different character. A multi-storey car park and route towards the markets (Edgbaston Street) are relatively modern developments to the east. Birmingham's China Town is situated to the south with a vibrant mix of restaurants, entertainment venues including a casino fronting Hurst Street and a multi-storey car park all back onto the wider Ringway Centre (SBQ3/4). The Arcadian with its mix of lively entertainment venues, a hotel and serviced apartments are situated beyond. In addition to ground floor retail, food and entertainment uses Albany House is a large office development that has been recently refurbished. The Hippodrome theatre is situated beyond Albany House fronting pedestrianized section of Hurst Street.
- 2.10. There are no existing residential properties or amenity spaces within the Site. The nearest residential properties are over 75 metres away, located on John Bright Street, Station Street, Holloway Head, Holloway Circus, Horse Fair, Suffolk Street, Hurst Street and Inge Street. In addition, there is also student accommodation (True Student) on Upper Dean Street approximately 150 metres south-east.
- 2.11. The nearest designated heritage asset to the Site is located approximately 75 metres to the south-west – the Grade II listed Former White Lion Public House. The Old Rep, Station Street (Grade II) and Back to Back houses, Inge Street (Grade II) are beyond that. The Site is located within the vicinity of several non-designated heritage assets, such as Norfolk House (Category B Locally Listed Building), situated to the north of the Site fronting the northern side of Smallbrook Queensway.
- 2.12. The whole of the Ringway Centre is Locally Listed Grade B, and the site benefits from a Certificate of Immunity from Listing until 2027.
- 2.13. Vehicular access is afforded off Hurst Street to a small surface level parking area at the rear. There is a large basement carpark beneath part of the building extending below Smallbrook Queensway, accessed from Dudley Street.

### 3. **Planning History:**

- 3.1. Various applications relating to alterations and changes of use within the existing building.
- 3.2. 2009/06358/PA - Change of use of 1st and 2nd floor from B1 offices to D1 educational college - Approve subject to Conditions 02.2010
- 3.3. 2010/00379/PA - Change of use of 4th, 3rd, part 2nd and part 1st floors from B1(a) (offices) to either D1 (non-residential education and training centres or medical uses) or B1(a) (office) uses 31/3/2010
- 3.4. 2016/06618/PA –Demolition of building SBQ2; and recladding, refurbishment and extension of building SBQ3&4 to include an increase in height by two storeys, rooftop plant enclosures and rear extension at first floor level. Development to provide Class B1(a) offices on the upper floors, with ground floor entrances; retail/leisure (A1-A5) uses on parts of the ground floor, mezzanine and basement levels; basement car park; and retention of existing nightclub (Sui Generis). Approve subject to Conditions 05.2017

- 3.5. 2016/06617/PA –Demolition of existing buildings SBQ1 and SBQ2; construction of part 9 part 26 storey building, plus rooftop enclosures and basement level; containing 309 residential units on the upper floors with ground floor entrances, retail/leisure uses on ground floor, and basement car parking. Approve subject to Conditions 05.2017
- 3.6. 09.08.2016 – Certificate of Immunity from Listing granted (valid for five years).
- 3.7. 03.2022- Certificate of Immunity from Listing granted (valid for five years).

#### 4. **Consultation Responses:**

- 4.1. Network Rail – No objection subject to conditions requiring the submission of a Vibro Impact Assessment, Tower Crane Assessment, Telecoms Review on railway telecoms.

- 4.2. Birmingham Civic Society – Objection

*We would suggest the ideal outcome for the Ringway Centre would be a sensitive refurbishment and extension, of the quality of that employed at The Rotunda, with similarly sensitive improvements to landscaping, with reactivation of the retail / commercial units at ground floor.*

*We thank the applicants for briefing the BCS Planning Committee on the proposals before they were submitted, but feel that amenity societies and stakeholders should be involved much earlier in the formulation of proposals, rather than a month or so before submission of the planning application, as was the case here.*

*The Ringway is a Grade B locally listed building. Historic England have issued a Certificate of immunity from Statutory listing, but the local listing remains. The Ringway Centre will be included on the Twentieth Century Society's Buildings at Risk List 2022/23. Demolition would be in conflict with policy TP12 'Historic environment' – "The historic environment... includes locally significant assets and their settings in addition to designated and statutorily protected features. It will be values, protected, enhanced and managed for its contribution to character, local distinctiveness and sustainability and the Council will seek to manage new developments in ways which will make a positive contribution to its character."*

*The Birmingham Civic Society believes that the proposed demolition of the Ringway Centre is shortsighted, will result in the loss of one of the most important buildings of the era in the City. Following the loss of similarly important buildings such as Central Library, little remains of this chapter in the city's life, and with the loss of The Ringway, Birmingham will have almost obliterated memory of this time for future generations.*

*Developments such as the Rotunda, designed by the same architect, demonstrate how with imagination and sensitivity, buildings of this era can be successfully rehabilitated and remain as much loved icons.*

*The comments below are given on the basis that the existing buildings are to be demolished and the comments are on the proposed development.*

*It should be questioned why the applicant does not intend to develop the entire site immediately, and for what period the site will be left cleared. This may be many years, in a prime location in the city, providing an embarrassing arrival to New Street Station. It would clearly be of strategic benefit to the applicant to demolish the Ringway Centre, to prevent any future opportunity of its listing, and then to allow the site to lie fallow until such time as they can develop it.*

*Heritage: Setting aside the value of the existing building, the application site is not in a Conservation Area but is within one kilometre of eight Conservation Areas; Colmore Row and Environs, Digbeth Deritend and Bordesley High Streets, Warwick*

*Bar, Steelhouse, Edgbaston, Lee Crescent, Ryland Road and Jewellery Quarter. There are numerous listed buildings within 1 kilometre of the proposal. The proposed development will have a dramatic impact on the city skyline.*

*The applicants have submitted a detailed HTVIA (Built Heritage Visual Impact Assessment) with illustrations showing the impact of the development and its impact cumulatively with other proposals planned across the City. In some cases the impact of the development does not appear detrimental. However, in our view the proposals appear to be very dominant in views from the Hippodrome and to a lesser extent from St Martin's Church (Park Street) and the views are surprisingly noticeable from Victoria Square. The applicants consider the view from St Martin's Church to be Minor-adverse, but we cannot agree with this conclusion.*

*The application site is in a highly sustainable location adjacent to the Core Area of Birmingham City Centre and near to the Bull Ring Shopping Centre and New Street Station, and is in the rapidly changing Southside area and close to the proposed Smithfield development area. This will ensure that development of the site will be viable – including repair and sensitive extension of the existing building.*

*Policy: The main relevant policies in the adopted Birmingham Development Plan (2017) are PG1 Overall levels of growth and the need for 51,000 additional homes (2011-31), PG3 Place Making – new development should contribute to sense of place and policy GA1 for the City Centre where the City Centre is the focus for development. The Ringway proposal is in the Southside Area adjacent to the City Centre Core. New residential development is encouraged in the Southside area. We would encourage residential use, reusing or sensitively extending the existing building.*

*Like many City Centre residential developments there doesn't appear to be any affordable housing and the amount of three bedroomed housing is very low 16 units representing 3% of the total units in phase one (the detailed application). Given the scale of the development, we would expect a significant proportion of affordable houses to provide some public benefit to weigh against its impacts.*

*In relation to the three public realm improvements which are proposed Smithfield Steps, Wrottesley Steps and Hurst Plaza would reinstate the north-south links between New Street and Southside - the manner in which the existing building crosses Hurst Street demonstrates a successful strategy for its adaption to reopen these links. However it has hardly been a subject of public outcry that permeability is lacking in these areas, and improvements to permeability provide very limited public benefit to weigh against the loss of the historic building.*

*The Podium to the three towers attempts to replicate the sweep of the existing building along Smallbrook Queensway, but this in itself demonstrates the urban value of the existing building.*

*Use of the Ringway Centre has been chilled in recent years by the prospect of its demolition, and some tenants such as Fairdeal Music have relocated and remain solvent nearby. It has been suggested that the area attracts crime and is unsafe, but this lack of activation is a product of the uncertainty of the building's future. Tenants such as Snobs nightclub are extremely successful in this location. The suggestion that redevelopment would provide the activation and informal surveillance that is currently lacking is weak, since this could similarly be achieved by commitment to the existing building.*

*Loss of a building of this scale, which can be readily repurposed if considered thoughtfully, should not be considered in a time where as a city, Birmingham is moving towards Zero Carbon. We refer to the attached documents for thorough exploration of the impacts of redevelopment and associated policies.*

- 4.3. Birmingham Airport – No objection subject to conditions requiring an aviation warning lighting scheme and an instrument flight procedure assessment.



4.4. Historic England – Concern

*We are concerned that the scheme results in the wholesale clearance of the site, and the loss of the locally listed Ringway Centre which, despite alterations, holds some architectural and historic interest. In terms of the City Council's own information on locally listed buildings, it is not clear exactly what 'positive efforts' have been undertaken in order to ensure the Centre's preservation.*

*In respect of the proposed development, at 48 and, potentially, 56 and 44 storeys high, the proposed tower elements of the overall development would form some of the tallest buildings in the city.*

*It is essential, therefore, that the Council ensure a thorough understanding of the proposed development's potential visibility and impact on the historic environment in relation to any public benefits resulting from the development.*

- 4.5. BCC Transportation – No objection subject to conditions requiring a s.278 agreement, stopping up agreement, demolition and construction management plan, cycle parking prior to occupation, servicing management plans and adoption of travel plan

- 4.6. BCC Conservation – Harm identified from demolition of heritage asset and impact of proposed development on the setting of other assets.

- 4.7. BCC Employment Access Team – No objection subject to conditions requiring the submission of a construction employment plan

- 4.8. BCC City Design and Landscaping – No Objection

*In conclusion, if fully implemented, this scheme could bring about regeneration benefits to the immediate site and these could be seen to outweigh the loss of a good post war building. If only part implemented, the scheme would cause the destruction of an iconic building, prejudice neighbouring regeneration and leave a nodal point leading into the city core dismantled. This is an either/or project and a part delivered scheme in this fashion would be harmful and a hybrid application structured this way does little to provide comfort that the city will not be prejudiced.*

- 4.9. BCC Ecology – No objection subject to the development in accordance with the submitted construction ecology management plan

- 4.10. BCC Trees – No objection subject to compliance with the arboriculture report

- 4.11. BCC Environmental Protection –

Air Quality – No objection subject to conditions requiring further surveying at Reserved Matters

Contaminated Land – No objection subject to conditions requiring a remediation scheme and verification report

Noise and Odour – Further assessment and mitigation design required via condition.

- 4.12. BCC Archaeology – No objection, no further archaeology work required

- 4.13. BCC Education – Nursery Provision. No planning obligation required.

- 4.14. BCC Employment Access Team – No objection subject to a condition requiring an employment access plan

- 4.15. Lead Local Flood Authority – No objection subject to conditions requiring detailed surface water drainage strategy and an operation and maintenance plan.

- 4.16. Environment Agency – No objection subject to conditions requiring the submission of a preliminary risk assessment, contamination remediation strategy, remediation strategy if contamination found not previously found, Piling method statement

- 4.17. Severn Trent Water – No objection subject to conditions requiring the submission of foul and surface water drainage details.

#### 4.18. 20<sup>th</sup> Century Society – Objection

- (1) *In the Society's opinion, the Ringway Centre is of high heritage significance. The site's overall heritage significance has been undersold and the level of harm that would be caused through the building's total loss downplayed. In our view, the complete redevelopment of the site would cause serious, substantial harm. This harm would result from the total demolition of an NDHA, but also through the loss of the post-war context to Roberts's Grade II listed Rotunda.*

*It is the Society's view that the loss of the Ringway Centre would harm the setting of the Grade II Rotunda. Historic England's guidance on 'The Setting of Heritage Assets' (Good Practice Advice in Planning Note 3, 2nd Edition 2017) states that 'The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors [...] and by our understanding of the historic relationship between places' (our emphasis). We maintain that the loss of Roberts's post-war Ringway Centre would seriously harm the setting of the architect's contemporary Rotunda, which is a designated heritage asset.*

*Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority [...] shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.' Paragraphs 199 and 200 of the NPPF relate to the impact of new development on designated heritage assets and should also be considered here.*

*The Ringway Centre is capable of being adapted for reuse and, if required, extended upwards. It would be possible to convert the existing building to residential and the lower levels could be adapted to activate the frontages and improve connectivity between the streets, and the public realm revitalised to improve the pedestrian experience. The building's fabric could also be sensitively upgraded to improve the building's environmental credentials. Overall, we maintain that there would be clear heritage benefits afforded by the preservation and adaption of this important asset. To illustrate this, we have supported a counterproposal by local organisations Birmingham Modernist Society, Brutiful Birmingham and Zero House Carbon which envisages the reuse of the Ringway and tying in of 3 20-storey towers to provide 450 mixed-sized homes (see full report, 'Re-Imagining Smallbrook Ringway: A Counter-Proposal for Adaptive Re-use' 2022). This scheme would deliver many of the public benefits which are claimed to be provided by the application scheme whilst retaining this important heritage asset.*

*We are seriously concerned about the potential loss of the Ringway and will feature it as one of our 10 Buildings at Risk for 2023. This is an important building in Birmingham and should be conserved for the benefit of current and future generations.*

- (2) *The applicant has submitted a supplementary planning statement (March '23) which includes section 7, 'Assessing Heritage Significance when Considering Retention'. The applicant claims here that "...the building is significant at a local scale, not national. This is reaffirmed by the Certificate of Immunity of Listing (COIL) and the identification by Birmingham City Council of the building as a non-designated heritage asset. Accordingly, whilst the building is of some heritage merit, the overall effect arising from the impact to the asset is affected by consideration of its significance which is much less than is suggested by some groups." (7.8). The applicant refers to paragraph 203 of the NPPF which asks that "In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset." This paragraph relates specifically to*

applications affecting NDHAs so any assessment of the building's significance should be made in regard to its status as a Non-Designated Heritage Asset. It is our view that the Ringway Centre is an NDHA of high significance – it has major importance locally. It is locally listed and part of a group of buildings characterised by the council as "...important in the city wide architectural context or the local street scene" and which "warrant positive efforts to ensure their preservation". The application would result in the total loss of a locally listed building, which we find unacceptable. The applicant proposes that a Historic Building Record is made prior to demolition "to reflect its level of heritage significance" (7.9). While recording work is important and a helpful tool in the conservation process, it is no substitute for the actual conservation of the building itself, which contributes to the architectural and historic interest of the local streetscape and has integral evidential value. Paragraphs 189 and 197 of the NPPF note the desirability of conserving heritage assets and policy TP12 of the Birmingham Development Plan states that the historic environment, which includes "locally significant assets" will be "protected" as well as "valued". The applicant points out that the "substantial demolition of the existing building" was permitted by Birmingham City Council in 2016 (7.10). It is our view that appreciation for, and interest in, the Ringway Centre has grown since 2016. As highlighted in our December letter, the Ringway has received considerable attention in academia and in the architectural press in recent years, featuring in new books, as well as journal and newspaper articles. We are of the opinion that the significance of the Ringway has increased in the last seven years or so and will only continue to do so with more time. The Ringway Centre is an important locally listed building in Birmingham which should be conserved to benefit existing and future generations.

The applicant claims that the Ringway Centre "was constructed for commercial office occupation and with an intended design life of around 60 years" (9.3). We challenge this claim which, as far as we are aware, has no evidence to back it up. The applicant then makes the point that the building would require significant and costly interventions for it to accommodate new uses and occupiers. We believe that it would not only be possible to repair, retrofit and adapt the building in a way that preserves its significance but that this would be seriously worthwhile as it would ensure the conservation of an important local heritage asset with knock-on social, cultural and other benefits.

- 4.19. West Midlands Police- No objection subject to conditions requiring the submission of CCTV strategy, Lighting details, Balustrade and fixed furniture details on terrace areas, scheme of HVM.
- 4.20. HSE Fire – No objection
- 4.21. West Midlands Fire Service – No objection subject to compliance with Building Regulations
- 4.22. Natural England – No objection

## 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. 138 objections making the following points
  - Sustainability and Climate Change
    - The proposal to demolish buildings over refurbishment does not align with the City's aim to be net zero by 2030.
    - If Birmingham City Council approves this application, it is proof that the 2030



net zero target is all greenwash and won't be achieved.

- No assessment of the excess carbon associated with this project has been supplied.
- Glass towers have significantly higher heating and cooling requirements when compared to lower level buildings, showing that sustainability and the fight against climate are not important to the council.
- Developers should propose an alternative scheme that utilises the buildings already there.
- Environmentally unsound due to embedded carbon in the old building and the carbon cost of a new building
- Up to 75% of the whole life carbon impact of a building can be the embodied carbon in the building/construction itself. The proposed demolition and extensive new construction would both cause large and immediate spikes in carbon emissions. Far from reducing carbon, the proposals would likely result in a significant increase in emissions.
- The proposed demolition is inconsistent with national and local policies. Birmingham Development Plan targets 60% carbon reduction by 2027 - ahead of Government plans. The Plan supports initiatives and opportunities to mitigate the effects of climate change by seeking the reuse of historic buildings, to reduce carbon emissions and secure sustainable development. National Planning Policy (NPPF) also requires radical reductions in greenhouse gas emissions through the reuse of existing resources, including the conversion of existing buildings. Best practice recommendations align with and reinforce these policies. Examples include the LETI Climate Emergency Design Guide's first primary action, to build less, asking "is a new building necessary" LETI's Embodied Carbon Primer prioritises making use of the site and retrofitting existing buildings rather than building anew.
- The proposal represents business as usual: a wholly inadequate response to climate targets and policy
- Demolition should only be a last resort.
- with Marks & Spencer in London and Fosters 'Tupli' being refused over Carbon Footprint, why is this being proposed for demolition?
- an energy-efficient retrofit of Ringway would be inherently much lower carbon than demolition and new building
- Repurposing the building would be a significant model for the great change in planning policy which Birmingham requires.
- The 'anticipated decarbonisation of the UK electricity grid' is not guaranteed and it is disingenuous to take it as a given in the calculations of the WLCA
- The all-electric building services strategy can also be applied to refurbishment.
- The refurbishment option still represents the least embodied carbon emissions, retains a significant historic building and potentially signals a better way forward for development by retaining and re-using. If the developers put as much effort in to the refurbishment option the embodied carbon emissions could doubtless be reduced even further.
- The application should be refused on grounds that the applicants WLC report strengthens the case for retrofit of the existing building at a more appropriate density to the location, protecting this important and unique heritage asset for future generations.

## Architecture and Heritage

- The Ringway Centre is one of a handful of Brutalist buildings left in the city – we have already lost too many.
- This building should be preserved. The architecture is unique and is a huge part of our city's identity
- It really should be a listed building and treasured
- This city has so much to offer and should be proud of retaining unique architectural features.
- locally listed at Grade B. Buildings in this category are defined as 'Structures or features that are important in the city-wide architectural context or the local street scene, and warrant positive efforts to ensure their preservation'
- The proposed podium is a weak gesture towards the existing building and any reference to either the Ringway Centre or surrounding heritage context is made at a very simplistic level
- The dynamic, sculptural form of the Ringway Centre and the refined nature of its façade is lost to clumsy and over scaled extrusions of the available site and a generic façade systems
- The Pevsner guide to Birmingham and the West Midlands describes it as 'the best piece of mid C20 design in the city, and James Roberts' Ringway Centre is the definitive element of it: shaped by the highway, and responding in scale with it'
- Many good buildings from the 1960s in Birmingham have been thoughtlessly demolished. This is one of the best. Roberts was one of the best architects working in the city in the mid C20 and was also the architect of the Grade II listed Rotunda.
- Too much of Birmingham's architectural heritage has already been lost
- The counter-plan made by Brutiful Birmingham, the 20th Century Society, Birmingham Modernists, and Zero Carbon House, widely publicised recently, demonstrates what could and should be done. It retains the locally listed building, and it converts it to a commercially viable new use.
- In the 60/70s, how many examples of Victorian, Georgian, etc Architecture were torn down because they were no longer fit for purpose and yet it is these buildings we now covet. The existing building has a unique Architectural style and character, one that warrants preservation. If we allow these enormously boring towers to replace it, I believe we'll be ripping them down to be replaced with something else in another 60 years time.

## Urban Design and Landscaping

- Whilst there is clearly a need for investment in the Ringway Centre, the site does not need to be 'redefined' to achieve the 'residential-led, mixed use development proposed'
- The Ringway Centre does not form a physical barrier between parts of the city, rather it frames and announces a gateway which celebrates the surrounding context.
- The reinforcement of existing routes and the opening up of previously lost passages does not require the demolition of the existing buildings, but the intelligent redesign of the public realm and lower levels of the building.

- The proposed towers at 44, 48 and 54 storeys would overwhelm the immediate context, cutting off available daylight.
- the lining of the street in such a way would create an unrelenting canyon, and sets a poor precedent for any future consideration of tall buildings in the centre.
- little provision for amenity space short of a small plaza and steps, and privately accessed roof terraces
- The design of the proposed replacement is inept. One would expect the three towers to have a composition as a coherent group, with intelligent relationships between the three. Instead, what we have is three towers that appear to have been designed independently by three different people.

#### Traffic

- This will cause further traffic chaos in the area. it is a main route for buses, taxis, pedestrians and a carpark entrance. No doubt the road will be closed, lanes taken out of action and pedestrians having to take major detours so that a private company can profit. Too many private projects are taking over the public realm and making simply walking around a complicated maze of no-go areas. They need to work within their own footprint.
- If the intention is to allow for a complete redevelopment then this will have massive implications for the road network, cycling and bus infrastructure as well as public transport links within the city.

#### Other

- Insufficient soundproofing & therefore the potential for noise complaints.
- The proposal for 1680 homes would also place undue pressure on the existing social infrastructure of the city.
- The city centre is fast becoming more of a residential area rather than a business district area, far too many locations are now being prioritised to offer residential housing rather than business space.
- Hi-rise commercially driven build-to-let towers do not represent a long term, sustainable or desirable solution to housing need. This is not building for life, it is building for short term financial gain and the adverse impacts will likely be long term and deep.
- Lack of affordable housing
- Why does the city centre need so many apartments

#### 5.4. Letter from Brutiful Birmingham with a Counter proposal document attachment, in summary;

- Birmingham has made a pledge to be carbon neutral by 2030, this cannot be achieved by the demolition of perfectly useable buildings which are only sixty years old, the embodied carbon is enormous.
- The counter proposal document 'Reimagining of Smallbrook Ringway'. Includes a chart giving indicative carbon emissions over 60 years comparing demolition against repurposing the existing building and retrofitting. These figures must be taken seriously and a comprehensive analysis undertaken before proceeding further.
- Birmingham, through its home-grown architects, developed its own inimitable

style and the Ringway Centre is one of our few major buildings that are left from this period that demonstrate this.

- The Ringway Centre is included in Birmingham's local list at Grade B (2013). It is therefore city policy for it to be "valued, protected and enhanced".
- The overbearing size and density of the proposed development in this very restricted space will impact the surrounding buildings. The grade 11 listed Rotunda will be crowded out by these three tall towers and St Martins in the Bullring is increasingly confined by taller and taller towers.
- The social disruption of the continual reinventing of the city cannot be underestimated. A stable physical environment is necessary for us all but particularly those living and working nearby.
- We are very concerned that the consultation appears to be a carefully managed PR exercise rather than meaningful discussion with the local community and the residents of Birmingham.
- The local disruption inherent in this application is estimated to continue for at least seven years. So much of the physical rebuilding of the city after the war fell to the immigrant populations from Ireland, India and Pakistan. The Ringway Centre is part of the heritage and legacy for the wider and more diverse population of Birmingham today. It anchors them in the city. The alternative proposal attached is an example of what can be achieved. It retains the iconic heritage features of the building, avoids the huge carbon cost of demolition and ensures that the physical environment is not destabilised for Birmingham residents.
- In conclusion we strongly object to this application.

5.5. 3 letters of support making the following points

- Will open up the streetscape and in particular improve the connections between Smallbrook Queensway and the Southside area of the city.
- The current proposals offer a huge improvement on the historical mistakes of the mid 20th century period which developed the current built form of the Ringway centre in response to roads for cars - a dystopia Birmingham found itself dominated by the 1980s that has since required considerable efforts to undo.
- While I recognise others take a view on its claimed representation of historical relevance to the 20th century my overriding impression is it's a domineering and oppressive structure that severs many links between Southside and the city centre. The current proposals -despite their scale actually appear to be less dominate -largely thanks to the loss of the Hurst St overbridge and opening up of Wrotesley Street which are both overriding positive interventions to restore the street structure of the city.
- The current buildings are an eyesore and the surrounding area is scruffy, please don't allow watered down versions, get the buildings up.

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

6.1. **National Planning Policy Framework**

- Section 2: Achieving sustainable development – para. 8
- Section 4: Decision-making – paras. 56, 57
- Section 5 Delivering a sufficient supply of homes
- Section 11 Making effective use of land
- Section 12 Achieving Well-Designed Places
- Section 16 Conserving and enhancing the historic environment

## 6.2. Birmingham Development Plan (2017)

- G1 Overall levels of growth
- PG3 Place making
- TP1 Reducing the City's carbon footprint
- TP2 Adapting to climate change
- TP3 Sustainable construction
- TP4 Low and zero carbon energy generation
- 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
- TP46 Digital communications
- 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);

## 7. Planning Considerations:

### 7.1. The main material considerations are

- The principle of development
- Environmental Statement
- Impact upon Heritage Assets
- Design

- Microclimate
- Sustainable Construction
- Transportation
- Ecology
- Trees
- Flood Risk and Drainage
- Noise, Air Quality and Contamination
- Fire
- CIL and S.106
- Equalities Act
- 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. The site sits on the edge of the city core, between the 'New Street Southside' and 'Southside Gateway' wider areas of change. GA1.2 'Growth and Wider Areas of Change' identifies the 'Southside Gateway' as an area that will be the focus for the southern expansion of the city core through mixed-use developments and improved public realm. With 'New Street Southside' acting as a catalyst for wider regeneration of the city centre.
- 7.5. Overall, the site is within the City Centre growth area sits outside the Retail Core 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***

- 7.6. 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, and the Council's five-year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 7.7. Paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning

authority cannot demonstrate a five-year supply of deliverable housing sites. Footnote 7 of the NPPF notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets, this is discussed later.

- 7.8. 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.
- 7.9. 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.
- 7.10. The Full application (SBQ3) provides 547 units in a mix of 44.79% (245 units) 1 beds, 49.36% (270 units) 2 beds, and 5.85% (32 units) 3 beds, all compliant with Nationally Described Space Standards (NDSS).
- 7.11. The Outline application (SBQ 2 and 3) indicatively provides a further 1,085 residential units, with a suggested mix of 46.18% (755 units) 1 beds, 48.81% (798 units) 2 beds, and 5.02% (82 units) 3 beds.. The mix of these units would be secured via a condition which requires the proposed mix to be submitted with any Reserved Matters application for residential development.
- 7.12. 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 beds: 17% 2 beds: 37% 3 beds: 31% 4 beds 15%.
- 7.13. 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.
- 7.14. Whilst the mix of housing within SBQ 3 fails to provide a significant number of larger units of accommodation (2 and 3+ bedrooms), the mix is weighted relatively evenly, and is favoured towards 2 bed units. Whilst it is not expected that every proposal would provide the exact mix suggested, it would be preferable to see more 3 bed units incorporated into the housing mix. 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.
- 7.15. Nonetheless, this 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.

### *Affordable Housing*

- 7.16. 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.
- 7.17. 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.
- 7.18. In this instance the FVA has been assessed by independent consultants (Lambert Smith Hampton) and a position of 7% affordable housing was reached. This was inclusive of 59, 1 bed and 59, 2 bed units (118 units total, to be split across all phases) at a 20% Discount Market Rent. This equates to a monetary value of circa £6,9000,000. This would meet the above definition.
- 7.19. Through discussions with BCC Affordable Housing Delivery Team, the need for more family housing was identified and at 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 all of the proposed affordable housing units, as 3 bed units across all three proposed buildings. Furthermore, a greater discount on market rates of 30% was agreed.
- 7.20. This therefore had an impact upon the overall percentage of units being provided. Across the scheme this results in 71 affordable units (down from 118), equating to 4.4% affordable housing. However, this would be delivered over the same net internal area as the previous 7% agreement. 24 x 3 bed units are proposed within SBQ3 (full) at a 30% discount rent. The financial value of this, is equivalent in viability terms, to providing 10.5% 1 and 2 bed affordable homes at 20% discount on market. Both LSH and the Affordable Housing Delivery Team have confirmed that this is an improved position, that is welcomed.
- 7.21. However, it is recognised that this still falls below the policy position of 35% affordable housing. Therefore, the applicant has worked with the Council to find potential alternative routes to increasing the affordable housing offer. Therefore, through discussions with the West Midlands Combined Authority, the scheme has been identified as potentially being suitable for Deeper Devolution Deal funding. Through these discussions, the WMCA may support a further equivalent provision of 9.5%.. Over the whole scheme, this would be an additional 100 x 1, 2 and 3 bed units, Within SBQ 3 this is made up of 31 x 3 bed units at a 30% discount. The final mix would be agreed via the s.106. Therefore, the total equivalent 20% offer would equate to 171, 1, 2 and 3 bed units at 30% discount.
- 7.22. The s.106 agreement would require the developer to demonstrate how they have engaged with the WMCA, to maximise the level of affordable housing on site. However, should the grant funding not be secured, then the developer has agreed to provide the equivalent of 15% affordable housing, as a minimum fallback provision, with the developer accepting a less than typical profit level. This has been shown as 119 units across all three developments, with 38 units within SBQ3.
- 7.23. Overall, the proposal delivers a total of up to 1,750 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 and would assist in meeting the shortfall in the five-year housing land supply. This weighs in favour of the application. Whilst the mix of housing does not provide a greater number of larger units of accommodation (2 and 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 a minimum of 15% affordable housing, helping to deliver affordable housing in line with the Council's acute need for affordable housing. The scheme may also support additional affordable units through WMCA funding, potentially resulting in the equivalent of 20% affordable housing, this has significant weight in the planning balance. Should the WMCA grant not be successful, the application has the minimum of 15% affordable housing, still weights significantly in the planning balance. The mechanisms for providing these affordable homes will be secured via a s.106.

#### *Commercial uses*

- 7.24. 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.
- 7.25. SBQ3 (full) is inclusive of 701 sqm of lower ground and ground floor commercial spaces (shown as 5 individual smaller units). 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.
- 7.26. The outline application (SBQ1 and 2) proposes up to 6,399 sqm of commercial floor space. Retail impact assessments are required where 2,500sqm (gross) of retail space is provided outside of the retail core. However, the proposal is clear that a Flexible E use class is proposed, along with Sui Generis uses (drinking establishments, night club) and F Class uses. Therefore, a suitable condition can control the amount of retail floorspace as not to conflict with the aims of this policy in protecting the viability and vitality of the retail core offer.
- 7.27. Snobs nightclub is a leaseholder within the building, the lease of which is coming to an end. Paragraph 93 of the NPPF states that decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. In this instance, whilst Snobs may be a valued asset to the community, its loss would not prevent the community being able to meet its day-to-day needs. There is no specific BDP policy that would prevent the closure of the nightclub as a result of development.
- 7.28. Overall, Policy PG1 and GA1.3 support development proposals in identified sustainable growth areas such as this. The site is sustainably located with access to facilities and service by sustainable modes of transport and 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.

#### **Environmental Impact Assessment**

- 7.29. Environmental Impact Assessment (EIA) is the process undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (SI 2017/571) the 'EIA Regulations'. The EIA process is where

development proposals deemed likely to have significant environmental effects are appraised. EIA establishes the nature of a development and the environment in which it is likely to take place, during both the construction and operational phases. The Environmental Statement (ES) is the document that reports the assessment process and is submitted with the planning application. It has the status of a material consideration during the determination of the application.

- 7.30. An ES should focus on the likely significant effects of the proposed development so that they can be taken into account when determining the application.
- 7.31. The subject areas (of likely significant effects) are identified via a scoping opinion, in this case they are:
  - Air Quality;
  - Noise and Vibration;
  - Socio-Economics;
  - Built Heritage ;
  - Townscape and Visual;
  - Daylight, Sunlight and Solar Glare; and
  - Wind
- 7.32. Topics scoped out as being unlikely to give rise to significant effects on the environment were: Transport and Accessibility; Ground Conditions and Contamination; Flood Risk, Water Quality and Resources; Archaeology; Biodiversity; Climate Change; Light Pollution; Waste; and Major Accidents and/or Disasters.
- 7.33. During the assessment of likely significant effects, the EIA (in line with requirements of the EIA Regulations) has considered measures to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects 'mitigation'. Finally, each chapter determines whether the level of effect reported is 'significant' or not. This determination is based on professional judgment.
- 7.34. The EIA Regulations require "a description of the reasonable alternatives studied by the developer". The ES considers and evaluates alternative design, largely focused on the options considered during the design evolution of the proposed scheme, including massing and choice of uses. However, no consideration to an alternative scheme was given in the ES (for example retrofitting of the existing building). Objections to the scheme have been made to the lack of alternative schemes being considered by the ES. However, there are no set 'rules' as to what should be included and is based on professional judgement of the author. The ES has been prepared by a suitably qualified person, and therefore this is not a reason that would warrant refusal. Nonetheless, the applicant provided a Supplementary Planning Statement which sets out a number of technical constraints to retaining the existing building and commentary on the barriers to reoccupation of the existing building, this is further supported by a statement from Savills, giving context to the commercial viability of the building, for alternative uses.
- 7.35. For the purpose of the ES, two operational scenarios were tested where relevant:
  - 1st Operation (2028): This has considered effects associated with the completion of SBQ 3 and has been driven by the need to understand the effects of this in isolation, to account for any scenario in which development after SBQ 3 is delayed; and
  - Full Operation (2036): This will consider effects associated with the entirety of the proposed scheme being operational (i.e. SBQ 1, 2 and 3).
- 7.36. Taking the chapters separately a summary of the predicted significant effects, these issues are then considered separately as part of the planning application submission.

*ES - Air Quality;*

- 7.37. The effects assessed were the changes to the pollutant concentrations as a result of operational traffic exhaust emissions and exposure to pollutant concentrations in excess of Air Quality Objectives.
- 7.38. For both scenarios the assessment concluded that there would be no exceedances of air quality assessment levels at any of the sensitive receptors identified and the maximum change in concentration for each pollutant was less than 1% of the air quality assessment level. Emissions generated by operational traffic were not considered significant for existing residents and users of the local area. The exposure to pollutant concentrations in excess of the relevant Air Quality Objective is not considered to be significant for all future residents and users of the local area.

*ES - Noise and Vibration;*

- 7.39. The effects assessed were; noise and vibration generated from construction stage activities; transfer of noise and vibration from the demolition of attached structures; noise emissions from operational traffic and new late night entertainment premises; introduction of new residents on operational noise practices of existing late night entertainment premises (including music venues); and existing road, commercial and late-night premises noise impacting on the proposed scheme.
- 7.40. Through implementation of appropriate Construction Environment Management Plan (CEMP) measures to control noise and vibration on the Site, effects associated with noise emissions and vibration from the demolition of attached structures are considered not to be significant. However, significant effects from construction stage activities in relation to noise and vibration were identified for some existing and future receptors.
- 7.41. Both Thorp Street and Hurst Street were assessed for noise effects in relation to additional operational traffic during the Full Operation (worst-case) scenario as these were identified to experience the most noteworthy increases in traffic flows. Although adverse noise effects were predicted for some receptors, these were not considered to be significant.
- 7.42. The proposed scheme includes provision of new nightclubs, late night bars and local community facilities. Provisions and detailed design development procedures are outlined in the ES and includes appropriate façade design and setting noise limits for tenants. The assessment concluded that future receptors and many existing receptors would not experience an adverse noise effect from new late night entertainment premises. However, some existing receptors situated along Smallbrook Queensway Holloway Circus, Thorp Street and Hurst Street would experience an adverse noise effect, but again not one considered to be significant.
- 7.43. Likewise, impact on the new late-night premises (within the outline scheme) as a result of complaints from potential future occupiers has been considered. With the implementation of the acoustic designs, the internal noise conditions are expected to be suitable for residential occupation of new homes. This implies that it is very unlikely that the internal noise conditions would invoke a cause for complaint.
- 7.44. Overall, no significant noise effects were identified from existing traffic or commercial uses (including late-night entertainment premises).

*ES - Socio-Economics;*

- 7.45. The effects assessed to Socio-Economics were construction and operation employment generation and the provision of new housing.
- 7.46. During construction it is estimated that a total of 190 additional full time equivalent jobs would be generated across the area assessed, of which 100 jobs are likely to be taken by those living in that area. This was considered to be a beneficial effect but not significant.
- 7.47. Although the majority of the existing building is vacant, the Site was identified to

currently support 30 jobs from existing businesses (food & beverage, nightclub and retail). It is estimated that the proposed scheme would generate 135 additional jobs in the wider assessment area, including 70 in the local area. This was considered to be a beneficial effect but not significant.

*ES - Built Heritage;*

- 7.48. The effects assessed in relation to built heritage were the loss of The Ringway Centre from the Site and the change to the setting and significance of existing designated and non-designated assets during the construction and operational stages.
- 7.49. The proposed construction stage works would include the total removal of the existing Ringway Centre building located within the Site, which is a Locally Listed Building.
- 7.50. It is concluded in the ES that The Ringway Centre has a low heritage value, its significance arising from the building being designed by a locally significant architect and is historically associated with the Post-War reconstruction of Birmingham and the construction of the Birmingham Inner Ring Road. The loss of The Ringway Centre would be a significant adverse effect. Mitigation, in the form of a historic building recording, is required prior to the demolition of the building.
- 7.51. Of the seven designated heritage assets assessed within the ES, none are identified as experiencing a significant change in setting or significance as a result of the construction stage, although there would be an adverse effect in relation to Parish Church of St. Martin (Grade II\*), Former White Lion Public House (Grade II) and General Post Office (Grade II), albeit not one that is considered to be significant. Neither of the two non-designated heritage assets assessed in the ES (Norfolk House and The Crown Public House) are considered to experience a significant change in setting or significance as a result of the construction stage, although Norfolk House would experience an adverse effect, albeit not one that is considered to be significant by the ES.
- 7.52. Upon completion of the proposed scheme, it was concluded that the Parish Church of St. Martin (Grade II\*), Council House, City Museum and Art Gallery and Council House Extension (Grade II\*), Former White Lion Public House (Grade II) and General Post Office (Grade II) would experience adverse changes in setting or significance. However, these were not considered to be significant. The other designated and non-designated heritage assets assessed would not experience a significant change in setting or significance.

*ES - Townscape and Visual*

- 7.53. The effects assessed in relation to Townscape and Visual impacts, were the temporary visibility of the demolition and construction works on local Townscape Character Areas (TCAs) and views alongside the change in the local townscape quality/appearance and experience of the completed and operational proposed scheme.
- 7.54. During the construction stage all the existing buildings would be demolished, and a number of new buildings constructed. This work would involve the use of tower cranes and other related plant necessary for the construction process. A higher proportion of heavy goods vehicles along the local road network is also anticipated. The proposed construction stage works are concluded to have a temporary significant adverse effect on TCAs and visual on pedestrians and road users, at three representative viewpoints.
- 7.55. The operational townscape assessment concluded that two of the character areas identified TCA 2 (The Bullring/New Street Station) and TCA 4 (Chinese Quarter) would experience significant beneficial changes in local townscape quality by virtue of appearance, spatial character and function of the completed proposed scheme.
- 7.56. The operational visual assessment concluded that all visual receptors (i.e. pedestrians, road users, residents, users of amenity space and residents) situated at representative views would have significant beneficial effects as a result of the appearance and experience of the completed proposed scheme. However, View 27 (Park Street looking

west) would result in a significant neutral effect which, is considered to be both beneficial and adverse.

*ES - Daylight, Sunlight and Solar Glare;*

- 7.57. The effects assessed as were changes in daylight and sunlight and solar glare.
- 7.58. The assessment concluded that once fully built and operational, the proposed scheme would lead to a reduction in daylight for 34, 39, 40, 41 Horse Fair, 59 to 61 Station Street and Apartments, The Arcadian; and in sunlight for 55 Station Street. These were not considered to be significant.
- 7.59. The assessment concluded that there would be adverse solar glare experienced at all viewpoints which would be significant and mitigation would need to be developed further to resolve these.

*ES - Wind*

- 7.60. The effects assessed were in relation to exceedances of the industry standard Lawson criteria for safety and comfort of future receptors (i.e. pedestrians and cyclists) during both 1st or Full Operational scenarios.
- 7.61. The assessment concluded that once additional mitigation measures are implemented, there would be no significant exceedances of pedestrian comfort or safety for the proposed scheme in either the 1st or Full Operational scenarios.

*Cumulative effects*

- 7.62. Cumulative effects have been broken down into two types of effect, 'Effect Interactions' (Different effects within the project itself affecting the same receptor) and 'In-Combination Effects' (effects with other project(s) in the wider area).
- 7.63. The effects interactions experienced during construction on population and human health receptor groups (people), are considered to be significant. The effect interaction on cultural heritage receptors (heritage assets) during construction, as a result of the loss of the Ringway Centre and the change in setting to Norfolk House are not considered to be significant for the Purposes of the ES. During operation a number of adverse effects (noise, glare and loss of daylight) would interact with beneficial effects (visual amenity, employment provision and housing provision) of which visual amenity and housing provision are considered to be significant. However, the degree to which overall this is adverse or beneficial would be down to the subjectivity of the individual receptor. In relation to operational effect interactions of Cultural Receptors (heritage assets) would be no greater than those reported in the individual assessments (i.e. adverse but not significant).
- 7.64. 33 Approved Projects were considered in the in-combination assessment, 19 of these are located within 500 metres of the Site, and the remaining 14 are over 500 metres from the Site. Each of the topics as set out above was considered in combination with these approved schemes.
- 7.65. It is considered that in combination effects upon socio-economics would be significant beneficial due to construction employment and additional housing, significant adverse impacts upon townscape and visual impacts during construction and significant beneficial during operation,
- 7.66. In combination effects of the other topics were not considered significant.
- 7.67. A supplementary Cumulative Appraisal was submitted (March 2023) – This document was submitted to update the in-combination effects section of the ES to take account for the subsequent submission of the Smithfield application (ref: 2022/09643/PA;) and withdrawal of the Act One, Thorp Street (ref: 2022/02803/PA) application. The document considers each of the ES topics in combination with the Smithfield application (and withdrawn Thorp Street). It determines that the conclusions of the ES remain valid and no new mitigation is required.

- 7.68. Some, previously identified in combination effects , in relation to Act One, are no longer relevant (sun light and overshadowing and wind). There are additional in combination townscape and visual effects, when considering SBQ and Smithfield together, with regards to Townscape Character Areas, the in combination effect of the Southside and Chinese Quarter character areas is considered minor-moderate adverse during construction and moderate to major beneficial during operation but not significant. Two views were also identified (view 27 and 28 of the HTVIA) where the in-combination effect is major beneficial during operation.

#### *Summary of Significant Environmental Effects*

- 7.69. The significant environmental effects identified by the ES process are as follows, these should be considered in the determination of the application along with any proposed mitigation.
- Significant adverse effects from construction stage activities in relation to noise and vibration
  - Significant beneficial socio-economic effect from the provision of new housing
  - Significant adverse effect on built heritage in relation to the loss of the Ringway Centre, a Locally Listed Building.
  - Significant temporary adverse effect on Townscape and Visual receptors (at three representative viewpoints), during construction.
  - Significant beneficial changes in local townscape quality by virtue of appearance, spatial character and function of the completed proposed scheme.
  - Significant beneficial visual effects as a result of the appearance and experience of the completed proposed scheme.
  - Significant neutral effect which (considered to be both beneficial and adverse) from view 27 of the operational visual assessment.
  - Significant adverse solar glare experienced at all assessed viewpoints.
  - Significant adverse cumulative effect interactions, experienced by people, during construction.
  - Significant beneficial in combination effects arising from construction employment and additional housing.
  - Significant adverse in combination impacts upon townscape and visual impacts during construction.
  - Significant beneficial in combination impacts upon townscape and visual impacts during operation.

#### *Environmental Management Plan*

- 7.70. An environmental Management Plan was submitted as part of the ES. The Plan contains all the mitigation identified and committed to, to manage the environmental effect of the proposed development.
- 7.71. The plan identifies the primary mitigation – these are measures delivered through the design/layout of the development and are inherent to the proposal they would therefore be secured via approval of the proposed plans, development specifications and documents such as the design code. This includes mitigation such as façade design to deal with; noise and vibration, overheating, energy consumption and the layout, scale and density of the development to deal with; daylight and sunlight. Landscaping addresses climate resilience and biodiversity, along with sustainable drainage strategies.
- 7.72. Tertiary mitigation is also highlighted, which is mitigation that is delivered as a result of other legislation and requirements such as a Construction Environmental Management

Plan (CEMP) which would deliver a number of tertiary measures during the construction stage including: controlling working hours, health and safety, site security, staff welfare, matters of air quality (from dust and machinery use, construction traffic), noise and vibration controls, construction flood risk, construction waste control, and a construction ecological mitigation.

- 7.73. Secondary mitigation – is mitigation that would require further action and the mitigation that is most likely to require planning conditions of any consent to secure further information. The secondary mitigation is separated out into the topic contained with the ES as follows;

#### Noise and Vibration

- Demolition noise and vibration – Addition to or modification of methodology/protocols/procedure within a CEMP; standalone method statement of working
- Noise from new late-night entertainment – submission of the final design scheme of sound insulation and noise control reports
- Existing road and commercial noise of proposed scheme - submission of a scheme of sound insulation design report.
- Existing night entertainment noise on the Proposed Scheme - condition submission of a scheme of sound insulation design

#### Built Heritage

- Historic Building Recording would be required

#### Solar Glare

- There is a requirement to reduce the potential reflectance values of the building, the final glazing solution would require further assessment to confirm the reflectance values.

#### Wind

- Submission of full detail to secure mitigation measures including planting of deciduous, coniferous and box-head trees, other forms of soft landscaping (such as hedging and planters), and wind reducing features (such as screens and baffles).

- 7.74. The ES has identified the likely significant effects and the appropriate mitigation required to address these. This is carried forward into the below assessment of the application to conclude whether permission should be granted or not.

#### **Impact upon Heritage Assets**

- 7.75. 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.
- 7.76. 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)).
- 7.77. In instances where paragraph 11d of the NPPF is engaged, such as this, it is also important to note that footnote 7 states that development should be approved unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, assets of particular importance are defined as designated heritage assets (amongst other things such as AOANBs).

- 7.78. The application was reported to the Conservation Heritage Panel (March 2023).
- 7.79. In summary the Panel considered that; *“over recent years in Birmingham 20th century (post war architecture in particular) has become more prominent in the public consciousness. English Heritage’s decision not to list the building does not change views of loss of this locally listed building and is an entirely different exercise to that of considering the future of such a positive building in this prominent townscape. The charm of this structure is in its master-planning and the enclosure of this post war boulevard which is recognised by Pevsner. It is emblematic of Birmingham and tied to other significant buildings including the grade II listed Rotunda. Its merit as part of a wider vision of town planning must be recognised and this townscape function, along with its architectural quality, found in its handling and expression of cast concrete has led Panel Members to recommend that the local listing grading of the building be raised from B to A”*
- 7.80. Further to the above the Panel considered that *“Buildings much more directly associated with the structure will be harmed by its loss. In particular, Norfolk House which is the sister building of the Ringway Centre on the northern side of the road, which features the counter sweep of its form thus together defining this urban boulevard, will be left in isolation. For this reason, Panel Members recommend that Norfolk House should also have its local listing grading raised from B to A. In terms of the potential impact of the proposed development, Panel Members felt that the visualisations of the new buildings illustrate a conflict with the finer grain of the Bristol Street townscape and long distance views of the scheme from Victoria Square were concerning in terms of their impact on the Colmore Row and Environs Conservation Area. It is felt these towers do not read well as a grouped cluster”*.
- 7.81. The Panel also raised concern with the carbon impact of the proposal and the affordable housing provision pointing out that key issues would be important in a planning exercise in understanding what the public benefits of the proposal would be.
- 7.82. The Panel members also noted that whilst demolition would be highly regrettable they *“recognise that the removal of the building could aid improvements in pedestrian connections including the introduction of new and improved links including Wrotesley Steps and Smithfield Steps”*.
- 7.83. The application is accompanied by a Built Heritage, Townscape and Visual Impact Assessment (HTVIA). The Conservation Officer accepts that the methodology criteria applied in the HTVIA is recognised and an acceptable means of assessing the significance, sensitivity and impact on heritage assets. In accordance with the requirements of the NPPF.
- 7.84. The Conservation Officer considered the assessments of significance and contribution of setting to significance within the HTVIA, to be generally fair. The majority of the heritage assets assessed were not considered to be negatively impacted by the proposed development, the Conservation Officer is generally in agreement with these conclusions. However, the Conservation Officer also considers there to be some harmful impacts and effects to the Town Hall and to the Rotunda which the HTVIA does not. In addition, the Conservation Officer considers that some of the impacts and effects attached to several heritage assets are greater than those concluded in the HTVIA. This is discussed in more detail below.

*Direct Impact - Demolition of the Ringway Centre (Locally Listed)*

- 7.85. The Ringway Centre is constructed in a Brutalist style, with a pre-cast concrete frame and strong horizontal emphasis created by a curved, sweeping façade of long alternating bands of metal-framed window aprons, decorative expressed concrete relief panelling and distinctive curved uplighters. The external appearance of the building in its entirety and urban boulevard character is emblematic of the mid-20th century master planning of Birmingham. Noted in Pevsner’s Architectural Guide as ‘The best piece of C20 urban design in the city’ the Ringway Centre is given particular



credit for its 'grand urban scale' following the sweep of Smallbrook Queensway and typifying the urban boulevard plan.

- 7.86. Prior to the submission of the application the applicant applied to Historic England for a Certificate of Immunity from listing the building. The process is the same as if the applicant had applied for the building to be listed, with the same detailed historic analysis of the building's architectural and cultural value explored. Historic England concluded that whilst the building is of local interest it did not meet the criteria for listing. The Department for Culture, Media and Sport concurred with this recommendation and a certificate preventing the building being listed for a period of 5 years has been issued (until 2028).
- 7.87. The decisive factors preventing the building from being listed were the lack of architectural quality and the degree of alteration. The designation decision acknowledged the presence of the building in the cityscape of central Birmingham which is *"dependent upon its outline and relationship to the road and other surrounding buildings. The degree of architectural quality required of a building of this type and date is considerable and the detailing of the building is repetitious and, in some instances, is poorly realised"*. The report added that *"although the upper floors of the exterior maintain much of their original appearance, the street frontages of a large number of the shops have been altered, as have their interiors. The exterior and interior of the former dance hall have also been altered, as have the reception areas and interiors of the office floors. Therefore, whilst the building has undoubted local presence the building lacks the consistently high degree of architectural interest necessary for listing and on balance should not be listed"*.
- 7.88. The building is a locally listed building, Grade B which acknowledges the contribution that the building makes to the city-wide architectural context and the impact on the local street scene and warrants positive efforts to ensure its preservation.
- 7.89. The conclusion of the above is that the existing building is a non-designated heritage asset and its historic significance has been thoroughly assessed very recently. In such instances the National Planning Policy Framework requires that firstly the significance of the heritage asset be described and that where there is harm to that significance a balanced judgement considering the benefits of the development, must be made.
- 7.90. The assessment of significance in the HTVIA attaches architectural and historic significance to the Ringway Centre but considers this in the context of its local importance and limits its heritage significance to low. However, the heritage values of the Ringway Centre are considered higher by the Conservation Officer, who attaches medium to high heritage value to the building.
- 7.91. The magnitude of impact, or harm, arising from comprehensive demolition is identified in the HTVIA as high. However, it concludes that whilst the building is of heritage merit, the overall effect arising from the impact to the asset is moderate adverse. However, the professional judgement of the conservation officer is that the effect is major adverse. The difference arising in the level of significance being placed on the asset, the HTVIA places low level of significance on the building where as the Conservation Officer gives high local significance and moderate national significance.

*Indirect Impacts - Impact upon the setting of other built heritage assets*

- 7.92. Norfolk House- locally listed - The first building to be completed as part of the inner ring road, Norfolk House is located on the opposite side of the road to the Ringway Centre, where it counters the curve of the Ringway Centre along Smallbrook Queensway. The HTVIA sets out the significance of Norfolk House and based on its locally listed status attaches a low level of heritage significance to the building. The document notes that the application site forms part of the immediate setting of Norfolk House and that its heritage significance is linked to the development of the Queensway and the Ringway Centre, acknowledging the group value of both. The Conservation Officer considers the building to have a good level of local significance and therefore

attributes a medium level of significance to the building. The Conservation Officer agrees with the HTVIA that the susceptibility to change to Norfolk House is high but considering the building to be of medium (and not low) significance, advises that its overall heritage sensitivity would be medium/high. The Conservation officer also concludes that the Ringway Centre makes a high contribution to the setting of Norfolk House. Therefore, the magnitude of impact to Norfolk House though the permanent removal of the Ringway Centre is considered high. The Conservation Officer concludes that the overall level of effect to Norfolk House would be moderate to major adverse.



**Proposed development (left) and Norfolk House (right)**

- 7.93. Birmingham Town Hall- grade I Listed – The Town Hall has a very high level of significance. Based on its current surroundings, the Town Hall is considered in the HTVIA to have a low susceptibility to change giving it an overall heritage sensitivity of medium. The magnitude of impact to the Town Hall through the proposed development is considered very low in the HTVIA resulting in an overall effect of negligible neutral. However, the Conservation Officer advises that when assessing Viewpoint 12 within the HTVIA, taken looking south from Chamberlain Square, the Town Hall forms a key landmark building in the view and its architectural form and heritage interest can be appreciated and experienced. The Conservation Officer considers the building to have high heritage sensitivity. View 1 (see below image) , identifies that although not viewed directly above the silhouette of the Town Hall the proposed development would be visible in close proximity to the side of the Town Hall, within background views of the Town Hall encroaching upon the space around the building, distracting from the appreciation of its architectural form and landmark qualities. Therefore, the Conservation Officer concludes this is moderate adverse harm.



### **Proposed Development and the Town Hall**

- 7.94. Parish Church of St. Martin- grade II\* Listed – The building has very high heritage value, owing to this setting the HTVIA considers that St. Martin's has a low susceptibility to the type of change proposed and an overall medium heritage sensitivity. The HTVIA identifies that from the north-east along Park Street the proposed towers would be visible within the immediate setting and context of the Church, and this is evidenced in Viewpoint 27 (see below image). In terms of magnitude of impact, the HTVIA considers that the impact on the church would be very low which gives an overall minor adverse effect on the church. However, the Conservation Officer states that at present no tall development of this type forms part of this experience and therefore considers the church to only have a moderate ability to accommodate this type of change to its setting and place its heritage sensitivity as high and advises that in their opinion the magnitude of impact, would be greater than very low (as in the HTVIA) and advises that the likely effect on St. Martin's Church is moderate to major adverse.





**St Martins Church, from Park Street**

- 7.95. General Post Office, Victoria Square- grade II Listed – has a high heritage value. One of the elements of the architectural interest of the post office is its distinctive roof form and this is recognised in the assessment of significance in the HTVIA and in Historic England's list description. The proposed development would be visible from Victoria Square in distant views over the building as seen in viewpoint 11 and 12 (see below image). The HTVIA concludes that the effect of the proposal would be very low to low adverse, however the Conservation Officer sets out that the proposed towers would be visible above and behind the asset's ridge lines and roof features, distracting from its architectural interest and disrupting its distinctive silhouette and therefore placing the overall effect at the moderate adverse level.



**General Post Office from Victoria Square**

- 7.96. Former White Lion Public House- grade II Listed - The magnitude of impact to the building through the proposed development is placed at low in the document, giving

an overall effect of minor adverse. For a building of medium sensitivity and a low impact, the overall effect can be minor or moderate but the position of the HTVIA is to have gone for the lower effect. The Conservation Officer advises they believe the effect to be greater. This is based on the presence of Centre City Tower and the Radisson Blu tower, currently experienced in background views of the pub from some slightly more distant views of the asset from Bristol Street where it is agreed that the impact would be low. However, in close up views, and from where the architectural interest of the building is best experienced, the impact of the towers would be greater and considered to have a more moderate impact (than low) on the building, which would give rise to moderate to major effects on the building. The Conservation Officer concludes that this is moderate adverse.



**Former White Lion Public House from Horsefair**

- 7.97. The Rotunda, including the shops in the podium below the tower- grade II Listed – The Conservation Officer concurs with the assessment of impact upon the Rotunda from the proposed development, which is no overall affect of heritage value. However, the HTVIA does not assess the impact that demolition of the Ringway Centre would have upon the heritage significance of the Rotunda. The Conservation Officer considers that the demolition of the Ringway Centre would have detrimental impact upon the setting of the asset arising from the group value of the buildings and historic associations through the links between the architect. The Conservation Officer advises that the loss of the Ringway Centre would permanently damage an element of the setting of the Rotunda which is considered to contribute to its significance and that the impact would be less than that to the setting of Norfolk House, but would still be at a moderate level.
- 7.98. The Conservation Officer agrees with the findings of the HTVIA with regards to all other assessed heritage assets. This can be summarised as;
- Council House, City Museum and Art Gallery and Council House Extension- grade II\* - the impact would be very low and the effect minor neutral.
  - Caretakers' House for Birmingham Athletic Institute and Former British School- grade II listed – negligible neutral
  - The Crown Public House- locally listed - negligible-neutral effect
  - The (Former) Futurist Cinema - locally listed negligible-neutral effect

#### *Archaeology*

- 7.99. The application is supported by a phase 1 desk based archaeology assessment, which

concludes no further archaeological work is necessary. BCC Archaeology concurs with the findings of the report.

#### *Heritage Harm*

- 7.100. The concerns raised by Historic England and Birmingham Civic Society are noted regarding the impact of these towers and the resulting harm caused to the significance of designated heritage assets, through development in their setting.
- 7.101. Paragraph 199 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.”
- 7.102. In accordance with para. 202 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;
- Moderate adverse harm to Birmingham Town Hall – Grade I Listed
  - Moderate to major adverse harm to St Martin’s Church – Grade II Listed
  - Moderate adverse harm to General Post Office – Grade II Listed
  - Moderate adverse harm to Former White Lion PH – Grade II Listed
  - Moderate adverse harm to the Rotunda – Grade II Listed
- 7.103. In accordance with para. 203, 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;
- Major adverse harm to Ringway Centre - Locally Listed
  - Moderate to major harm to Norfolk House – Locally Listed
- 7.104. The above identified harm is weighed against the benefits of the proposal later in this report.

#### **Design**

- 7.105. 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
- 7.106. 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.
- 7.107. 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.



- 7.108. 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.
- 7.109. The City Design Manager notes that the methodology used in the townscape and visual sections of the ES, is sound, and that he generally concurs with the conclusions, that views closer to the proposal have a greater beneficial effect than those further away that diminish. They also note that the Built Heritage, Townscape and Visual Impact Assessment is submitted with the application as a standalone technical report and that they do not disagree with any of the likely effects (including cumulative) identified for any of the views.

*Demolition, phasing and meanwhile use*

- 7.110. As the application is Hybrid and therefore phased, The City Design Manager raises concerns from a townscape perspective of how a phased approach would be handled. Given the existing building is one linear form filling the plot, its demolition and then phased re-development could result in vacant land on a prominent strategic route into the City Centre. However, there are elements of unknowns with all outline applications, which is unavoidable and the very nature of the application type. This is not a conservation area or adjacent to a conservation area, and therefore an outline application is a legitimate and acceptable form of application. Even if the scheme were submitted in Full, it would not guarantee delivery, and it would still be a phased development. The use of conditions would be employed to control demolition, phasing and meanwhile uses, to the extent to which is necessary and proportionate to the development.
- 7.111. The phasing plan accompanying the application shows that the bridge link and buildings to the east would be demolished first, to facilitate the development of SBQ3 (full). Therefore, the remaining building (on SBQ1), to the west of Hurst Street would need repair to its flank, whilst it remains in-situ. This can be controlled via condition which would ensure this is completed within a timely manner, post demolition. This would however leave vacant land on the plot of SBQ2. The applicant has prepared a meanwhile use strategy which shows the proposed short- and long-term strategy for dealing with this land post demolition; a pocket park is the preferred approach. The document sets out varying trigger points and short- and long-term options which would be influenced by the varying phasing scenarios. The below image is the long term 'green pocket park' to be employed in a long-term scenario, there would be a less intensive 'grey' option in a short term scenario.



**Indicative Pocket Park – long term meanwhile use of SBQ 2**

- 7.112. The meanwhile strategy also deals with potential materials pallet, temporary steps arrangement to SBQ 3 down to Wrottesley Street, tree planting, security, and the gable wall treatment to retained buildings. The City Design Manger raises concerns with the boundary treatment and enclosure of such a space, it is considered that this space should remain open and publicly accessible, not fenced. This can however be dealt with via a condition requiring the design of this space to be submitted and agreed.

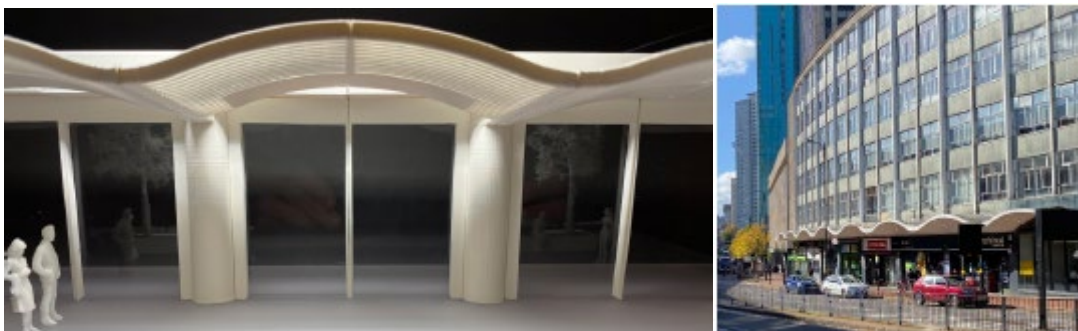
#### *Layout*

- 7.113. The proposals for SBQ 3 at the lower ground, ground, and upper ground floors provide commercial and residential amenity space helping to create an active frontage along three sides of the building. The southern side of the building provides service access and residential amenity access via Bath Passage. The upper floors accommodate the residential units, alongside internal and external amenity space across the building and podium roof level at level 9, and the amenity space at roof level.



**Proposed Hybrid Development**

- 7.114. A canopy is also proposed at ground level which would help to animate the street-scene through its distinctive design which responds to the canopies along the opposite frontage along the Queensway (on Norfolk House).



**Canopy Design and existing on Norfolk House**

- 7.115. A new public route is proposed via a partially enclosed stairway, 'Smithfield Steps', at the eastern site boundary which offers direct access from Smallbrook Queensway down to Dudley Street, then along Pershore Street and beyond to the Smithfield regeneration site and 'Southside' District. This is an alternative to the existing spiral staircase within the bullring development.





**CGI - Smithfield Steps at SBQ 3**

7.116. The City Design Manager considers the proposed layout of three discreet buildings with new connections at Smithfield Steps and Wrottesley Street, to be acceptable and the arrangement of SBQ3, successful in animating the street.

7.117. The City Design Manger does not see any reason why the development of SBQ 1-2 could not achieve the same acceptable ground floor layouts, animated frontages and level access as shown in the indicative drawings.

*Scale, Form and Massing*

7.118. The City Design Manger describes the design philosophy as “*in part, to emulate the lost building through the reinstatement of a horizontal podium, albeit nine-storeys in height rather than five and broken where Wrottersley Street and Hurst Street express themselves*”. SBQ3 has a podium across the full length of the Smallbrook Queensway frontage (reinstating the curve) and places a correspondingly curved tower on top of it at its eastern end (over Smithfield Steps), terminating at 44-storeys. The City Design Manger does not object to this form.

7.119. The outline phases (SBQ1 and 2) are illustratively shown, with SBQ1 to have a corresponding podium from Scala House through to Hurst Street with a tower up to 48-storeys sat with its longest elevation running down Hurst Street and its slender elevation facing up Hill Street. SBQ2 is shown as a point block between Hurst Street and Wrottersley Street and extending up to 54-storeys. The City Design Manger agrees with the concept of SBQ2 being the tallest of the three buildings.

7.120. The City Design Manger raises no objections to the scale, form and massing of the proposal.



**Scale form and mass of buildings - SBQ 3 in detail SBQ1-2 indicative**

*Architecture and Materiality*

7.121. It is intended that SBQ 3 sets the architectural tone of the site, and implements the sitewide design principles, including through its appearance and materiality. The podium and tower share the same architectural appearance, with horizontal framing fins and full height picture windows which emphasises the horizontal expression of the building. The material palette across the building includes silver framing fins which sit over a dark grey façade, helping to provide a contrast in the grid expression. The City Design Manager considers this to be acceptable subject to conditions for architectural details, securing quality in the delivery, by exploring quality in the fixing of elements, junctions and finishes.



**SBQ 3 Façade design**



- 7.122. The Design Code provides a number of mandatory requirements that future reserved matters would be required to conform with. These would align with the design principles set out within the full element of this application for SBQ 3. The indicative proposals for SBQ 1 and 2 are set out within the Design and Access Statement to identify how the outline planning permission could come forward in line with the defined parameters. SBQ 1 – Up to 44 storeys and SBQ 2 – Up to 56 storeys.
- 7.123. The Design Code looks to ensure that the three buildings provide a variation in height whilst working together to provide a cluster of buildings that provide a strong and successful visual and townscape composition. It also sets out that SBQ 2 is to be the tallest of the three buildings, so that this principle is respected through the submission of future reserved matters.
- 7.124. It is envisaged, and established with the Design Code, that SBQ 1 would be of a similar architectural style to the SBQ 3 in respect of the façade detail, materials, and colour. With SBQ 2 maintaining consistent architectural features to SBQ 1 and SBQ 3 whilst ensuring it has its own distinctive appearance. The Design Code also sets a number of other design principles and requirements that SBQ 1 and 2 should accord with to provide consistency with the detailed design of SBQ3. These include, ensuring the podium height of SBQ 1 and interstitial levels for SBQ 1 and 2 align with the podium and interstitial level (Level 9) of SBQ 3; the curvature of Smallbrook Queensway is maintained and followed by the building lines; any canopies follow a similar design to that proposed on SBQ 3; and external amenity spaces to be provided at podium and roof levels.
- 7.125. The City Design Manager is content that the amended design code is a sensible structure that sets a clear design intent for the three buildings as a comprehensive development.



**Indicative façade designs SBQ 1-2 (SBQ3 to left, in detail)**

- 7.126. However, the detail of SBQ 1 and 2 would be subject to future reserved matters applications and would need to be considered fully as part of the determination of future reserved matters applications.

*Landscaping, public realm and tress*

- 7.127. An illustrative landscape masterplan has been prepared to demonstrate how public realm and landscaping improvements could be accommodated across the whole site. This includes improvements to the immediate footpath along Smallbrook Queensway, as well as 'pockets' or 'zones' of public spaces including Smithfield Steps (east of SBQ

3), Wrotesley Steps (west of SBQ 3) and Hurst Street Plaza (between SBQ 2 and SBQ 1).

- 7.128. The Design Code and Parameter Plans seeks to ensure that connections within and around the proposed development are introduced and enhanced. The Design Code places a requirement for the public realm along Smallbrook Queensway adjacent to SBQ 1 and 2 to tie into the detailed proposed of the Smallbrook Queensway public realm along the SBQ 3 frontage.
- 7.129. Whilst approximately 11 trees would be lost as a result of the development, it is anticipated that they would be replaced by approximately 29 new trees and other landscaping and public realm enhancements which would be included within future reserved matters. BCC Tree Officer has commented on the supporting arboriculturally assessment and does not object to the proposal subject to the inclusion of a condition requiring accordance with that assessment.
- 7.130. During consideration of the application, the applicant has asked to consider whether two marble Chinese Foo Dogs could be accommodated within proposed public realm. This was at the request of members of the community, who own these marble statues but do not yet have a location for them. The applicant submitted information to show indicatively how could be incorporated within the proposed public realm, within the application site. While this would need to be subject to full feasibility assessment, at a later stage in the phased delivery of redevelopment of the site, the applicant has confirmed they intend to seek to accommodate the statues in the location shown (either side of Hurst Street), by the indicative information submitted.



**Illustrative image of Foo Dogs on Hurst Street**

- 7.131. Notwithstanding the City Design Mangers concerns centring around the hybrid nature of the application and the phasing of development in this prominent location, he concludes that in townscape terms the site is entirely appropriate for tall buildings, which it could accommodate, and contribute positively towards a new high rise city scape and would deliver better connectivity through this part of Birmingham. He considers that the architecture is much like other towers in the city and planning conditions could be attached to secure quality in the delivery.
- 7.132. The proposed development has been designed considering designing out crime principles.
- Gateway One – Fire and Accessibility*
- 7.133. The Birmingham Design Guide SPD confirms that tall building proposals should seek to meet all regulatory requirements with regard to safety and the needs of disabled users.
- 7.134. 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.

- 7.135. 86% of units within SBQ3 are accessible and adaptable, to accord with part M4(2) building regulations criteria and exceeding the 30% requirements of Policy DM10 of the DMBDPD (2021).

### **Tall Building Assessments – Microclimate, Aviation Safeguarding, Television / Radio and Communications**

- 7.136. 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*

- 7.137. The application is supported by a wind microclimate study for the proposed development and focuses on the existing surrounding context and detailed mitigation for SBQ 3. The study has adopted CFD and wind tunnel testing to predict the strength of winds, this accords with the Birmingham Design Guide.
- 7.138. Primary mitigation exists principally via the successive sheltering of SBQ 2 by SBQ 1, and SBQ 3 by SBQ 1 and SBQ 2 for primary prevailing winds. Additionally, the position of SBQ 2 has been optimised, in order to alleviate wind accelerations in the space between SBQ 2 and SBQ 3.
- 7.139. Secondary mitigation is required to alleviate the impacts of the proposed tall buildings on the wind environment around the base of the proposed buildings. Assessment found that after the construction of SBQ 3 (Full) safety criteria is not met around the base of SBQ north facing facade.
- 7.140. The submitted SBQ3 wind study identifies a number of mitigations measures and includes a mixture of soft landscaping (trees, planters and planting) and baffles. For SBQ 3 this also includes a 3.5-metre-deep, 50% solid wrap-around canopy, at Level 1 (First Floor). These measures were tested and found to alleviate safety issues which can be resolved through full design. Therefore, whilst adverse impacts were identified including the exceedance of the industry standard Lawson criteria for pedestrian safety and comfort, following secondary mitigation the effect was considered to be negligible.
- 7.141. The supporting ES considers the microclimate for all three towers if delivered in accordance with the parameter plans and considers cumulative surroundings (considering other committed developments). As no significant adverse impacts were identified, as above, there are no cumulative impacts from wind when mitigation is in place.

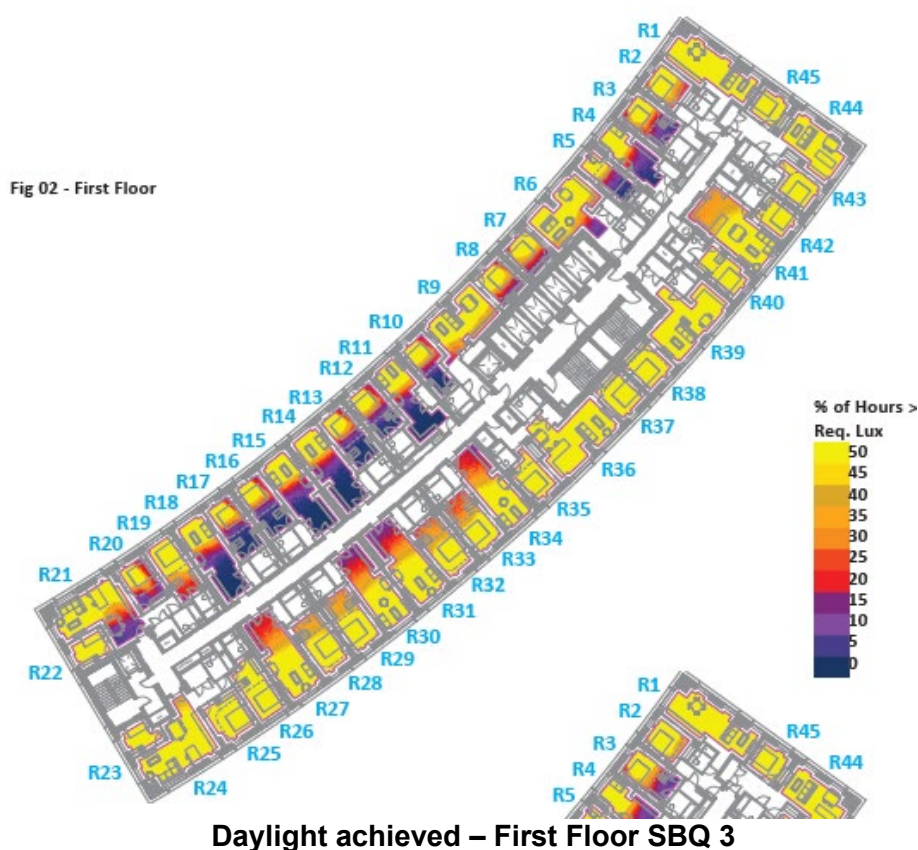
#### *Overshadowing and loss of light*

- 7.142. The application is supported by internal daylight, sunlight and overshadowing assessment, which has been produced in accordance with BRE Guidelines. The report highlights that the BRE Guidelines states: *"...The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design."*
- 7.143. 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.”

- 7.144. The submitted report also highlights that Building Regulations Part L and O came into force in June 2022. *“Part O seeks to limit excessive solar gain (overheating) in the room and Building Regulations Part L covers energy efficiency and the reduction of carbon emissions. To meet the Part O and L regulations, the façade thickness of the proposed development needed to increase and triple glazing with coatings is now required which substantially decreases the glazing transmission. In turn, all these factors combined have influenced the daylight potential within the proposed rooms”*
- 7.145. For internal light, within SBQ 3 up to floor 15 was assessed, above that is not necessary and criteria is met for these rooms, all rooms from the ninth floor and above meet the target criteria. 478 out of 558 (86%) rooms assessed would be fully compliant with BRE Guidelines/target values. Of the 80 rooms that fall short of the target criteria, 54 rooms are bedrooms, which are not occupied in the same way as other living spaces. Most rooms that fall short of the target criteria are located on the northern elevation, which due to the inner-city context, face larger surrounding buildings that hinder daylight potential.



- 7.146. For SBQ 1 and 2 a Vertical Sky Component (VCS) façade assessment has been undertaken to understand the potential daylight levels. The VSC test calculates the potential for daylight to a building and measures the amount of light available at the centre of the outside plane of a window. The results of the VSC assessment show that most of the facades on both blocks would meet the target criteria of between 15% and 27%. Where the % is lower design considerations at RM could address any impact, for example the layout could incorporate dual aspect rooms on facades receiving lower levels of sunlight.
- 7.147. Overshadowing (sun hours on ground) has also been considered. The results of the sun hours on ground assessment are provided below. The percentages represent the total area that receive 2 hours of direct sunlight on March 21<sup>st</sup>, during summer months sunlight levels would be greater.

### SBQ 1

Level 1 Terrace – 91%

Level 9 Terrace – 90%

### SQB 2

Level 1 Terrace – 48%

### SBQ 3

Level 1 Terrace – 3%

Level 9 Terrace – 76%

Hurst Plaza – 89%

Wrotesley Steps – 37%

Smithfield Steps – 45%



**Areas receiving 2 hours of sun (yellow) 21<sup>st</sup> March**

- 7.148. Overall, it is considered that the assessments demonstrate that there would be sufficient daylight for the future occupants of SBQ 3 and the overall amenity of the proposed development is consistent with other high-density developments in the city centre. It is also shown that this is likely also achievable for SBQ 1-2.
- 7.149. Commercial properties and other non-residential buildings have been scoped out of the assessment within the ES, this is accepted. This includes student accommodation and hotel uses. Internal daylight effects for future occupiers of the development have been found to not have significant adverse effects and is therefore not considered within the ES.
- 7.150. The ES identifies existing residential properties that could be impacted by loss of light as a result of the proposed development. This includes properties at Horse Fair, Cleveland Tower, Clysedale Tower, Beetham Tower (residential part only), Station Street, Arcadian apartments and Southside apartments.
- 7.151. For Daylight - the baseline assessment of existing conditions shows that some of the neighbouring properties do not currently fully achieve the BRE Guidelines target levels

for daylight and sunlight availability. In contrast, some of the neighbouring properties achieve high levels of daylight and sunlight availability. However, the results of the assessment shows that all of the assessed properties show full compliance against the baseline (existing) scenario. Therefore, no secondary mitigation is proposed. Some properties do experience minor adverse change in daylight (34-41 Horse Fair, 59-61 Station Street and apartments within the arcadian). However, the overall light to these properties is acceptable.

- 7.152. For Sunlight – all of the identified properties show full annual and winter sunlight compliance against the baseline and therefore meet the BRE Guidelines. Save for 55 Station Street, however, this property would experience a minor adverse loss of sunlight and the annual probability of sunlight hours is still considered to be good for an inner city location. No secondary mitigation is proposed.

#### *Solar Glare*

- 7.153. 16 Solar Glare viewpoints are identified within the ES. It sets out that at present, there is no common methodology for the assessment of solar glare from a reflective material, or any measurable criteria within the BRE Guidelines regarding acceptable levels of solar glare.
- 7.154. For SBQ3 using best practice guidance of the viewpoints identified, viewpoints 9 and 10 require mitigation. Potential glass coating options have been explored that could be applied to the glass for the proposed scheme. There is a requirement to reduce the potential reflectance values. The final glazing solution would require further assessment to confirm the reflectance values, this should be secured via condition.

#### *Aviation Safeguarding*

- 7.155. The proposed development is within the extent of the Outer Horizontal Surface (OHS) for Birmingham Airport, cranes would further breach the Obstacle Limitation Surfaces (OLS). Developments that breach this surface can in principle be accommodated; however, this would require coordination with the airport and an update of their safety case and a crane operation scheme would need to be agreed.
- 7.156. The Applicant has engaged directly with Birmingham Airport and a study has been specifically commissioned to consider the impact of a crane on Birmingham Airport's Instrument Flight Procedures (IFP). This has shown that the proposed development can come forward without impacting upon the airport's radar system or requiring it to be altered. The aerodrome Safeguarding Officer confirms no objections subject to conditions around crane equipment and an aviation warning light system.

#### *Television and Radio Communications*

- 7.157. Television and Radio Baseline Survey have been submitted in support of the application.
- 7.158. The proposed development is within the coverage area for the Sutton Coldfield television transmitter. The area surrounding the proposed development receives radio services from numerous transmitters, including Sutton Coldfield.
- 7.159. In the event that effects are reported, it is recommended that a reception measurement is undertaken (post-construction) to investigate the likely cause of the interference. Mitigation measures should be installed if reported effects are found to be attributable to the proposed development. Solutions are likely to be readily available if required. This should therefore be conditioned. The post construction assessment should also include consideration of Network Rails telecommunications Network.

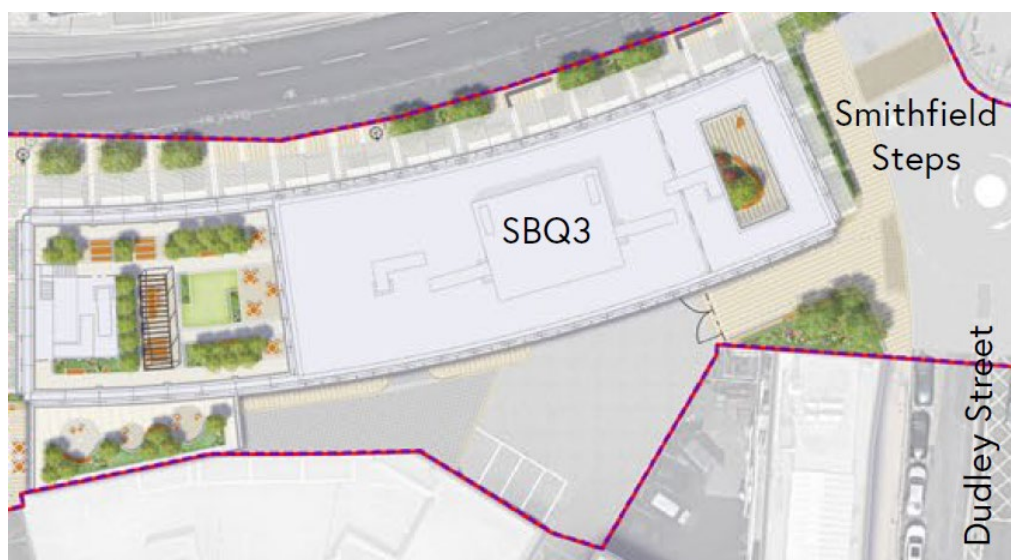
#### **Residential Amenity**

- 7.160. 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.

- 7.161. Approximately 1,098 sq. m. of internal residential amenity floor space is proposed to be accommodated within SBQ3 across the ground floors, level 09 and level 45. The internal amenity space would offer residents a range of facilities, including 24 hour concierge, sky lounge, co-working space, gym and yoga rooms, games rooms, pet spa and kitchen dining room.
- 7.162. Approximately 686 sq. m. of outdoor residential amenity is also proposed for SBQ 3 on the podium and tower roof top terraces at Levels 09 and 45.



**Level 1, 9 and roof outdoor amenity spaces – SBQ 3**

- 7.163. The SPD states the following requirements must be provided:
- 5sq.m (1 bed flat),
  - 7sq.m (2 bed flat) and
  - 9sq.m (3 bed flat).
- 7.164. This would therefore equate to a requirement of 3,364sq.m for SBQ 3.
- 7.165. Outdoor amenity provision would clearly fall below the standards set in the BDP. However, there is a greater provision of shared internal amenity space, allowing residents private social space outside of their apartment. The total internal and external amenity space equates to 3.1sqm of space per residential unit. This is comparable with other city centre developments, where the dense urban environment.
- 7.166. All of the units proposed in SBQ 3 meet minimum nationally described space standards.
- 7.167. There is further external amenity space shown in outline on SBQ1 and 2 and it is expected that internal amenity space would also be provided within these buildings, the details of which would be dealt with at Reserved Matters. This is indicatively shown within the DAS as internal amenity space: 2099 sqm and external amenity space: 2238 sqm total of 4337 sqm across both buildings.
- 7.168. For these reasons the level of amenity space proposed is considered acceptable in this case, and thereby limited weight is attached to the shortfall.

### **Sustainable Construction**

- 7.169. In June 2019 the Council declared a climate emergency with the aim of becoming a carbon neutral city by 2025. A Call to Action was issued in January 2021 setting out a Route to Zero setting out actions to meet the Council's zero carbon ambition, this includes delivering low and zero carbon housing.

- 7.170. 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 LDC technologies.
- 7.171. 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.
- 7.172. The submission documents consider the impact of climate change of the development, including the Drainage Strategy which sets out an allowance for 40% future climate change, demonstrating the strategy could adapt to future rainfall patterns. Further considerations for Climate Change are given in the construction management with targets to reduce construction emissions (undertaken as part of the BREEAM assessment). The Environmental Management Plan, submitted with the application also sets out different mitigation strategies with regards to Climate Change, which address Policy TP2. This includes primary mitigation strategies such as the use of climate resilient landscaping, water efficiency measures and compliance with part O building regulations (Overheating).
- 7.173. The EIA scoping documentation considered the release of Green House Gas (GHG) emissions during construction and operation. This concluded that the development would not significantly contribute to Birmingham's annual emissions or total carbon budget (less than 1% in both instances), likely significant environmental effects are not anticipated by the ES, Climate Change was therefore scoped out of the ES.
- 7.174. 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.
- 7.175. For non-domestic development the policy requires development to aim to meet BREEAM standard Excellent (on developments over 1000sqm). Where this is not achieved, the applicant should provide justification and support this with a financial viability appraisal.
- 7.176. The application is supported by an Energy Statement and Sustainable Construction Statement. Both documents show the proposal to comply with Policies TP1, TP3 and TP4. Insofar as the scheme is designed in compliance with Approved Document Part L (in excess of the 2013 regulations), LDC technologies are used in SBQ3 in the form of roof mounted solar PVs and Air Source Heat Pumps and other fabric first principles are used to minimise energy and water consumption. Notwithstanding the Commercial space falls below 1000sqm with SBQ3, The submission document shows that the development is working towards BREEAM Excellent standard, the results of the pre-assessment demonstrate a route to the achievement of 'Excellent'.
- 7.177. The proposed development would target an overall reduction of carbon emissions of 56%. This exceeds the current 31% reduction on 2021 standards, set out in the Council's Guidance, and a greater than 80% improvement beyond Part L (2013).
- 7.178. SBQ 3 is designed with an all-electric energy strategy, through 'grid decarbonisation' the building would become 'net zero' over time, through operation. The building has therefore been designed as 'Net Zero ready'. The same principles can be secured via condition and required for the outline element of the proposal (SBQ 1 and 2).

### *Re-use of the existing building and embodied carbon*

- 7.179. The embodied carbon of new development can be a significant proportion of a development's lifetime carbon emissions, therefore the recycling and reuse of materials from the existing building should be considered to reduce carbon impact. The Sustainable Construction Statement states that a pre-demolition audit would be carried out to help identify materials which could be reused on site or recycled, with a target of 85% of non-hazardous waste diverted from landfill through recycling and reuse.
- 7.180. As referred to in the Sustainable Construction Statement, a Whole Life Cycle Assessment (WLCA) has been completed for SBQ3 to review the likely embodied carbon impact and options available to reduce this impact. The WLCA output would be taken into account by the developer as the design develops (SBQ 1-2) in order to reduce carbon impacts of materials.
- 7.181. Despite not being a Policy requirement the WLCA was formally submitted and the has been reviewed by an independent third party, as to its compliance with industry best practice. The technical review of the methodology by the third-party, confirms that the WLCA has been completed with a best practice approach and verifies the assumptions made within the assessment, with some recommended amendments made. The review does not comment on the output of the WLCA, with regards to embodied carbon impact or whole life carbon impact, given that there is no Council Policy to base this.
- 7.182. A large proportion of the third part commentary relates to embodied carbon impacts of the development, and that the re-purposing of the existing building should be the first approach to significantly reduce the carbon impact of the proposed development. Counter proposal was also submitted, considering the repurposing and retrofitting of the existing building. However, this application deals with the merits of the proposal formally submitted, against existing Policy.
- 7.183. In a Supplementary Planning Statement, the applicant states that several options were assessed, including repurposing the existing building. However, these options were not pursued. The applicant sets out technical challenges in repurposing the building, including condition of the existing building fabric which are unsustainable in their energy requirements and therefore would need substantial retrofit to make them suitable for reoccupation, making re-development of the site more viable. The applicant notes that significant alteration to the fabric of the building would be required to meet modern standards. There are also structural challenges with the existing frame, that would make conversion (particularly to residential) structurally challenging.
- 7.184. The applicant also makes a case that the buildings do not match with market expectations, particularly for office space, and fail to provide modern requirements in respect of key considerations for tenants such as floorplate sizes, energy performance, lighting, sustainability. The building has been predominantly vacant, for several years and there have been previous change of use consents as well as consents for partial demolition and extension.
- 7.185. The existing buildings on the site creates operational difficulties and the argument advanced by the applicant is that the accommodation is poor and outdated, this is accepted. It is recognised that refurbishment options have the lowest embodied carbon impact. However, there is no local policy basis to specifically consider embodied carbon. However, the NPPF recognises the development should be transitioning to a low carbon economy. The existing policy with regards to sustainable construction are met, and the new building has been designed with good sustainability measures.
- 7.186. Given the challenges that a retrofit scheme would face, conversion of the existing building to residential would likely deliver significantly fewer homes on the site.
- 7.187. In July 2023 the Secretary of State (SoS) issued a decision to refuse planning permission for demolition and redevelopment of an existing M&S store at Oxford Street, London. There has been third party objection to this application for consideration, with commentary on this SoS decision, drawing parallels with the

proposed scheme and the decision made by the SoS. Specifically, the comments made by the SoS in relation to the proposal failing to support the transition to a low carbon future, reuse of existing resources and the conversion of the existing building along with the substantial heritage harm identified, as a result of the loss of a non-designated heritage asset (the M&S building).

- 7.188. However, it is important to note the SoS decision is very clear that the decision is based on the circumstances of that case, in the context of the relevant development plan.
- 7.189. As set out above the proposal complies with the relevant BDP policies, in relation to sustainable construction and use of LZCT and the proposed buildings have been designed to good, current environmental standards.

### **Flood Risk and Drainage**

- 7.190. 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.
- 7.191. The site lies within Flood Zone 1 and is therefore appropriate for residential development. The existing site is extensively developed with impermeable areas (buildings and hard surfacing). The proposals would result in no net increase in the impermeable area, and no additional demand for surface water to be drained to sewers.
- 7.192. An amended drainage strategy and flood risk assessment were submitted, which conformed that the site would discharge at a restricted rate of 2 l/s per discharge location. Due to the divide between the two parts of the site (SBQ 2 and 3 to the east and SBQ 1 to the west) there would be two discharge points. The overall discharge is therefore 4 l/s which is a significant betterment on the existing scenario. The greenfield run off rate for a site of 1.07ha is 5.2 l/s.
- 7.193. The restricted run-off is managed using geo-cellular tanks, within the rear of the servicing area in SBQ3. The runoff rate has been accepted by STW as being acceptable into the combined sewer network.
- 7.194. The LLFA do not object to the proposed application subject to conditions requiring a details of the proposed drainage strategy, along with an operation and management strategy.

### **Noise, Air Quality and Contamination**

- 7.195. *Air Quality* –The application is supported by an air quality assessment and is addressed by chapter 6 of the ES. The assessment includes consideration of construction and demolition air quality impacts, operational phase impacts on existing receptors and operational phase impacts on the proposed new receptors. In respect of the construction phase the assessment concludes that mitigation would be required to address impacts during the construction and demolition phase and the mitigation measures would be addressed through a construction environmental management plan. The Environmental Health Officer (EHO) confirms that this is acceptable and that it would be necessary for the Construction Environmental Management Plan to reflect the mitigation measures detailed in ES. During the Operational phase - In respect of the first phase development for SBQ3 the model indicates that pollution levels would not exceed any of the equality objectives, which the EHO agrees with. However in respect of phase two (SBQ1 &2) there are a number of receptors where levels are projected to exceed the value where air quality mitigation measures should be

incorporated. Therefore, the outline scheme would need to be further considered, the EHO confirms this can be secured via a condition requiring a further air quality assessment.

- 7.196. *Contaminated Land* – the application is supported by a Phase 1 contaminated land study and concludes that the site is likely to be underlain by made ground, basements and there has previously been issues with underground storage tanks and remediation of a contaminant plume. The document refers to the need for detailed unexploded explosives Ordnance UXO assessment which is accepted and proposes an intrusive site investigation to assess ground gas, vapour intrusion and chemical contaminants. Conditions are required for the submission of an intrusive investigation and a remediation strategy. Demolition to slab level without further assessment is acceptable but further assessment would be required before ground disturbance, which the EHO confirms can be conditioned.
- 7.197. *Noise* – There are a number of accepted conclusions in respect of the noise impacts, largely relating to traffic noise and construction traffic impacts. However, the EHO has concerns for the noise assessment methodology and conclusions drawn in respect to commercial noise (plant) and night time entertainment noise. However, it was agreed through discussion that the internal noise environment could be acceptable if sealed windows were utilised on the affected units. However, this should be subject to further façade design and glazing details via condition. The greatest impact is to the southern elevation, facing southside. All of the proposed units are served by connectivity vents, these are not necessary for the apartments to obtain clean air or address overheating, they are for amenity purposes only. In this respect, the apartments have been designed to achieve suitable levels of residential amenity based on mechanical ventilation, regardless of whether the connectivity vents are open or closed. However, the apartments have been designed so that the vents within the living areas are openable, there are no openable vents in any of the bedrooms, which are permanently sealed.
- 7.198. The EHO raises concerns that with vents open, noise complaints could be made, which would result in a notice being served on existing premises. However, it has been proposed to deal with this via a covenant within the S.106 Agreement to require that all occupiers of affected units are required to keep amenity vents closed between 11pm – 7am. BCC Legal Team were consulted on this approach and advised that such a proposal could be acceptable and this would place onus on the owner to enforce the clause, rather than the onus be on BCC to pursue noise complaints.
- 7.199. Currently, it is considered around 16% of the units within SBQ3 would have to have sealed living spaces, all of the time, the remainder of affected units would be closed after 11pm until 7am. Conditions and the s.106 requirements would identify which units would need to close vents and set out how this would need to be controlled.
- 7.200. Should further noise assessment required by condition, allow for noise in the vicinity of the proposed scheme to reduce (thorough off-site mitigation) operation of the connectivity vents in living spaces, could be allowed.
- 7.201. The applicant is prepared to accept a S106 obligation (supported by legal advice) that would protect the Local Authority from complaints relating to noise by placing the onus on the developer/operator to enforce the provisions of the obligation and management of complaints, relating to noise nuisance/disturbance from residents.
- 7.202. This would mean that if any resident has not closed their connectivity vent between the hours of 11pm-7am they would remove their basis for complaint in respect of night-time entertainment noise and therefore the subject of suitable enforcement action from the developer/operator. Noise complaint management, including control over the closure of the vents, would become a landlord and tenant matter to be controlled by the developer/operator with their tenants, including in terms of managing the behaviour and actions of residents, and through suitable methods of communication and available information (e.g. briefings to new residents).

- 7.203. *Odour* - there are a number of commercial operations in close proximity to the proposed development. The EHO highlights that many of these have kitchen extraction. The agent of change approach would expect the developer of this scheme to address any mitigation required at nearby premises with kitchen extraction. The mitigation put forward by the applicant deals with odour at the façade and results in the lower floors of SBQ having sealed windows. This is not ideal and weighs against the scheme. However, the applicant has accepted the imposition of a condition, requiring further assessment following agent of change principles and should additional mitigation be achievable off-site that would result in windows not having to be sealed, this would be possible.
- 7.204. *Proposed commercial uses* – the application does not include specific information about the details of proposed commercial uses, as the occupiers are unknown. In the absence of any detailed uses the EHO raises some concerns with potential unknown noise and odour impacts. However, the EHO states that operational hours and the requirement for further detailed noise mitigation and insulation measures once final uses are determined could be conditioned. The application is supported by a flues and extract statement the general commercial ventilation and the proposed MVHR for residential, this approach in principle is accepted by the EHO. However, in respect of cooking extraction from commercial units the report proposes that a concealed high-level louvre band situated within the unit or on flat roofs where available to the shell of the unit would be provided. This would not be accepted as it would need to be discharged vertically upwards with minimum velocity. Therefore, this would not be accepted for kitchen extraction. However, should uses that require extraction be proposed in these units, a condition could be applied requiring the details of extraction to be agreed before first use. The EHO, also has concerns for the potential impacts of hot food takeaways, drinking establishments and nightclubs within a residential block as proposed in the outline element. This would require a detailed noise impact assessment and noise mitigation scheme as part of any full or reserved matters application, this can be conditioned.

### **Ecology**

- 7.205. Policy TP8 'Biodiversity and Geodiversity' requires all development, to result in an enhancement of the natural environment.
- 7.206. A Preliminary Ecological Appraisal has been undertaken, which assesses the potential impact of the proposed development on site habitats and species, and surveys have been undertaken to assess the potential value of the site to bats and black redstarts.
- 7.207. The site was found to offer no suitable habitat for protected species. The bat survey concluded that there are no bat roosts present due to heavy illumination and the highly urbanised location. The black redstart survey found the site does not support black redstarts due to the highly urban nature of the site with negligible green space and a lack of suitable foraging areas.
- 7.208. The proposal includes a number of mitigation and enhancement features, including;
- Planting incorporating native or wildlife-friendly species and features which would benefit breeding bird species
  - Include an appropriate nestbox scheme to provide potential nesting locations for passerine bird species
- 7.209. Whilst not a Policy requirement the application has submitted an Urban Greening Factor (UGF) assessment, this is used to improve green infrastructure provision in urban areas. It is a tool used to help contribute to Biodiversity Net Gain on sites such as this where a Biodiversity Net Gain assessments would not be appropriate, given the very urban context of the site. BCC Ecology suggested the development should aim for a score of 0.3, the submitted assessment reached a score of 0.14 for SBQ 3. Given the dense urban environment and overall increase of landscaping (and subsequent improved biodiversity and habitats) from the existing very poor baseline and noting that

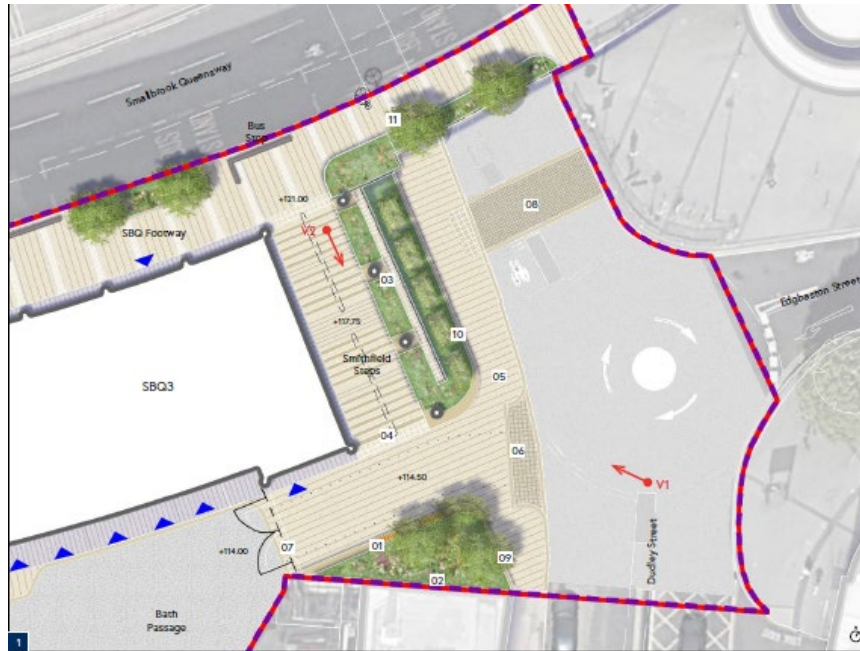
the UGF method is not required to be met in policy terms, this is accepted.

- 7.210. BCC Ecology do not object to the application, given that there is limited potential within the existing site for protected species and a construction ecological management plan has been submitted to which BCC Ecology confirmed was satisfactory. This should be complied with during construction, required by condition.

### **Transportation**

- 7.211. A Transport Statement has been prepared in support of the development proposals, summarising the existing conditions in the vicinity of the site, the accessibility of the site relative to local facilities and services, and outlining the plans to encourage sustainable transport use.
- 7.212. The site is located in the heart of Birmingham city centre and is accessible by pedestrian facilities. There are dedicated cycle lanes on Hill Street and Hurst Street which form part of National Cycle Route 5, providing access from the city centre to both the south and north of Birmingham.
- 7.213. There are a number of bus stops near the site along the northern side of Smallbrook Queensway (bus stop NS5) and along the southern side (bus stops NS8 and NS9). In addition to these, there are three bus stops are on Station Street (bus stops NS11, NS12 and NS13) which are within four-minute walk of the site. The site is situated approximately 200m from the Birmingham New Street rail station.
- 7.214. The application is also supported by a Travel Plan, which sets a strategy to inform future residents of the range of travel options available to them and implements measures to encourage the use of sustainable modes. A Travel Plan Co-ordinator would be appointed to support the delivery of the plan.
- 7.215. SBQ3 has 434 cycle spaces (including some for folding bikes, e-bikes and commercial) and has servicing continue from Smallbrook Queensway and a new area created from an existing access on Dudley Street. SBQ1 and 2 are outline in nature for 1179 residential units and also ground floor commercial units. This has servicing indicated from Smallbrook Queensway and Hurst Street both of which are existing. SBQ 3 does not propose any car parking spaces as per BCC's adopted parking guidance (2021) which encourages new development in Zone A (city centre) to adopt sustainable travel principles and no car parking facilities unless clear need can be demonstrated. Given the site's sustainable location and access to multiple sustainable transport methods, a zero-parking approach has been adopted and is accepted.
- 7.216. The detailed application provides a new pedestrian route from Smallbrook Queensway and Dudley Street, via steps that are part accessed from the private site access on Dudley Street. The development also allows for changes in the levels on Smallbrook Queensway, which has two separated levels which is historic from the pedestrian subway that used to exist at the Hurst Street junction. It alters the Smallbrook Queensway on-street parking bays, by switching the position of the motorcycle spaces and taxi/servicing bay, and modifies the mini roundabout on Dudley Street to improve the means of access to the internal servicing yard. This would need a Highway agreement (s278 and TRO) to deliver before any development is occupied.





**Layout of proposed highway works – SBQ 3**

- 7.217. BCC Transportation have no objection to the application subject to conditions preventing occupation of SBQ3 until the required highway works are completed by a s.278 agreement, Demolition and construction management plans are provided, Cycle parking provided before the development is occupied, Servicing management plan required for the commercial and residential units, Travel plan is adopted and development management affiliate to Mode shift stars organisation.

#### **Planning Obligations and Financial Viability**

- 7.218. The site falls within the Low Value Residential Area and therefore there is no CIL payment.
- 7.219. In addition to affordable housing, discussed earlier in the report, either on site public open space or contributions towards off site provision for developments of 20 or more dwellings is also required by the Open Space in New Development SPD. Given the nature of the site, this contribution would be directed off site and would be spent on the provision, improvement and/or biodiversity enhancement of public open space and associated structures, including the maintenance thereof within. BCC Leisure Services made no objections, however, note the POS requirements in accordance with BDP Policy. They state that given the nature of the development this would most likely need to be provided off site. The scheme should provide a POS contribution of £3,346,675 to be spent on the provision, improvement and/or biodiversity enhancement of public open space and associated structures, including the maintenance thereof at POS/Play priority sites within the Bordesley and Highgate Ward.
- 7.220. However, the applicant has submitted a viability report with the application which has been independently assessed by the Council's independent viability consultant. The independent consultant concludes that the development can provide 7% affordable housing, with a financial equivalent of £6,9000,000.
- 7.221. 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.

#### **Other Matters**

- 7.222. Submitted alongside the hybrid planning application is an illustrative vision document 'Smallbrook Greenway Vision Report', showing how the extensive 'greening' of Smallbrook Queensway could come forward in the future. The proposals included in



this vision document are not submitted for approval. The illustrative 'Greenway' proposals reflect BCC's aspirations as set out in the 'Our Future City Framework' particularly those relating to the potential for Birmingham to become a 'City of Nature' including through the introduction of 'City Greenways'. This holds no weight in the determination of the planning application. The applicant instructed a highways consultant to undertake appropriate traffic modelling and technical assessment of the relevant stretch of highway, including Holloway Head roundabout to demonstrate that the visioning report was sufficiently evidence by technical assessment.

- 7.223. There is existing public art on the building that would be lost as a result of development. Therefore, a condition would be added to require replacement public art at the scheme.



**Public Art at Wrottesley Street**

- 7.224. The Employment Access Team have requested that the development provide an employment access plan that would accord with Policy TP26.
- 7.225. The site is <5ha and therefore does not require a waste strategy as mentioned in Policy TP13.

#### *Pre-application Public Engagement*

- 7.226. Prior to the application's formal submission the applicant carried out a programme of pre-application consultation with the local community, the programme of which is set out in the supporting Statement of Community Engagement. This engagement took the form of a public webinar event, project website with contact details (email and phone), letter drop (to 750 addresses), and meetings with key stakeholders including BCC, Southside BID and neighbouring landowners. The feedback from the exhibition is also included with the submitted Statement of Community Engagement.
- 7.227. A total of 28 forms of feedback were received, including 24 digital feedback forms, 1 email and 3 webinar questions. Of the 24 digital feedback responses received, 15 responses were strongly unsupportive or unsupportive of the redevelopment of SBQ buildings, with 9 responses strongly supportive or supportive.
- 7.228. During the consultation process, the consultation webpage received 1,545 unique users. 33 people registered to attend the live webinar event, and 4 zoom accounts joined, 47 people viewed the recording after the event.
- 7.229. Pre-application public consultation is encouraged by the NPPF but is not mandatory.

#### **Planning Balance**

- 7.230. 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'.

- 7.231. Paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.232. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites, currently demonstrating a 3.99-year supply. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. This means that planning permission should be granted, unless adverse impacts of doing so, would significantly and demonstrably outweigh the benefits.
- 7.233. However, Footnote 7 notes the specific policies which protect important areas or assets, these include policies relating to designated heritage assets. Footnote 7 therefore establishes that where there is a clear reason for refusal (because of harm to designated assets) the tilted balance described above, is not engaged.
- 7.234. The 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, specifically in section 66, as well as the degree of accord with BDP policy TP12 and the relevant paragraphs in the NPPF.
- 7.235. A balanced judgment is also required with regards to the high level of harm (complete loss) of a locally listed, non-designated heritage asset (the Ringway Centre) and the setting of a non-designated heritage asset (Norfolk House).
- 7.236. The identified harm was as follows;
- Moderate adverse harm to Birmingham Town Hall – Grade I Listed
  - Moderate to major adverse harm to St Martin's Church – Grade II Listed
  - Moderate adverse harm to General Post Office – Grade II Listed
  - Moderate adverse harm to Former White Lion PH – Grade II Listed
  - Moderate adverse harm to the Rotunda – Grade II Listed
  - Major adverse harm to Ringway Centre - Locally Listed
  - Moderate to major harm to Norfolk House – Locally Listed
- 7.237. 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
  - The capacity to support 135 full-time equivalent jobs
  - net additional £100.5 million GVA to the economic output of the WM during construction (and £86 million concentrated in Birmingham) and;
  - an uplift of £7.4 million GVA (£5.1 million concentrated in Birmingham) once the development is completed.
- 7.238. 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
- The provision of the equivalent of 20% affordable housing. Should grant funding not be achieved, the equivalent of 15% affordable housing.
- Creation of new open space for the community meanwhile use for SBQ 2, albeit temporary, this carried limited weight.

7.239. Taking account of the extent of the 5YHLS shortfall and the acute need for affordable housing, substantial weight is given to these social benefits.

#### *Environmental*

- The scheme would bring sustainability benefits over and above those normally secured through the BDP's sustainability policies (particularly TP3 and TP4).
- The site would enhance the ecological and biodiversity offer at the site and contribute to the greening and biodiversification of the city centre.
- £6million public realm improvements
- Using suitable brownfield land within settlements for homes.
- Smithfield Steps and Wrottesley Street Steps creating better connectivity to southside and the Chinese Quarter

7.240. 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, however, noting the results of the Urban Greening Factor this is afforded moderate weight. The NPPF is clear that substantial weight should be given to the value of using brownfield land in sustainable locations to deliver homes. The public realm improvements, including new connections are afforded significant weight.

7.241. Set against these benefits is the less than substantial harm identified to designated heritage assets ranging in scale from neutral to moderate-major. 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 and adverse impact to the setting of non-designated heritage assets.

7.242. 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 199 of NPPF states that the more important the asset the greater the weight should be, additionally paragraph 202 calls for this harm to be weighed against the public benefits of the proposal.

7.243. The designated heritage assets buildings 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 a moderate-major level. However, in my view, and very much on balance, 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 202 test of the NPPF is therefore favourable to the proposal. In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies, as referenced by NPPF para.11(d)i and Footnote 7.

- 7.244. The Ringway Centre is of high local significance and there is a high degree of harm as a result of its complete loss, through demolition. There is also harm identified to the setting of Norfolk House, as result of loss of the Ringway Centre. However, taking a balanced judgement I do not consider the high level of harm to a building of local significance, and the setting of a non-designated heritage asset, to outweigh the identified significant public benefits of the proposal.
- 7.245. The need to seal 16% of units with SBQ3 to mitigate effects of noise and odour weighs against the development. The limited private outdoor space also weighs against the development, however given the city centre context these adverse impacts do not significantly and demonstrably outweigh the harm.
- 7.246. Given there are no adverse impacts identified that would significantly and demonstrably outweigh the benefits, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

## **8. Conclusion**

- 8.1. The proposed development would see the delivery of a high-quality residential led development, in a sustainable gateway location on brownfield land. The proposed 1,632 residential units would make a meaningful contribution towards Birmingham's housing shortfall and contribute towards the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver a minimum of 15% affordable housing, in accordance with local and national policies. The scheme would also provide economic, social and environmental benefits.
- 8.2. A number of significant adverse environmental effects were identified by the submitted ES, however, it is considered that with the mitigation set out through design and proposed via conditions, these identified significant adverse effects do not warrant refusal of the application.
- 8.3. 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 2022/08496/PA be APPROVED subject to the prior completion of a Legal Agreement (Section 111 and/or Section 106) to secure the following:
- Equivalent of 20% affordable rental units at a mix of 1- 2- and 3-bedroom apartments provided on site.
  - A requirement of the building owner to manage noise of affected units through the closure of amenity vents between the hours of 11pm and 7am.
  - Minimum public realm spend of £6 million, within the red line boundary of the application site.
  - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.
- 9.2. In the event that additional grant funding is not secured to deliver the equivalent of 20% affordable housing, then the equivalent of a minimum 15% affordable housing units, of a mix and tenure to be agreed, shall be provided on site.
- 9.3. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 28<sup>th</sup> December 2023 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 onsite affordable housing the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 9.4. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.5. That no objection be raised to the stopping-up of any public highway required to make the development acceptable and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.
- 9.6. That in the event of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 28<sup>th</sup> December 2023, or such later date as may be authorised by officers under delegated powers, planning permission for application 2022/08496/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).

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1	Detailed: Implement within 3 years (Full)
2	Detailed: Implemented in accordance with Approved Plans
3	Detailed: Prevents demolition prior to a redevelopment contract for SBQ 3 being entered into
4	Detailed: Requires details of temporary making good following phase 1 demolition
5	Detailed: Requires compliance with the WSI for photographic recording of the existing building
6	Detailed: Prior to the commencement of development submission of wind mitigation
7	Detailed: Prior to Commencement of Development (excluding demolition): Submission of a Contamination Remediation Scheme
8	Detailed: Requires compliance with the Sustainable Drainage Scheme for the Detailed Application site
9	Detailed: Prior to Occupation Submission of a scheme of Noise Insulation
10	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Construction Employment Plan
11	Detailed: Prior to Demolition Submission of Demolition and Construction Environmental Method Statement and Management Plan
12	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Details of Public Realm Works (excluding replacement bridge) including Hard and Soft Landscaping
13	Detailed: Requires compliance with the Arboricultural Method Statement
14	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Materials - Buildings

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15	Detailed: Prior to the Commencement of Development (excluding demolition): Submission of Architectural Details
16	Detailed: Prior to Commencement of Development (excluding demolition) the construction and approval of a sample panel on site
17	Detailed: details of solar glare mitigation
18	Detailed: Submission of Crane Management Plan
19	Detailed: Prior to Commencement of Development (excluding demolition) Submission of Extraction and Odour Control Strategy for commercial uses in SBQ 3
20	Detailed: Prior to Occupation Submission of a Sustainable Drainage Operation and Maintenance Plan
21	Detailed: Requires the completion of works for the s.278 (Highways)
22	Detailed: Requires accordance residential travel plan and Mode Shift Stars programme
23	Detailed: Prior to Occupation Submission of a Contaminated Land Verification Report
24	Detailed: Prior First Use or to Occupation of SBQ 3: Requires the prior submission of a CCTV scheme
25	Detailed: Prior to Occupation of SBQ 3: Submission of Details of Low and Zero Carbon (LZC) Energy Installation(s)
26	Detailed: Prior to installation: Submission of Shopfront Design for Commercial Units within SBQ 3
27	Detailed: Occupation of SBQ3: Submission of Details of Cycle Parking Requires the provision of cycle parking prior to occupation
28	Detailed: Post Occupation of SBQ 3 Commercial units submission of BREEAM standard Excellent certificate/statement
29	Detailed: Limits levels for cumulative noise from all plant and machinery
30	Detailed: Requires the submission of details of public art
31	Outline: Requires the submission of reserved matter details following an outline approval
32	Outline: Requires the scheme to be in accordance with the listed approved parameter plans
33	Outline: Reserved Matters submission to be accompanied by a completed Design Code Statement of Compliance
34	Outline: Reserved Matters Submission for Residential Uses (Use Class C3) to be accompanied by Noise Assessment and Proposed Scheme of Noise Mitigation Measures

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- 35 Outline: Reserved Matters Submission Proposed Scheme of Noise Mitigation Measures for Office and Light Industrial (Use Class B1), Hotel (Use Class C1) Non-Residential Institutions (Use Class D1), Assembly and Leisure Uses (Use Class D2) and Night Club Use (Sui Generis)
- 36 Outline: Reserved Matters Submission for Residential Uses (Use Class C3) to be accompanied by an Air Quality Assessment and Proposed Scheme of Air Quality Mitigation Measures
- 37 Outline: Reserved Matters - Tree Survey and Arboricultural Implication Assessment Submission Required
- 38 Outline: Reserved Matters - details of solar glare mitigation
- 39 Outline: Reserved Matters Submission of Low and Zero Carbon Technology Assessment
- 40 Outline: Reserved Matters Submission of Daylight, Sunlight and Overshadowing Assessment
- 41 Outline: Reserved Matters Submission of Updated Ecological Appraisal, Mitigation Strategy and Biodiversity Enhancement Plan
- 42
- 43 Outline: Reserved Matters Submission of Extraction and Odour Control Strategy
- 44 Outline - Reserved Matters - Submission of housing mix and tenure
- 45 Outline: Prevents demolition prior to a redevelopment contract for SBQ 1 being entered into
- 46 Outline: Prior to demolition: Submission of Demolition and Construction Environmental Method Statement and Management Plan
- 47 Outline Pre & Demolition: Submission of Demolition and Construction Ecological Management Plan (D&CEcMP)
- 48 Outline Prior to Commencement of Development (excluding demolition): Submission of a Contamination Remediation Scheme
- 49 Outline: Prior to the Commencement of Development (excluding demolition): Submission of Construction Employment Plan
- 50 Outline: Prior to Occupation Submission of a Contaminated Land Verification Report
- 51 Outline: Prior to Occupation Submission of Sustainable Drainage Operation and Maintenance Plan
- 52 Outline: Reserved Matters Submission of Sustainable Drainage Scheme
- 53 Outline: Prior to Occupation Submission of a scheme of Noise Insulation (between non-residential uses at ground floor and residential uses on the upper floors)
- 54 Outline: Prior to Occupation Submission of Extraction and Odour Control Details for Commercial Unit(s)
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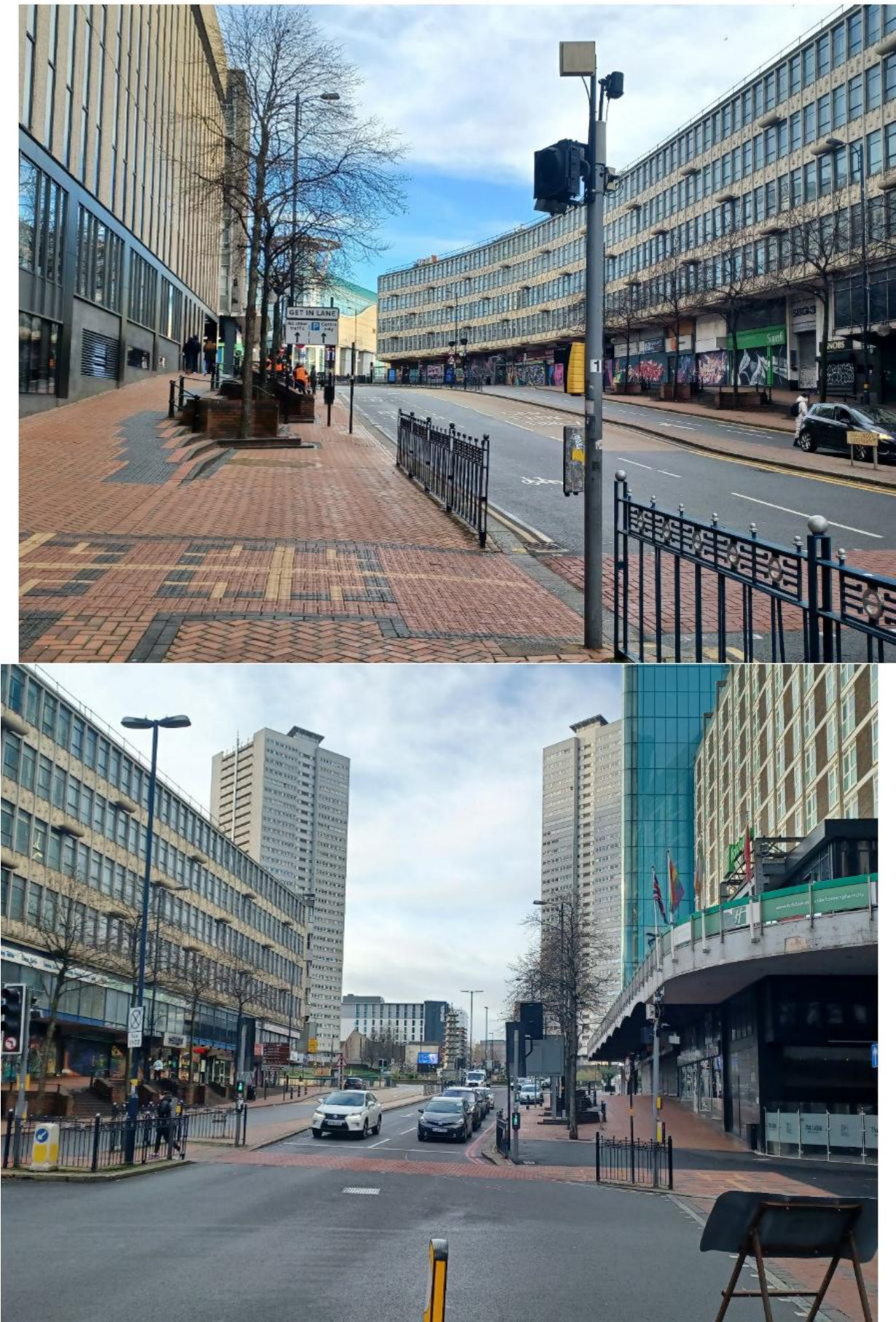
55	Outline: Post Occupation Submission of BREEAM standard Excellent certificate/statement
56	Outline: Prior to Occupation Submission of CCTV Management Scheme
57	Outline: Reserved Matters - Limits exceedance of Obstacle Limitation Surfaces
58	Outline: restricts E (a) Use Class within SBQ 1 and and SBQ 2
59	Outline: Reserved Matters Submission of Fire Statement
60	Requires the prior submission of a lighting scheme
61	Hybrid: No obstruction, displays or signage fitted to shop front.
62	Hybrid: Removes PD rights for telecom equipment
63	Hybrid: Requires the submission and approval of building & site level details for each phase.
64	
65	Hybrid: Requires a post completion telecommunications reception assessment
66	Development to accord with the construction ecological mitigation plan
67	Hybrid: remediation for unexpected contamination
68	Hybrid ; details of piling

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Case Officer: Rhiannon Hill



Photo(s)



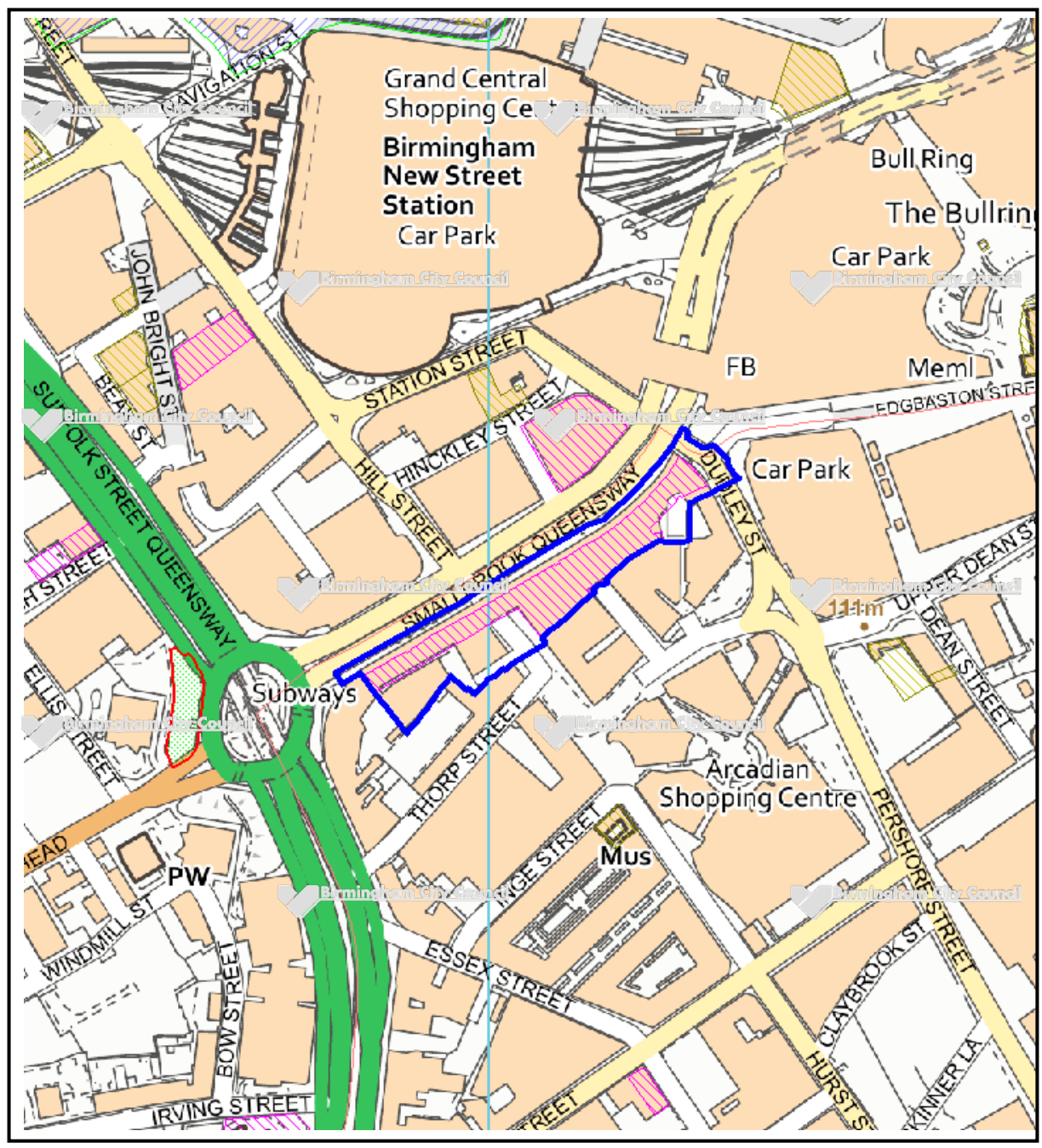








## Location Plan



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Committee Date: 28/09/2023      Application Number: 2021/05811/PA  
 Accepted: 29/06/2021      Application Type: Full Planning  
 Target Date: 18/08/2023  
 Ward: Bordesley & Highgate

Land bounded by Bradford Street, Moseley Street, Barford Street and Rea Street, Digbeth, Birmingham,

Demolition of existing buildings, erection of buildings of 7-23 storeys comprising residential apartments and 2,099sqm commercial space (Use Class E), with new public and private amenity areas

Applicant: Prosperity Investments and Developments Limited  
 Mr P R Basra and Mrs A D Basra and Raj Properties, C/o Agent,  
 Agent: PJ Planning  
 Cradley Enterprise Centre, Box No 15, Maypole Fields, Cradley, B63 2QB

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Recommendation  
**Determine**

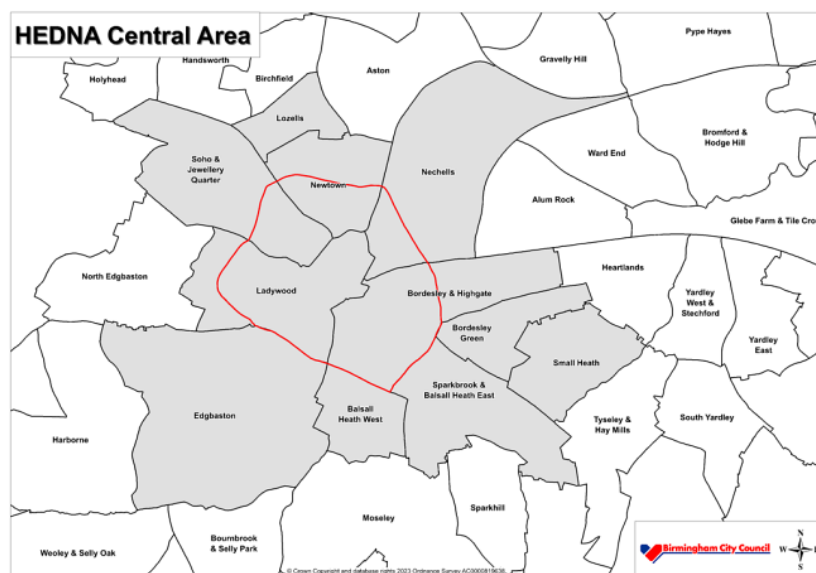
**1.0. Report Back**

- 1.1. Members will recall discussing this application at your meeting on 17<sup>th</sup> August and raising concerns regarding the proposed housing mix and the low level of affordable housing and concluding that the concerns relating to these two points did not outweigh the identified heritage harm.
- 1.2. In response to your concerns, the following changes have been made to the proposal:
  - Reduction from 711 to 687 units
  - Alteration to the housing mix as follows:
 

Original proposal: 45% 1 beds	55% 2 beds	0% 3 beds
Revised proposal: 40.5% 1 beds	58% 2 beds	1.5% 3 beds
  - Reduction in number of 1 bed 1 person units from 272 to 204
  - Increase in number of 1 bed 2 person units from 44 to 74
  - Increase in the amount of affordable housing from 10% to 15% (103 units)
- 1.3. A consultation exercise has been carried out on the amended plans which detail these changes; no responses have been received at the time of writing.
- 1.4. Further information and context are set out below to assist your Committee in determining the application.

**2.0. Housing Mix**

- 2.1. BDP policy TP30 states, '*Proposals for new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. Account will need to be taken of the:*
- *Strategic Housing Market Assessment (or any subsequent revision)*
  - *Detailed Local Housing Market Assessments (where applicable)*
  - *Current and future demographic profiles*
  - *Locality and ability of the site to accommodate a mix of housing*
  - *Market signals and local housing market trends'*
- 2.2. This policy allows for account to be taken of several strands of information which influence housing mix, however, to be clear, neither the text of policy TP30 nor any of the strands of information in themselves set a specific or rigid housing mix requirement.
- 2.3. Further analysis of the HEDNA may be helpful to draw out the nuances associated with housing mix, particularly in relation to the Central Area, which includes the city centre.
- 2.4. To recap, the housing mix starting point identified in the HEDNA for the Central Area is:
- 1 beds: 17%                      2 beds: 37%                      3 beds: 31%                      4 beds 15%
- 2.5. It is important to note that the 'Central Area' defined in the HEDNA covers more than just land within the ring road. It comprises the entirety of the following wards: Balsall Heath West, Bordesley and Highgate, Bordesley Green, Edgbaston, Ladywood, Lozells, Nechells, Newtown, Small Heath, Soho & JQ, and Sparkbrook and Balsall Heath East. These wards cover a mix of areas including the city core, inner city areas and the suburbs.



- 2.6. The HEDNA 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. It looks at the size of homes (using 2011 census data) and the location of schools and central GP practices within these areas (Tables 8.30 and 8.31).
- 2.7. Within the Inner Central Sub-Area, 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.

- 2.8. 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)
- 2.9. In its sub-area analysis, the HEDNA also states *'The location/quality of sites will also have an impact on the mix of housing. For example, 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.'*
- 2.10. Therefore, although the HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, it does acknowledge its different characteristics compared to the Outer Central Sub-Area.
- 2.11. Your Committee also acknowledged this difference, without explicit reference to it, at your meeting on 17<sup>th</sup> August by welcoming a separate application for outline planning permission for the City Hospital site, for up to 750 dwellings for the full range of house sizes. Members will recall noting the provision of larger family houses, including some with 5 bedrooms, and acknowledging their benefit to the local area. That application site falls within the Soho and Jewellery Quarter ward, which forms part of the Central Area referred to in the HEDNA but is within the Outer Central Sub-Area. The HEDNA indicates this outer area has greater access to social infrastructure and will likely be better suited for family housing than the Inner Central Sub-Area.
- 2.12. It is also helpful to consider the current housing mix across the city (based on the 2011 census), which shows the prevalence of 3 bed properties across all tenure types.

Number of Bedrooms by Tenure, 2011

		Birmingham
Owner-occupied	1-bedroom	3%
	2-bedrooms	19%
	3-bedrooms	58%
	4+-bedrooms	20%
	Total	100%
Social - rented	1-bedroom	31%
	2-bedrooms	32%
	3-bedrooms	31%
	4+-bedrooms	5%
	Total	100%
Private - rented	1-bedroom	22%
	2-bedrooms	32%
	3-bedrooms	35%
	4+-bedrooms	11%
	Total	100%

Source: Census (2011)

- 2.13. Para. 8.11 of the HEDNA states that although recent delivery has focused on 1 and 2 beds, which together contributed 69% of housing delivery between 2011/12 and 2019/20, this would only alter the table above by small amounts as it only contributes a small amount to the City's total housing stock (445,247 at 2020).



- 2.14. Therefore, the family-sized accommodation for which the city has significant need continues to make up a large proportion of the total housing stock. Recent planning permissions granted by your Committee of more traditional family houses, many in more suburban locations, will add to this existing stock as they are implemented.
- 2.15. In addition to the HEDNA, policy TP30 also allows for the circumstances of individual sites and market trends to play a part in determining house mix. Information submitted by the applicant on market trends, provided by Maguire Jackson, is referred to at paras. 7.14 and 7.15 of the original report. However, with regard to the circumstances of the site, it is located in the heart of the city centre where the HEDNA indicates social infrastructure does not favour family accommodation, and it is currently developed at low scale providing very limited employment and no housing. Although there are four non-designated heritage assets on the site, other buildings across the site are more functional, less attractive warehouse type buildings. There are also several hard-surfaced areas currently used for parking.
- 2.16. The following images show more of the buildings on the site:



- 2.17. Taking the site as a whole, it could be more effectively and efficiently used for high density housing in accordance with paras. 120 c) and d) and 124 of the NPPF. This guidance requires planning decisions to give “*substantial weight to the value of using suitable brownfield land within settlements for homes*”, to “*promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained*”, and to “*support development that makes efficient use of land*”.
- 2.18. It also seems highly likely that in keeping some or all of the non-designated heritage assets (NDHAs) on the site, a smaller development would result which would not make such a strong contribution towards meeting the City’s significant need for housing.
- 2.19. In summary, whilst recognising Members’ concern that this application would not help to meet the city’s predominant need for family-sized housing, the following reassurance is offered that the proposed apartments could fit into the city’s wider provision of housing:
- The city centre has specific characteristics which make it more suitable for smaller homes and this is only a part of the overall housing offer across the Central Area and the city as a whole.
  - The current city-wide housing mix continues to show a strong emphasis on three-bed, family-sized homes and this stock is being added to in some parts of the city

centre but particularly beyond the ring road through your Committee's decision-making.

- Site circumstances and market trends are also relevant. The site contains some NDHAs but also much development that is less attractive, under-utilised and could not easily be converted.

### 3.0. Affordable housing

3.1. BDP policy TP31 states, "*The City Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The developer subsidy will be established taking account of the above percentage and the types and sizes of dwellings proposed.*" It also allows developers to submit a Financial Viability Appraisal (FVA) when they consider affordable housing of 35% cannot be provided. The NPPF is clear that viability is a material consideration in the assessment of a planning application.

3.2. The HEDNA states, "*Overall, the analysis identifies a notable need for affordable housing, and it is clear that provision of new affordable housing is an important and pressing issue in the area. It does however need to be stressed that this report does not provide an affordable housing target; the amount of affordable housing delivered will be limited to the amount that can viably be provided. The evidence does however suggest that affordable housing delivery should be maximised where opportunities arise.*" (Chapter 7, Key Points)

3.3. Reviewing the items which have been reported to your Committee between 27<sup>th</sup> April and 27<sup>th</sup> July, the following affordable housing contributions have been secured:

City Centre sites:	Brindley Drive	5.33%
	Curzon Wharf	5%
	80-82 Great Hampton St	10.3%
	20-39 Snow Hill	9.74%
Other sites:	Boleyn Road, Rubery	61.4% (BMHT)
	Icknield Port Loop, Ladywood	10%
	Lindridge Road, Sutton Coldfield	40%
	Former BCU campus, Perry Barr	27% (BCC site)
	Trescott Road, Northfield	100% (BMHT)
	Wallis House, Selly Oak	10.5%
	Former MG Works, Longbridge	15%

3.4. In this context, the affordable housing offered is not unusually low.

3.5. The initial FVA indicated that no affordable housing could be provided but rigorous testing by the Council's independent assessor resulted in the 10% offer (71 units). Notwithstanding the results of the independent testing, the applicant has chosen to be make a revised offer of 15%. This equates to 103 units offered as follows:

Table 4: 15% Affordable Provision on the revised 687 Unit Scheme			
Type	First Homes 30% Discounted Open Market Value	LCHU 20% Discounted Open Market Value	
1 Bed	13	38	51
2 Bed	13	39	52
Totals	26	77	103

- 3.6. The applicant is also content to offer the remaining affordable units for affordable private rent, instead of discount market sale. The Affordable Housing Delivery Team is satisfied with this proposal based on the high demand for affordable rental properties within the city centre. The Team's preference would be for a greater emphasis on the larger units, noting there are now some 3 beds offered, and fewer 1 beds, however, reorganising the spread of provision accordingly would result in fewer affordable apartments overall.

#### **4.0. Heritage harm**

- 4.1. Members' concern regarding the identified heritage harm is noted. With respect to the impact on NDHAs, the high degree of harm which would be caused to their significance derives from their total loss, however, it must be remembered that their significance is at a low level. Less than substantial harm from a low to moderate level was also identified to several designated heritage assets, as discussed in paras. 7.41-7.65 of the main report.
- 4.2. Where harm is identified to heritage assets, a balanced approach to decision-making is required by the NPPF and TP12, taking account of the level of harm, the significance of the assets and the benefits of the scheme.
- 4.3. Recapping on the benefits, the scheme would provide 711 homes of which 103 would be affordable; it would redevelop a brownfield site in the centre of the city where access to jobs, shops, services, leisure facilities, etc. would be excellent; it would provide various economic benefits including jobs, resident expenditure and public realm works; it would provide place making benefits, with acceptable architecture, and contribute to the transformational change sought through the BDP and Rea Valley Urban Quarter SPD in the Southern Gateway area; and there would be environmental betterments in terms of sustainability, biodiversity and flood risk.
- 4.4. These benefits are, in my view, considerable and, notwithstanding Members' concerns, the weight I have attributed to them would remain the same as per the initial planning balance (paras. 7.153-7.181), taking account of the additional explanation and information set out above.

#### **5.0. Counsel opinion**

- 5.1. In response to your Committee's deferral of the application on 17<sup>th</sup> August, the applicant sought counsel opinion on the possible refusal, the likelihood of appeal success, should the applicant choose that route, and of a costs award being made.
- 5.2. Affordable housing: Counsel notes that the Council's independent viability assessor "*squeezed all margins to reach a 10% figure*" and that this is "*a figure that complies with Development Plan policy being the greatest contribution that the development can support*".
- 5.3. Housing mix: While noting the Central Area targets in the HEDNA, Counsel lists the "*considerable*" qualifications as follows:
- Table 8.34 is entitled '*Housing Mix Starting Point ...*'. The targets are a starting point for negotiation and are not set in stone.
  - The specific dynamic of the city centre in terms of housing mix is noted in the HEDNA, quoting the "*location/quality of sites will also have an impact on the mix of housing. For example, brownfield sites in the City Centre (particularly in the inner sub-area) may be more suited to flatted development ...*".

- TP30 is not prescriptive about mix and requires account to be taken of various factors including the HEDNA but also evidence of market signals and trends and locational characteristics. Reference is made to the Maguire Jackson evidence which was submitted by the applicant.
- 5.4. Heritage harm: Concerning NDHAs, Counsel urges caution: *“A high level of harm to the significance of assets which all only have a low level of value can only logically result in a low level of overall harm or deficit to the heritage stock of this part of the City.”* He adds, *“...the City’s own policy aim of transformative change to the Southern Gateway inevitably means that these non-designated assets will be lost if these aims are to be realised. While therefore the assets are a material consideration in the planning balance, they can only carry very limited weight.”*
  - 5.5. Regarding the designated heritage assets, he makes a similar argument – that the City’s ambitions for the area are, effectively, likely to cause heritage harm.
  - 5.6. He lists the public benefits of the scheme and concludes that while harm will occur, it is very limited in respect of NDHAs and inevitable. Harm to the designated heritage assets must be weighed against the public benefits and that public benefit clearly outweighs the harms.
  - 5.7. In the event of refusal, an appeal is recommended along with an application for costs.

## **6.0. Conclusion**

- 6.1. Given that there is no definitive housing mix which is set out explicitly in an adopted policy and that any offer to provide affordable housing must be influenced by the viability of a scheme, I do not consider a reason for refusal which balances those concerns against the heritage harm to be sustainable. The officer recommendation therefore remains to approve this application, subject to a S106 agreement to secure the 15% affordable housing units and the list of conditions attached to the report, and the formal recommendation is set out below at paras. 7.1-7.4.
- 6.2. I do, however, recognise Members’ strongly-held concerns regarding the heritage impact of this proposal and acknowledge your prerogative to give greater weight to the identified heritage harm in the planning balance than I have. Should your Committee still be minded to refuse the application then the following reason for refusal is offered for consideration:

*The proposed development would cause harm to the significance of several non-designated heritage assets, namely Nos. 30-31 Bradford Street, No. 32 Bradford Street, No. 34 Rea Street and 300-325 Cheapside, and No. 232 Moseley Street, resulting from their total loss.*

*The proposed development would also cause a moderate degree of less than substantial harm to the significance of the Grade II\* listed Parish Church of St Martin’s and the Grade II listed Anchor Public House, and a low degree of less than substantial harm to the Grade II listed Market Tavern Public House, the Digbeth, Deritend and Bordesley High Streets Conservation Area and the Warwick Bar Conservation Area, by virtue of being development in their setting.*

*In addition, the proposal fails to achieve the policy compliant level of affordable housing and to meet the identified housing mix in the HEDNA which seeks larger units, and these are further negative aspects of this proposal.*

*The identified harm would not be outweighed by the public benefits which would result from the development. The proposal therefore conflicts with policies PG3 and TP12 of the Birmingham Development Plan and the guidance contained in Chapter 16 of the National Planning Policy Framework.*

## **7.0. Recommendation**

7.1. That application 2021/05811/PA be APPROVED pending the completion of a Section 106 Legal Agreement to secure the following:

- i) 15% affordable housing comprising the following units to be provided on site:
  - 13 x 1 bedroom apartments at 30% discount (First Homes)
  - 13 x 2 bedroom apartments at 30% discount (First Homes)
  - 38 x 1 bedroom apartments for Affordable Private Rent at 80% of open market rental values
  - 39 x 2 bedroom apartments for Affordable Private Rent at 80% of open market rental values
- ii) Provision of new public realm within the site of a value of no less than £757,000 (index linked to construction costs from the date of this resolution to the date on which payment is made). In the event that the agreed public realm works cost less than £757,000 the difference will be provided to the Council to be spend on off-site affordable housing.
- iii) A financial contribution of £25,000 for the public realm works supervision fee.
- iv) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.

7.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by Friday 24<sup>th</sup> November 2023, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:

- i) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- ii) In the absence of a legal agreement to secure the provision of new public realm within the site of a value of no less than £757,000 (index linked to construction costs from the date of this resolution to the date on which payment is made), the proposal conflicts with Policy PG3 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.

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

7.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by Friday 24<sup>th</sup> November 2023, 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).

[End of report back]

## 1. **Proposal**

- 1.1. Planning permission is sought for the redevelopment of two blocks on land to the south of Bradford Street, within the Smithfield area of the city centre. Cheapside runs through the middle of the site, creating two separate parcels of land, with Rea Street and Barford Street either side. Moseley Street runs to the south and both Moseley Street and Cheapside are expected to continue into the Smithfield site to the west through implementation of the Smithfield Masterplan.



Figure 1: Application site  
(Source: 20039-GNA-XX-ST-DR-A-0100)

- 1.2. The blocks would each contain commercial uses (Class E) on the ground floor and apartments above. Building heights would be between 7 and 11 storeys, with a 23 storey tower at the southern boundary of the site facing Moseley St (within Plot 1).

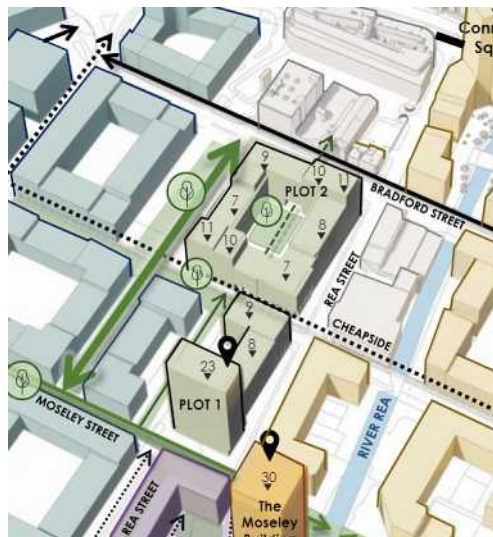


Figure 2: Proposed massing  
(Source: Design and Access Statement)

- 1.3. Proposed elevations would have a predominantly red brick finish as illustrated below:





Figure 3: Proposed Rea Street elevation showing both blocks  
(Source: Design and Access Statement)

- 1.4. Car parking: None.
- 1.5. Cycle parking: 100% for apartments plus 10 spaces for staff working in the commercial units.
- 1.6. Housing mix: 45% 1 beds; 55% 2 beds.
- 1.7. Employment: Approx 200 jobs on site/managing the construction phase, plus 100+ off-site suppliers. Approx. 100 operational jobs once construction is complete.
- 1.8. An EIA screening opinion has been issued concluding there would be no environmental impacts sufficient to justify the need for an Environmental Statement.
- 1.9. Supporting documents:

Planning Statement  
 Design and Access Statement  
 Urban Design Appraisal Addendum  
 Financial Viability Appraisal  
 Energy Statement  
 Sustainable Construction Statement  
 BREEAM Pre-Assessment Report  
 BREEAM Technical Note  
 Baseline Noise Assessment  
 Air Quality Assessment  
 Daylight and Sunlight Report  
 Wind Microclimate Report  
 Geo-environmental Statement  
 Flood Risk Assessment + Addendum  
 Flooding Sequential and Exception Test  
 Flood Warning and Evacuation Plan  
 Surface Water Drainage Strategy  
 Heritage Assessment  
 Supplementary Heritage Assessment  
 Visual and Heritage Impact Assessment Addendum  
 Verified Views  
 Zone of Theoretical Visibility Designated Heritage Assets  
 Ecological Appraisal  
 Framework Travel Plan  
 Transport Statement



1.10. [Link to Documents](#)

## 2. **Site & Surroundings**

2.1. The site forms part of the Smithfield Masterplan area, sitting alongside its eastern edge:

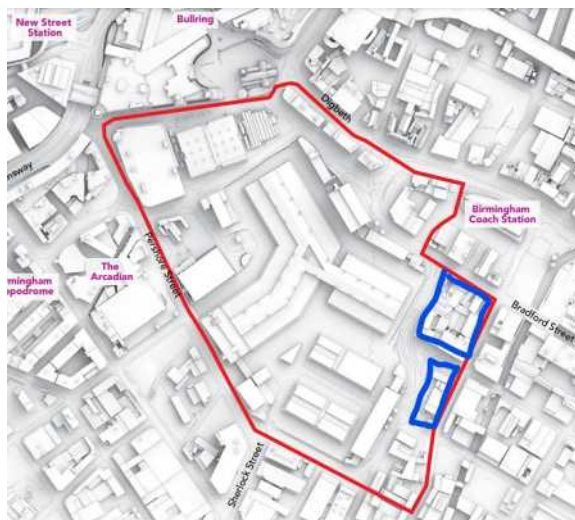


Figure 4: Outline of Smithfield Masterplan area  
(Source: Birmingham Smithfield Masterplan 2016)

2.2. It currently comprises an assortment of buildings, including some traditional red brick factory and warehouse buildings, and other post-war development. Some are in use while others are vacant. There are also surface level car parks on cleared land within the site. General scale is low, only two to three storeys.

2.3. Site area: 1.2ha

2.4. The surrounding area is undergoing significant change, with various redevelopments having been constructed, approved or currently going through the planning process. In broad terms, the area is changing from being predominantly commercial to more mixed commercial and residential, in accordance with the BDP's Southern Gateway Wider Area of Change.

2.5. Features of note include:

- Non-designated heritage assets within the application site.
- Grade II listed The Anchor public house at the junction of Bradford Street and Rea Street.
- Digbeth, Deritend and Bordesley High Streets Conservation Area approx. 150m north of the application site.
- River Rea approx. 50m east of the application site running parallel with its east boundary.

2.6. [Site location](#)

## 3. **Planning History**

3.1. 28/12/2022 – 2022/09643/PA - Land bound by, Moat Lane, Bradford Street, Rea Street, Pershore Street and Edgbaston Street (Smithfield site) - Hybrid application comprising:

- Outline application (with all matters reserved) for demolition of existing buildings and mixed use development including; residential accommodation (Class C3) co-living accommodation (Sui Generis), Hotel (C1), Commercial floorspace including; Retail, food and beverage (E(a,b,c)), flexible commercial (E), Office and workspace (E (g)), Education (F1(a)), Local Community (F2(b)), Drinking Establishment (Sui Generis), Indoor sport / recreation (E(d)), Leisure and evening entertainment (Sui Generis); Cultural uses (F1(b,c,d,e)) and flexible Market (Sui Generis) with open space and public realm works
  - Full application for the demolition of existing buildings and mixed use development of residential accommodation (Class C3) Retail, food and beverage (E(a,b,c)), Drinking Establishment (Sui Generis); Indoor sport / recreation (E(d)), flexible commercial (E); Office and workspace (E (g)), Theatre / cinema (Sui Generis); Market (Sui Generis); Workshops / studios (E (c, g)); Event space (F1 (e) / F2 (b)) together with landscaping, public realm and open space (including new public square), vehicular access, pedestrian and cycle infrastructure, drainage infrastructure, lighting and other associated development - Awaiting decision.
- 3.3. 10/01/2022 – 2022/00135/PA – Land to south of Moseley Street, Southside – Hybrid planning application comprising:
- Full element for site clearance and demolition of existing buildings and erection of new buildings for mixed-use development comprising: residential apartments (Class C3) with ancillary internal and external amenity areas; commercial floorspace (Class B2, Class E, Class F1 and F2, and/or sui generis (drinking establishments); works to the River Rea; landscaping; servicing and parking; and other associated works on land bound by Barford Street/MacDonald Street/Rea Street (Site A), and on land bounded by Rea Street South/Moseley Street/Charles Henry Street (Site C).
  - Outline element with all matters reserved comprising demolition of existing buildings and erection of two new buildings for mixed-use development comprising: residential apartments (Class C3) with ancillary internal and external amenity areas; commercial floorspace (Class B2, Class E, Class F1 and F2, and/or sui generis (drinking establishments); associated public realm works and landscaping; access and parking; and all other associated works, on land at Charles Henry Street (Site D). – Awaiting decision.
- 3.4. 10/01/2022 – 2022/00136/PA – Land bounded by Barford Street, Rea Street South, Charles Henry Street, Lombard Street, Moseley Street, MacDonald Street, Adelaide Street and Lower Darwin Street, Southside - Outline planning application with all matters reserved comprising site clearance and demolition of all existing buildings and erection of new buildings ranging up to 15 storeys for a mixed use development of up to a maximum 101,029sqm floorspace (GIA) including: up to 85,701sqm of residential accommodation and associated amenity floorspace (Class C3), up to 15,328sqm floorspace of flexible uses (including Use Classes B2, Class E, Class F1, F2 and / or sui generis (drinking establishments), works to the River Rea and new pedestrian crossings, associated public realm works and landscaping, works to the highway and all other associated works on land bounded by Moseley Street / Lombard Street / Adelaide Street / MacDonald Street/Barford Street – Awaiting decision.

#### 4. **Consultation Responses**

- 4.1. [Transportation Development](#): No objection subject to the following conditions:

- Construction Management Plan to define highway impacts before any works, including site clearance, commence.
- Grampian style conditions for highway works, including removal of redundant footway crossings and associated improvements, to be carried out before the development is occupied.
- Public footway to be in place before servicing layby is constructed and development occupied.
- Cycle parking and refuse stores to be provided before occupation.
- Boundary treatment required to prevent drivers parking on forecourt areas.

4.2. [Regulatory Services](#): No objection subject to the following conditions:

- Scheme of noise insulation to be submitted and implemented prior to occupation.
- Submission of an overheating assessment
- Submission of Construction Management Plan to control dust
- Submission of contaminated land site investigation and remediation strategy
- Submission of contaminated land verification report

4.3. [City Design Team](#): No objection. The layout of the development would transform the way the site functions and would respond to the emerging townscape in this part of Birmingham. The ground floor layout of Plots 1 and 2 are improved. The architecture and landscaping are ambitious.

4.4. [Principal Conservation Officer](#): Harm to heritage assets is identified which triggers the tests of paragraphs 202 and 203 of the NPPF and the planning case officer will need to be satisfied that:

- the public benefits of the scheme can outweigh the degrees of less than substantial harm identified to the designated heritage assets; and
- that the balanced judgment of harm verses significance to the non-designated heritage assets is properly considered as part of the wider material planning benefits of the scheme.

4.5. [Principal Ecologist/Arboriculturist](#): No objection subject to conditions:

- Construction Ecological Mitigation Plan to be provided
- Bat/bird boxes to be provided
- Hard and soft landscape details to be provided
- Details of green/brown roofs to be provided

Ecological appraisal identifies 9 buildings with low potential for bats, with the remainder of negligible potential. Surveys of bat activity will need to be carried out prior to demolition. Further survey work is also needed in respect of Black Redstart. The images shown in the Design and Access Statement of the courtyards and roof gardens are encouraging and conditions are recommended to ensure these are delivered to last, e.g. with adequate rooting volume for trees.

4.6. [Leisure Services](#): In accordance with the BDP policy TP9, this scheme generates an off-site public open space (POS) and play area contribution of £1,473,375. This should be allocated towards provision, improvement and or maintenance of off-site public open space within the Bordesley and Highgate Ward which has an under provision against the 2ha per thousand population target in the BDP. This could be directed towards the provision, improvement and/or biodiversity enhancement at Highgate Park or other POS priorities within the Bordesley Open Space Strategy.

- 4.7. [Employment Access Team](#): No objection subject to a condition/S106 clause to secure local employment.
- 4.8. [Lead Local Flood Authority](#): No objection subject to conditions requiring the submission of Sustainable Drainage Strategy and a Sustainable Drainage Operation and Maintenance Plan.
- 4.9. [Severn Trent Water](#): No objection subject to the following condition:
- Drainage plans for the disposal of foul and surface water flows shall be submitted prior to commencement.
- 4.10. [Environment Agency](#): Objects. A previous objection was withdrawn following amendments to the plans in accordance with EA advice which showed the following flood mitigation measures:
- The proposed ground floor level to match the existing, to avoid displacement of flood water.
  - Flood resistant and resilience measures to be implemented on the ground floor to minimise flood damage.
  - More vulnerable uses to be restricted to the first floor and above.
- However, further amended plans/supporting documents (Sept 2022) do not indicate that these measures would continue to be implemented, hence reinstatement of the objection.
- 4.11. [Historic England](#): Concern due to the impact on the Grade II\* listed St Martin's Church through development within its setting. HE agrees with the applicant's assessment that the development would cause a moderate level of less than substantial harm and this should be weighed against the public benefits of the scheme.
- 4.12. [Birmingham Civic Society](#): Supports the scheme. The residential element would support other new residential development in the Southern Gateway. The scheme would improve the settings of nearby listed buildings. The maximum height at 23 storeys is much higher than those proposed along Bradford Street, but other taller buildings have been approved on Digbeth/Deritend High Street and the Smithfield proposal will include a significantly high tower. The proposals take account of the flood risk. Proposed materials and detailing are ambitious and interesting and if delivered will raise standards in the area. Missed opportunity to celebrate the particular industrial heritage of the site, though effort has been made to create a sense of place.
- 4.13. [West Midlands Police](#): No objection subject to the following conditions:
- CCTV to be provided.
  - Lighting scheme to be submitted.
  - Maintenance plan to be submitted.
- 4.14. [West Midlands Fire Service](#): No objection.
- 4.15. [Birmingham Airport](#): No objection however cranes may be required during the construction phase which could result in infringements of protected surfaces for the Airport. Any cranes exceeding 150m above ground level shall require an Instrument Flight Procedure Assessment to be undertaken.

## 5. **Third Party Responses**

5.1. Site and press notices posted; local ward councillors, MP and Residents' Associations, and the occupiers of nearby properties notified of the application.

2 representations received making the following comments:

- The destruction of Digbeth's character for these place-less generic apartment blocks is unacceptable and must be blocked. There are at least 4 or 5 nice heritage buildings on this site which define the streetscape of Digbeth, and all of these are planned to be demolished. Totally ruining the heritage and character of the city.
- The public realm plans are excellent and the inclusion of both recessed residential balconies and ground floor commercial premises in an area devoid of street level activation is to be welcomed.
- The building design is so poor as to warrant rejection of the application. The architecture is placeless, boring and only responds superficially to local character.
- Several historic buildings on the site although unlisted are worthy of retention and representative of the area's character. Demolition would be contrary to BDP policy TP12.
- From a design and sustainability perspective, the buildings fail to meet the ambitions of the Smithfield Masterplan and the Rea Valley Urban Quarter SPD.
- The development contravenes a number of BDP policies: the towers are not on a gateway site, nor near the proposed metro route and so do not respond to the planned or existing locality (Policy TP30).
- The generic architecture does not positively contribute to place making or respond to the local area context, including heritage assets and appropriate use of innovation in design (Policy PG3). It is unclear which 'quarter' this site really responds to (Policy GA1.3) but it does not reflect the local character of any.

5.2. 1 response from a representative of those with an ownership interest in the application site, raising no objection and stating the scheme will greatly improve the location.

5.3. 2 responses from Lendlease, the Council's development partner for the Smithfield site, objecting on the following grounds:

- The appointment of Lendlease as the development partner was with the intention of delivering comprehensive redevelopment and the benefits a joined-up approach would bring.
- In addition to the five big moves contained in the Masterplan, other uses are proposed as benefits alongside the revenue-generating uses. It is essential that the revenue-generating plots make a commensurate contribution to delivering these uses.
- Piecemeal development is likely to result in the potential of such a large development opportunity being under-realised.
- Absence of an EIA screening opinion.
- Lack of evidence to support conclusions of Heritage Assessment. Lack of a comprehensive assessment of all nearby heritage assets of significance.
- Moderate level of less than substantial harm to the significance of heritage assets, specifically St Martin's Church, would not be outweighed by the public benefits of the scheme, including the lack of on-site affordable housing, limited publicly accessible facilities/open space, and prejudice aspects of the wider Smithfield Masterplan.
- An updated, detailed assessment of potential adverse impacts on setting of The Anchor PH is needed.
- Proposal does not demonstrate compliance with emerging fire safety guidance and building regulations in relation to the provision of stair cores.
- Proposed landscape strategy does not reflect amendments made to levels and landscaping to satisfy the Environment Agency.

- Possible sterilisation of development potential for the Smithfield Park area within the Smithfield Masterplan, due to proposed pedestrian and vehicular access route for Pressworks along Barford St, and proposed flood evacuation route. Prejudice the delivery of a high quality public open space.
- Concerns regarding the methodology of the Baseline Noise Assessment and the accuracy of the results. Impact of noise from and to the development during the overheating scenario is not discussed.
- Absence of on-site affordable housing and contribution towards wider infrastructure within Smithfield area.
- Housing mix comprising 1 and 2 bed units only goes against the Smithfield Masterplan principle of delivering a mix of units including 3 and 4 bed family houses. It is not reasonable to expect the remainder of the Smithfield development to redress this imbalance.

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

### 6.1. **National Planning Policy Framework**

The following chapters and paragraphs are of relevance to the proposal but this list is not exhaustive:

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 11  
 Chapter 4: Decision-making – paras. 56, 57  
 Chapter 5: Delivering a sufficient supply of homes – paras. 60, 62  
 Chapter 8: Promoting healthy and safe communities – paras. 92, 98  
 Chapter 9: Promoting sustainable transport – paras. 104, 110, 112  
 Chapter 11: Making effective use of land – paras. 119, 120, 124  
 Chapter 12: Achieving well-designed places – paras. 126, 130, 131, 132, 133  
 Chapter 14: Meeting the challenge of climate change, flooding and coastal change – para.152  
 Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180, 183, 185, 186, 187  
 Chapter 16: Conserving and enhancing the historic environment – paras. 189, 194, 195, 197, 199, 202, 203, 206

### 6.2. **Birmingham Development Plan 2017**

PG1 Overall levels of growth  
 PG3 Place making  
 GA1 City Centre  
 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  
 TP11 Sports facilities  
 TP12 Historic environment  
 TP17 Portfolio of employment land and premises  
 TP20 Protection of employment land  
 TP21 The network and hierarchy of centres  
 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 Health



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

### 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

Smithfield Masterplan 2017  
Rea Valley Urban Quarter SPD 2020  
Birmingham Design Guide SPD 2022  
Loss of Industrial Land to Alternative Uses SPD 2006  
Public Open Space in New Residential Development SPD 2007  
Sustainable Management of Urban Rivers and Floodplains 2007  
Conservation Through Regeneration SPG 1999

## 7. Planning Considerations

### Background

- 7.1. This application relates to land which, although within the Smithfield Masterplan area, is beyond the boundary of the former wholesale markets site and is not owned by the Council.

### Key considerations

- 7.2.
- Loss of existing development
  - Principle of the proposed uses
  - Affordable housing
  - Design issues, including layout, scale, mass and architectural design
  - Landscape/ecology
  - Heritage impact
  - Sustainability
  - Flood risk and drainage
  - Noise, air quality and contaminated land
  - Residential amenity
  - Transportation matters
  - Safety/security
  - Planning obligations

### Loss of existing development

- 7.3. The site comprises a variety of buildings at present, many in a deteriorating state, but some are examples of good late 19<sup>th</sup> century and early 20<sup>th</sup> century works, factories and clerks' offices. Some are of local historic and architectural interest, are completely characteristic of this district of Digbeth/Cheapside and are considered to be non-designated heritage assets (NDHA). Consequently, the applicant's Supplementary Heritage Assessment (SHA) has identified them and assessed their loss. Your Principal Conservation Officer (PCO) has reviewed the SHA and reached the following

conclusions on the NDHAs:

- 7.4. *Nos. 30-31 Bradford Street and No. 32 Bradford Street*: These are good buildings which, despite alterations (which are not irreversible) retain a number of architectural features and details reflective of their period and distinctive to these industrial areas of Digbeth. The SHA conclusion that they hold a low level of heritage value is agreed, however your PCO considers the level of harm to their significance to be high, rather than low, because they would be completely demolished.



Figure 5: Nos. 30-31 and No. 32 Bradford St

- 7.5. *No. 232 Moseley Street*: A former shop with residential accommodation above, the shopfront now being absent although its extent remains legible. The SHA considers the building retains a degree of historic and architectural interest but of comparatively low order. Your PCO agrees but as above, considers the level of harm to the significance of the NDHA to be high rather than low due to the full demolition proposed.



Figure 6: No. 232 Moseley St

- 7.6. In addition, to those assessed by the applicant, your PCO considers *No. 34 Rea Street/Nos. 300-325 Cheapside* to be an NDHA as well. This building holds a prominent position on the corner of Rea Street and Cheapside and is a good example of the larger commercial buildings of Digbeth dating from the early-mid 20<sup>th</sup> century. It shows good qualities in its simple design and proportions, materials and architectural features, retaining its original steel windows. Notwithstanding the insertion of modern roller shutters, it holds heritage value and is considered to be an NDHA. Complete loss would result in a high degree of harm to its significance.



Figure 7: Nos. 300-325 Cheapside/No.34 Rea St

- 7.7. Therefore, the proposal would result in a high degree of harm to the significance of these four NDHAs, arising from their complete loss. In accordance with para. 203 of the NPPF, the effect of this proposal on the significance of NDHAs should be taken into account in the determination of the application. A balanced judgment will be required having regard to the scale of any harm or loss and the significance of the assets. A conclusion on this matter will be reached below in the Planning Balance section towards the end of this report.
- 7.8. In addition to the loss of heritage assets, the proposal would see the loss of employment land which BDP policy TP20 seeks to protect. However, exceptions are permitted where this land has become obsolete and where the site is either a non-conforming use, or it is no longer attractive having been actively marketed. The Loss of Industrial Land to Alternative Uses SPD also states that within the city centre, a more flexible approach to changes of use from industrial to residential will be required to support regeneration initiatives. Taking a broad view, many of the buildings within the site appear to be vacant with little prospect of providing jobs in the near future, and their loss would facilitate wider regeneration efforts through the Southern Gateway Wider Area of Change. Clearance of this site would also allow for new commercial units to be provided as part of mixed-use redevelopment, which are likely to be more attractive to businesses in the E class. Consequently, in land use terms, there is no objection to the redevelopment of this site.

#### Principle of proposed uses

- 7.9. The Southern Gateway Wider Area of Change is identified in BDP policy GA1.2 as the focus for expansion of the City Centre Core southwards through Smithfield towards Highgate. A mixed-use approach is supported, including residential, along with high quality public spaces and routes. Architecture and sustainability credentials are expected to be exemplar and development across the wider Southern Gateway will need to address the sustainable management of the River Rea Corridor which is associated with areas of flood risk. The site is also identified within the Housing and Economic Land Availability Assessment and the Brownfield Register.
- 7.10. *Commercial uses:* The proposed uses would fall within use class E which includes retail shops, cafes/restaurants, financial and professional services, indoor sport/fitness, medical and health services, day nurseries, offices, R&D, and light industry. The site lies 385m outside of the 'City Centre Retail Core' where retail uses should be focussed in accordance with BDP policies GA1 and TP21. However, policy GA1.1 supports appropriate scale retail development where it complements the existing retail core as part of mixed-use redevelopments. As the proposed commercial space totals only 2,099sqm and would be split between two buildings, it would complement rather than compete with the retail core and is therefore acceptable.
- 7.11. *Residential use and housing mix:* This is acceptable in principle within the Southern Gateway and in providing 711 new dwellings it would make a good contribution to

addressing the city's housing need, particularly given the lack of a five year housing land supply.

- 7.12. Since the application was made, the Council's Housing and Economic Development Needs Assessment (HEDNA) has been published (April 2022), which updates the 2012 Strategy Housing Market Assessment cited in the BDP. This provides the most up to date evidence base on the mix of dwelling sizes required in the city and breaks down the mix required into sub-areas. For the central area where the application is located, the mix should be as follows (source Table 8.34, HEDNA):

1 beds: 17%	2 beds: 37%	3 beds: 31%	4 beds: 15%
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- 7.13. The proposed mix is:

1	beds: 45%	2 beds: 55%	3 beds: 0%	4 beds: 0%
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- 7.14. The majority of apartments, 394 units, would be 2 beds, which accords with the HEDNA data. However, the remainder would be 1 beds and of these, 272 would be 1 bed 1 person units. In the absence of any larger units, which the HEDNA shows are in need in the city's central area, the applicant has sought to justify the mix with reference to market trends, stating this is *"not an unreasonable mix for a city centre development. One beds are popular with young professional couples and single professionals which the city are aiming to attract/retain and they are cheaper to buy/rent and lower service charge if working within a budget."*

- 7.15. In addition, a letter from local property agent, Maguire Jackson, on the current residential sales and rental market indicates that main demand in sales is for properties below £300,000, making one-bedroom apartments in the £200,000-£265,000 range more saleable than two-bedroom properties in the surrounding area. Larger properties (2+ bedrooms) are in greater demand in more mature residential areas such as the Convention Quarter and the Jewellery Quarter. Digbeth, which is still developing as a residential district, is more attractive to first time buyers and buy to let landlords. The rental market continues to be resilient with the biggest demand for single people and couples looking for one-bedroom flats, or sharers looking for two bedrooms.

- 7.16. I am mindful that, in addition to the HEDNA data, the Smithfield Masterplan refers to the creation of a neighbourhood with *"a mixture of 2, 3, 4 bed apartments"* with *"community facilities such as a health centre and primary school all contributing to the creation of a great place to live"*. The development would go some way to supporting a more family-friendly neighbourhood in the city centre, with its 394 2-bed apartments, however it is acknowledged that this part of the Masterplan area would not provide any larger units that might be attractive to bigger families or groups sharing an apartment. The application is supported by Counsel opinion that the Smithfield Masterplan is not relevant to the assessment of this application, to which a fuller response is provided later in this report, however, suffice to say here that, in my view, it is a material consideration.

- 7.17. Both the HEDNA and the Smithfield Masterplan clearly support the provision of 2 bed apartments and these are therefore welcomed. I acknowledge that market trends appear to support the provision of 1 bed apartments to a greater extent than the HEDNA indicates there is a need for, however the evidence put forward for this seems to be more anecdotal than empirical and is more a measure of demand than need.

- 7.18. In summary on the matter of principle, notwithstanding the impact on non-designated heritage assets about which a balanced view will be taken later in this report, the proposed development would accord with the regenerative aspirations of the BDP and the Smithfield Masterplan through mixed use development within the Southern

Gateway Growth Area. The 711 apartments proposed would make a good contribution towards meeting the city's housing need although the 2 beds would best accord with the identified needs and the number of 1b1p units is disappointing.

### Affordable housing

7.19. BDP policy TP31 states the Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. Where an applicant considers a development proposal cannot provide 35% affordable housing, for example due to abnormal costs or changing economic conditions, the viability of the proposal will be assessed.

7.20. In this instance, the applicant submitted a Financial Viability Appraisal to demonstrate that no affordable housing could be provided. However, following independent assessment of the FVA on behalf of the Council, it has been agreed that the site could provide 10% affordable housing, without prejudicing its deliverability, with the following discounts:

- 9 x 1 bedroom apartments at 30% discount (First Homes)
- 9 x 2 bedroom apartments at 30% discount (First Homes)
- 27 x 1 bedroom apartments at 20% discount (Discount Market Sale)
- 26 x 2 bedroom apartments at 20% discount (Discount Market Sale)

7.21. The discounts would equate approximately to the following reductions:

First Homes: 1 bed: £193,000 down to £135,000  
2 bed: £300,000 down to £225,000

Market Sales: 1 bed: £190,000 down to £152,000  
2 bed: £300,000 down to £240,000

7.22. Using a basic online mortgage calculator, the sales value of the First Homes with the 30% discount should fall within the government's eligibility criteria for First Homes (household income of no more than £80,000) and the market sales values should just fall within the Council's eligibility criteria for affordable housing (a single person earning £30,000pa or a couple earning £45,000pa). On this basis, I would expect it to be possible for these affordable homes to be sold to eligible purchasers.

7.23. The 10% offered is disappointing against a target of 35%, however, in the context of other city centre schemes recently considered by your Committee, it is a comparable or better offer.

7.24. The Council's Affordable Housing Team has provided the following comment:

*"The provision of affordable homes as negotiated by the Councils independent assessor will provide a supply of affordable home ownership options in the centre of the city. The provision of 1 and 2 bedroom properties would be most suitable for the area for affordable home ownership options which is supported by the HEDNA 2022. Affordable home ownership options as offered within the scheme will provide an opportunity for people who wouldn't otherwise be able to buy their own home on the open market to own a property in the centre of the city."*

### Design matters

7.25. The final design now proposed has been the subject of discussion and amendment throughout the application process, with input from your City Design Manager.

7.26. *Layout:* The Smithfield Masterplan shows the following layout for the area with a linear park along Moseley Street shown in green:





Figure 8: Smithfield Masterplan Plan 4 – Pedestrian and Cycle Connections (Source: Smithfield Masterplan)

- 7.27. However, this is indicative only and proposals may depart from it, as this scheme does. The two existing city blocks would be retained in their current position, with no changes to the road layout, (see Figure 6 below) and your City Design Manager has no objection to the arrangement of the proposed buildings. The Design and Access Statement shows indicatively how the remaining Masterplan area could reasonably be laid out, demonstrating that a more piecemeal approach need not compromise the layout of the overall Masterplan area.
- 7.28. The development would preserve the connections made by Cheapside and Moseley St between Smithfield and into Highgate, via the Rea Valley Urban Quarter SPD area, and tree planting/landscaping is proposed for both streets.

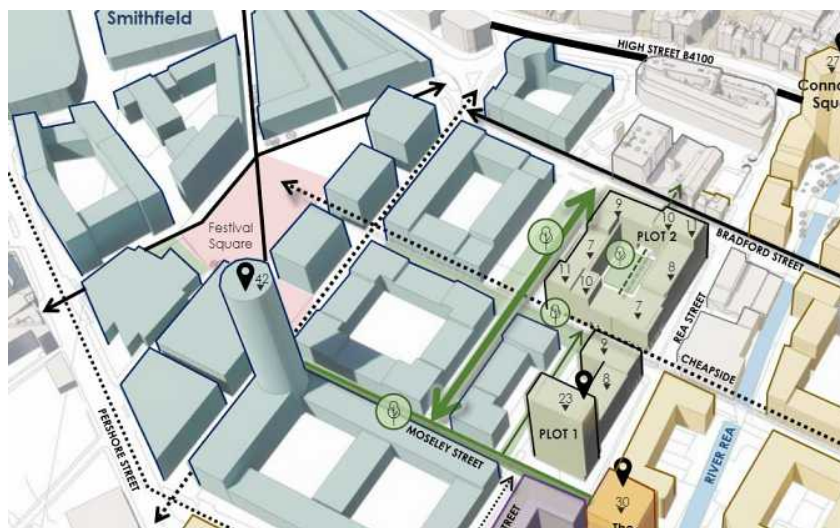


Figure 9: Proposed site layout and indicative layout of remainder of Smithfield Masterplan area (Source: Design and Access Statement)

- 7.29. **Scale, height and massing:** The scheme generally proposes a mid-scale height of between 7-10 storeys. The tallest element is a 23 storey tower at the southern end of the site, facing Moseley St, which the City Design Manager is able to support on the basis that in combination, the Smithfield Masterplan and the Rea Valley Urban Quarter SPD seek to create a new boulevard route along Moseley St. The tower was originally at the Bradford St end of the site where it would have been at odds with the hierarchy



of streets and with a more significant impact on the Grade II listed The Anchor pub; relocating it to Moseley St is a better urban design solution.



Figure 10: Proposed 23 storey tower facing Moseley St  
(Source: Design and Access Statement)

- 7.30. **Wind microclimate:** As a tall building is proposed, the application is supported by a Wind Microclimate report. In the absence of dominant structures, existing conditions in and around the site are expected to be largely driven by exposure to prevailing winds which are from the southwest, with southerly and northwesterly winds are relatively frequent. As existing, based on the Lawson criteria for pedestrian safety the site rates as safe and in terms of pedestrian comfort, conditions are suitable at least leisurely strolling on thoroughfares in and around the site. Conditions are suitable for access into buildings and for waiting at bus stops, however, at The Anchor pub which has picnic benches on the forecourt, conditions would be suitable for 'Occasional Sitting' but too windy for 'Frequent Sitting'.
- 7.31. In respect of the proposed development, the report concludes as follows:
- No significant impact on wind conditions with regard to pedestrian safety.
  - Thoroughfares within and alongside the site are suitable for pedestrian access to and passage past the development in terms of pedestrian comfort.
  - Main entrances would enjoy suitable conditions for pedestrian ingress/egress.
  - Recreational spaces, including rooftop terraces, would generally enjoy suitable conditions for the planned activities.
  - Minor adverse impact on Rea St where conditions would become marginally windy, but tolerable, for comfortable pedestrian passage to the east of the tower.
  - No significant adverse cumulative effects with future surrounding developments expected, with conditions in and around the site enhanced due to additional shelter from approaching winds.
- 7.32. The assessment takes account of various "designed-in features" including tall shrubs (up to 1.8m) and 5m tall trees to the south of Plot 1 on Moseley St; 1.2m tall solid walls and 1.5m tall hedges within the courtyard in Plot 2; and 1.2m high balustrades and 2.4m tall screens on roof terraces, with more active recreational uses assigned to the southern parts of the Plot 1 terrace. No other mitigation measures are required. In my view, these measures could be achieved as part of the landscaping condition and this has been amended to secure these features.
- 7.33. **Architecture and materiality:** Six building typologies are proposed and principal

materials would be brick, terracotta and concrete, which reflect local character. The Design and Access Statement includes bay studies showing the use of the main and feature materials, reveals, balustrades and other architectural elements. Your City Design Manager notes that the detailed architectural design and modelling is generous, with good reveal depths for example, and Building F proposes curved glazing. All of these features are welcome and detailed conditions are attached to ensure that the good quality design shown in the drawing is delivered.



Figure 11: Building F facing Bradford Street  
(Source: Design and Access Statement)

#### Landscaping/ecology/biodiversity

- 7.34. Following amendments to reduce the impact of flooding (see below), the site would be developed at its current ground level and all of the planting, other than on roof gardens, would be at grade. Both your City Design Manager and Principal Arboriculturist have welcomed the landscaping proposals. Good space for planting is proposed, especially on Plot 1 where it would be publicly accessible and could contribute significantly to greening the streetscene and enhancing the public realm. On the roof, space has been given over for residents' terraces, biodiversity roofing, solar photovoltaics and air source heat pump equipment, which would make good use of the space.
- 7.35. Ecological survey work to date indicates that several of the existing buildings have low potential for roosting bats and Black Redstart birds have also been recorded in the locality. Your Senior Ecologist has recently reviewed the application and advised that the original Ecological Appraisal and initial bat roost inspection are now more than two years old and he recommends further survey work is undertaken prior to determination of the application. Bats are European Protected Species (EPS) and where these are present, the LPA must consider the three tests in Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) prior to determination of a planning application. The tests are:
- Test 1: The derogation is in the interests of preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- Test 2: There is no satisfactory alternative.
- Test 3: The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 7.36. It is not possible to say definitively, based on the survey work to date, that the proposed development would meet the requirements of Test 3 and that derogation would occur.

- 7.37. Having regard to the tests above, in my view the proposed development could meet the requirements of Tests 1 and 2. The delivery of major regeneration through the implementation of the Southern Gateway in BDP policy GA1.2 and the delivery of housing on this site as part of that would be in the public interest from a social and economic perspective. Furthermore, the only alternative would be to try to re-use and convert the buildings which is highly unlikely to be successful in terms of place-making, most likely would be financially unviable, and would deliver significantly fewer new homes.
- 7.38. In terms of Test 3, further surveys are needed to determine an appropriate and proportionate level of mitigation and conditions are attached to secure this work and suitable mitigation should either bats or Black Redstarts be found to be using the site.

#### Impact on heritage assets

- 7.39. The application is accompanied by a Heritage Statement, Supplementary Heritage Statement, Visual and Heritage Impact Assessment Addendum, Verified Views and a Zone of Theoretical Visibility Designated Heritage Assets. Together these identify heritage assets which could be affected by the proposal and describe their significance, as required by para.194 of the NPPF.
- 7.40. The impact on non-designated heritage assets within the application site is set out at paras. 7.3-7.7 above however other assets would also be affected. The impact on various assets has been tested, however only those where harm would arise are discussed here.

#### The Anchor PH, Bradford St – Grade II

- 7.41. Built 1901 from red bricked terracotta, this has a degree of prominence occupying a corner plot at the junction of Bradford St and Rea St. It's historic setting has been diminished through later clearance and redevelopment, although the retained 19<sup>th</sup> and early 20<sup>th</sup> century building along both streets contribute positively in placing the building within its historic context.



Figure 12: The Anchor PH (Source: Google Maps)

- 7.42. The Supplementary Heritage Assessment (SHA) identifies the proposed development as a distinct new visual element to the south of The Anchor and states it will not impact on views which take in the building from Bradford St. It also considers that in the context of surrounding redevelopment, the proposal will not substantively impact on positive elements within the current setting of the pub. Removal of negative visual elements within the application site will also provide some enhancement to the visual setting. It concludes the urban setting would be maintained with no adverse impacts

on significance.

- 7.43. Your Principal Conservation Officer (PCO) does not entirely agree with these comments or conclusions. Notwithstanding some negative elements within the application site (e.g. gap sites, poorly maintained buildings) there are some non-designated heritage assets (NDHAs) within the site which share some characteristics with The Anchor, for example, age, scale, form, materiality and design details, as well as historic communal associations. Clearance of the whole site would remove further elements of the historic setting of The Anchor. In her view, this would negatively impact on the setting causing harm through the complete loss of buildings which contribute positively towards its setting. Furthermore, redevelopment at a much larger scale would have a significant impact on the immediate setting of the pub. She concludes that the proposal would cause less than substantial harm to the setting of the Anchor. The harm arises through the demolition of buildings which contribute positively to the setting of the Anchor and the introduction of an unprecedented scale onto the site. As historic setting is compromised she would place the degree of harm at the moderate level of less than substantial. Viewpoint 2 of the Verified Views document demonstrates the overbearing impact of the scale of the development on The Anchor.



Figure 13: Verified View 2  
(Source: Verified Views July 2023)

#### [Parish Church of St Martin - Grade II\\*](#)

- 7.44. The significance of the church is summarised as being embedded in its architectural, artistic and historic significance. It dates from the 13<sup>th</sup> century with alterations and repairs in the 17<sup>th</sup> and 18<sup>th</sup> centuries. The tower, spire and transept were re-modelled in the 19<sup>th</sup> century to designs by Hardwick and Chatwin and the south transept window is to designs of Edward Burne-Jones and made by William Morris in 1875-80. The church was restored in the mid-20<sup>th</sup> century following WWII bomb damage and holds historic illustrative value as a prominent remnant of the medieval core of Birmingham and communal value as a place of worship.
- 7.45. Although its original medieval setting is significantly altered, the church's location in what was the medieval core of Birmingham contributes to its significance as does its prominence in surrounding views. Many elements of setting do not materially contribute to the church's significance but the variety and age of the surrounding buildings reflects the continuing development of Birmingham since medieval times. From the north and the Bullring walkway (St. Martin's Walk), are purposely designed sequential views which reflect historic views towards and of the church.
- 7.46. In view of the sensitivity of the church, the applicant has provided a Visual and Heritage Impact Assessment Addendum to assess the proposed development on a series of viewpoints along St Martin's Walk.





Figure 14: Viewpoint 4, St Martin's Walk  
(Source: Visual and Heritage Impact Assessment Addendum)

7.47. The VHIAA concludes that:

- the proposed development will bring both adverse and beneficial visual effects within views experienced from St Martin's Walk from the introduction of a new, prominent tower of high-quality architecture in the backdrop of St Martin's Church.
- The level of effect will be greatest towards the north-western extents of St Martin's Walk (Viewpoints 1, 2, and 3) and reduce travelling south-eastward along St Martin's Walk (Viewpoints 4 and 5).
- The changing elevation will alter the perspective of the proposed development in a manner that will steadily diminish the magnitude of change.
- Cumulative impacts are likely to be experienced within Viewpoint 1, through the combination of effects from multiple consented schemes of large scale and similar form to the proposal. The cumulative effect will be major, but net neutral in outcome due to a balance of beneficial and adverse outcomes.

7.48. The concluding position of the VHIAA is that when balancing all factors, the impact of the proposed development is concluded to fall around the middle (moderate) level of the "less than substantial harm" bracket, as defined by the NPPF.

7.49. Your PCO considers this a fair conclusion. Taking account of the visual evidence and the level and nature of effects concluded as sitting between major/moderate adverse and moderate neutral/beneficial then the level of harm can reasonably be placed at the medium/moderate level of 'less than substantial harm' in Framework terms. Therefore, she agrees with the concluding position of the VHIAA that the proposed development would cause a moderate degree of 'less than substantial harm' to the setting of the grade II\* St. Martin's Church.

#### [The Market Tavern PH – Grade II](#)

7.50. The verified views document demonstrates that the proposed tower would form part of the immediate visual setting of the Market Tavern P.H. No further assessment of the impact of the tower has been supplied by the applicant and therefore your PCO has made the following assessments of significance, setting and impact.



Figure 15: Verified viewpoint 1  
(Source: Verified Views July 2023)

- 7.51. Formerly known as the Dog and Partridge, this was built 1899-1900 by James and Lister Lea, renowned Birmingham pub architects of the period, for the Holt Brewery. It occupies a prominent position on the corner of Moseley St and Birchall St with elevations of red brick and terracotta to both streets, and a prominent canted corner entrance. Its setting is one of a mixed townscape of historic and modern, generally low-scale industrial, commercial and residential buildings, in quite a fragmented streetscape. The Anchor and the White Swan on Bradford Street, whilst not visually connected, also form significant elements in the setting of the Market Tavern through age, historic function, historic association (all James and Lister Lea), architecture, form and materiality.
- 7.52. Verified Viewpoint 1 is taken from the corner of Moseley Street and Charles Henry Street and from where the significance of the principal elevations of the Market Tavern and its architectural prominence is best appreciated. The appreciation of the pub in this view is currently uninterrupted by the larger-scale development which is apparent in more distant and wider views of the city centre.
- 7.53. The proposed development would introduce a tower into the streetscape setting of the Market Tavern bringing a city-centre scale much closer to the listed pub. Viewpoint 1 evidences how the tower would appear as a new and dominant element in the streetscape setting and be a distraction in views of the pub, challenging and competing with its prominence. Through high degrees of inter-visibility, the ability to appreciate and experience the architectural prominence of the pub in this view would be diminished by the presence of a large tower causing harm to significance. The harm would be 'less than substantial' at the low end of the scale.
- [Digbeth, Deritend and Bordesley High Streets Conservation Area \(DD&BHSCA\)](#)
- 7.54. The significance of the DD&BHSCA was not assessed in the Heritage Statement and based on the original position of the tower, on the corner of Bradford Street and Rea St it was not considered likely to have a detrimental impact on the setting of conservation area due to limited visibility from the inner streets. The repositioning of the tower on the corner of Moseley Street and Rea Street presents a different scenario which is evidence by the Verified View Viewpoint 4:





Figure 16: Verified viewpoint 4  
(Source: Verified Views July 2023)

- 7.55. Your PCO advises that Viewpoint 4 is taken from the top of Floodgate Street looking south from where the general low scale of the conservation area can be appreciated and from where the scale of the city centre to the west remains imperceptible. The view is terminated by the locally listed Bordesley Viaduct which is a significant historic structure within the conservation area and which adds to the hard industrial appearance created by the traditional building types in these inner areas of the conservation area and make a vital contribution to local distinctiveness and sense of place.
- 7.56. The DD&BHSCA CAAMP identifies that the “*railway viaducts which run through and bound the conservation area are the most significant structures in terms of height and scale and have a monumental quality*” and that the “*narrow views along the streets to the north of the High Street corridor are generally closed by buildings or terminated by the railway viaducts and there is a strong sense of enclosure. Bordesley Viaduct severs the area and only Floodgate Street and Heath Mill Lane allow long views through.*”
- 7.57. This view is therefore considered to be a significant view of the conservation area and one which allows for an appreciation, understanding and experience of the character and significance of this inner-city industrial area. To interrupt this view with a large-scale residential tower would detract from this currently uninterrupted view and bring a city-centre scale into the visual setting where this currently does not exist from this vantage point. The proposal is therefore considered to be harmful to the significance of the conservation area, through development in its setting. The harm would be ‘less than substantial’ to the conservation area as a whole at the low end of the scale.

#### Warwick Bar Conservation Area

- 7.58. The significance of the Warwick Bar Conservation Area was not assessed in the Heritage Statement and based on the original position of the tower, on the corner of Bradford Street and Rea it was not considered that the tower would have a detrimental impact on the setting of conservation area due to limited visibility from the inner streets. The repositioning of the tower on the corner of Moseley Street and Rea Street now presents a different scenario which is evidence by Viewpoint 3 of the verified views document.



Figure 17: Verified viewpoint 3

(Source: Verified Views July 2023)

- 7.59. Your PCO advises that Viewpoint 3 is taken from the top of Fazeley Street looking south along Pickford Street from where the general low scale of the conservation area can be appreciated and from where the scale of the city centre to the west remains imperceptible. The view is terminated by the locally listed Bordesley Viaduct which is a significant historic structure within the setting of the conservation area and which contributes to the hard industrial appearance created by the traditional building types and canal infrastructure in these inner areas of the conservation area and which make a vital contribution to the local distinctiveness, setting and sense of place.
- 7.60. The Warwick Bar CAAMP identifies that *“narrow views along the streets in the area are terminated by buildings or closed by railway viaducts and create a sense of enclosure”* and that the *“railway viaducts which confine and enclose the area to the north-west and south-east are significant landmark features which dominate the local townscape. The effect is amplified by the Bordesley viaduct which closes views to the south beyond the conservation area boundary.”*
- 7.61. Viewpoint 3 is therefore considered to be a significant view out of the conservation area and one which allows for an appreciation, understanding and experience of the character and significance of this inner-city industrial area. To interrupt this view with a large-scale residential tower, bringing a city-centre scale into the visual setting of the conservation area where this does not exist from this vantage point, would detract from this currently uninterrupted view. The tower would become the dominate feature in the view challenging the significant historic landmark feature of the viaduct which contributes to significance through setting. The proposal is therefore considered to be harmful to the significance of the conservation area, through development in its setting. The harm would be ‘less than substantial’ to the conservation area as a whole at the low end of the scale.
- 7.62. Having reviewed all the supporting documents, your PCO concludes that the development would be harmful to the following designated heritage assets:
- *The Anchor P.H.*- a moderate degree of less than substantial harm caused through demolition of elements of historic setting and scale of the redevelopment.
  - *St. Martin’s Church*- a moderate degree of less than substantial harm caused through the introduction of a tower with a degree of prominence within key and designed views of the church. The prominence of the new tower would have a negative impact upon the existing experiences of the church by creating competition to its landmark status and introducing distractions from its architectural qualities.
  - *The Market Tavern P.H.*- a low degree of less than substantial harm caused through the introduction of a tower into the street scape setting with a degree of prominence, creating a distracting element in views which detract from the visual appreciation of the prominence of the listed pub.
  - *Digbeth, Deritend and Bordesley High Streets Conservation Area* - a low degree of less than substantial harm caused through development in its setting which would interrupt a significant view within the conservation area which allows for an appreciation, understanding and experience of the character and appearance of the area.
  - *Warwick Bar Conservation Area* - a low degree of less than substantial harm caused through development in its setting which would interrupt a significant view out of the conservation area which allows for an appreciation, understanding and experience of the character and appearance of the area.

- 7.63. As discussed in paras. 7.3-7.7 above, the proposed development is also considered to be harmful to the following non-designated heritage assets:
- *Nos. 30-31 Bradford Street* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.
  - *No.32 Bradford Street* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.
  - *No.34 Rea Street and 300-325 Cheapside* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.
  - *No.232 Moseley Street* - high degree of harm to a building of low heritage value caused through demolition/complete loss of significance.
- 7.64. Having reviewed all of the heritage-related documents, I have no reason to differ from your Principal Conservation Officer's conclusions.
- 7.65. In accordance with para. 202 of the NPPF, where less than substantial harm to the significance of designated heritage assets is identified, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In addition, in accordance with para. 203 of the NPPF, a balanced judgment is also required where an application affects non-designated heritage assets. These balancing exercises are undertaken towards the end of this report.

#### Sustainability

- 7.66. In the broadest terms, the proposal would see the redevelopment of a brownfield site in a very sustainable city centre location. This accords with the approach of the NPPF para. 120 which requires substantial weight to be given to the value to using previously-developed land within settlements for homes.
- 7.67. A Sustainable Construction Statement, an Energy Statement and a BREEAM Pre-assessment Report accompany the application. These detail the expected reduction in regulated and unregulated energy demand and carbon emissions by 24% and 20% respectively when compared with Building Regulations Part L TER baseline. This would be achieved through energy efficiency design measures and the incorporation of on-site renewable energy technologies from solar photovoltaics and air source heat pumps. The BREEAM Pre-assessment report indicates a 'very good' rating, which does not meet the 'Excellent' rating required by BDP policy TP3. The BREEAM Assessor's view is that the 'Excellent' rating cannot be achieved due to the function of the units, the nature of the shell and core, and their small individual size. In addition, credits are lost due to the limitations of the development to provide on-site biodiversity and ecology enhancements. I am satisfied with this justification, although the result is still disappointing.

#### Flood risk and drainage

- 7.68. Para. 161 of the NPPF states that, "All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property."
- 7.69. The application site is located within Flood Zone 3 (dark blue in Figure 11 below), being close to the River Rea, and the need for management of the flood risk associated with the River Rea Corridor is set out in BDP policy GA1.2.



Figure 18: Flood Map for Planning  
(Source: Figure 1.2 FWEP)

7.70. National planning guidance requires the application of two tests:

- 1) Sequential test – to steer development to areas with the lowest risk of flooding.
- 2) Exception test – to demonstrate that:
  - a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

7.71. Both elements of the exception test should be satisfied for development to be permitted. A document entitled 'Sequential and Exception Test' has been submitted applying the tests.

#### [Sequential test \(ST\)](#)

7.72. In order to identify alternative sites, the document reviews 16 allocated sites within the city centre of comparable size which are listed in the Strategic Housing Land Availability Assessment 2021. Deducting those which could not accommodate a similar number of dwellings and those also susceptible to surface water flooding, only 3 sites remain. Of these, 2 are already under construction and 1 is currently in employment use and is not considered to be readily available. The conclusion of the ST is that there are no sites of a similar size, reasonably available and in a lower Flood Zone within the search area and therefore the ST is passed.

#### [Exception test \(ET\) – Part a\)](#)

7.73. The document sets out the following wider sustainability benefits:

- Meeting housing targets
- Re-use of brownfield land
- Additional employment during construction and on a small scale in the Class E unit.
- Transport links – due to the proximity to Digbeth Coach Station, New Street and Moor Street railway stations
- Sustainable drainage systems – incorporation of SuDS into the development providing

a betterment in terms of reduction in surface water runoff rate and volume, and water quality benefits.

- Green space, amenity and biodiversity – provision of these areas for private residents, site users and the wider public would give a range of social, economic and environmental benefits.

#### Exception test – Part b)

- 7.74. This test is particularly important because it deals in part with the safety of future occupiers in the event of a flood. Of relevance is the organisation of the proposed uses within the blocks, with commercial/non-habitable space (less vulnerable) on the ground floors and all habitable space (more vulnerable) at first floor and above.
- 7.75. The Flood Risk Assessment indicates there is no history of flooding on the site and that the site is at low, very low or no risk of flooding from surface water, groundwater, sewers, infrastructure failure and reservoirs/canals. The key source of flooding therefore is fluvial, from the River Rea which is 50m east of the site. There would be no risk of flooding in the 1 in 100-year event, however, in the 1 in 100-year +50% climate change event, the site would be inundated, with a maximum depth of between 0.9 and 1.2m. Figure 12 below shows that only the northwest corner of the site would have dry access/egress in the event of a flood, with most of the perimeter surrounded by floodwater of between 0.3m and 1.2m deep.

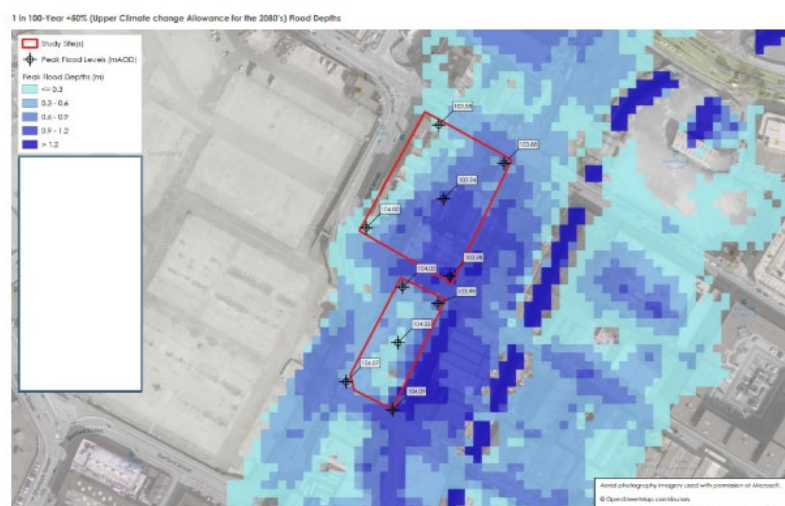


Figure 9 : Data extracted from the updated River Rea Flood Model

Figure 19: Floodwater depth at 1 in 100 year +50% climate change allowance  
(Source: Flood Warning and Evacuation Plan)

- 7.76. Mitigation measures through building design were agreed with the Environment Agency following the initial submission and the plans were amended accordingly. These were as follows:
- Ground floor levels to be retained as existing thereby retaining the existing floodplain conditions on the site and avoiding displacement of floodwater onto nearby sites.
  - Implement flood resistant and resilience measures on the ground floor to minimise flood damage and aid recovery times after an event. For example, waterproof screed and internal render; ventilation outlets, utility points and air bricks fitted with removable waterproof covers; electrical cables installed from first floor downwards and plugs placed 0.9m above ground level.
  - Where plant and services must be located on the ground floor they should be resilient to the 1 in 100-year +50% flood event.



- More vulnerable uses (i.e. residential) to be restricted to first floor and above where they would be at least 600mm above the 1 in 100-year +30% peak flood level and above the 1 in 100-year +50% flood level.
- 7.77. These measures were intended to effectively create a floodable ground floor whilst protecting the residential properties above.
- 7.78. There have been further changes to the plans but the supporting flooding evidence was not updated and therefore the EA reinstated its objection on the latest consultation exercise. At the time of writing, I expect the EA objection to be withdrawn following appropriate updates and Members will be advised of progress on this matter at the meeting.
- 7.79. In addition, a Flood Warning and Evacuation Plan has been submitted. This covers the creation of a Personal Flood Plan, the trigger level for evacuation (once the river reaches 102.8m AOD which is the level of the lower part of the site); and sign up to Environment Agency flood warning service.
- 7.80. In the event of a flood, several hours' warning would be expected before floodwater reaches the site. The designated flood egress route would be onto Barford Street where flood depths would be lowest. Egress from Plot 2 would take residents out of the floodwater, although with some areas of up to 0.3m depth to be passed through first, which is considered acceptable for most site users in accordance with FD2320 flood risk assessment guidance for new development.

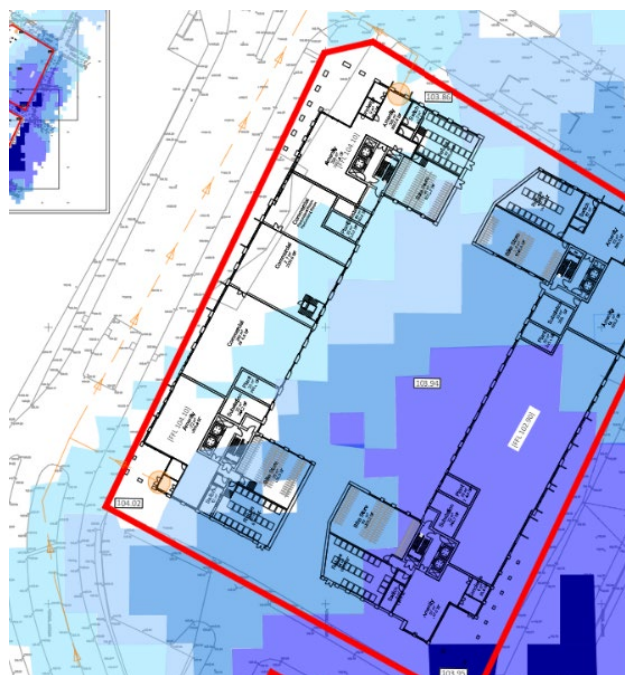
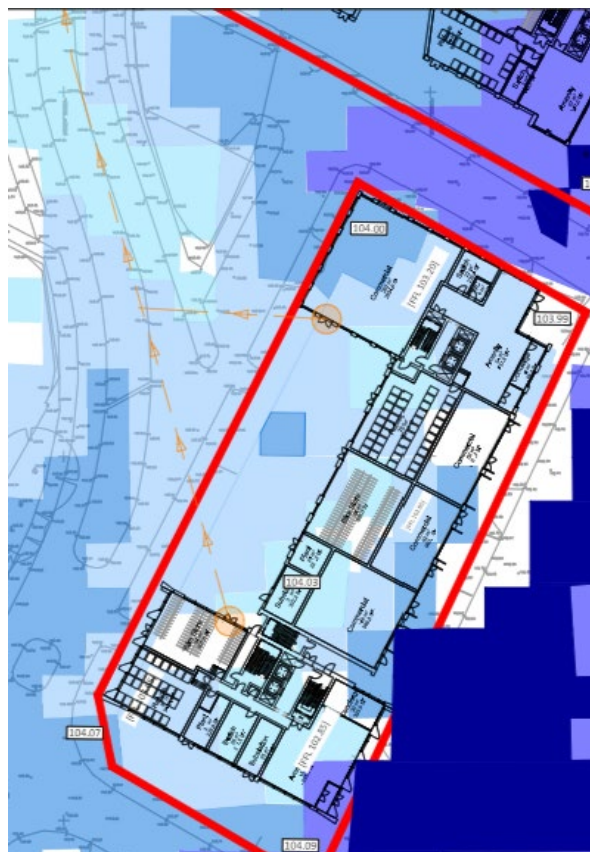


Figure 20: Plot 2 flood evacuation route  
(Source: Flood Warning and Evacuation Plan)

- 7.81. Egress from Plot 1 would be into depths of up to 0.6m for approx. 15m before reaching a lower depth of up to 0.3m. The building would reduce floodwater velocity before reaching this point.



7.87. In respect of part 1 of the ET, the document sets out a good number of wider sustainability benefits which would arise from the development. For part 2, appropriate mitigation has been arrived at through discussions with the Environment Agency which would ensure that all habitable space is well above the level of floodwaters, subject to flooding information showing this to still be the case. I have two concerns regarding the FWEP; firstly it states there would be several hours if not days of warning before a flood, however the Sustainable Management of Urban Rivers and Floodplains SPD notes that the *“heavily urbanised nature of the river means that base flows are depleted in dry weather conditions but with rapid response to rainfall as a result of the sewered run-off. This results in very rapid increase in flows at times of storms.”* Secondly, the inability to provide dry access/egress from Plot 1 is not ideal. However, I am aware that flood alleviation schemes are being considered by the Council and the EA in the upstream catchment which would reduce the overall flood risk in future climate change events for the area. The proposed Warner’s Fields development, for which a planning application is currently being considered, would also reduce flood risk by opening up the River Rea into a landscaped corridor and creating a more effective floodplain. Consequently, this situation should improve in the short to medium term. In relation to the lack of dry access from Plot 1, however, I cannot see a solution and thus a balanced decision will have to be taken. It will be important to remember that the flood risk would be greatest when factoring in climate change.

#### Surface water drainage

7.88. BDP policy TP6 requires all developments to manage surface water through Sustainable Drainage Systems (SuDS) in order to minimise flood risk, improve water quality and enhance biodiversity and amenity. The drainage hierarchy is as follows:

- Store rainwater for later use
- Discharge into the ground (infiltration)
- Discharge to a surface water body
- Discharge to a surface water sewer, highway drain or other drainage system
- Discharge to a combined sewer

7.89. Currently, the site is entirely impermeable due to the presence of buildings and hard-surfacing across the site. Surface water runoff currently drains via gullies and downpipes into the public drainage network. The layout of the design, incorporating soft landscaped areas would reduce the impermeable area however further betterment could be achieved through the implementation of SuDS.

7.90. A Surface Water Drainage Strategy states that infiltration has been discounted as the site is underlain by Sidmouth Mudstone bedrock which comprises clay, silt and sand and is unlikely to be reliable for the disposal of surface water. There would also be a potential risk of leachable contamination affecting groundwater, due to previous land uses. There are no watercourses nearby within land controlled by the applicant so discharge to a surface water body is not an option either.

7.91. The proposed drainage strategy includes maintaining existing surface water sewer connections but with a restriction in peak runoff rate to provide a betterment over the existing arrangement. A restricted rate of 3l/s per plot is proposed for all events up to and including the 1 in 100-year event plus 40% allowance for future climate change.

7.92. Attenuation tanks are also proposed under the landscaped areas in each plot to accommodate surface water runoff with restricted rate at outfall, via a hydrobrake or similar, to achieve the 3l/s per plot. In addition, bioretention areas, in the form of rainwater gardens and raised planters would intercept rainwater, allowing ponding from where water would be removed either through evapotranspiration or infiltration.

- 7.93. The Strategy acknowledges that during a fluvial flood risk event, the outfall of the surface water drainage network would become surcharged as the site would be inundated with floodwater. However, for both plots, the attenuation tanks and bioretention areas would reduce the depth of the floodwater, which together with the increased permeability of the site due to the smaller building footprint, would be a significant betterment on the existing situation.
- 7.94. The LLFA notes the site is at risk of surface water and fluvial flood risk. The Environment Agency has (previously) supported the proposal to allow the ground floor of this development to flood from fluvial flooding, and that the ground floor level will not incorporate any 'more vulnerable and highly vulnerable' development uses. This approach also offers flood resilience for surface water flooding which is likely to be a more frequent event than fluvial flooding but is likely to occur for a relatively short period of time with access and egress from the building developed for fluvial flooding available for use when surface water flooding occurs. Because of this design Birmingham LLFA accepts that finished floor levels and surrounding ground levels will remain as existing and will not increase the risk of flooding from any source to third party land.
- 7.95. Severn Trent Water (STW) has identified this area of the City Centre as a location where the sewer network requires modelling to identify how much investment is required to meet the city's ambitious growth objectives. This has resulted in a delay in them confirming to the applicant that their proposed points of connection and discharge rate are acceptable in principle. The LLFA notes that the applicant's drainage engineer has 'stress tested' the outline drainage strategy and if required can further reduce surface water discharges to meet any further requirements and in a statement confirmed that if required the surface water discharge could be reduced to just 1l/s at each point of connection. This provides assurance that there will be a means of disposing surface water which can be developed in line with STW requirements without impacting on the site layout and quantum of development. Consequently, the LLFA has recommended conditions requiring a full Sustainable Drainage Scheme and Operation and Maintenance Plan to be provided.

#### Noise, air quality and contaminated land

##### Noise

- 7.96. The application site is within the city centre with commercial premises and entertainment venues nearby. Bradford St is a busy traffic route between the city centre and the commercial and residential district to the east; it also provides a principal bus route into the city centre and is used by coaches accessing Digbeth Coach Station. The Anchor PH is located on the north side of Bradford St approx. 20m from proposed apartments in Plot 2.



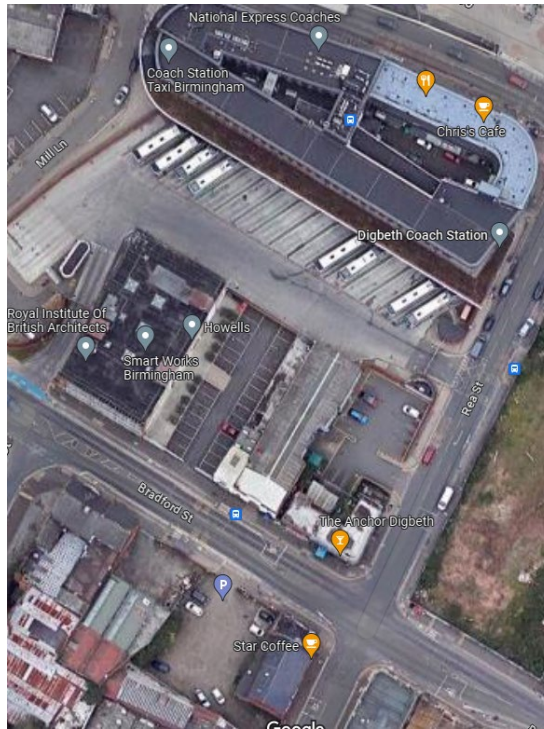


Figure 22: Location of The Anchor PH and Digbeth Coach Station (Source: Google Maps)

- 7.97. Policy DM6 of the Development Management in Birmingham DPD states that where potential adverse noise impact is identified, the development proposal should include details on how the adverse impact will be reduced and/or mitigated.
- 7.98. The application is accompanied by a Baseline Noise Assessment Rev 5 (BNA) and additional supporting information provided in response to queries from Regulatory Services colleagues. Following monitoring, the BNA identifies the existing noise climate as one which is dominated by road traffic on Bradford St but with additional intermittent traffic noise from Barford St and Rea St. Further noise is generated during the period 23:00 to midnight and night-time periods particularly for Thursday to Saturday, which is attributable to licensed premises in the vicinity together with associated pedestrian and vehicle activity on nearby streets. There was no noticeable commercial noise impact at any part of the site other than construction activity on the remaining part of the Smithfield site.
- 7.99. Based on this assessment, lower floor windows on roadside elevations would need to incorporate sound reduction measures and mechanical ventilation would be needed as open windows would not adequately reduce the noise. Almost all of the entire rooftop spaces, where roof terraces are proposed, would achieve the BS8233 'desirable' criterion.
- 7.100. In respect of commercial noise, the BNA considers the following sites: The Anchor PH, Kasablanca shisha lounge, commercial premises on Rea St, and Digbeth Coach Station.
- 7.101. **The Anchor:** This is open from midday to 23:00 Sunday to Thursday and until midnight on Friday and Saturday. It is a traditional pub with an entertainment licence and currently hosts music sessions for solo acoustic artists between 17:00 and 19:00hrs on Sunday evenings. Performers are located on a small covered raised decking area to the rear of the building. While the landlord has no intention of intensifying the level of live music, in response to comments from Regulatory Services, the noise assessment has been undertaken using data from a similar style premises (Cleary's



Bar also a pre-1920s public house) with a louder rock/pop band. This data indicates that the highest level of noise at the development site on the south side of Bradford St would be 55dB and would be significantly lower than the existing level of ambient noise on Moseley St and Rea St. The BNA states, *'On the basis that potential music noise from The Anchor is below the late evening and early night (9pm to midnight) levels of traffic noise in each of the third octave bands, it is considered very unlikely that amplified music associated with The Anchor will have any noticeable impact upon the proposed development'*.

- 7.102. **Kasablanca:** Site visits by the noise consultant confirmed there was no perceptible music break-out on either Moseley St or Rea St and the dominant noise source was road traffic. Low levels of music were audible on Cheapside to the north where traffic noise levels were significantly lower, however the music noise was below the levels of traffic noise at all monitoring positions and thus activities associated with the Kasablanca Lounge are considered unlikely to impact on the proposed development.
- 7.103. **Rea St commercial premises:** These include garages, engineering works and a church, all of which have roller shutters opening onto Rea St. During site visits, while the roller shutters were open and work being undertaken inside was observed, these works consisted of the use of hand tools and were inaudible at the development site across the street. No mechanical plant noise was audible. It was therefore considered unlikely that noise from these premises would impact on the proposed development.
- 7.104. **Digbeth Coach Station:** This is approx. 60m north of the development and coach access is from Bradford St. The intermittent coach movements are taken account of in the measured sound levels during the survey work so this was not assessed separately.
- 7.105. The BNA concludes the predominant noise source affecting the site is road traffic noise during both the daytime and night time. Although music noise was audible immediately outside both The Anchor and Kasablanca Lounge, this would not be audible at the application site. The requirements of both Regulatory Services 'Planning Consultation Guidance Note' and BS 8233 can be achieved by use of appropriate acoustic rated windows and vents to habitable rooms. Background ventilation in accordance with Building Regulations requirements can be achieved by use of appropriate acoustic rated trickle vents.
- 7.106. Regulatory Services have no objection to the scheme on the grounds of noise however, they are not convinced by the BNA's statement that music noise would always be below the traffic noise and raise questions about the methodology. At 63Hz, music noise may be louder than traffic noise. To deal with this matter, they suggest a condition requiring a noise mitigation strategy to ensure specific internal noise levels are achieved. It is possible that the mitigation strategy would result in some habitable room windows having to be kept closed to avoid music noise from becoming a nuisance, in which case, a further condition would require the submission of an overheating assessment to ensure that windows can remain closed when entertainment premises are active. Any recommendations in the overheating assessment would be implemented prior to occupation.
- 7.107. This does not give immediate certainty about whether windows would have to be sealed, however, should this become necessary, I would expect it to affect only a small proportion of the total number of apartments on the Bradford St/Rea St junction; the majority of apartments are further south of The Anchor and would not be affected. Although sealed windows do not provide the best internal environment, they have to a limited extent, been accepted on other schemes in the city centre as part of the overall planning balance.

#### Air quality

- 7.108. An Air Quality Assessment (AQA) submitted with the application states that the proposal has the potential to cause air quality impacts as a result of fugitive dust emissions during construction and road traffic exhaust emissions associated with vehicles traveling to and from the site during operation, as well as expose occupants to any existing air quality issues. Dust emissions could be mitigated using good practice control measures; and traffic exhaust emissions were assessed using standard screening criteria which indicated that impacts would not be likely to be significant due to the size and nature of the scheme. While the site is located within the Air Quality Management Area which covers the whole city, some locations do not experience exceedences of the Air Quality Objectives (AQOs). Given that the site is not located adjacent to any major roads and monitoring/predictions show compliance with relevant AQOs in the vicinity of the site, it is considered suitable for the proposed use from an air quality perspective.
- 7.109. Regulatory Services has no objection subject to a condition requiring a construction management statement/method plan which includes measures to control dust.

#### Contaminated land

- 7.110. The application is accompanied by a Phase 1 Geo-Environmental Assessment which states the site has been previously redeveloped on several occasions for industrial purposes, including use as an engineering works, metal works, chemical plant engineering works, and as a garage. The site is directly underlain by Alluvium over River Terrace Deposits, overlying bedrock of the Sidmouth Mudstone Formation. Made Ground is anticipated to be present across most of the site.
- 7.111. The Assessment indicates a moderate risk to natural ground subsidence; a moderate risk to human health, due to the potential for vapours and ground gases to impact on future site users; and a moderate/low risk to controlled waters based on the potential for contaminants to impact upon the underlying River Terrace Deposits aquifer and the River Rea. Further ground investigation works are recommended.
- 7.112. Regulatory Services has no objection subject to conditions requiring further site investigation and a contaminated land remediation strategy, and subsequent verification report.

#### Residential amenity

##### Prospective residents

- 7.113. BDP policy GA1.1 expects new living accommodation in the city centre to be of high quality and policies DM2 and DM10 of the Development Management in Birmingham DPD deal with its detailed design, together with the guidance contained in the BDG.
- 7.114. As required in policy DM10, all units would comply with the Nationally Described Space Standards and furniture layouts demonstrate how typical furniture could be accommodated within apartments. Shared internal amenity spaces would be provided on the ground floor of both blocks and, on Plot 2 would include a working from home space, meeting rooms, cinema room and private dining room.
- 7.115. Externally, residents would have access to several spaces: Plot 1 would feature a good sized area of public realm facing Barford St and along Moseley Street; and a roof terrace would be provided on the mid-section of the roof:

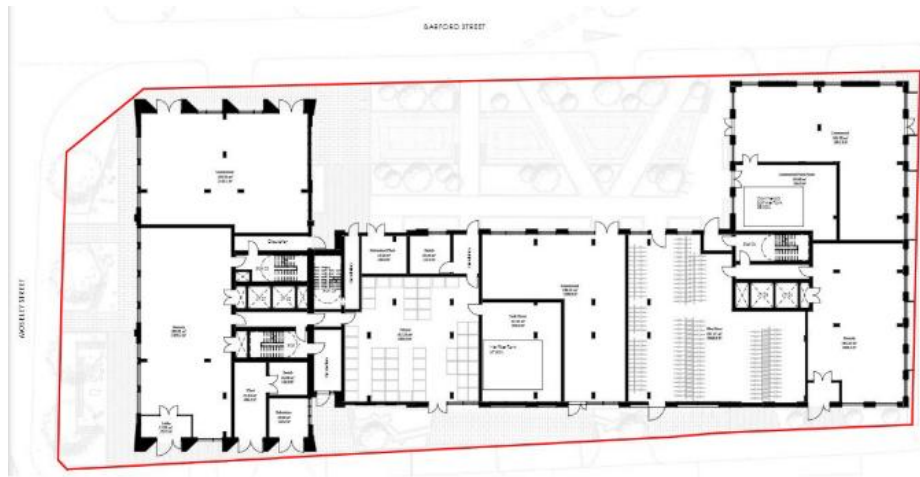


Figure 23: Plot 1 - Ground Floor Plan  
(Source: Dwg ref. 20039-GNA-P1-00-DR-A-1100 Rev C)

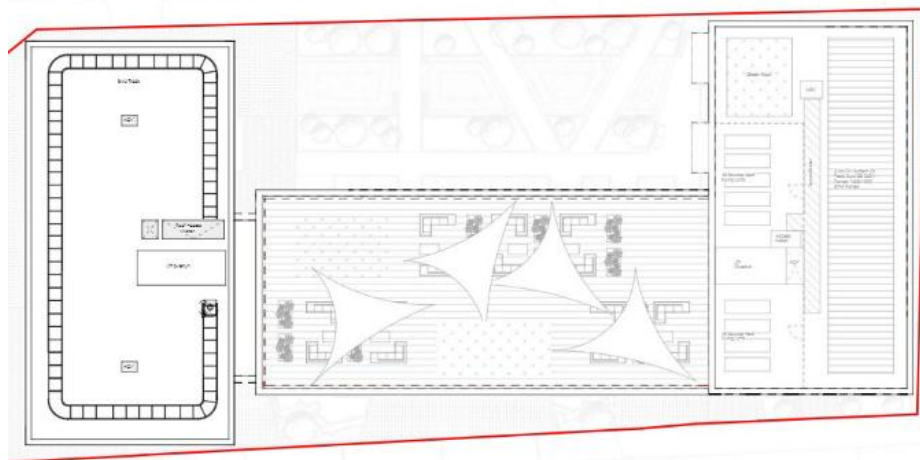


Figure 24: Plot 1 – Roof Floor Plan  
(Source: 20039-GNA-P1-23-DR-A-1106 Rev B)

7.116. On Plot 2, there would be more limited public space but residents would have use of the large central courtyard, roof terraces and, apartments in Block E with a roadside elevation would also have balconies:



Figure 25: Block E, Cheapside elevation showing balconies  
(Source: Dwg ref. 20039-GNA-P2-XX-DR-A-2117 Rev B)

7.117. Together, the roof terraces and courtyard would amount to approx. 3,664sqm, equivalent to 5sqm per apartment. This would be 679sqm short of the recommended

amount of outdoor amenity space for 1 and 2 bed apartments, however it does not take account of the private balconies which roadside apartments in Block E would benefit from. There would also be approx. 1,373sqm of shared internal amenity space across the ground floors of the two blocks, incorporating general seating/gathering areas, work-from-home space, meeting rooms, a cinema room and private dining room. Taking all of this into account, plus the landscaped public realm areas proposed, in my view, the amenity space provided throughout the development would be acceptable and offer a range of different environments for relaxing and socialising outside of individual apartments.

#### Existing residents

- 7.118. The surroundings are principally commercial and industrial however these premises are interspersed with a few residential properties. The closest and largest of these is St Eugene's Court on the east side of Rea St at the junction with Cheapside, which is a 46-bed assisted living development, and comprises individual flats and studios. While there would be more intense activity around the site as a result of the proposal, the predominantly residential nature of the proposed development would improve the general environment for existing residents bringing a new vitality, sense of security and compatibility of uses. There would also be a visual improvement given the poor state of repair of some of the buildings on the site.
- 7.119. In respect of St Eugene's Court, the development cannot achieve the minimum face-to-face separation distance set out in the Birmingham Design Guide (BDG) of 27.5m for 3 storeys and above, the separation distance being approx. 18m. However, the BDG states that this standard will be more strictly applied at the rear rather than the front, and that the standards more generally will be applied more flexibly in the city centre. Block E would be set back from the pavement by approx. 4m which would give some relief compared to the existing building which is positioned immediately at the back of the pavement. New planting along the Rea St frontage would also improve the outlook for existing residents. In addition, a Daylight and Sunlight Report considers the impact of the proposal on light received by relevant neighbouring properties and concludes that, *'All neighbouring windows with a requirement for daylight and sunlight pass the relevant BRE diffuse daylight and direct sunlight tests. The development also passes the BRE overshadowing to gardens and open spaces test.'*
- 7.120. Commercial spaces on the ground floor of the proposed blocks are relatively small units intended to serve the development and the immediate locality. Regulatory Services has not recommended any restriction to opening or delivery times however, given the proximity of St Eugene's Court, I consider it necessary to control delivery times and a condition is attached.

#### Impact on future residents of the Smithfield Masterplan area

- 7.121. The current application for redevelopment of the Smithfield Masterplan area is a hybrid application and full details of only some of the plots are available. The closest of these is plot 1D, which would be mainly commercial/non-habitable space on the lower and upper ground floors, then residential apartments on the upper floors. The distance between facing windowed elevations would be approx. 22m (calculating this from separate plans for each application rather than a single plan showing both developments). A similar situation would arise as described above in respect of St Eugene's Court on Rea St, where the BDG separation distance cannot be met, however, the same rationale for permitting it applies and I would not expect an undue impact on residents' privacy or outlook.

#### Transportation matters

- 7.122. BDP policies TP38-TP44 deal with connectivity and the transport network, seeking to ensure it is safe and prioritises sustainable methods of travel.



- 7.123. The Transport Statement notes the site is very well located for access to employment, leisure, retail and education opportunities and public transport hubs, which can all be found with a relatively short walk or cycle. Consequently, and in accordance with the Birmingham Parking SPD, no car parking spaces are proposed. On-street parking spaces are available but these are limited and subject to restrictions and it is therefore unlikely that prospective residents would own a car. Generally, the development would be expected to generate only refuse collection and servicing trips and thus vehicle trip generation is expected to be negligible.
- 7.124. In terms of detailed matters, due to the number of separate buildings/uses on the site, there are various vehicle accesses along all of the roads defining the application site. However, as no car parking spaces these should be reinstated. Of more importance will be dropped kerbs for pedestrian access. Figure 19 below shows existing (purple) and potential additional (red) pedestrian crossings:



Figure 26: Existing and Potential Additional Pedestrian Crossings  
(Source: Figure 4.1, Transport Statement)

- 7.125. These changes would improve safety and pedestrian accessibility in accordance with the BDP's transport policies. Transportation Development advises that these changes can be dealt with through a S278 highways agreement and an informative is attached to that effect.
- 7.126. 100% cycle parking is proposed for the apartments which accords with the Birmingham Parking SPD. In addition, a further 10 internal cycle spaces would be provided for staff of the commercial units, and further staff and visitor cycle parking would be provided in communal areas of the development. Transportation Development is satisfied with this provision subject to a condition requiring it to be provided on site prior to occupation.
- 7.127. Due to other potential changes to the roads around the site as part of the wider Smithfield Masterplan, implementation of the Rea Valley Urban Quarter SPD and the City Centre Segments Initiative, the only long-term servicing opportunities are likely to be on Cheapside and Rea St. Consequently, the development has been designed so that refuse collection and servicing can be undertaken on these roads. A layby is proposed on Cheapside to facilitate this however on the plans in the Transport Statement, this is shown to overlap with the existing pavement which Transportation Development advise is unacceptable. They recommend an amendment to this plan is secured by condition to provide a 2m wide footway parallel to the layby which can be provided in the forecourt area and offered for adoption as public highway. A suitable condition is attached, together with an informative regarding the S278 agreement.



- 7.128. The Transport Statement concludes the proposal complies with policy and guidance, being accessible and having demonstrated that no material impact on the operation, safety or environment of the local highway network would occur. Subject to the conditions attached, Transportation Development has no objection and I have no reason to reach any other conclusion on this issue.

#### Safety/security

- 7.129. BDP policy PG3 which concerns place-making expects new development to create safe environments that design out crime. There are also references to safety and security in policies TP27 (sustainable neighbourhoods), TP37 (health) and DM2 (amenity).
- 7.130. In broad terms, the proposal would enliven a currently under-utilised site replacing poorly maintained or vacant units with a more comprehensive redevelopment with the ability to manage the site and ensure security across it. It would also contribute towards the wider Southern Gateway Growth Area where transformational change and the introduction of more resident development should see greater activity and natural surveillance.
- 7.131. The application has been reviewed by West Midlands Police and further information/clarification provided by the applicant concerns aspects of access control and the day to day management of the site. Many of the comments raised by the Police are about very detailed matters which are beyond the scope of planning conditions, however I agree that the provision of CCTV and lighting should be secured by condition. These would ensure that the security of the site is maintained and act as a deterrent against criminal activity.

#### Planning obligations

- 7.132. As a development exceeding 15 dwellings, in accordance with BDP policy TP31 a contribution should be made towards the provision of affordable housing and as discussed at paras. 7.19-7.24, 71 units (10%) are being offered.
- 7.133. In addition, as the development exceeds 20 dwellings, in accordance with BDP policy TP9, a contribution should be made towards the provision of public open space. In the first instance this should be on site but if this is not appropriate, then a contribution towards off-site provision may be acceptable. In this case, Leisure Services have indicated that a contribution of £1,473,375 should be made towards the provision, improvement and/or maintenance of public open space within the Bordesley and Highgate Ward, which has an under provision against the 2ha per thousand population target in the BDP.
- 7.134. Given that the scheme is not able to provide the full 35% affordable housing sought, it cannot afford to contribute towards the provision of off-site public open space as well. However, I am mindful that the development would include a publicly accessible landscaped area on the west side of Plot 1 and along the Moseley St frontage where proposed landscaping would contribute towards the creation of the linear park indicated in the Smithfield Masterplan. According to the Financial Viability Appraisal, the cost of providing this open space together with the necessary S278 works and landscaping would be £757,000, which although roughly half of the Leisure Services sum, is still very welcome.

- 7.135. The development is not liable for a Community Infrastructure Levy payment.

#### Other issues

#### Matters raised by Lendlease – comprehensive redevelopment.

7.136. As Members will be aware, Lendlease is the Council's development partner for delivery of the Smithfield Masterplan. Lendlease has submitted the current hybrid planning application for the Smithfield site (2022/09643/PA). The scheme to which this application relates is known as The Pressworks and this fits into the outline element of the Smithfield application site along its southeast boundary at Zone 2.1, as shown here:



Figure 27: Development Zones in Smithfield application  
(Source: Smithfield Birmingham Masterplan Drawings)

7.137. Lendlease has submitted two letters of objection to The Pressworks scheme covering a range of issues. Some concerns relate to the quality and depth of the supporting information accompanying the application. These have been addressed through the submission of updated reports and the information taken into account in the consideration of the various issues discussed above. However, there are other matters raised which are addressed below.

7.138. The key objection relates to the piecemeal approach to the redevelopment of the Smithfield Masterplan area, which The Pressworks application represents, and the resulting difficulties which would arise for Lendlease in the delivery of comprehensive redevelopment. In particular, Lendlease considers this would affect the delivery of a range of apartment sizes, which according to the Masterplan should be 2, 3 and 4 beds, and how flood risk is dealt with across the wider site. Connected to this concern is the relevance of the Masterplan to the determination of this (The Pressworks) application. The relevance of the Masterplan is also an issue raised by the applicant and the application was accompanied by Counsel opinion (Paul Tucker QC, 26/5/2020) on this subject.

7.139. By way of context, it is important to remember that, when determining applications for planning permission, to the extent that development plan policies are material, the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. These requirements are set out in S70(2) of the Town and Country Planning Act 1990 and S38(6) of the Planning and

- 7.140. In Birmingham, the development plan comprises the Birmingham Development Plan adopted 2017 and the Development Management in Birmingham Development Plan Document (DPD). Various other documents, for example, Supplementary Planning Guidance (SPGs) and Supplementary Planning Documents (SPDs) may be material considerations depending on the nature of the development. Non-statutory documents are also capable of being material considerations, for example, the Big City Plan and more recently Our Future City Plan.
- 7.141. In determining a planning application, the decision-maker must decide what weight to attribute to development plan policies and to other material considerations. Put simply, the more relevant and up to date a policy or document, the more weight should be given to it.
- 7.142. In this case, there is a range of particularly important development plan policies due to the nature of the development, namely, those relating to the provision of housing, to the heritage impact, to design, to flood risk and to residential amenity. Greatest weight will be attributed to these, taking account of para.11d) of the NPPF with respect to outdatedness and the ability to demonstrate a five-year housing land supply.
- 7.143. The Smithfield Masterplan is not a statutory planning document, as it has not been through the full process to be formally adopted as a DPD or an SPD. As with the Big City Plan and the Our Future City Plan it could be described as a 'framework' which is intended to guide development but which does not set any actual policies. In my view, it is a material consideration in the determination of this planning application and therefore attracts some weight, albeit this will be less than the main BDP policies.
- 7.144. The Counsel opinion provided by the applicant suggests that it should be given "very limited weight" due to its non-statutory status and the fact that BDP policy GA1.2 Growth and Wider Areas of Change refers in respect of the Southern Gateway to the "*comprehensive redevelopment of the wholesale markets site*". They argue, essentially, that since The Pressworks site is not part of the wholesale markets site, there is no need for it to be part of a comprehensive redevelopment.
- 7.145. The Lendlease concern about the need to bring about the comprehensive redevelopment which the Masterplan aims to achieve suggests, they give the Masterplan greater weight than the applicant does.
- 7.146. In my view, the Masterplan has limited weight. I give it weight because it aims to flesh out a BDP policy (GA.1.2 Southern Gateway) with the intention of achieving good place-making and it has been through public consultation. I have limited the weight because, notwithstanding the public consultation, it is not a statutory document and does not set policies, and the site is not part of the wholesale markets site where comprehensive is very clearly expected.
- 7.147. Ultimately, while it would be ideal or desirable to bring about more comprehensive development, that is not essential for the determination of this application. The proposal accords with the main principles of the Masterplan in terms of layout and connectivity; it could come forward without worsening the flood risk or residential amenity; and it would bring public benefits in its own right, which will be discussed below.
- [Matters raised by Lendlease – housing mix.](#)
- 7.148. Lendlease notes that the proposed provision of apartments with only 1 and 2 bedrooms deviates from the Masterplan principle of delivering a mix of units including 3 and 4 bed apartments and states it would not be reasonable to expect the remainder of the

Smithfield development to redress this imbalance. I have some sympathy with this concern since TP27 aims to create sustainable neighbourhoods with “a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages”. However, each application has to be considered on its own merits and this application is made against the backdrop of an urgent need for housing and especially affordable housing within the city. It would provide a good number of apartments, the majority with 2 bedrooms, and with 10% of those proposed to be affordable. The Masterplan addresses delivery of the wider scheme anticipating a phased approach with opportunities to bring different elements dependant on market conditions. Arguably, it would make most sense for the larger units to come forward once there is certainty regarding the provision of the primary school which the Masterplan references.

Matters raised by Lendlease – sterilisation of development potential for Smithfield Park area.

- 7.149. The Lendlease application shows within the parameter plans for the outline element of the scheme where green space could be located:



Figure 28: Parameter Plan 05 Open Space  
(Source: Smithfield Birmingham Masterplan Drawings)

- 7.150. They argue there is the possibility of sterilisation of the development potential of the Smithfield Park area due to the pedestrian and vehicular access route for The Pressworks being maintained along Barford St, and due to the proposed flood evacuation route also using Barford St.
- 7.151. While The Pressworks development would eat into the northwest corner of the green area, I am not convinced it would necessarily prejudice the delivery of a high quality open space. The Lendlease proposal appears to allocate rather more land to open space than the Masterplan, as below:



Figure 29: Plan 4 Pedestrian and cycle connections  
(Source: Birmingham Smithfield Masterplan)

- 7.152. The Design and Access Statement for The Pressworks shows how green space could still be provided within the wider Smithfield site, albeit in a different manner to that indicated in the Masterplan, whilst retaining Barford St in its current position. There is likely to be some scope to stop up Barford St if needed, to give space over to the park, without compromising access for The Pressworks.

#### Planning balance

- 7.153. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provision of the development plan, so far as material to the application, and to any other material considerations. 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.'*
- 7.154. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11d) states

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.155. Footnote 8 confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.156. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 7.157. However, Footnote 7 notes the specific policies which protect important areas or assets and these include policies relating to designated heritage assets.
- 7.158. The proposals would cause less than substantial harm to the significance of designated heritage assets and, if found to provide a clear reason for refusal, in this case because the public benefits of the scheme do not outweigh the heritage harm identified, then planning permission should not be granted.
- 7.159. The harm identified to the significance of designated heritage assets needs to be weighed having regard to the considerable importance and weight to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in section 66, as well as the degree of accord with BDP policy TP12 and



the relevant paragraphs in the NPPF.

7.160. The key [economic benefits](#) arising from the development would be:

- In excess of 300 jobs during the construction phase and approx. 100 jobs once operational.
- Capital investment of £???m
- Increased resident expenditure
- Public realm works of £757,000
- 10% affordable housing contribution

7.161. 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” (my emphasis). Accordingly, the economic benefits in terms of jobs and expenditure are welcomed, as are the public realm works. However, I am mindful that the construction jobs would only be temporary, and the affordable housing offer and public realm spend do not meet the full policy expectations, so these factors reduce the weight afforded to these benefits.

7.162. The key [social benefits](#) arising from the development would be:

- The delivery of housing, particularly the 2 bed apartments - The city is only able to demonstrate a 3.99 year housing land supply (including the 35% uplift for the 20 largest towns and cities and the 5% buffer) rather than the required 5 year supply. Taking account of the extent of the shortfall, the provision of housing should be given substantial weight in the determination of this application. However, in my view, the weight afforded to it should be reduced by the following factors:
  - The loss of industrial land.
  - The number of 1 bed apartments proposed, and especially 1b1p units.
  - The site is located in Flood Zone 3 where flood risk is greatest and is therefore sequentially least preferable for the siting of housing which is a more vulnerable use.
  - Potential for some sealed windows at the Bradford St end of the development to avoid possible entertainment noise disturbance.

While the provision of housing is welcome in broad terms, the type of housing proposed in this scheme does not fully address the city’s greatest need and the location of the site would put occupiers at risk of flooding. Therefore, the weight afforded to the delivery of housing in the planning balance should be reduced to reflect this.

- Development of a high design quality with ambitious architecture and landscaping. Following amendments, the development would be an appropriate layout, scale and height and details in the Design and Access Statement give confidence that the architectural design will produce the high-quality development expected in the BDP and Birmingham Design Guide. This should be given substantial weight.
- Provision of new public realm contributing towards place-making and connectivity aspirations especially along Moseley St and Cheapside. This is a substantial benefit, again in accordance with the thrust of PG3, the Rea Valley Urban Quarter SPD and the Smithfield Masterplan.

7.163. The key [environmental benefits](#) arising from the development would be:

- Redevelopment of a brownfield site in a highly sustainable location.
- Sustainability measures – inclusion of PV panels and air source heat pumps.
- Significant increase in soft landscaping throughout the site with associated ecological benefits.
- Betterment on the existing flood risk situation as the site is currently completely built on/hard surfaced.

- 7.164. While the redevelopment of a city centre brownfield site is very welcome in principle, with regard to the detailed sustainability and environmental credentials, the proposed development is starting from a low base. Unfortunately, the development cannot meet the BREEAM 'Excellent' rating and although the Smithfield Masterplan puts a strong emphasis on sustainability measures, the PV panels and ASHPs are fairly typical. Nevertheless, these benefits would contribute towards meeting the BDP's sustainability, biodiversity and flood risk management aims.
- 7.165. The above points set out the key benefits of the scheme. Weighing most highly in favour of the application are the place-making benefits. The delivery of a high quality development in design terms and the provision of public realm accords with policies PG3 and TP27 and the Birmingham Design Guide, and the proposal would rejuvenate a fading site and support the transformational change already taking place in the surrounding area. Allied to this is the re-use of brownfield land in a highly sustainable location. I attach substantial weight to these benefits.
- 7.166. I also attach significant weight to the provision of housing. The mix of uses accords with the aims for the Southern Gateway Wider Area of Change (GA1.2) and the residential component accords with the broad location for a residential neighbourhood in the Smithfield Masterplan. Delivery of 394 2 beds is particularly welcome.
- 7.167. I attach moderate weight to the economic benefits and the environmental benefits set out (except for the reuse of brownfield land to which substantial weight is given as per para. 7.148). Whilst welcome, these would make a lesser contribution to the overall benefits of the development.
- 7.168. Set against these benefits are concerns regarding the relatively low amount of affordable housing proposed; the less than substantial harm identified to designated heritage assets ranging from low to moderate; the high degree of harm caused to non-designated heritage assets; and the flood risk. Here conflicts arise with specific policies in the development plan and these bring the scheme into conflict with the development plan as a whole.
- 7.169. Dealing firstly with the impact of harm caused to the significance of designated heritage assets, I am particularly mindful of the great weight that both the BDP and NPPF place on the conservation of assets. The NPPF states that the more important the asset, the greater the weight should be.
- 7.170. St Martin's Church is a Grade II\* Listed building of great significance to the city from an architectural, artistic and historic perspective. Notwithstanding the changes in the built environment surrounding it, the church represents the early origins of the city and its development from a much smaller settlement. The views of it seen now have arisen intentionally, planned as part of the major redevelopment around the church, particularly the Bullring shopping centre. A new phase of redevelopment is now being embarked on, as the immediate backdrop of Smithfield comes forward, and this will change the setting of the church again, in this case causing a moderate degree of less than substantial harm to its significance.
- 7.171. The Anchor and The Market Tavern are less important assets than St Martin's Church, nevertheless, they also represent a period of development in the city's history and

make positive contributions to the streetscene, particularly in conjunction with other heritage assets (including non-designated) in the vicinity. Moderate and low degrees of less than substantial harm (respectively) would be caused to their significance as a result of the proposal.

7.172. The DD&BHSCA and the Warwick Bar Conservation Area would also experience a low degree of harm to their significance as a result of the proposal.

7.173. While these buildings/conservation areas hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation advisors to reach up to a moderate level, and the considerable importance and weight to be attached to such matters, in my view, the public benefits associated with this proposal are so extensive and substantial that they outweigh the harm to designated heritage assets.

7.174. In reaching this conclusion with reference to the designated heritage assets affected, it follows that I can find no clear reason for refusal based on policies which protect heritage assets, as referenced by NPPF para.11(d)i and Footnote 7. It follows that the tilted balance in para. 11(d)ii of the NPPF applies.

7.175. Considering the tilted balance at para. 11(d)ii of the NPPF the question is whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the NPPF when taken as a whole, I am mindful of the impact on non-designated heritage assets, the low provision of affordable housing, the less than ideal number of one bedroom units, and the flood risk

7.176. Turning to the non-designated heritage assets, the NPPF requires a balanced judgment in weighing applications which directly or indirectly affect non-designated heritage assets, having regard to the scale of harm or loss and the significance of the assets. They are:

Nos. 30-31 Bradford Street  
No. 32 Bradford Street  
No. 232 Moseley Street  
No. 34 Rea Street/Nos. 300-325 Cheapside

7.177. A high degree of harm to the significance of these NDHAs would be caused, arising from their complete loss. The loss of these buildings would be regrettable; they represent typical industrial buildings once seen throughout Digbeth and are good examples. However, they are interspersed with gaps in the building line and other development of little or no historic significance or architectural merit, and on balance, I consider this comprehensive proposal for the provision of much needed housing and the place-making benefits of the proposal including obvious regeneration benefits outweigh the harm caused by their loss. This impact would not significantly and demonstrably outweigh the benefits of the scheme.

7.178. The affordable housing offer of 10% is a good way off the 35% target set in policy TP31. However, given that no affordable housing was offered initially, this is a good improvement and I do not consider the low affordable housing provided here would outweigh the benefits of the scheme. I take the same view about the significant number of one bedroom apartments.

7.179. Finally, the location of housing in Flood Zone 3 is not ideal and brings with it the possibility, in the climate change scenario, of a severe flood. However, the applicant has been through the Sequential and Exception Tests and, subject to the EA and LLFA concerns being overcome by the date of the Committee meeting, whilst there are some

reservations about the Flood Warning and Evacuation Plan, I do not consider the impact would significantly and *demonstrably* outweigh the benefits of the scheme.

7.180. Overall, on balance, I do not consider that the adverse impacts arising even collectively would, either individually or cumulatively, outweigh the benefits of the scheme, and certainly not significantly and demonstrably outweigh the benefits of the scheme.

7.181. Consequently, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

## 8. **Conclusion**

8.1. This application offers the opportunity to continue the transformational change that is being effected within the Southern Gateway, providing a good number of new homes on a site which is very sustainably located. The scale, design and massing would be acceptable and would enhance the appearance of the site, complementing redevelopment which has already taken place in the vicinity. The development would also contribute towards implementation of the Smithfield Masterplan.

8.2. There are areas of compromise: the number of 1b1p units, the potential for flooding of the site and for some sealed windows, and the impact on heritage assets. However, in the context of para. 11d) of the NPPF, these are not considered to outweigh the public benefits. Appropriate conditions which are considered to pass the tests set out in the NPPF para. 56 are set out below.

## 9. **Recommendation**

9.1. That application 2021/05811/PA be APPROVED pending the completion of a Section 106 Legal Agreement to secure the following:

- v) 10% affordable housing comprising the following units to be provided on site:
  - 9 x 1 bedroom apartments at 30% discount (First Homes)
  - 9 x 2 bedroom apartments at 30% discount (First Homes)
  - 27 x 1 bedroom apartments at 20% discount (Discount Market Sale)
  - 26 x 2 bedroom apartments at 20% discount (Discount Market Sale)
- vi) Provision of new public realm within the site of a value of no less than £757,000 (index linked to construction costs from the date of this resolution to the date on which payment is made). In the event that the agreed public realm works cost less than £757,000 the difference will be provided to the Council to be spend on off-site affordable housing.
- vii) A financial contribution of £25,000 for the public realm works supervision fee.
- viii) A financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the legal agreement.

7.5. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 17<sup>th</sup> October 2023, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:

- iii) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
  - iv) In the absence of a legal agreement to secure the provision of new public realm within the site of a value of no less than £757,000 (index linked to construction costs from the date of this resolution to the date on which payment is made), the proposal conflicts with Policy PG3 of the Birmingham Development Plan 2017, and the Birmingham Design Guide SPD, and the National Planning Policy Framework.
- 7.6. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 7.7. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 17<sup>th</sup> October 2023, 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).

- 
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|----|--|
| 1  | Requires the prior submission of a demolition method statement/management plan   |
| 2  | Requires the prior submission of a construction method statement/management plan |
| 3  | Submission of a Construction Management Strategy                                 |
| 4  | Requires the prior submission of a construction employment plan                  |
| 5  | Requires the prior submission of a Construction Ecological Management Plan       |
| 6  | Requires prior submission of further bat survey                                  |
| 7  | Requires prior submission of further Black Redstart survey                       |
| 8  | Requires the prior submission of a Bird Hazard Management Plan                   |
| 9  | Requires the prior submission of a phasing plan                                  |
| 10 | Requires the prior submission of a contamination remediation scheme              |
| 11 | Requires the prior submission of a surface water drainage scheme                 |
| 12 | Requires details of foul water drainage  |
| 13 | Requires the prior submission of level details                                   |
| 14 | Requires prior details and samples of proposed materials                         |
| 15 | Requires prior details of the system of construction for the external elevations |
| 16 | Requires prior details of how materials will be fixed, jointed and applied       |
| 17 | Requires prior details of brick bond   |
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18	Requires prior construction of bay panel for each building
19	Requires prior details of architectural features
20	Requires prior details of bird/bat boxes
21	Requires prior submission of shop front design
22	Requires the submission of details of green/brown roofs on a phased basis
23	Requires the submission prior to occupation of hard and soft landscape details
24	Requires the submission of a landscape management plan
25	Requires the submission of a lighting scheme in a phased manner
26	Requires the submission of a CCTV scheme
27	Requires the submission of boundary treatment details for each phase of the development
28	Requires details of boundary treatment to prevent off-street parking
29	Requires a plan showing a 2m wide public footway adjacent to proposed layby on Cheapside
30	Requires a scheme of noise insulation to achieve specific internal noise levels
31	Requires submission of an overheating assessment
32	Requires the submission of a contaminated land verification report
33	Sustainable Drainage Operation and Maintenance Plan
34	Requires an update to the Flood Warning and Evacuation Plan prior to occupation
35	Requires the submission of cycle storage details
36	To ensure energy and sustainability measures are delivered in accordance with statement
37	To ensure that the development achieves BREEAM rating level
38	Prevents the erection of gates or fencing
39	Requires the submission and completion of works for the S278/TRO Agreement
40	Requires the provision of cycle parking prior to occupation
41	Requires the provision of refuse stores prior to occupation
42	Limits delivery time of goods to or from the commercial units within the site
43	Requires the scheme to be in accordance with the listed approved plans
44	Implement within 3 years (Full)

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Case Officer: Amy Stevenson

## Photo(s)



Photo 1: Aerial view of application site with Barford St in foreground and Smithfield to west



Photo 2: Bradford St looking east towards application site



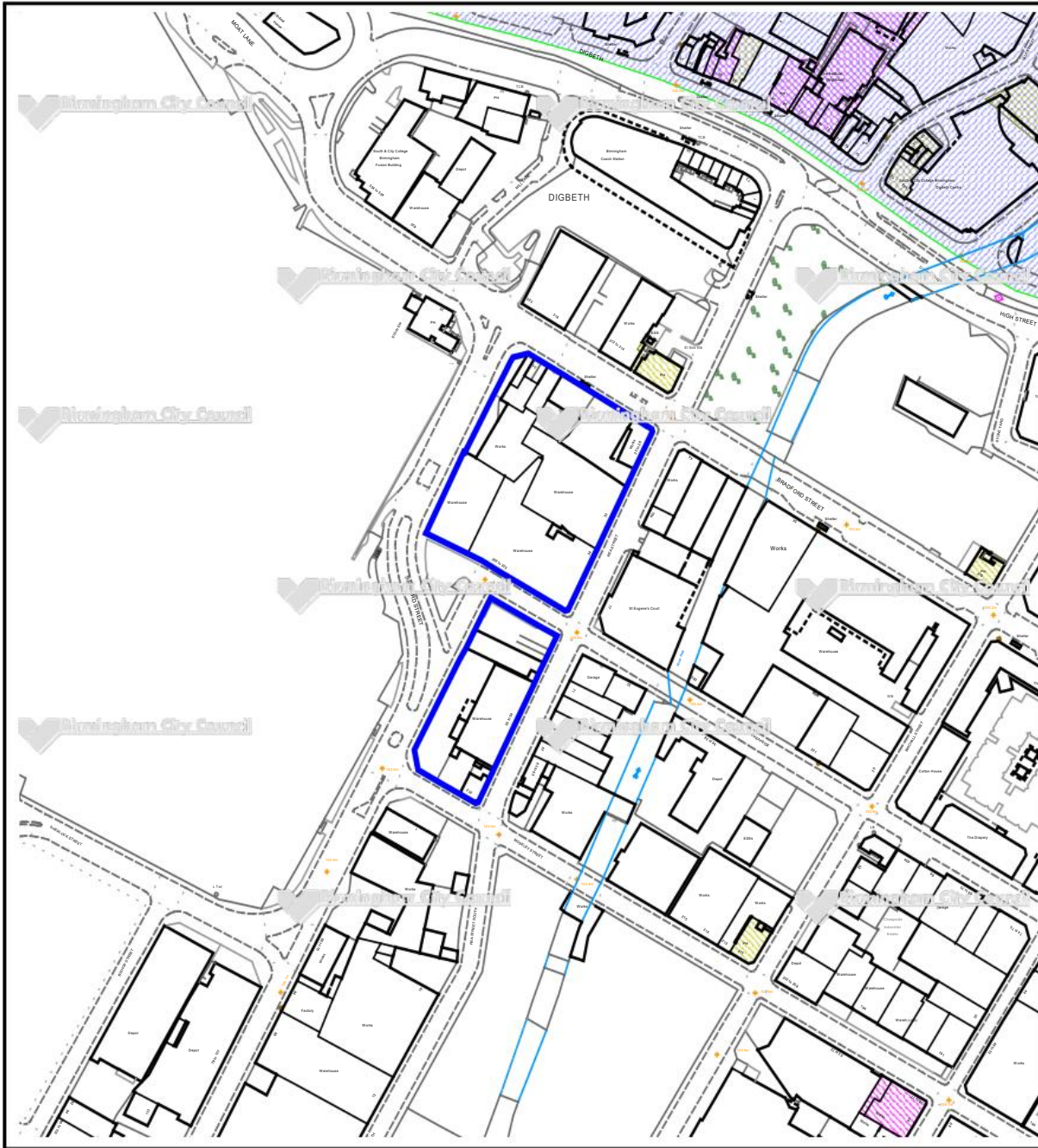


Photo 3: Moseley St/Rea St junction looking north to Cheapside junction and beyond



Photo 4: Cheapside between the two plots, looking west towards Smithfield

## Location Plan



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Committee Date:	28/09/2023	Application Number:	2021/08880/PA
Accepted:	15/10/2021	Application Type:	Full Planning
Target Date:	28/09/2023		
Ward:	Ladywood		

30-33 Sherborne Street, Ladywood, Birmingham, B16 8DE,

Construction of a part five and part six storey building to provide 33 apartments.

Applicant:	30-33 Sherborne Street Ltd VPL, PO Box 66085, London, W4 9EN
Agent:	PJ Planning Cradley Enterprise Centre, Box no 15, Maypole Fields, Cradley, B63 2QB

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#### Recommendation

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

#### **1. Report Back:**

- 1.1 Members will recall discussing this application at planning committee meeting 17th August and raising concerns regarding the proposed housing mix (number of 1 beds) and the low level of affordable housing.
- 1.2 In response to these concerns, the following changes have been made to the application:

-Alterations to housing mix, affordable housing discount and the number of units to be provided:

#### Revised offer

Mix:

12 x 1 beds (40%)

18 x 2 beds (60%)

3 affordable housing units (**10%**)

(1 x 1bed2p and 1 x 2 bed4p) at a 20% market discount and 1 x 1bed 'First Home' at a 30% market discount.

This would **equate to a monetary contribution of £192,184.00 with 30 units** (Previous offer equated to £178,500 with 33 units).

#### Previous offer

Mix:

70% 1 beds

30% 2 beds

3 affordable units at a 20% market discount (9%) (2 x 1bed and 1 x 2bed)

(Previous offer equated to a monetary contribution of £178,500 with 33 units).

This has subsequently resulted in a reduction of units overall, going from 33units to 30units.

The NPPF defines affordable housing (for discounted market sale) as per below:

‘is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.’

This revised offer exceeds the 20% definition.

- 1.3 Additionally, the agent has also sought counsel opinion on the possible refusal, the likelihood of appeal success, should the applicant choose that route, and of a costs award being made.
- 1.4 Further information and context are therefore set out below to assist members in determining the application.
- 1.5 The agent has also asked that members are made aware that the revised plans now represent significant commercial risk and stretch to the limit the financial viability of this scheme, hence the plans have been taken as far as possible.

## 1.6 [Link to Documents](#)

## 2. **Housing Mix:**

- 2.1 BDP policy TP30 states, ‘Proposals for new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. Account will need to be taken of the:
  - *Strategic Housing Market Assessment (or any subsequent revision)*
  - *Detailed Local Housing Market Assessments (where applicable)*
  - *Current and future demographic profiles*
  - *Locality and ability of the site to accommodate a mix of housing*
  - *Market signals and local housing market trends.*
- 2.2 This policy allows for account to be taken of several strands of information which influence housing mix, however neither the text of policy TP30 nor any of the strands of information in themselves set a specific or rigid housing mix requirement. Further analysis of the HEDNA draws out the nuances associated with housing mix, particularly in relation to the Central Area, which includes the city centre.
- 2.3 The housing mix starting point identified in the HEDNA for the Central Area is:  
1 beds: 17%                  2 beds: 37%                  3 beds: 31%                  4 beds 15%
- 2.4 The ‘Central Area’ defined in the HEDNA covers more than just land within the ring road. It comprises the entirety of the following wards: Balsall Heath West, Bordesley and Highgate, Bordesley Green, Edgbaston, Ladywood, Lozells, Nechells, Newtown, Small Heath, Soho & JQ, and Sparkbrook and Balsall Heath East. These wards cover a mix of areas including the city core, inner city areas and the suburbs.
- 2.5 The HEDNA 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. It looks at the size of homes (using 2011 census data) and the location of schools and central GP practices within these areas.

- 2.6 Within the Inner Central Sub-Area, approx. 85% of homes have 2 bedrooms or fewer 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.
- 2.7 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)
- 2.8 It also states that the location/quality of sites will also have an impact on the mix of housing. For example, 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.
- 2.9 Therefore, although the HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, it does state that the Council should broadly seek the same mix of housing in all locations but to be flexible to a different mix where specific local characteristics suggest.
- The city centre has specific characteristics which make it more suitable for smaller homes and this is only a part of the overall housing offer across the Central Area and the city as a whole.
  - The current city-wide housing mix continues to show a strong emphasis on three bed, family-sized homes and this stock is being added to in some parts of the city centre but particularly beyond the ring road through your committee's decision making.
  - Site circumstances and market trends are also relevant. The site is a small, constrained site located in the heart of the city centre off Sherborne Street, bound by other buildings. Photos at the end of this report shows the site in its current form.
- 2.10 Policy TP30 further allows for the circumstances of individual sites and market trends to play a part in determining house mix.
- 2.11 This application now proposes 40% 1 beds and 60% 2-bed apartments.  
This revised offer is considered to be a better one that fits into the city's wider provision of housing.
- 2.12 Therefore, taking the site as a whole, it would be more effectively and efficiently used for high density housing in accordance with paras. 120 c) and d) and 124 of the NPPF. This guidance requires planning decisions to give "substantial weight to the value of using suitable brownfield land within settlements for homes", to "promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained", and to "support development that makes efficient use of land".

### 3. **Affordable Housing:**

- 3.1 Policy TP31 states, "The City Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The developer subsidy will be established taking account of the above percentage and the types and sizes of dwellings proposed." It also allows developers to submit a Financial Viability Appraisal (FVA) when they consider affordable housing of 35% cannot be provided.
- 3.2 Furthermore, the NPPF makes clear that viability is a material consideration in the assessment of a planning application.
- 3.3 As mentioned above an increased affordable homes offer has been put forward and assessed by an Independent Financial Advisor, who confirms the scheme can support 3 (10%) affordable units (2 units at a 20% discount and 1 unit at a 30% discount). This would equate to a monetary contribution of £192,184.00. (Previous offer equated to £178,500 with 33 units).
- 3.4 The HEDNA states, "Overall, the analysis identifies a notable need for affordable housing, and it is clear that provision of new affordable housing is an important and pressing issue in the area. It does however need to be stressed that this report does not provide an affordable housing target; the amount of affordable housing delivered will be limited to the amount that can viably be provided. The evidence does however suggest that affordable housing delivery should be maximised where opportunities arise." (Chapter 7, Key Points)
- 3.5. Reviewing the items which have been reported to Planning Committee between 27th April and 27th July, the following affordable housing contributions have been secured:
- City Centre sites:  
Brindley Drive 5.33%  
Curzon Wharf 5%  
80-82 Great Hampton St 10.3%  
20-39 Snow Hill 9.74%
- Other sites:  
Boleyn Road, Rubery 61.4% (BMHT)  
Icknield Port Loop, Ladywood 10%  
Lindridge Road, Sutton Coldfield 40%  
Former BCU campus, Perry Barr 27% (BCC site)  
Trescott Road, Northfield 100% (BMHT)  
Wallis House, Selly Oak 10.5%  
Former MG Works, Longbridge 15%
- 3.6. In this context, the affordable housing offered of 10% is not unusually low.

### 4. **Counsel Opinion:**

- 4.1 In response to Committee's deferral of the application on 17th August, the applicant has sought counsel opinion on the possible refusal, the likelihood of appeal success, should the applicant choose that route, and of a costs award being made.
- Housing mix:
- 4.2 While noting the Central Area targets in the HEDNA, counsel lists the "considerable" qualifications as follows:

- 4.3 Table 8.34 is entitled 'Housing Mix Starting Point ...'. The targets are a starting point for negotiation and are not set in stone.
- 4.4 The specific dynamic of the city centre in terms of housing mix is noted in the HEDNA, quoting the "location/quality of sites will also have an impact on the mix of housing. For example, brownfield sites in the City Centre (particularly in the inner sub-area) may be more suited to flatted development ...".
- 4.5 TP30 is not prescriptive about mix and requires account to be taken of various factors including the HEDNA but also evidence of market signals and trends and locational characteristics.
- 4.6 In the event of refusal, an appeal is recommended along with an application for costs.

Affordable housing:

- 4.7 Counsel notes that the Council's independent viability assessor "squeezed all margins to reach a 10% figure" and that this is "a figure that complies with Development Plan policy being the greatest contribution that the development can support".

## 5. **Conclusion:**

- 5.1. The scheme will provide an improved mix of units at an increased affordable housing market discount; therefore, I do not consider a reason for refusal based on mix and affordable housing sustainable at appeal. With regards to any adverse impacts, none have been identified as part of this application therefore when considering the benefits associated with the scheme the planning balance is in favour and therefore no reason for refusal is offered for consideration.
- 5.2 The officer recommendation therefore remains to approve this application, subject to a S106 agreement to secure the 10% affordable housing units and the list of conditions attached to the report, and the formal recommendation is set out below at paras. 6.1 - 6.4.

## 6. **Recommendation:**

That application 2021/08880/PA be approved subject to the prior completion of a Section 106 Legal Agreement to secure the following:

- a) 10% (3) onsite affordable units comprising the following:
  - 1 x 1 bed apartment at a 30% discount (First home)
  - 1 x 1bed apartment and 1 x 2bed apartment at a discount of 20%
- b) Payment of a monitoring and administration fee associated with the legal agreement subject to a maximum of £1,500

- 6.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 21<sup>st</sup> December 2023 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason:

- a) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the NPPF



- 6.3. That the City Solicitor be authorised to prepare, complete, and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 6.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 21<sup>st</sup> December 2023, 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).

[End of report back]

**Proposal:**

- 1.1 Full planning consent is sought for a part five and part six storey apartment block to provide 33 self-contained residential units. This application is a resubmission of a 2015 scheme that secured planning permission for a part four and five storey block to provide 28 residential units with basement car parking. This scheme however is different to that scheme by means of design, layout and number of residential units.
- 1.2 Originally this scheme included a basement car park (as the 2015 did) however in line with the 2021 Parking SPD it was asked that this be removed from the scheme. Additional officer concerns with regards to design quality, proximity to neighbouring residential units and the impact on amenity led to the scheme undergoing further revisions. The proposed building is now a 5-storey building with a 6th storey step back to reduce the impact on neighbouring amenity. Below presents the final scheme images.

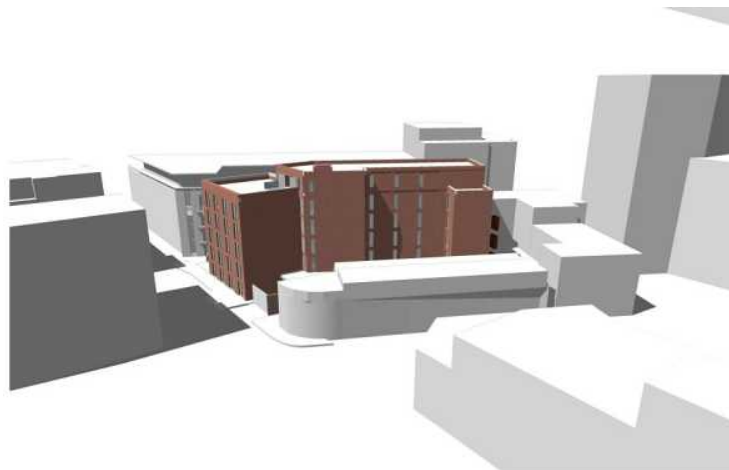


Image 1: Artist's illustration of the proposed scheme.

- 1.3 The following drawing identifies ground floor pedestrian access, proposed cycle store, plant and refuse area.

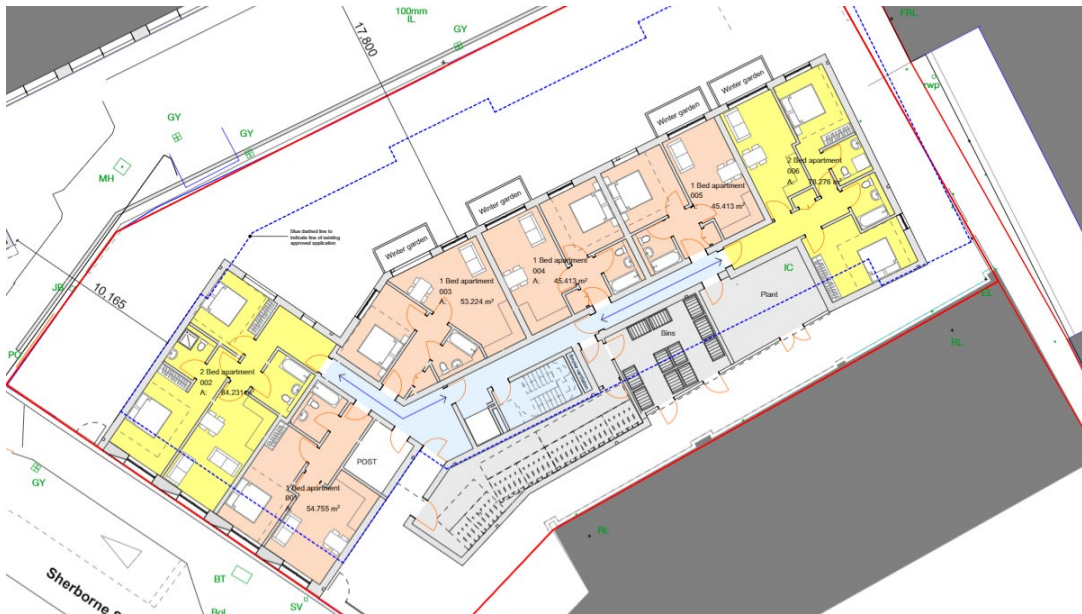


Image 2: Ground floor plan

- 1.4 With regards to mix the application proposes a mix of:  
21 x 1 Bedroom (2 Persons) and 12 x 2 Bedroom (4 persons) units. All residential units conform to National Development Space Standards (NDSS).

Table 1: Proposed Development | Summary Accommodation Schedule

Apartment Type	Unit Qty	Average NIA (ft²)	Total NIA (ft²)
1-Bed	21	552	11,591
2-Bed	12	888	10,655
<b>Total/ Average:</b>	<b>33</b>	<b>674</b>	<b>22,246</b>

- 1.5 Supporting information comprises: Amended Design and Access Statement, Amended Heritage Statement, Amended Transport Plan, Amended Travel Plan, Amended Sustainability and Energy Report, Amended Noise Assessment, Amended Phase 1 Geo-environmental Report, Amended SUDS Assessment, Updated Financial Viability Report, Additional Landscape Scheme, Amended Daylight and Sunlight Report and addendum, Ecological Appraisal.

- 1.6 The submitted financial appraisal has been independently assessed and demonstrates that the proposed development cannot viably accommodate provision for policy compliant affordable housing or any other section 106 planning obligation. However, the scheme can support the following without prejudicing the deliverability of the proposed scheme:

2 No. x 1 bed First Homes or Discount Market Sale @ 20% discount  
1 No. x 2 bed First Homes or Discount Market Sale @ 20% discount

Total 3 units representing 9% affordable provision. However, the affordability of these units must be taken into consideration, which is considered later in the report.

- 1.7 This represents an equivalent monetary sum of in lieu of on-site delivery of approximately £178,500.

#### 1.8 [Link to Documents](#)

### 7. **Site & Surroundings:**

- 2.1 The site is a broadly rectangular shaped cleared site located west of the Birmingham Canal Old Line, east of Sherborne Street, north of Sherborne Gate and south of Morville Street.
- 2.2 The application site measures 0.3 acres and is generally level with a minor slope towards the north-east. The site is presently used as a temporary construction compound for storing building materials and facilities including portable units used as changing rooms and canteens.
- 2.3 A five-storey residential development lies to the northwest and other residential developments lie on the opposite side of Sherborne Street reaching six and seven storeys in height. A part single and part two storey residential property lies at 1 Sherborne Gate to the southeast of the site.

#### 2.4 [Site Location](#)

### 3 **Planning History:**

- 3.1 05/05/2016 - Construction of part four and part five storey building to provide 21 apartments, means of access and associated car parking - 2015/08644/PA- approved subject to conditions.
- 3.2 28/03/2011 - Outline planning application for the erection of 7, three storey dwellings in two terraced groups with ancillary parking and access - 2011/00640/PA - approved subject to conditions.
- 3.3 07/03/2008 – Reserved matters pursuant to application C/03350/OUT for siting, design, external appearance and means of access for the erection of 21 unit residential scheme of apartments with associated car parking - 2007/04640/PA –approved subject to conditions.
- 3.4 22/12/2006 – Reserved matters application for design, in connection with previous outline approval for 24-unit residential scheme, granted under application C/3550/02/OUT and renewed under C/02484/05/FUL – 2006/05884/PA – Refused for the reason below.

- 1 The proposed development by virtue of the siting, height and design of the building would cause an unacceptable overbearing impact and overshadowing of neighbouring properties particularly those at Sherborne Mill (Jupiter 1) and 1 Sherborne Gate. It would also result in a loss of light and sunlight detrimental to the amenities the occupiers of these properties could reasonably expect to enjoy. Therefore the proposal is considered contrary to the guidance contained Policies 3.14 and 5.20 of the Birmingham Unitary Development Plan 2005 and Supplementary Planning Guidance 'Places for All' (2001) and 'Places for Living' (2001).

Date: 21st December 2006

- 3.5 27/06/2003 – Outline planning application for residential development (all matters reserved) – 2002/03550/PA – approve subject to conditions.

### 4 **Consultation Responses:**

- 4.1 Archaeology – no objections and no conditions recommended.
- 4.2 City Design – no objections subject to material, architectural detailing and site levels conditions.

- 4.3 Canal & River Trust – by condition considers a Landscape and Ecological Management Plan should be submitted as well as a Phase II Investigation covering an assessment of any pollutant linkages which may be found from the site to the canal and the request for an informative
- 4.4 Conservation – acceptable, no conditions recommended.
- 4.5 Ecology - acceptable subject to the following conditions: scheme for ecological/biodiversity/enhancement measures. Bird/bat boxes, implementation of acceptable mitigation/enhancement and biodiversity roof condition
- 4.6 Education School Places – no comments received.
- 4.7 Employment Access Team – have no comments to make
- 4.8 Health and Safety Executive – no objections
- 4.9 Historic England – no comments
- 4.10 Leisure Services – confirm the public open space (POS) contribution would total POS and off-site play area contribution of £114,365 (based on 54 people). Leisure services were re-notified for a revised calculation however no further response received.
- 4.11 Local Leading Flood Authority - have objected to the scheme and have been reconsulted on further amendments. Awaiting comments and pre-commencement conditions.
- 4.12 Natural England – has no comments to make.
- 4.13 Planning and Strategic Growth – no objections subject to conditions that the development be in accordance with the sustainability and energy report.
- 4.14 Regulatory Services - no objections subject to conditions around noise insulation, noise levels for plant and machinery, contamination remediation scheme and contaminated land verification report.
- 4.15 Severn Trent Water- no objections subject to foul and surface water details to be submitted prior to occupation.
- 4.16 Transportation Development – no objections subject to a S278 highways agreement and conditions relative to secure cycle parking prior to occupation and construction management plan to be submitted before any works start.
- 4.17 West Midlands Fire Service – makes several designs recommendations.
- 4.18 West Midlands Police – requests CCTV and video-controlled entry system conditions

## **5 Third Party Responses:**

- 5.1 The application has been publicised by newspaper advert, site notice and neighbour letters.
- 5.2 25 sets of representations have been received making the following comments:
  - Loss of light and overshadowing to existing apartments/effect on mental health

- Additional traffic/congestion and parking problems
- Too many apartments
- No green/areas of open space as originally planned
- Loss of privacy for residents (particularly the balconies)
- Construction noise from existing building work and future building
- Application site should be used as open public space
- Development will severely impact on neighbouring resident's standard of living
- Apartments do not cater for locals
- Will add to further apartments being used for rent/late night parties
- Unable to view the plans in detail
- Unsure of distances between the proposed and their property
- Site is unsuitable for large scale development
- Impact on canal and local wildlife
- Noise concern from continuous development opposite the site
- Severe overlooking at 14m from Jupiter 1
- Right of access

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

### **6.1 National Planning Policy Framework (if relevant)**

Section 2: Sustainable Development

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 12: Achieving well-designed places

Section 14: Meeting the challenge of climate change, flooding and coastal change/

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

### **6.2 Birmingham Development Plan 2017: (if relevant)**

The application site falls within the City Centre Growth Area where Policy GA1 of the BDP promotes the City Centre as the focus for office, residential and commercial activity. As defined by Policy GA1.3, the application site falls inside the Westside and Ladywood Quarter where the objective is to create a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area.

PG1 Overall levels of growth

PG3 Place making

TP1 Reducing the City's carbon footprint

TP2 Adapting to climate change

TP3 Sustainable construction

TP4 Low and zero carbon energy generation

TP6 Management of flood risk and water resources

TP7 Green infrastructure network

TP8 Biodiversity and Geodiversity

TP9 Open space, playing fields and allotments

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

TP37 Heath

TP38 A sustainable transport network



TP39 Walking  
TP40 Cycling  
TP44 Traffic and congestion management  
TP45 Accessibility standards for new development  
TP46 Digital communications

### **6.3 Development Management DPD: (if relevant)**

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

### **6.4 Supplementary Planning Documents & Guidance:**

Birmingham Parking SPD (2021)  
Public Open Space in New Residential Development SPD (2007)  
Affordable Housing SPG (2001)  
Birmingham Design Guide SPD 2022  
Sherborne Street Development Brief SPG (2000)

## **7 Planning Considerations:**

The main material considerations are principle of development, housing mix, impact on the highway, design, impact on residential amenity, sustainability, noise, drainage and biodiversity.

- 7.1 The application site falls within the City Centre Growth Area where Policy GA1 of the BDP promotes the City Centre as the focus for office, residential and commercial activity. As defined by Policy GA1.3, the application site falls inside the Westside and Ladywood Quarter where the objective is to create a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well-connected area. The Sherborne Street Development Brief SPG remains extant and endorses the principle of further residential development, particularly adjacent the canal. Furthermore, in 2016 (2015/08644/PA) planning permission was granted for residential apartments at this site, therefore, the principal for residential development is supported.
- 7.2 The application proposes 33 units, whereby 64% (21) are 1 bed (2persons) and 36% (12) are 2 beds dwellings. Whilst the LPA need new housing, the proposed mix fails to provide a more varied supply of homes as suggested in the April 2022 Housing and Economic Needs Assessment (HEDNA) and is weighted towards smaller units, for which the City has the lowest need.
- 7.3 That said it is worthy to note that for the most part, design discussions and revisions were had during in April/May 2022 and by reason of timing and the publication date of the HEDNA data (April 2022) vs amended plans being agreed (early May 2022), it was then at that point in time considered unreasonable to request further changes.
- 7.4 The Council's independent financial viability advisor was updated and accepted the schemes viability on the basis of the recently revised scheme. Furthermore, the applicant stated a scheme containing larger units would render the scheme

completely unviable as well as result in fewer homes and subsequently a reduced affordable housing contribution offer. It was suggested a more varied mix could be provided via the scale of development being increased, however given the size of the site and the proximity to immediate neighbours an increase in scale would be out of character and potentially harm local amenity therefore this option is both unrealistic and unviable.

7.5 As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development.

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

7.7 Whilst the proposed mix does not wholly adhere to the aims of policy TP25, the scheme fully accords with DMB Policy DM10; all units meet the Nationally Described Space Standards (NDSS) and the size and density are acceptable, thereby the weight attributed to the lack of a 5-year housing land supply (5YHLS) outweighs the weight afforded to the TP25 conflict. The proposal is sustainably located whereby the limited harm by means of unit sizes would not be outweighed by the economic, environmental, and social benefits the development could deliver.

#### 7.8 Affordable Housing

Policy TP31 requires housing developments of 15 dwellings or more to provide 35% of dwellings as Affordable Housing. A Viability Assessment has been submitted and assessed by an Independent financial advisor who confirms the scheme can support the following:

- 2 No. x 1 bed First Homes or Discount Market Sale @ 20% discount
- 1 No. x 2 bed First Homes or Discount Market Sale @ 20% discount

Total 3 units representing 9% affordable provision.

7.9 However, when considering the affordability, a 30% discount is more affordable as per table below. Whilst the higher discount would result in one fewer unit this is genuinely more affordable for average earners. Therefore, it is recommended that the scheme should deliver a total of 2 units (6%).

Table 1 – Discounts on sale costs

Unit Type	Sale cost	20% discount cost	30% discount cost
1 bed	£243,368	£194,694	£170,358
2 bed	£352,506	£282,004	£246,754

## Impact on highway

- 7.10 The site lies within a highly accessible location and is in walking distance of the city core. There are numerous public transport options/stops within a short walk as well as local services and facilities to serve day to day needs.
- 7.11 No car parking is proposed. The scheme provides 100% cycle parking which is SPD compliant. BCCs Transport Officer supports the application and confirms no objections subject to conditions and a S278 highways agreement. The transport details presented are acceptable and accord with Policies TP38, TP39, TP40 and TP44 of the BDP and Policies DM14 and DM15 of the DMB.

## Design

- 7.12 With regards to design the scheme has undergone several revisions.
- 7.13 The principle of the development, its scale, form and massing have generally been supported. However, by reason of the harm to neighbouring properties the form and position of the building has now been revised back to be generally in accordance with the original approved scheme (ref: 2015/08644/PA) albeit with an additional floor throughout.
- 7.14 The Sherborne Street Development Brief SPG states that development should demonstrate a sensitive relationship to scale to the surrounding housing area and should define the street, be built up to the back of the pavement, create a strong sense of presence, respect the surrounding areas in terms of scale, character and design and be appropriate height generally indicated as 3-4 storeys across the wider brief area.
- 7.15 Since the SPG was adopted however much of the area surrounding the site has been redeveloped with apartments ranging in height from four to seven storeys, therefore exceeding the heights recommended in the SPG. The surrounding site comprises of buildings of a similar storey height therefore the proposed reflects existing scale and character, with the exception of the neighbouring part 1, part 2 storey building.
- 7.16 The scheme is generally linear in form with a slight angle to align it with the street frontage. The front block is five-storeys, and the rear wing is six-storeys. Whilst this is not typical of building hierarchy that one would expect, in this scenario it allows the scheme to morph with the existing and emerging townscape within the street scape.
- 7.17 The five-storey front range would front onto other five-storey structures on the opposite side of the street and the six-storey range will back onto taller structures fronting the canal. The scale is therefore justified and accepted.
- 7.18 The architectural design of the building is simple and typical of many proposals submitted across the City and uses a standard orange/red brick reflective of this area. The scheme uses a minimal palette of materials drawn from the immediate context - which is largely brickwork with a number of details to add interest including deep chamfered reveals to windows, deep recesses, contrast between vertical and horizontal brick bonding. The simplicity gives the development a distinguished and contemporary appearance. It is proposed that ground floor brick work will have a vertical emphasis, whilst the upper levels will be traditional horizontal brick work. The proposed brickwork is a red brick, typical of Birmingham buildings.

- 7.19 The quality of the façade has been revisited and the deep reveals (removed under the last iteration of drawings) has been reinstated, however, flashing and other details require further design development.
- 7.20 The landscaping is sat behind metal fencing and will need conditioning to avoid poor-quality design. The hard and soft landscaping to the rear/flanks is basic and can also be secured and managed through condition.

#### Impact on residential amenity

- 7.21 In accordance with PG3 of the BDP, DM2 and DM10 of the DPD as well as design principles 11 and 13 of the Design SPD all new developments must ensure they do not have an unacceptable impact on the amenity, outlook or privacy of existing or new residential properties.
- 7.22 Of particular concern to neighbours is the height and position of the proposed in relation to its neighbours and its effect on outlook and privacy. Letters of concern have been received from the following addresses as per diagram below:

Jupiter 1/34 Sherborne Street/Mill  
 Jupiter 4/ 51 Sherborne Street  
 One Sherbourne Gate/Street



Image 3: Layout and site surroundings plan

- 7.23 With regards to design changes and in comparison to the 2015 approval (2015/08644/PA) the scheme proposes to be taller in height. It varies with regards to abutting the back of the footway, featuring an additional storey together with the inclusion of winter gardens at ground floor and balconies along the northern elevation.

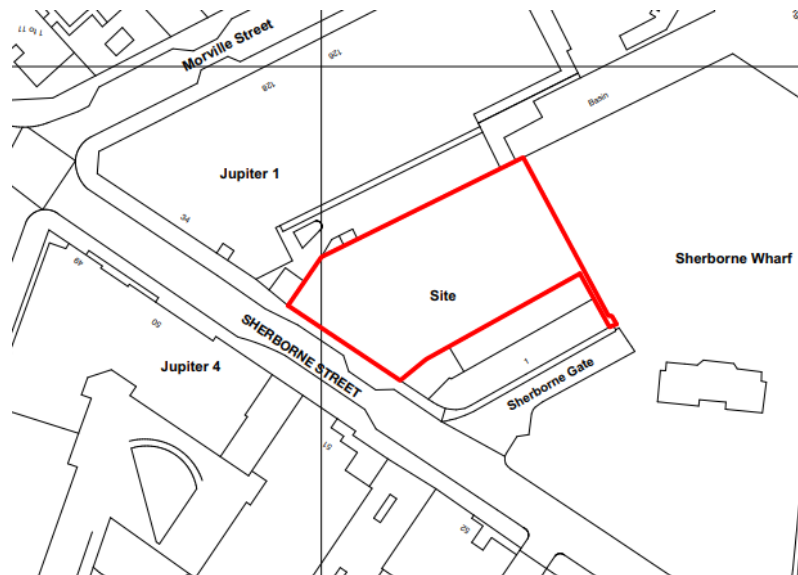


Image 4: Location plan and surrounding residential properties

- 7.24 In terms of separation distances between elevations 10.1 and 17.8m would remain between the proposed and Jupiter 1 (to the north), between 13.2m from Jupiter 4 and between 10.4m and 13m from One Sherborne Gate to the south. Approximately 2.4m will separate the scheme from the existing domestic curtilage at single storey height. At 13m the site becomes 2 storeys plus.
- 7.25 Letters of objection refer to previous schemes that were refused and approved therefore the table below has been put together to show how these schemes compare against one another in terms of separation distance (bearing in mind the additional height).

Table 2: Planning application comparison

Site from property	Separation Distance (2015 approval)	Separation Distance (2006 refusal)	separation Distance 2007 (approval)	Separation Distance (current app)
Jupiter 1/34 Sherborne Street/Mill	10.1 - 17.8m	21m	17.5m	10.1 - 17.8m
Jupiter 4/51 Sherborne Street	15.7m	13.2m	15.7m	13.2m
One Sherborne Gate	5.5m to existing site boundary  11m - 14m between elevations	4.3m from existing site boundary and proposed development  8.7m from existing windows to proposed windows (3 storeys)	7m between boundary and proposed  12.6m wall to wall (obscure glazed)	2.4m to existing site boundary and proposed development (at ground floor)  10.4m - 13m from existing property to proposed obscure windows (at storeys)  11.4m from small bedroom window to proposed flank wall
Sherborne Wharf (to the east)	3m	5.4m	n/a	8.1m



- 7.26 Objections regarding the 14m separation distance between the proposed and Jupiter 1 were taken on board and the scheme revised to retain a 17.8m standoff – as the 2015 approval did. The scheme is set 2.5m closer to Jupiter 4 (to the west) and is closer to the boundary to One Sherborne Gate. Nevertheless, it allows for a separation distance of 13m between dual aspect habitable windows and obscured glazed corridor windows at the proposed scheme. Although the 17.8m does not adhere to the numerical standards in the Design Guide SPD, and the building is taller the distance and scale is unlikely to adversely harm levels of outlook, light, privacy or result in an unacceptable standard of living.

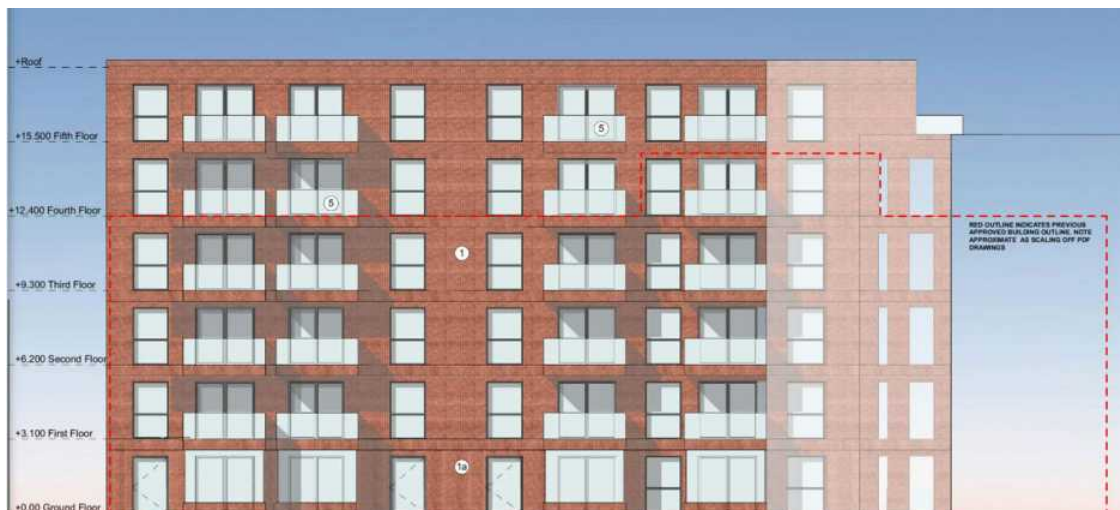


Image 5: View of the proposed, southwards from Jupiter 1 - red line indicates previous 2015 approved scheme.

#### Jupiter 4/51 Sherborne Street

- 7.27 The proposed scheme would face onto this residential property leaving around 13m (at its closest) separation across the street. Although the proposed is closer to the development (than what was approved in 2015), the 2.5m setback is considered a design improvement that matches other schemes along this street and does not result in any adverse impacts on neighbouring amenity.



Image 6: View from the west/ Jupiter 4 onto the front elevation

- One Sherborne Gate/Street
- 7.28 Existing habitable rooms are to lie opposite a proposed flank wall and a set of obscurely glazed corridor windows; therefore One Sherborne Gate would not experience any loss of privacy. The scheme would sit at its closest 2.4m away from the site boundary where a north facing garden sits – see image 9 below. However, by means of its position and existing boundary fencing, overlooking would be somewhat unlikely to achieve. As can be seen below no habitable windows on One Sherborne Gate would look opposite any others except for the obscurely glazed corridor. Therefore, the relationship is considered acceptable.



Image 7: View of proposed southern elevation from One Sherbourne Gate – blue dashed line reflects 2015 approved scheme.

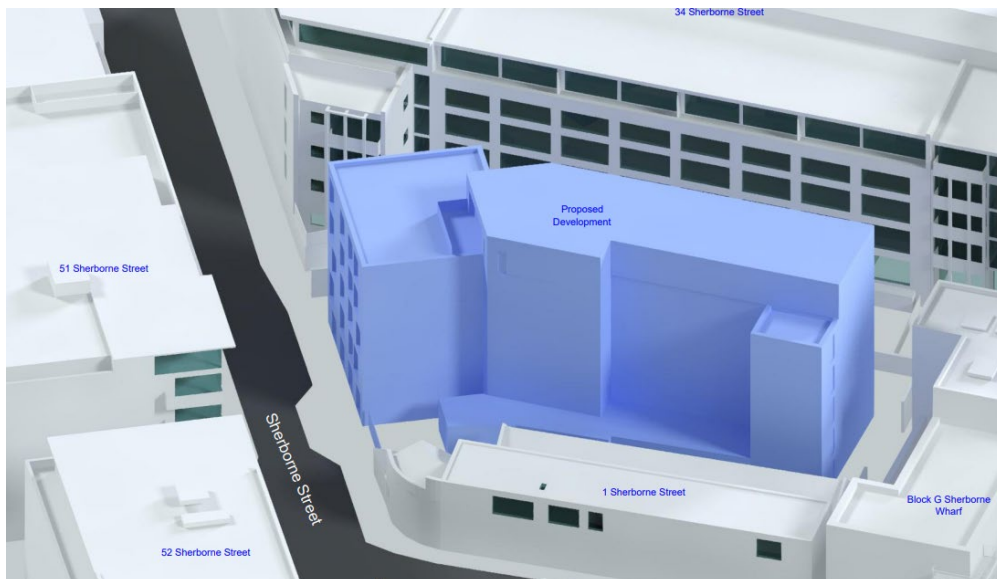


Image 8: 3D View of proposed scheme

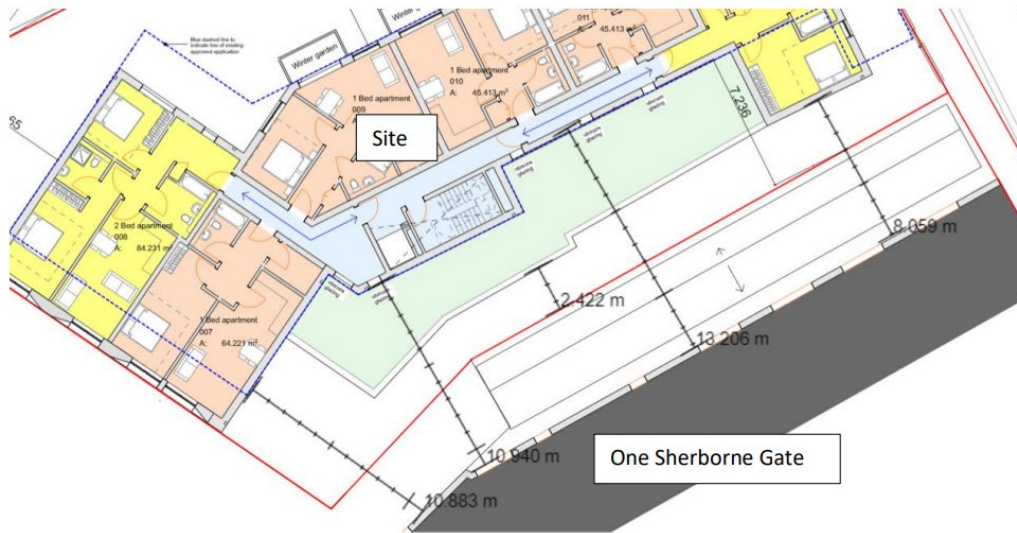


Image 9: Separation distances between the scheme and One Sherborne Gate

#### Sherborne Wharf

- 7.29 It is noted the scheme will leave a separation distance of 8m however this flank does not include any habitable room serving windows and would lie opposite a store room.

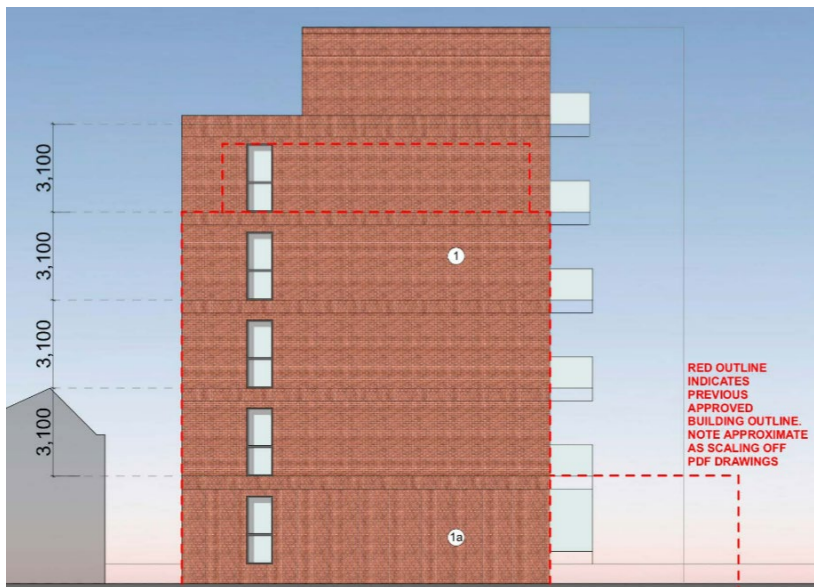


Image 10: View of eastern flank from Sherborne Wharf development

- 7.30 The numerical standards in the Design Guide SPD give a separation distance guide of 27.5m (for 3 storeys and above) and further states that the separation distance should be increased by 2m for every 1m rise in ground level between the new and existing dwellings. On that basis the separation distance would not meet the numerical standards. However, the guidance is simply that, and should not be applied as a blanket threshold, a point which reflects national policy in NPPF para 125(c); furthermore, the site's context should be considered. In this instance the site is located within the City Centre where the urban grain is tight and the density of development much higher (as encouraged by the BDP and Design Guide) to make the most efficient use of land in sustainable locations. Therefore, in this context the separation distances are considered acceptable with respect to maintaining the privacy of the existing adjacent occupiers, whilst making efficient use of this brownfield land in a sustainable location.



7.31 In 2006 planning application 2006/05884/PA was refused as per the reason below:

THE REASON IS AS FOLLOWS

- 1 The proposed development by virtue of the siting, height and design of the building would cause an unacceptable overbearing impact and overshadowing of neighbouring properties particularly those at Sherborne Mill (Jupiter 1) and 1 Sherborne Gate. It would also result in a loss of light and sunlight detrimental to the amenities the occupiers of these properties could reasonably expect to enjoy. Therefore the proposal is considered contrary to the guidance contained Policies 3.14 and 5.20 of the Birmingham Unitary Development Plan 2005 and Supplementary Planning Guidance 'Places for All' (2001) and 'Places for Living' (2001).

Date: 21st December 2006

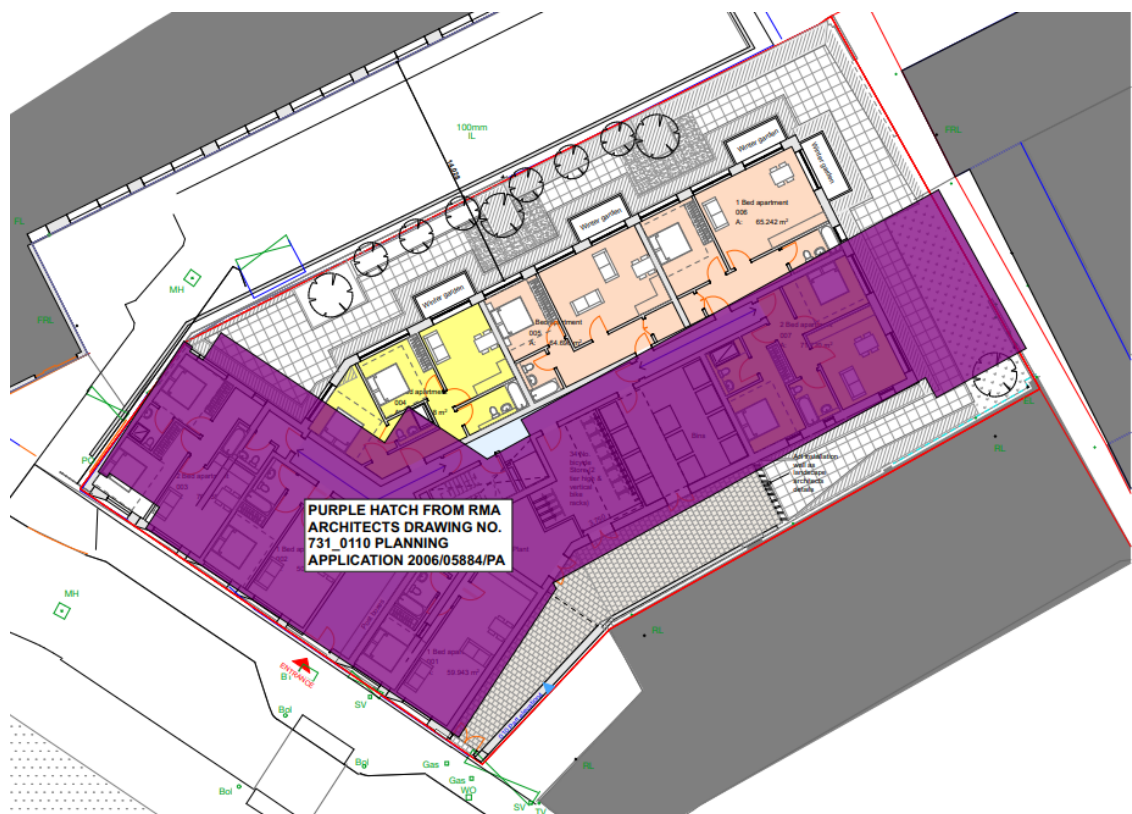


Image 11: Plan presenting the 2006 scheme in purple that was refused.

- 7.32 That application proposed that the apartment would occupy a four and five storey building fronting Sherborne Street between No.1 Sherborne Gate and Jupiter 1/Sherborne Mill. The top floor of the five-storey element was recessed and the 4<sup>th</sup> and 5<sup>th</sup> floor set adjacent to No.1 Sherborne Gate.
- Jupiter 1/Sherborne Mill
- 7.33 Proposed 5-10m from existing balconies at Sherborne Mill (north) – was a five storey flank wall. It was considered that the outlook from these properties were adversely affected whereby there was a significant reduction in daylight and sunlight to ground and first floor windows.
- One Sherborne Gate
- 7.34 The five-storey section was to be within 7metres of a large first floor window and balcony at 6m from a small bedroom window. The development was considered to cause a loss of light to these windows. It was also considered the development would

adversely affect the use/enjoyment of the existing courtyard garden as at 1 Sherborne Gate. Although there is currently a 3m high fence in situ, 3.5m from the boundary it was proposed to position a 9m high wall which increased to 14.5m having an imposing impact. It was also considered the wing proposed at the rear of the building would also adversely affect the outlook from the 1 Sherborne Gate due to the four-storey height and the large number of windows proposed.

#### Juniper 4

- 7.35 There are a number of ground and first floor windows in Jupiter 4 opposite the site which the daylight/sunlight report indicated would suffer a loss of daylight and sunlight as a result of the development. These windows are situated 13.5 metres away from the development which is a separation distance accepted elsewhere within the immediate areas – it was therefore considered that reason in itself would not be sufficient to justify refusal of the 2006 application.

#### Daylight/Sunlight

- 7.36 Neighbouring occupiers have continually raised concerns regarding the increase in mass/scale and decrease in separation distances and the loss of light impacts. In accordance with the amendments a revised sunlight and daylight report has been submitted, this considers the impact of the proposed development based on Building Research Establishment (BRE) guidelines that cover amenity requirements for sunlight and daylight to buildings around any development site as well as the quality of daylight within a proposed habitable development.



Image 12: 3D plan showing position of the proposed in relation to neighbours.

#### Daylight to windows/ Vertical Sky Component

- 7.37 All windows with a requirement for daylight pass the VSC test with the exception of 3 windows at 1 Sherborne Street/Gate and 9 windows at 51 Sherborne Street and 38 windows at 34 Sherborne Street. However, there are mitigating factors to mention.

#### One Sherborne Street/ Gate

- 7.38 The kitchen served by window 7, the Living room served by window 10 and the Bedroom served by window 16 also benefit from additional light sources (windows 8,



11 & 17). Windows 8, 11 & 17 face away from the development and will therefore remain unaffected. Since the rooms are dual aspect and have at least one window which surpasses the BRE recommendation, the rooms will maintain adequate light and the loss of light in the room will not be materially noticeable for the occupants.

51 Sherborne Street (Jupiter 4) and 34 Sherborne Street (Jupiter 1)

- 7.39 Secondly it is noted that all 9 windows at 51 and 34 Sherborne Street fall only marginally short of the recommended VSC (before/after ratios of 0.68 and above against the BRE target of 0.8). It should also be said that the BRE guide acknowledges that in an area with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportion of existing buildings (i.e. 34 Sherborne Street). BRE is also intended to be used flexibly particularly in urban locations, therefore given the borderline nature of the results considered the design has acceptable impact on daylight.

#### Daylight Distribution

- 7.40 All rooms with a requirement for daylight pass the daylight distribution test with the exception 31 rooms at 34 Sherborne Street and 1 room at Block D Sherborne Wharf. However, there are mitigating circumstances that prevents the scheme meeting the BRE daylight distribution recommendations. Section 2.2.12 of the BRE guide states that 'if an existing building contains rooms lit from one side only and greater than 5m deep, then a greater movement of the no skyline may be unavoidable'. It is noted that the rooms which fall short at 34 Sherborne Street are lit from one side and are over 5m deep (rooms approx. 7.5m deep). Furthermore, the room served by windows 190 & 191 at Block D Sherborne Wharf falls only marginally short of the BRE recommendation and achieves a reduction ratio of 0.76 against the BRE target of 0.8.

#### Sunlight to Windows

- 7.41 All windows that face within 90 degrees of due south have been tested for direct sunlight. All windows with a requirement for sunlight pass both the total annual sunlight hours test and the winter sunlight hours test except for only 15 windows at 34 Sherborne Street. However, it is noted that of the 15 windows which fall short, only 6 fall short of the annual sunlight hours test. The results confirm that with the exception of only 3 windows, all windows retain excellent annual sunlight hours (23% and above against the BRE target of 25%). The results also confirm that 5 of the 15 windows fall only marginally short of the winter sunlight hours test (5 windows retain at least 3% winter sunlight hours against the BRE target of 5%). Given the isolated nature of the shortfalls and the excellent levels of retained annual sunlight, it is viewed that the development design has an acceptable impact on direct sunlight

#### Overshadowing to Gardens and Open Spaces

- 7.42 All amenity areas tested pass the overshadowing to gardens and open spaces test with the exception of 3 gardens at 34 Sherborne Street. The results confirm that at least 31% of gardens 2 & 4 will receive at least two hours of sunlight on 21st March after the development against the BRE recommendation of 50%. However, this is mainly as a result of the garden not having an ideal southerly aspect and the urban location of the site. The results confirm that garden 3 falls only marginally short of the recommendation and achieves 45% against the BRE target of 50%.
- 7.43 To conclude the results of the study show that both the 2015 approved design and the proposed 2021 design have a similarly low impact on the light receivable by its neighbouring properties. Non-compliance with the BRE recommendations is limited to the daylight or sunlight tests in respect of isolated windows at 1,34 and 51 Sherborne Street. The shortfalls against the BRE recommendations were acceptable.

- 7.44 The view therefore remains that the proposed scheme would have a low impact on the light received by its neighbours. The proposed is therefore compliant with Policies PG3 and TP27 of the BDP.

#### Amenity of future occupiers

- 7.45 Private residential outdoor amenity space is being provided at ground floor level as per image below. A total of 20 balconies and 4 winter gardens (at ground level) are proposed to the rear each measuring 4.4sqm. At the fifth floor one unit is served by a private terrace measuring 8.25sq.m. Biodiversity roofs are being proposed at fourth floor and roof levels as per image below.



Image 13: Fifth floor plan showing private terrace and green roofs.



Image 14: Ground floor private outdoor amenity as per submitted landscape plan.

- 7.48 The proposed apartments meet the Nationally Described Space Standards and are well laid out. The provision of outdoors space is satisfactory for the location and the layout of the site accounts for existing and approved developments either side of the site and an adequate level of privacy and outlook would be achieved for all existing and future residents.

#### Drainage

- 7.49 The site is situated within Flood Zone 1, with a very low likelihood (1 in 1000) of flooding. The LLFA originally objected to the application and amended documents have been received and the LLFA re-notified. No objections subject to conditions are agreed.

#### Air Quality, Contamination and Noise

- 7.50 Regulatory services confirm no objections subject to conditions around noise insulation, plant and machinery noise level limits and contamination. Subject to conditions therefore I consider the proposed development is suitable for residential development and accords with PG3 of the BDP and DM2 and DM6 of the Development Management DPD.

#### Ecology/Biodiversity

- 7.51 Amended details and additional information have been submitted and the ecologist confirms no objections subject to conditions around enhancement and management. The proposed is in accordance with Policy TP8 of the BDP 2017 and Policy DM4 of the DPD.

#### Highway Safety

- 7.52 The proposed is a zero-car parking proposal whereby accessibility of public transport is excellent, located within easy walking distance from the site as well as car parking facilities. Secure cycle parking spaces are being proposed at 100%. Some existing footway crossing will become redundant therefore this should be reinstated to full height kerb at the applicant's expense via a suitable highways agreement. BCC Transport confirm no objections subject to conditions, therefore the proposed is considered policy compliant.

#### Energy and Sustainability

- 7.53 Energy and Sustainability Policy TP3 sets out a number of ways in which development should be designed and constructed. A revised combined energy and sustainable construction statement has been submitted and is considered acceptable.
- 7.54 In accordance with Policy TP4 an appropriate assessment of low and zero carbon forms of energy sources (LZC) has been completed and a third iteration sustainability statement has been submitted. The statement concludes that the development is estimated to achieve a 61.39% reduction in CO2 emissions over the TER of Building Regulations Part L1A 2021 which is an improvement on the old figure of 53.13%. This saving is to be realised using a Solar Photovoltaic Array 8.5kWp System which will produce 7,180kWh/annum. An amended roof plan has been submitted and the PV has also been marked on the roof plans. To ensure compliance with TP4 and to secure the above a condition is recommended.

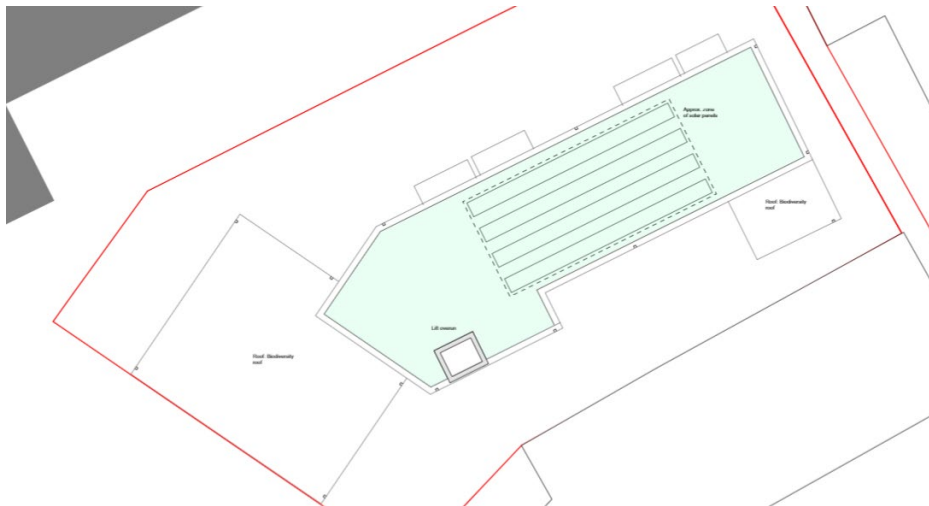


Image 15: Roof plan showing biodiversity roofs and position of solar photovoltaics.

#### Other matters

- 7.55 Several letters of objection have been received whereby most of the concerns raised have been addressed further up in the report. Concerns the proposal would increase existing vehicle noise and congestion is unlikely given the zero proposed level of car parking proposed and nearby highway parking restrictions.
- 7.56 Matters of noise during construction have been raised, whilst this is noted, construction is a day-to-day occurrence across the City and beyond whereby it would be for a temporary period, that said an updated construction management statement will be required by condition to cover working practices and hours of construction/deliveries. Furthermore, the regulatory team have been consulted who confirm no objections subject to conditions.
- 7.57 Letters of objection query an area of green space that was said to be originally planned for this site – as per the diagram below (2002/03550/PA). However, having checked the planning site history this image was presented (in 2002) per urban design constraints and opportunities diagram as part of an application for Outline planning whereby all other matters were reserved for subsequent consideration. The image was for indicative purposes and therefore did not form part of the approval.

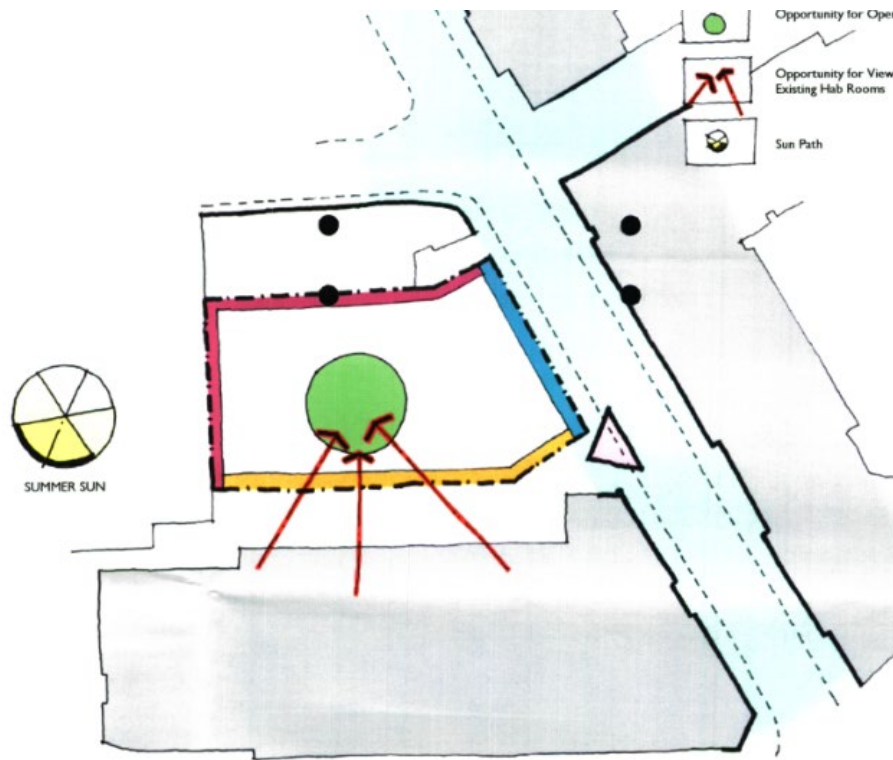


Image 16: An urban design constraints and opportunities diagram as per 2022 planning application.

- 7.58 Having looked at the later approvals for the site I can also confirm that those schemes did not include an open space area. Furthermore, having checked the Sherborne Design Brief SPG – no area of green space was specified here either.
- 7.59 Comments around not being able to view the plans in detail were also received however I can confirm that all amended plans have been available for public viewing throughout each round of consultation and those superseded can still be accessed now. With regards to comments around right of access these are civil matters outside of planning control.

#### Community Infrastructure Levy

- 7.60 The site lies within a low value residential area for CIL, it's exempt from any CIL charge.

#### Planning Obligations

- 7.61 Policy TP31 of the BDP requires 35% of the total number of dwellings to be affordable on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or a contribution towards off site provision for developments of 20 or more dwellings.
- 7.62 The applicants contend that the development would be unable to meet the Policy requirements outlined above and still deliver a sufficient developer's return. Therefore, a Financial Viability Appraisal (FVA) has been submitted and independently assessed.
- 7.63 Independent review of the submitted Financial Viability Appraisal indicates that the proposal could support the provision of 2 affordable units at a 30% discount on market value.



- 1 No. x 1 bed First Homes or Discount Market Sale @ 30% discount
  - 1 No. x 2 bed First Homes or Discount Market Sale @ 30% discount
- Total 2 units representing **6% affordable provision**

7.64 This provision, while not meeting the 35% set out in policy TP31, is welcomed, 2 units (6%) at a 30% discount has been agreed, with 1 of the 2 to be First Homes.

## **8 Conclusion**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 advises that the determination of a planning application shall be made in accordance with the development plan unless material considerations indicate otherwise. Whilst I have found conflict with policy TP25 in relation to housing mix I consider that the scheme is in overall general accordance with the development plan as a whole. As there are no policies of 'particular importance' in the NPPF that provide a clear reason for refusal (footnote 7) and there are no adverse impacts of approval that would significantly and demonstrably outweigh the benefits, the tilted balance requires the development is permitted without delay.
- 8.2. The proposed development would see the delivery of a high-quality residential development in a sustainable location. It would provide a meaningful contribution towards the much-needed housing (albeit the weight attributed to this is tempered by the proposed mix) and contribute towards the regeneration aspirations for this part of the City Centre. It would create a distinctive place and deliver 6% of low-cost housing at a 30% market discount in accordance with local and national policies.
- 8.3. The application is acceptable subject to completion of a legal agreement and safeguarding conditions.

## **9 Recommendation:**

- 9.1 That application 2021/08880/PA be approved subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- c) 6% (2) onsite affordable units at a mix of 1 and 2 bedroom apartments of 1 No. x 1 bed First Home; and 1 x 2 bed at a discount on market value of 30%
  - d) Payment of a monitoring and administration fee associated with the legal agreement subject to a maximum of £1,500
- 9.2 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 20<sup>th</sup> August 2023 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason:
- a) In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and the NPPF
- 9.3. That the City Solicitor be authorised to prepare, complete, and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 9.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 20<sup>th</sup> August 2023, 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).

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1	Time Limit
2	Approved Plans
3	Construction Management Plan
4	Sustainable Drainage Scheme
5	Sustainable Drainage Operation and Maintenance Plan
6	Ecological/Biodiversity Enhancements
7	Hard and Soft landscape details
8	Hard surfacing materials
9	Landscape Planting and Ecological Management Plan
10	Phase II Investigation Report
11	Noise Insulation Report
12	Noise Levels for plant and machinery
13	Contaminated land remediation scheme and verification report
14	Details of Green Roof
15	Boundary Treatments
16	Photovoltaics Details
17	Material samples
18	Architectural and specification details
19	Cycle parking in place prior to occupation
20	Requires redundant footpath to be reinstated
21	Requires lighting scheme
22	Requires CCTV
23	No displays or signage fitted
24	Energy and Sustainability in accordance with statement
25	Remove PD rights for telecoms
26	Foul and Surface details

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Case Officer: Sarah Plant

## Photo(s)



View 1 – Looking north with the application site to the east





View 2 – Northern residential block Jupiter 1/Sherborne Mill, site to rear of fencing





View 3 - Application site and straight ahead Sherborne Wharf development





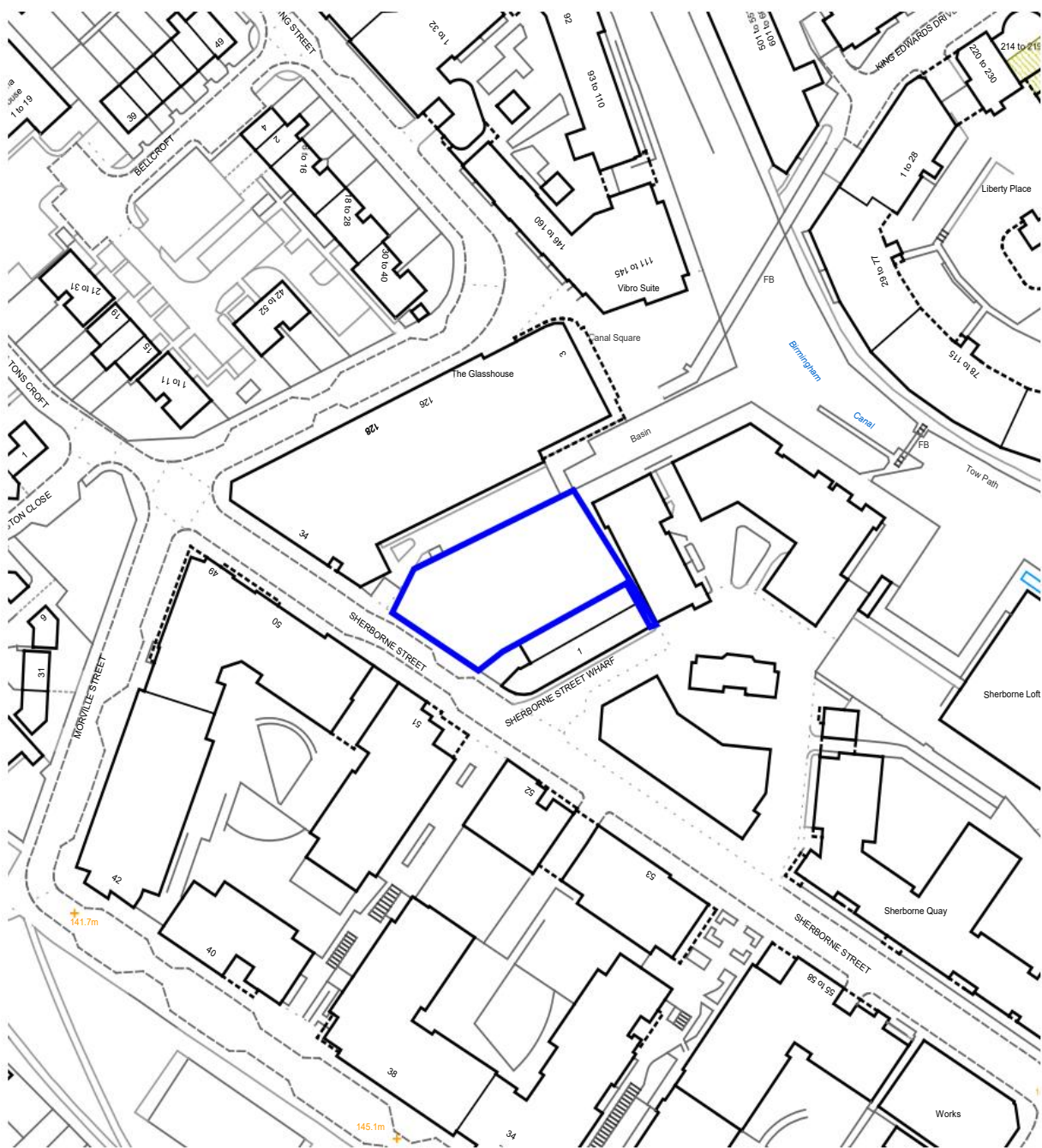
View 4 – South of one Sherborne Gate



View 5 – Jupiter 4 opposite site entrance



Location Plan



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25	Remove PD rights for telecoms
26	Foul and Surface details
27	Building and site levels
28	Verification Report
29	Video Controlled entry system
30	Bird and Bat Boxes
31	Sample panel
32	Implementation of acceptable mitigation/enhancement

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Case Officer: Sarah Plant

**Photo(s)**

## **Location Plan**

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Committee Date:	28/09/2023	Application Number:	2022/07620/PA
Accepted:	10/10/2022	Application Type:	Full Planning
Target Date:	28/09/2023		
Ward:	Ladywood		

Car park land adjacent to Queensgate House, Suffolk Street, Queensway, Birmingham, B1 1LX

Erection of a residential led development comprising 125 residential apartments (Use Class C3), ancillary internal and external residential amenity space, access, cycle parking, landscaping and all other associated works.

Applicant:	Riverlow Birmingham Ltd New Burlington House, 1075 Finchley Road, London, NW11 0PU
Agent:	CarneySweeney Crossway, 156 Great Charles Street, Queensway, Birmingham, B3 3HN

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Recommendation

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

1. **Proposal:**

1.1 This application seeks to provide 125 Private Rented Sector (PRS) residential apartments delivered through two blocks (A and B) together with amenity space.

1.2



Image 1: CGI view from the north east of the former Christadelphian Hall, the proposed scheme (Block A) and Queensgate House. Approved PBSA tower -

2022/04246/PA in image 2 below)

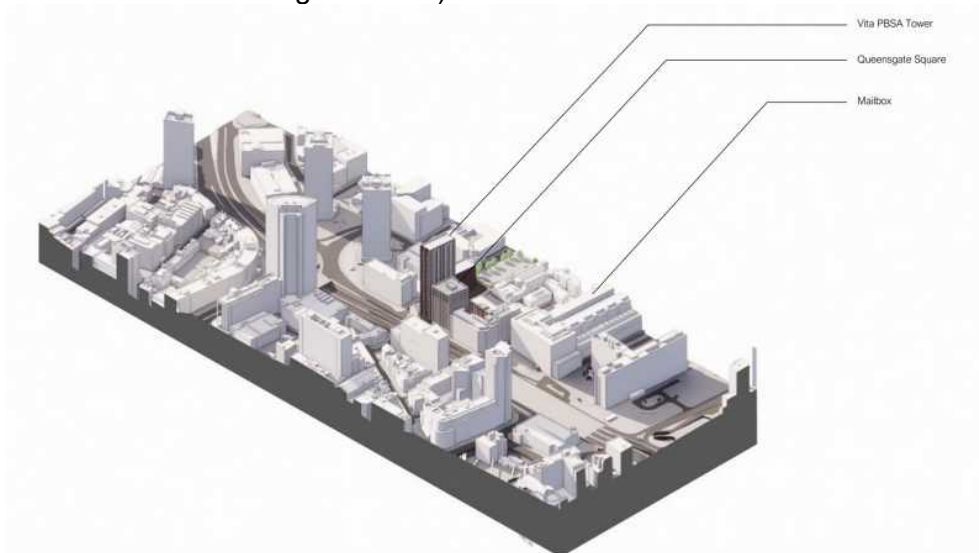


Image 2: 3D View of the proposal together with the PBSA tower.



Image 3: CGI south east view of the proposal next to the locally listed former Christadelphian Hall - (Block B in red brick behind Block A). Approved PBSA tower in image 3.



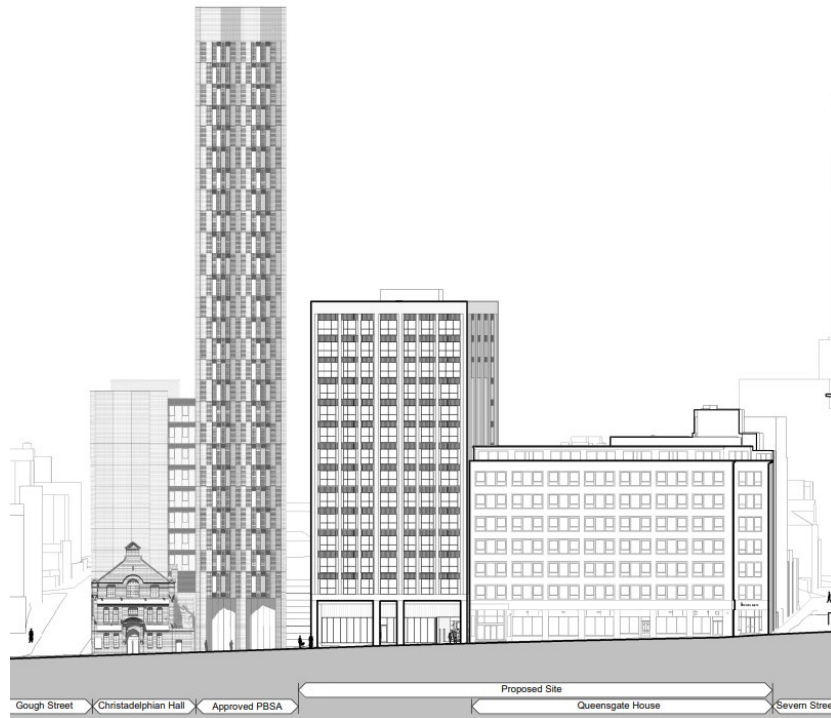


Image 4: Street elevation of the locally listed former Christadelphian Hall, approved PBSA tower, the proposed scheme (Block A) and Queensgate House.



Image 5: View of proposed site from Severn Street looking east past named listed buildings (image does not show the recently approved PBSA tower).

- 1.3 Block A would face Suffolk Street Queensway (as per Image 3 and 4 above) and be 15 storeys in height. Block B would lie to the rear of the site and rear of Queensgate House in the form of a linear 'T' short shape and be part 7 and part 8 storeys with majority of the building at 7-storeys. The proposed development comprises:

41 No. 1B1P apartments,

15 No. 1B2P apartments  
 29 No. 2B3P apartments,  
 27 No. 2B4P apartments  
 13 No. 3B5P apartments.

**1.4 The proposal would provide:**

- 1.5 10.4% 3 bed apartments**  
**44.8% 2 bed apartments**  
**45% 1 beds apartments**

Unit Type	No. of Units	Mix (%)
1B1P	41	33%
1B2P	15	12%
2B3P	29	23%
2B4P	27	22%
3B5P	13	10%
<b>Total:</b>	<b>125</b>	<b>100%</b>
<b>Scheme Total:</b>		<b>86,590 sq ft NIA</b> <b>123,476 sq ft GIA</b>

Table 1: Proposed housing mix (amended February 2023).

- 1.6 A Viability Assessment has been submitted, which seeks to demonstrate that the scheme cannot support a policy compliant contribution towards affordable housing or any sums towards planning obligations. That said, following independent assessment since the application's submission **the scheme can provide 15 units (12%) at a 20% discount.** This represents an equivalent monetary sum of in lieu of on-site delivery of approximately £925,000.
- 1.7 However, in consultation with the affordable housing delivery team, offering a higher discount over larger units (that the city are in most need of), whilst resulting in fewer affordable units would provide genuinely affordable places to live for example: 3 No. 2B4P and 4 No. 3B5P at a 30% rental market discount would provide 7 no. affordable units (5.6%).
- 1.8 Block A: Proposed at ground floor level has a cycle store, bin store, plant rooms, lifts, two staircases as well as an entrance/reception area. The first floor provides several other residential units as well as a communal room, office and private terrace area.



Image 6: Rear elevation of Block A and the terraced row at level 1.

- 1.9 Block B: Proposed at ground floor are 4 apartments, a plant room, a post room along with a cycle and bin store.
- 1.10 In total cycle storage for 164 long stay and 16 short stay cycle parking spaces are to be provided. Block A would comprise of 76 cycle parking in a secure and covered cycle store. Block B, 88 cycle parking spaces as two-tier stackers. The 16 short stays are proposed within the public realm throughout the site.
- 1.11 With regards to refuse storage Block A and B would allow for the storage of 25 X1100L bins in total.
- 1.12 Pedestrian and cycle access is proposed from the site frontage off Suffolk Street Queensway. In addition, the existing pedestrian access off Severn Street would be extended to provide step free level access into Block B, with the stairs relocated to provide access to the central courtyard.





Image 7: CGI view of communal garden looking from north to south.

- 1.13 External residential amenity with public access would be provided at ground floor as per images above and below. A mixture of communal seating areas and planting would lie to the rear of both Queensgate House and Block A.



- 1.14 Image 8: Landscape layout plan

1.15 In addition, biodiverse roofs are also proposed, as per image below.



Image 9: Landscape Proposal, green roofs, roof plan.

1.16 The scheme has been amended to reduce its height and therefore number of apartments from 159 units to 125 to address concerns relating to massing and daylight/sunlight implications on Queensgate House.

#### Amended plans

1.17 Case officer and consultee views have resulted in modifications being made and amended plans and documents being submitted. All necessary re-consultations have been carried out accordingly.

1.18 [Link to Documents](#)

A wind assessment was not required to support this application.

## 2. **Site & Surroundings:**

- a. The application site is located in the city centre, on the west side of Suffolk Street Queensway which is a major artery running into Birmingham from the south. The site measures 0.26ha in size and comprises of an area of surface level parking with a seven-story 1970's concrete clad commercial building (currently under conversion to residential use). The building extends along Suffolk Street Queensway frontage (to the east) and new build mid-scale residential development fronting Severn Street (to the north).
- b. Beyond Seven Street, further to the north is the Mailbox retail and leisure complex with the former Axis and Arena Central sites beyond.



- c. To the south is a vacant 'L' shaped plot that wraps around an existing late 19<sup>th</sup>/early-20<sup>th</sup> century brick and terracotta non-conformist Christadelphian Hall. Beyond this a seven storey 1970's concrete clad commercial building now used residentially with a multi-storey car park behind it.
- d. To the rear of the site is a varied townscape comprising the remnants of some the 19th century including the central Singers Hill Synagogue, British School and public houses (grade II\* and grade II listed respectively). The area beyond (generally referred to as Holloway Head) is an area under transition, from that of post war warehouses, sheds and light industry to mid-scale residential apartment blocks.
- e. The site is generally level, but the context around it benefits from steep topography that runs westerly from the Suffolk Street Queensway frontage up to the western (top) end and beyond and comprises a strong topographical feature that it shares with the surrounding blocks.
- f. Immediately south of the application site planning permission (2022/04246/PA) has recently been granted for a 28-storey high student block – see planning history for further details.
- g. The site is not located within an area at risk of flooding nor is it located within a designated ecological site. The existing car park building is not listed nor is it within a Conservation Area and does not include any designated or non-designated heritage assets within the extent of the site boundary. However, there are a number of locally listed and statutory listed buildings within the vicinity of the site.

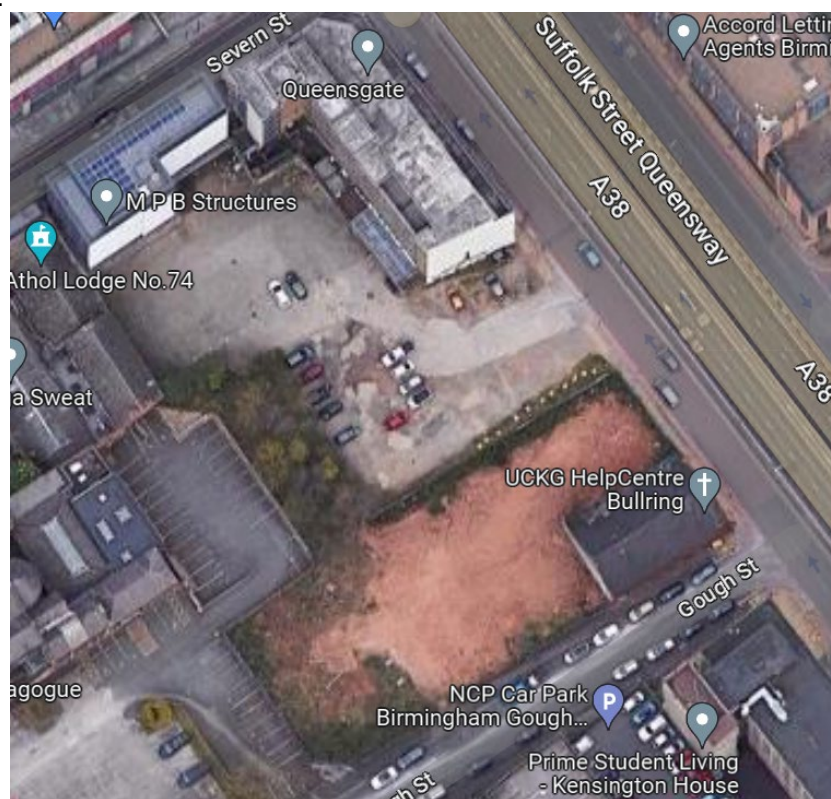


Image 10: Aerial view of the site

- h. A small area of scattered scrub is located along the southern and western boundaries.
- i. In terms of access the site is located a short walk from the City Centre Core.

[Site location](#)

3. **Planning History:**

Queensgate House, 121 Suffolk Street, Queensway (adjacent the site)

- a. 13/1/2022 – 2021/10075/PA – External alterations to facades of the building to include installation of render, fibre cement rainscreen cladding system and framing to top floor, replacement of existing commercial frontages and replacement of windows and doors. Approved subject to conditions
- b. 22/9/2021 – 2021/05502/PA – Change of use of former nightclub at ground and mezzanine floor to offices (Use Class E (g)(i)) and use of basement as ancillary plant for building - Approved subject to conditions.
- c. 04/04/2014 – 2013/05474/PA – Application to extend the time of extant planning permission application 2010/02930/PA for the erection of a 25-storey building fronting Suffolk Street Queensway comprising 259 bedroom hotel and 9 storey building fronting Severn Street comprising 144 apartment/hotel rooms, ancillary car parking and landscaping. Approved subject to conditions.
- d. 19/8/2010 – 2010/02930/PA – Erection of a 25-storey building fronting Suffolk Street Queensway comprising 259 bedroom hotel and 9 storey building fronting Severn Street comprising 144 apartment/hotel rooms, ancillary car parking and landscaping. Approved subject to conditions.
- e. 17/10/2007 – 2003/06745/PA – Erection of extensions above and on land adjacent to the existing offices at Queens Gate House to provide 73 residential apartments, 3 retail units and associated car parking, use of ground floor and mezzanine level of Queens Gate House as a restaurant. Approved subject to conditions.

Land at 121 Suffolk Street, south of the application site

- f. 16/3/2023 – 2022/04246/PA – Full planning application for the erection of a purpose-built student accommodation (PBSA) scheme (Sui Generis) including amenity space and landscaping (Amended plan/information received). Approved subject to conditions.
- g. 31/01/2019 – 2018/09086/PA – Erection of 330 bed hotel (Use Class C1) including restaurant, ancillary facilities, and associated works. Approved subject to conditions.

4. **Consultation Responses:**

**BCC Archaeology:** agree with the conclusions of the submitted archaeological desk-based assessment that the potential for significant archaeological remains on the site is low. No objections.

**BCC Affordable Housing Team:**

The housing register data for the ward of Ladywood suggests the highest need is for 3-bedroom units, the current offer is for a mixture of 1 bedroom and 2-bedroom units. It would have been preferable for a higher provision of 3-bedroom units rather than 1-bedroom units based on the housing register. The offer for 2-bedroom units however

would be suitable for the ward as 2-bedroom units are the second most in demand for the ward.

**Amenities Societies:** no comments

**Birmingham Civic Society:** supports the application

**Community Infrastructure officer:** The planning application is liable for CIL, a charge of £974,385.79.

**Conservation:** The proposal would cause harm to the setting of the grade II listed former British School through development in its setting. The harm arises through the development causing a distraction to the appreciation and experience of the listed building when viewed from its principal elevation. Due to the context of an existing setting of an adopted large scale the proposed development is considered to have a negligible adverse impact on the setting of the listed building. In framework terms I consider that this would cause harm at the lowest end of the 'less than substantial' bracket.

The tests of paragraph 202 of the NPPF will need to be applied.

The proposal would cause minor harm to the setting of the locally listed former Christadelphian Hall. The harm would be caused through bringing much larger development closer to the building, competing for prominence in views and detracting from existing views of the Hall.

The tests of paragraph 203 of the NPPF will need to be applied.

It is not considered that the proposed development is likely to result in any detrimental visual impacts on the Singer's Hill Synagogue, the Athol Masonic Hall or on the Caretaker's House at No.86 Severn Street and the impact is considered neutral.

**BCC City Design:** no objections subject to conditions.

**Ecology:** no objections subject to a full Construction Environmental Management Plan (CEMP) and hard and soft landscape condition as well as nesting birds, badgers, hedgehogs informative.

**Employment Access Team:** No objections subject to a condition requiring the prior submission of a construction employment plan.

**Environmental Pollution Control:** no objections subject to conditions relating to Contamination Remediation, Contaminated Land Verification, Construction Management, Noise Mitigation and Noise Commissioning Testing and Air Quality Testing.

**Historic England:** Confirm that in this case they will not be offering advice and suggest the LPA seek views from BCC specialist conservation and archaeological advisers.

**Health and Safety Executive Fire Safety (HSE):** confirm they are content with design.

**Health and Safety Executive Haz (HSE):** confirms the site does not lie within the consultation distance of a major hazard site or pipeline.

**Leisure Services:** requests a total public open space contribution of £368,375 to be spent on the provision, improvement and/or biodiversity enhancement of public open space and associated structures, including the maintenance thereof at St Thomas Peace Gardens and other POS/Play priorities within the Ladywood Ward.

**LLFA:** no objections subject to conditions and informatives.

**Natural England:** no comments

**Planning and Growth Strategy:** have no objection and recommend a condition requiring the development to be carried out in accordance with the submitted energy statement.

**Severn Trent Water:** no objections subject to drainage plans of foul and surface water flows.

**The Gardens Trust:** no comments

**Transportation:** No objection subject to minor alterations and conditions.

1. The private forecourt area providing space for vehicles to access the site for servicing and drop-off/pick-up is welcome, and necessary given the waiting restrictions on Suffolk Street Queensway. However, I have a concern drivers might cross over the footway in a non-designated access area, so some form of boundary treatment is required to prevent this.
2. I recommend the area for vehicle access is defined by studs or similar so maintains a suitable space for pedestrians across this forecourt.
3. Signage required to advise drivers the egress is left out only.
4. Cycle parking, refuse stores and forecourt access areas with associated highway works are provided before the development is occupied.
5. A construction management plan is provided before any works commence on site.
6. Advisory the highway works need to be progressed with a suitable Highway agreement, likely a s278 agreement, to reinstate redundant footway crossings and provision of new with any associated footway improvements.

**Trees:** no objections

**West Midlands Police:** no objections subject to conditions around site management and CCTV.

The site would be controlled under one letting agent so no Airbnb would be permitted. The site would be monitored on a 24/7 basis and there would be CCTV.

**West Midlands Fire Service:** makes several design recommendations

**Victorian Society:** Object to the proposals and are of the view that together with the approved neighbouring development of 15 storeys on this site will completely overpower the adjacent historic buildings dating from their period of interest, particularly the former Christadelphian Hall as its near neighbour as well as the grade II\* listed Singers Hill Synagogue. The proposed development will have a negative impact on the character and appearance of surrounding listed buildings with significant harm to their settings. The Victorian Society consider the application unacceptable and state a scheme of a more modest scale should be considered for this site.

5. **Third Party Responses:**

- 5.1 A major site and press notices posted. Local Councillors, Residents' Associations and the occupiers of nearby properties notified of the application.
- 5.2 185 letters of support have been received and 2 letters of objection, reasons for the application and against are provided below:
- 5.3 Reasons for support:
- support for affordable housing
  - housing will benefit young couples/professionals who are looking to buy
  - will help those struggling to find a place to live/those trying to get on the housing ladder
  - will assist those looking to get on the housing market and the housing crisis
  - will enhance biodiversity
  - will add value to the area and benefit the city centre
- 5.4 Reasons against:
- the area does not need any more housing
  - According to the light report this building should not be built as they will cause high reduction of sunlight beyond BRE guidelines to Queensgate House

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

a. **National Planning Policy Framework**

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 11  
 Chapter 4: Decision-making – paras. 56, 57  
 Chapter 5: Delivering a sufficient supply of homes – paras. 60, 62  
 Chapter 8: Promoting healthy and safe communities – paras. 92, 98  
 Chapter 9: Promoting sustainable transport – paras. 104, 110, 112  
 Chapter 11: Making effective use of land – paras. 119, 120, 124,  
 Chapter 12: Achieving well-designed places – paras. 126, 130, 131, 132, 133,  
 Page 13 of 45  
 Chapter 14: Meeting the challenge of climate change, flooding and coastal change –para.152  
 Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180, 183, 185, 186, 187  
 Chapter 16: Conserving and enhancing the historic environment – paras. 189, 194, 195, 197, 199, 202, 206

b. **Birmingham Development Plan 2017:**

G1 Overall levels of growth  
 PG3 Place making  
 TP1 Reducing the City's carbon footprint  
 TP2 Adapting to climate change  
 TP3 Sustainable construction  
 TP4 Low and zero carbon energy generation  
 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  
 TP11 Sports facilities  
 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  
TP46 Digital communications

c. Development Management DPD:

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  
DM12 Residential conversions and Specialist accommodation  
DM14 Transport access and safety  
DM15 Parking and servicing

d. Supplementary Planning Documents & Guidance:

Birmingham Parking SPD 2021  
Birmingham Design Guide 2022  
Public Open Space in New Residential Development SPD 2007  
Conservation Through Regeneration SPG 1999  
City Centre Canal Corridor Development Framework 2002  
Big City Plan 2011  
Our Future City Plan 2021

7. **Planning Considerations:**

The main material considerations are:

- Principle of the development
- Housing Mix
- Affordable housing
- Impact on daylight/sunlight
- Impacts on residential amenity
- Design
- Air quality and noise
- Impact on heritage assets and archaeology
- Landscaping, biodiversity and ecology
- Access, parking and highway safety-Drainage/flood risk
- Fire and building safety
- Third party letters
- Community Infrastructure Levy/Planning Obligations

- 7.1 Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well-

designed high-quality environments. Most of the new housing is expected to be delivered on brown field sites within the existing urban area.

- 7.2 The application demonstrates that the proposal meets the requirements of BDP policy TP28 (the location of new housing) and with policy GA1 supporting residential development in this location, there is no policy objection to the principle of residential development on this site.
- 7.3 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, and the Council's five-year housing land supply must be calculated against the Local Housing Need figure for Birmingham. Currently, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 7.4 For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted **unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits**, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Footnote 7 of the NPPF notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets. This has a qualified application in cases of harm to designated heritage assets and this is discussed later.

### Housing Mix

- 7.30 BDP policy TP30 states, 'Proposals for new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. Account will need to be taken of the:
- *Strategic Housing Market Assessment (or any subsequent revision)*
  - *Detailed Local Housing Market Assessments (where applicable)*
  - *Current and future demographic profiles*
  - *Locality and ability of the site to accommodate a mix of housing*
  - *Market signals and local housing market trends.*
- 7.32 This policy allows for account to be taken of several strands of information which influence housing mix, however neither the text of policy TP30 nor any of the strands of information in themselves set a specific or rigid housing mix requirement. Further analysis of the HEDNA draws out the nuances associated with housing mix, particularly in relation to the Central Area, which includes the city centre.

The housing mix starting point identified in the HEDNA for the Central Area is:

1 beds: 17%	2 beds: 37%	3 beds: 31%	4 beds: 15%
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The 'Central Area' defined in the HEDNA covers more than just land within the ring road. It comprises the entirety of the following wards: Balsall Heath West, Bordesley and Highgate, Bordesley Green, Edgbaston, Ladywood, Lozells, Nechells, Newtown, Small Heath, Soho & JQ, and Sparkbrook and Balsall Heath East. These wards cover a mix of areas including the city core, inner city areas and the suburbs.

The HEDNA 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. It looks at the size of homes (using 2011 census data) and the location of schools and central GP practices within these areas.

Within the Inner Central Sub-Area, approx. 85% of homes have 2 bedrooms or fewer 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.

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)

It also states that the location/quality of sites will also have an impact on the mix of housing. For example, 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.

Therefore, although the HEDNA does not suggest a housing mix specifically for the Inner Central Sub-Area, it does state that the Council should broadly seek the same mix of housing in all locations but to be flexible to a different mix where specific local characteristics suggest.

The application proposes:

45% 1 bed apartment  
44.8% 2-bed apartments and  
10.4% (13) 3-bed apartments.

This offer is considered to fit into the city's wider provision of housing:

- The city centre has specific characteristics which make it more suitable for smaller homes and this is only a part of the overall housing offer across the Central Area and the city as a whole.
- The current city-wide housing mix continues to show a strong emphasis on three bed, family-sized homes and this stock is being added to in some parts of the city centre but particularly beyond the ring road through your committee's decision making.
- Site circumstances and market trends are also relevant. The site is a small, constrained car park site located in the heart of the city centre off the Suffolk Street Queensway highway, bound by other buildings including a student tower and adjacent to several heritage assets. Photos at the end of this report show the site in its current form.

Policy TP30 further allows for the circumstances of individual sites and market trends to play a part in determining house mix. Photos at the end of this report show the site in its current form.

Therefore, taking the site as a whole, it would be more effectively and efficiently used for high density housing in accordance with paras. 120 c) and d) and 124 of the NPPF. This guidance requires planning decisions to give “substantial weight to the value of using suitable brownfield land within settlements for homes”, to “promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained”, and to “support development that makes efficient use of land”.

#### Affordable Housing

- 7.34 Policy TP31 states, “The City Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The developer subsidy will be established taking account of the above percentage and the types and sizes of dwellings proposed.” It also allows developers to submit a Financial Viability Appraisal (FVA) when they consider affordable housing of 35% cannot be provided.

Furthermore the NPPF makes clear that viability is a material consideration in the assessment of a planning application.

In addition the HEDNA states, “Overall, the analysis identifies a notable need for affordable housing, and it is clear that provision of new affordable housing is an important and pressing issue in the area. The HEDNA report however does not provide an affordable housing target; the amount of affordable housing delivered will be limited to the amount that can viably be provided. The evidence does however suggest that affordable housing delivery should be maximised where opportunities arise.

- 7.35 A Viability Assessment has been submitted and assessed by an Independent Financial Advisor who confirms the scheme can support **15 units (12%) at a 20% market rental discount or 7 units (5.6%) at a 30% discount and target the larger properties that the city are in most need of**. Furthermore, the Affordable Housing Delivery Team state the affordable housing register data (for the ward of Ladywood) suggests the highest need is for larger properties, therefore the offer for discounted 3 No. 2B4P and 4 No. 3B5P units would be meet this need.

- 7.36 Please see the table below to appreciate the difference is discount.

Unit type	RPCM	After 20% discount	After 30% discount
1B1P	£1,125	£900	£788
1B2P	£1,250	£1,000	£875
2B3P	£1,500	£1,200	£1,050
2B4P	£1,675	£1,340	£1,173
3B5P	£2,000	£1,600	£1,400

Table 2: Rental discounts

- 7.37 Reviewing the items which have been reported to Planning Committee between 27th April and 27th July, the following affordable housing contributions have been secured:

City Centre sites:

Brindley Drive 5.33%

Curzon Wharf 5%

80-82 Great Hampton St 10.3%

20-39 Snow Hill 9.74%

Other sites:

Boleyn Road, Rubery 61.4% (BMHT)

Icknield Port Loop, Ladywood 10%  
 Lindridge Road, Sutton Coldfield 40%  
 Former BCU campus, Perry Barr 27% (BCC site)  
 Trescott Road, Northfield 100% (BMHT)  
 Wallis House, Selly Oak 10.5%  
 Former MG Works, Longbridge 15%

- 3.4. In this context, the affordable housing offer is not unusually low.

### Impact on daylight/sunlight

- 7.6 In accordance with PG3 of the BDP, DM2 and DM10 of the DPD as well as design principles 11 and 13 of the Design SPD all new developments must ensure they do not have an unacceptable impact on the amenity, outlook, or privacy of existing or new residential properties.

- 7.7 Originally the scheme posed an unacceptable impact on amenity of adjacent occupiers (Queensgate House) by means of overshadowing. The scheme has therefore been revised to reduce the potential daylight effects on the units to the rear of Queensgate House by reducing the height of Block B to allow more daylight to enter Queensgate House. Although this reduction in height has more than doubled the retained Vertical Sky Component (VSC) levels when compared to the September 2022, 37 of the 82 windows considered within Queensgate House would experience a low to high reduction beyond BRE guidelines – see tables 3 and 4 below. There are a total of 24 units at 1<sup>st</sup> to 6<sup>th</sup> floor level in Queensgate House. Of the 24 units tested, 15 will retain a VSC of at least 15% to both rooms, resulting in 63% of units conflicting with VSC. That said Block A would comply with BRE guidelines and benefit from levels of daylight that are commensurate with other residential schemes in urban locations.

Property address	No. of windows tested	Windows inside VSC guidelines		Windows outside VSC guidelines					
				Low reduction 0.79-0.70 x FV		Medium reduction 0.69-0.60 x FV		High reduction <0.60 x FV	
		No.	%	No.	%	No.	%	No.	%
Orion	23	23	100%	-	-	-	-	-	-
Westside	204	164	80%	35	17%	1	0%	4	2%
Holloway Head	63	63	100%	-	-	-	-	-	-
Queensgate House	82	45	55%	8	10%	8	10%	21	26%
<b>Totals:</b>	<b>372</b>	<b>295</b>	<b>79%</b>	<b>43</b>	<b>12%</b>	<b>9</b>	<b>2%</b>	<b>25</b>	<b>7%</b>

Impact inside BRE guidelines	Impact outside BRE guidelines		
	0.70-0.79 times former value (21% to 30% loss)	0.60-0.69 times former value (31% to 40% loss)	<0.60 times former value (>40% loss)
Negligible impact	Low impact	Medium impact	High impact

Tables 3 and 4: Impacts on VSC to Queensgate House.

- 7.8 Whilst it is noted that the site adjacent recently obtained planning consent for a student tower, the Daylight and Sunlight Consultant confirms that this block would not materially alter the above results.
- 7.9 Although several of the adjacent units would experience a loss of light it should be noted that BRE guidelines have been developed with suburban areas in mind and therefore a lower retained mid-teen VSC level with a small number below this level is often considered appropriate in an urban location where there is less available sky by



reason of surrounding building densities. Of the 37 windows that fall below the suggested BRE recommendation 19 maintain a VSC of at least 15% and a further 13 retain a VSC of at least 10%.

- 7.10 Queensgate House is an existing unoccupied building also owned by the applicant. The building is currently being converted from offices to residential accommodation under Prior Approval (planning reference: 2021/05487/PA) and as such, there are no current occupants which would be negatively impacted by the proposal. Furthermore, it is also noted that the units are to be offered as private rented rather than for home ownership. Therefore overall, the scheme would not cause unacceptable impacts upon levels of light to adjacent dwellings with those apartments falling below BRE guidelines.

#### Wider impacts on residential amenity

- 7.10 In accordance with PG3 of the BDP, DM2 and DM10 of the DPD as well as design principles 11 and 13 of the Design SPD all new developments must ensure they do not have an unacceptable impact on the amenity, outlook or privacy of existing or new residential properties. Although separation distances between Queensgate House and the approved student tower does not adhere to the numerical standards in the Design Guide SPD, by reason of scale and location of habitable and non-habitable serving windows levels of outlook and privacy would not result in an unacceptable standard of living.

Design Principle LW-13 of the Design SPD states all residents should be able to access private outdoor amenity space of sufficient size and quality to service intended occupants; and as a minimum requires 10sq.m per resident for C3 shared residential use.

- 7.11 As a minimum, the SPD states following requirements must be provided for each apartment:

- 5sq.m (1 bed flat),
- 7sq.m (2 bed flat) and
- 9sq.m (3 bed flat).

This would therefore equate to a requirement of 789sq.m.

- 7.12 The application seeks to provide a total of 997sqm of outdoor amenity, with an additional 58sqm of private outdoor amenity on the Level 1 terrace of Block A (totalling 1,054sqm). This provision would exceed the minimum standards set out the SPD by 265sqm, which is not often the case in the city centre and this is therefore welcomed.
- 7.13 Additionally, the site benefits from access to roof gardens, a public square and other open spaces within close proximity. This includes nearby areas of open space/parks such as St Thomas Burial Ground and Sunset Park to the south. Additionally, the ground floor entrance to Block A proposes 60.2sqm of internal space for resident's use.

#### Design

- 7.15 The design and positioning of the two blocks has been extensively discussed with the City Design Manager and it has been agreed that the current proposal is the most suitable arrangement which is also viable.

#### Block A

- 7.16 The revised façade has been composed with a vertical emphasis to elongate the building with full height brick pilasters and fluted stone effect panels between windows. Two wider brick pilasters line through with the GF colonnade columns.



Image 11: Proposed materials (left) for Block A (right).

- 7.17 Narrower pilasters either side are set back to create a three-window wide vertical cluster further enhancing the vertical emphasis. Cladding of the recessed base is to be a monochrome mix of vertical panels diminishing in scale between ground. With regards to the use of buff/white/grey brick (although illustrative at this stage) is not reflective of Birmingham and City Design therefore ask the same materials as Block B are to be used in Block A. Material details will therefore be conditioned.

#### Block B

- 7.18 The materiality of Block B has been influenced by its back of site location and its proximity to the areas listed buildings.

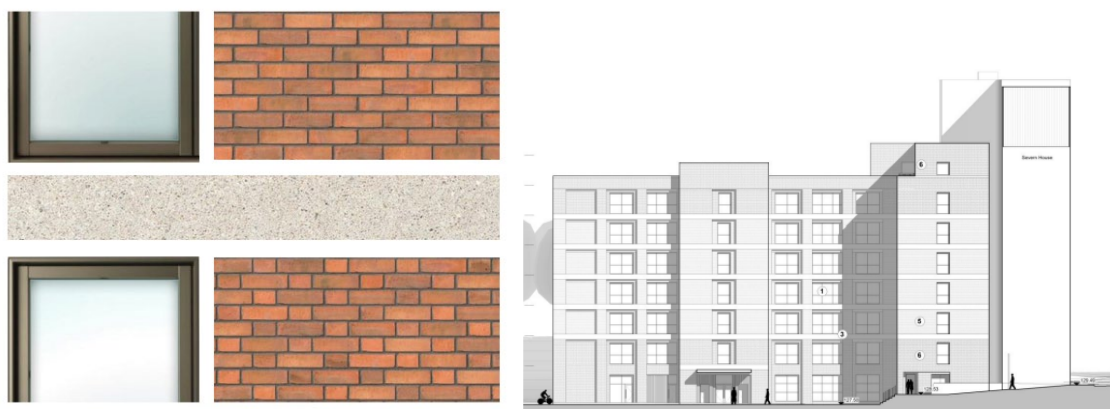


Image 12: Proposed materials (left) for Block B (right).

- 7.19 Outdoor amenity would provide community seating areas, a water feature, play sculpture and rain garden. The proposal would be a significant visual improvement from the current site and would remove the existing graffiti on site as part of the development. To secure the finer detail and ensure that the high-quality design proposed would be carried through construction, design related conditions are recommended.

## Noise

- 7.20 The site has been found to be affected by significantly elevated levels of road traffic noise, particularly for proposed elevations facing directly on to Suffolk Street Queensway. Regulatory Services would not normally support residential developments where such noise levels are present, however, a detailed assessment has been undertaken and glazing configurations are presented in the report that would result in acceptable internal noise levels. The building has been designed such that the overheating strategy would not rely on windows being opened but rather allows for increased duty Mechanical Ventilation Heat Recovery units to provide sufficient ventilation rates to mitigate overheating.
- 7.21 That said further information is required in respect of the enhanced ventilation rates or any of the other design criteria that have been used in the assessment. Therefore, conditions are recommended.

## Air Quality

- 7.22 The Air Quality Assessment has found that the proposed apartments on the Suffolk Street Queensway elevation (to Block A) would be affected by nitrogen dioxide (NO<sub>2</sub>) concentrations above the relevant air quality objective. The DMB defines an unacceptable air quality level as that within 10 percent of the air quality objective and the report identifies that some of the dwellings on the floors 5, 6, 7 and 8 (of Block A) have predicted NO<sub>2</sub> concentrations within 10% of the air quality objective and would therefore require air quality mitigation. The assessment recommends that the affected dwellings would need to be provided with clean air via a mechanical ventilation system with an inlet located where the objective is not exceeded or would need to include NO<sub>2</sub> filtration. Such has been discussed with the agent and the table below identifies those units to be fitted with NO<sub>2</sub> filtration.

Queensgate Square	
Total Apartments with NO <sub>2</sub> Filtration	
Type	Number
1B1P	7
1B2P	7
2B3P	0
2B4P	7
3B5P	0
<b>TOTAL</b>	<b>21</b>

- 7.23 Regulatory Services are content that a design can be provided that would adequately mitigate elevated nitrogen dioxide levels and also mitigate noise and overheating although this would result in 21 sealed units on the Suffolk Street elevation. A plan has been submitted to show the location of these to be three units at floors 2-8 as per image below. 21 units out of a total of 125 to feature sealed windows serving habitable rooms (living room and/or bedroom), equating to a proportion 17% of units.

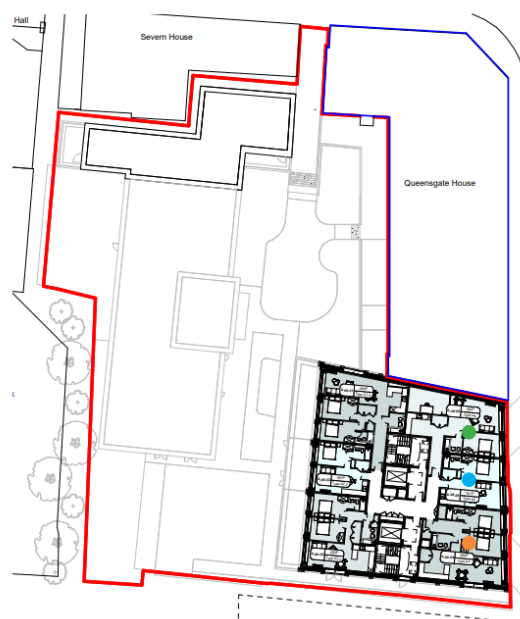


Image 13: floor plan of units to be sealed at floors 2-8

- 7.24 Conditions recommended would ensure these windows are sealed in accordance with approved plans and suitable mitigation is provided prior to occupation, thus ensuring suitable living conditions for future occupiers is provided.
- 7.25 Whilst Regulatory Services object to the use of sealed windows as a principle, they consider the proposed level of mitigation technically adequate in the instance. Paragraph 55 of the NPPF states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Subsequently there are no grounds to refuse the application on the basis of adverse road traffic/air quality impact as the conditions make provision to ensure neither would occur and would have to be discharged to the satisfaction of the LPA in consultation with Regulatory Services, prior to the commencement of development.
- 7.26 Overall the proposed development would not result in any unacceptable impacts in respect of noise and air quality on future occupiers and is in accordance with Policy DM1 and DM6 (Noise and Vibration) Development Management DPD.

#### **Impact on heritage assets**

- 7.27 Historic England confirm that in this case they would not be offering advice and suggest the LPA seek views from BCC specialist conservation and archaeological advisers. BCC Conservation has reviewed the application and concludes that the harm to the Former British School (Grade II Listed Building) would remain at the lowest end of 'less than substantial'.
- 7.28 BCC Conservation states the proposal would cause harm to the setting of the British School through development in its setting and states that the harm arises through the development causing a distraction to the appreciation and experience of the listed building when viewed from its principal elevation. However due to the context is considered to have a negligible adverse impact on the setting. In framework terms the Conservation officer considers that this would cause harm at the lowest end of the 'less than substantial' bracket.
- 7.29 The proposal would cause minor harm to the setting of the locally listed Former Christadelphian Hall and this harm would be caused through bringing much

larger development closer to the building, competing for prominence in views and detracting from existing views of the Hall.

- 7.30 It is not considered that the proposed development is likely to result in any detrimental visual impacts on the Singer's Hill Synagogue, the Athol Masonic Hall or on the Caretaker's House at No.86 Severn Street and therefore the impact is considered neutral.



Image 14: View of the Singers Hill Synagogue with the proposed scheme and approved PBSA tower to the rear.



Image 15: View from further along Blucher Street – proposal and approved PBSA tower to the right.



- 7.31 The concerns raised by the Victorian Society and harm identified (lowest end of less than substantial) are noted, thereby in accordance with para. 202 of the NPPF, where less than substantial harm to the significance of a designated heritage asset is identified, the harm is to be weighed against the public benefits.
- 7.32 In line with paragraph 203, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. The more important the asset the greater the weight should be. This balancing exercise is undertaken towards the end of this report.
- 7.33 The Conservation officer raises no objections to the application.

### **Landscaping, Biodiversity and Ecology**

- 7.34 The application site currently offers very limited ecological value comprising shrub, scattered trees and scattered scrub. The proposal offers the opportunity to enhance the soft landscaping and biodiversity of the site.



### Legend














	Application boundary
	Kestrel roosting and nesting box
	Proposed tree
	Hedera helix green screen
	Ornamental hedge
	Proposed biodiverse roof
	Proposed groundcover planting
	Proposed ornamental shrub
	Proposed native mixed shrubs
	Proposed rain garden planting
	Proposed suds seed mix
	Proposed woodland wildflower and grass seed mix
	Proposed hardstanding and buildings

Image 16: Biodiversity Net Gain proposal plan and key.

- 7.35 The application is accompanied by a Biodiversity Net Gain Assessment and the report confirms the scheme offers in excess of 10% uplift which is acceptable.
- 7.36 A preliminary ecological appraisal has been undertaken which confirmed that the development proposals are considered to have a negligible impact on any statutory designated sites due to the limited scope and duration of works.
- 7.37 The BCC Ecologist has considered the scheme and confirms no objections subject to a conditions.

### Access, parking and highway

- 7.38 The site lies within a highly accessible location and is in walking distance of the city core. There are numerous bus stops, within a close walk of the site as well as Birmingham New Street Station and metro stops.
- 7.39 These details have been reviewed and BCC Transport Development supports the application subject to conditions and a highways agreement. The proposed development would not have an adverse impact upon the local highway network, pedestrian and cycle infrastructure or public transport networks and is considered to be fully in accordance with policy and planning guidance.
- 7.40 The transport details presented are acceptable and accord with Policies TP38, TP39, TP40 and TP44 of the BDP and Policies DM14 and DM15 of the DMB.

### Drainage/Flood Risk

- 7.41 The site is situated within Flood Zone 1, with a very low likelihood (1 in 1000) of flooding. The LLFA raise no objection subject to conditions and informatives.

### Fire and building safety

- 7.42 HSE have been consulted and confirm, with regards to fire safety design they are satisfied with the proposal.

## Energy and Sustainability

- 7.43 Policy TP3 stated that the design and construction should maximise energy efficiency, conserve water, consider the use of materials, minimise wastes and maximise recycling in construction, and have the flexibility and adaptability to cater future occupier needs. Detailed requirements are listed in Section 3.5 of the Guidance Note. The requirement to meet BREEAM 'Excellent' does not apply to residential developments.
- 7.44 The technical feasibility and economic viability of installing each LZC technology at the development have been assessed. The proposal is to install solar PV on the main roof as shown on the plan in the Energy and Sustainable Construction Statement, with a capacity of 50kw generating 39,400kWh/a in a year. The design of the façade would exceed the minimum fabric efficiency criteria of Approved Document Part L 2021 which is approximately equivalent to a 31% improvement over 2013 Building Regulation (Approved Document Part L) standards.
- 7.45 Connection to existing heat networks has been assessed with the nearest system being the gas fired CHP network at Broad Street. Connection has been discounted due to concerns about technical viability and higher carbon emissions for CHP as opposed to the electric solution proposed.

The submitted Energy and Sustainable Construction Statement complies with the requirements of the Guidance Note, policies TP3 and TP4. It is recommended that a condition is applied to the decision notice should this planning application be approved.

## Third Party Letters

- 7.46 A significant number of supporting letters have been received, many of which refer to new housing being available to buy on the market, although this tenure reference is not correct the scheme is to provide a mix of private rental units. A letter of objection comments on overshadowing, this issue has been addressed above.

## Community Infrastructure Levy/Planning Obligations

- 7.47 This planning application is CIL liable as it lies within a High Residential Market Value area for CIL whereby the charge equates to CIL payment circa of £974,385.79.
- 7.48 Policy TP31 of the BDP requires 35% of the total number of dwellings to be affordable on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or a contribution towards off site provision for developments of 20 or more dwellings.
- 7.49 The applicants contend that the development would be unable to meet the Policy requirements outlined above and still deliver a sufficient developer's return. Therefore, a Financial Viability Appraisal (FVA) has been submitted and independently assessed.
- 7.50 Independent review of the submitted Financial Viability Appraisal indicates that the proposal could support the provision of 30% discount on market value as set out in this report.
- 7.51 BCC Leisure Services have also requested financial contributions. However, in this instance it is considered that affordable housing is the greater priority.

## 8. Planning Balance

- 8.1 Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provision of the development plan, so far as material to the application, and to any other material considerations. 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.'
- 8.2 NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11d) states:

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 8.3 Footnote 8 confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 8.4 The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites, and the latest published housing supply figure is **3.99 years**. This is derived from a 5- Year requirement of 37,464 dwellings (including a 5% buffer) and a supply of 29,944 dwellings. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 8.6 However, Footnote 7 notes the specific policies which protect important areas or assets, and these include policies relating to designated heritage assets.
- 8.7 The proposals would cause less than substantial harm to the significance of several designated heritage assets and, if found to provide a clear reason for refusal, in this case because the public benefits of the scheme do not outweigh the heritage harm identified, then planning permission should not be granted.
- 8.8 The harm identified to the significance of designated heritage assets needs to be weighed against harm; considerable importance and weight is to be applied to the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically in sections 66 and 72, as well as the degree of accordance with BDP policy TP12 and the relevant paragraphs in the NPPF. These are presented below.

## Potential public benefits of the proposal

### 8.9 Economic Benefits

- The development would create local employment opportunities during the construction and operational stage, including the construction supply chain, supporting Policy TP26 of the Birmingham Development Plan (adopted January 2017).

- Economic benefits would also be available to surrounding commercial, retail and leisure uses, which are likely to experience increased patronage from new residents.

8.10 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” (my emphasis). Accordingly, the economic benefits in terms of jobs and expenditure above are met, as are the CIL contributions.

8.11 However, I also note that a significant number of new jobs would only be for a temporary period, and whilst post job roles in servicing, repair and maintenance would be permanent and ongoing these would be a low figure. Despite these factors moderate weight is afforded to these benefits.

### Social Benefits

8.12 Provision of 125 residential apartments including 5.6% affordable housing (at 30% discount) as well a mix of 1, 2 and 3 bed apartments.

8.13 The proposed development would contribute to the creation of a sustainable environment with the proposed use being located in an area served by existing services such as employment opportunities and education services, retail and leisure provision.

8.14 The scheme provides ample on-site outdoor amenity provision for residents including a hard and soft landscaped garden with a social mix of seating and activity spaces and cycle parking.

8.15 The design of the scheme has sought to minimise energy consumption. This is via modern methods of construction and insulation that would be brought forward in line with Building Regulations.

8.13 Taking account of the extent of the 5YHLS shortfall, the provision of housing should be given substantial weight in the determination of this application.

8.16 The plans show appropriate layout, scale and height and there is sufficient detail to ensure that a high-quality development is delivered. I am confident that the resulting development accords with the thrust of BDP policy PG3 and the Birmingham Design Guide. This should be given substantial weight.

8.17 Enhancing social cohesion (by means of ample outdoor amenity space and pedestrian walk through) is a benefit, again in accordance with the thrust of PG3 and the City Design Guide. However, for this link to completely fulfil its potential it would be subject to further detail and management. Therefore, in isolation this should be given moderate weight.



### Environmental Benefits

- 8.18 The scheme would bring significant sustainability benefits (including the removal of a car park) over and above those normally secured through the BDP's sustainability policies (TP1-5 but particularly TP3 and TP4). Therefore, moderate weight should be attributed here.
- 8.19 The application is supported by an Energy Statement, which seeks to demonstrate suitable measures appropriate to the scheme as per Policies PG3, TP1 and TP3 of the Birmingham Development Plan (adopted January 2017).
- 8.20 The design of the façade has been developed under rigorous scrutiny to exceed the minimum fabric efficiency criteria of Approved Document Part L 2021 which is approximately equivalent to a 31% improvement over Part L 2016 targets.
- 8.21 Low Carbon Technologies have been proposed including solar photovoltaic systems to the roof of both Blocks to provide approximately 228m<sup>2</sup> pf Solar PV panels on the main roofs to offset carbon emissions associated with corridor lighting and water pumping, which would also limit communal charges to the tenants.
- 8.22 A Biodiversity Net Gain is to be provided on this site including provision of a wildlife garden, rain garden and areas of landscaping.
- 8.23 A Travel Plan has also been submitted with the planning application to further promote sustainable travel measures to encourage travel via walking, cycling, and car sharing.
- 8.24 That said the scheme would have less than substantial harm (at the lower end) to the significance of heritage assets further afield. In accordance with TP12 and the NPPF, great weight should be given to the impact on heritage assets in the planning balance.
- 8.20 The site would enhance the existing site ecological and biodiversity offer and contribute to the greening and biodiversification of the city centre in accordance with TP8 and DM4. That said for majority these improvements would be out of view and for residents only.
- 8.21 This proposal demands a balanced judgement.
- 8.22 Weighing most highly in its favour are the place making, social, economic and environmental benefits.
- 8.23 There are reservations concerning the daylight and sunlight impacts on Queensgate House and the proportion of units to be sealed (at Block A) however taking a city-wide approach, the provision of housing would help to address the city's need for housing and, in view of the lack of a 5-year housing land supply this should be given considerable weight. I also attach significant weight to 13 x 3 bedroom apartments, the **5.6% affordable housing** (7 units) offer as well as employment benefits, CIL payment of £974,385, the new homes bonus and the other economic benefits. In both cases, the weight would have been greater but for the reservations expressed above. In respect of the sustainability aspirations, I attach considerable weight to this benefit.
- 8.25 Set against these benefits are concerns regarding daylight/sunlight impacts, some of the units having to be sealed and the less than substantial harm identified to designated heritage assets lowest end of 'less than substantial'.

- 8.26 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 199 of NPPF states that the more important the asset the greater the weight should be, additionally paragraph 202 calls for this harm to be weighed against the public benefits of the proposal. Whilst policy TP12 is silent with regards to the public benefits test, it states that proposals for new development affecting a designated or non-designated heritage asset or its setting, including alterations and additions, would be determined in accordance with national planning policy (the NPPF).
- 8.27 These buildings hold considerable historic significance and the less than substantial harm which would be caused to their significance by the development is considered by conservation advisors to reach a low level. However, in my view, I consider there are enough benefits associated with this proposal to outweigh the heritage harm. The paragraph 202 test of the NPPF is therefore favourable to the proposal.
- 8.28 In reaching this conclusion on heritage matters it follows that I can find no clear reason for refusal based on policies which protect heritage assets, as referenced by NPPF para.11(d)i and Footnote 7.
- 8.29 Considering para. 11(d)ii, whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the NPPF when taken as a whole, in my view, some of the benefits of the proposal have their shortcomings which I have sought to present openly in this report. However, I do not consider that the impacts arising would, either individually or cumulatively, outweigh the benefits of the scheme.
- 8.30 Consequently, in accordance with para. 11(d) of the NPPF, I recommend the application is approved subject to the conditions set out below and the completion of a legal agreement.

## 9. **Conclusion**

- 9.1 The proposed development would see the delivery of residential development in a sustainable location. The proposed 125 residential units would make a meaningful contribution towards Birmingham's Housing shortfall. Although 12 number units would need to be sealed and there being some conflict with BRE guidelines the scheme on the whole accords with TP30 and DMB Policy DM10. The scheme provides a much-needed mix and contributes towards the regeneration aspirations for this part of the City Centre. It would deliver 5.6% of affordable housing (7 units) at a 30% market discount in accordance with local and national policies and generate a CIL payment of £974,385, thereby the weight attributed to the lack of a 5-year housing land supply (5YHLS) outweighs the weight afforded to the design policy conflicts. The proposal is sustainably located whereby the very limited harm by means of unit mix would not be outweighed by the economic, environmental, and social benefits the development could deliver.
- 9.2 The scheme would provide economic and environmental benefits by means of employment, visitor spend during the construction phase as well as re-use this brownfield site and increase the biodiversity value.
- 9.3 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 safeguarding conditions

## 10. **Recommendation:**

- 10.1.
- That application 2022/07620/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
  - 5.6% (7) affordable rental units at a mix of 2 and 3 - bedroom apartments provided on site at a discount market value of 30%.
  - Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £1,500.
- 10.2 In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 21<sup>st</sup> December 2023 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 onsite affordable housing the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 10.3 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 10.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 21<sup>st</sup> December 2023, 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).

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1	Time Limit
2	Approved Plans
3	Construction Management Plan -
4	Sustainable Drainage Scheme
5	Sustainable Drainage Operation and Maintenance Plan
6	EXTERNAL MATERIALS
7	ARCHITECTURAL DETAILING
8	BUILDING APPEARANCE: SAMPLE PANEL ON SITE
9	Scheme for Ecological/Biodiversity Enhancement Measures
10	Hard and Soft landscape details
11	Hard surfacing materials
12	CeMP
13	Air Quality

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- 14 Noise Testing and Mitigation
  - 15 Sealed Windows
  - 16 Noise Levels for plant and machinery
  - 17 Contaminated land remediation scheme
  - 18 Verification report
  - 19 Implementation of acceptable mitigation/enhancement
  - 20 Biodiversity Roofs
  - 21 Boundary Treatments
  - 22 Photovoltaics Details - prior to installation
  - 23 Cycle parking in place prior to occupation
  - 24 Requires redundant footpath to be reinstated/Highways agreement (to include signage, vehicle access defined)
  - 25 Forecourt boundary treatment
  - 26 Requires lighting scheme
  - 27 Requires CCTV Video Controlled entry system
  - 28 Development in accordance with Sustainability and Energy report
  - 29 Remove PD rights for telecoms
  - 30 Foul and Surface Water details
  - 31 Bird Bat Boxes
  - 32 Public access through the site
- 

Case Officer: Sarah Plant

## Photo(s)



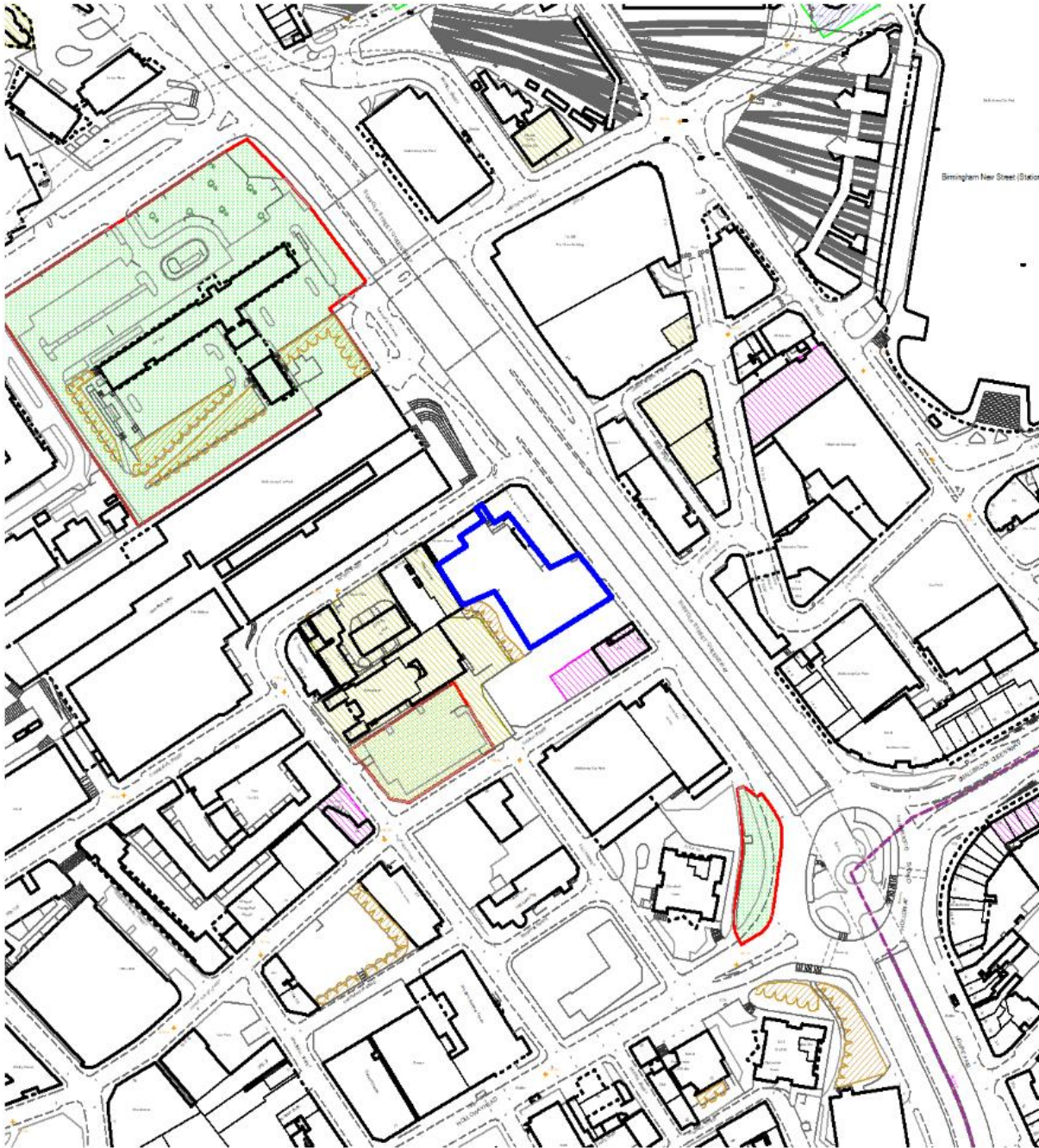
Photo 1: Front elevation of Queensgate House and application site left of it.





Photo 2: View of the side and rear of Queensgate House/application site.

## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**28 September 2023**

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	10	2023/04371/PA  32 New Imperial Crescent Tyseley Birmingham B11 3FL  Change of use from dwelling house (Use Class C3) to children's care home (Use Class C2)
Approve – Conditions	11	2023/00568/PA  1 Vicarage Road Kings Heath Birmingham B14 7QA  Change of use from residential dwelling (Use class C3) to residential childrens home (Use class C2) for the accommodation of a maximum of 5 children aged between 8 to 18 years old.
Approve – Conditions	12	2023/04799/PA  1256-1258 Pershore Road Stirchley Birmingham B30 2YA  Variation of condition 1 (approved plans) attached to approval 2020/04405/PA to submit amended plans to accommodate an increase in height of the building, external fire escape staircase has been added to provide secondary means of escape from 1st and 2nd floor levels and inclusion of electrical sub-station

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Committee Date:	28/09/2023	Application Number:	2023/04371/PA
Accepted:	30/06/2023	Application Type:	Full Planning
Target Date:	29/09/2023		
Ward:	Hall Green North		

32 New Imperial Crescent, Tyseley, Birmingham, B11 3FL

Change of use from dwelling house (Use Class C3) to children's care home (Use Class C2)

Applicant: Rahman  
32 New Imperial Crescent, Tyseley, Birmingham, B11 3FL  
Agent: MADE Architecture Limited  
Dominion Court, 43 Station Road, Solihull, West Midlands, B91 3RT

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Recommendation

**Approve subject to Conditions**

1. **Proposal:**

- 1.1. Planning permission is sought for the change of use of a 4 bedroom detached dwelling (C3) to a care home for 3 children (C2).



Image 1: Site plan

- 1.2. The proposed plans indicate that the utility on the ground floor would be converted to an office. On the first and second floor three of the bedrooms would be occupied by children with the 4<sup>th</sup> utilised by a member of staff. No external changes are proposed.



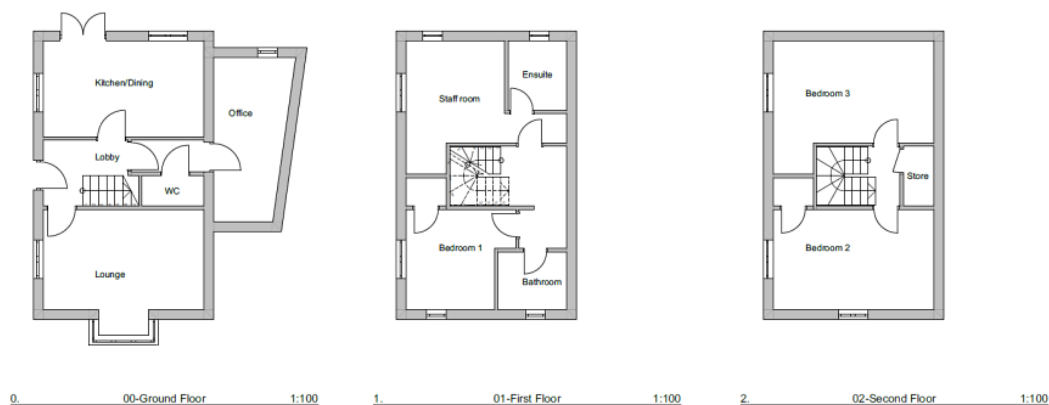


Image 2: Proposed floor plans

- 1.3. The applicant is a provider of residential childcare, specialising in the care of vulnerable children between the ages of 8 – 17. The company states that since 2010 many young people that have resided with them have transitioned successfully to independence, semi-independence or back to their families.
- 1.4. 24 hour care is proposed which would require one of the existing bedrooms to be used by staff. The applicant has indicated that 2 employees would be on site at all times looking after the young people living at the property. The shift patterns for the premises would be 7am until 7.30pm and 7.30pm until 7am. A total of 6 full time jobs will be created by the development.
- 1.5. [Link to Documents](#)
2. Site & Surroundings
  - 2.1. The application site relates to a detached property on a large modern housing estate. There are a mix of detached, semi-detached and terraced properties in the area. The property has off-street parking to the front and a rear garden laid to lawn. The property is within an entirely residential area.
  - 2.2. [Site Location Plan](#)
3. Planning History
  - 3.1. None relevant
4. Consultation
  - 4.1. Police – No Objection subject to conditions regarding CCTV & lighting
  - 4.2. Transportation – No objection subject to the provision of cycle parking
  - 4.3. Birmingham Childrens Trust (BCT) – Support for the application as the applicant already has a good working relationship with BCT, the site is well located with good transport links, has access to local schools and amenities and there are no other local children's homes.
  - 4.4. Regulatory Services – No objection
5. Third Party Responses:



- 5.1. Neighbours and local ward councillors were consulted for the statutory period of 21 days and a site notice displayed. 25 letters of objection has been received raising the following issues:
- Highway safety concerns on narrow bend;
  - Increased parking issues;
  - Difficult for emergency vehicles to pass;
  - Increased traffic;
  - Inappropriate location for business;
  - Unsafe for children to play in the street;
  - Increased noise and disturbance;
  - Increased anti-social behaviour and risk of crime;
  - Harm to character of residential area;
  - Loss of community spirit;
  - Impact on ability to sell properties;
  - Insufficient public consultation;
  - Loss of privacy;
  - Insufficient off street parking;
  - Existing children put at risk; and
  - Other properties in wider area are more suitable;
6. Relevant National & Local Policy Context:
- 6.1. **National Planning Policy Framework**  
Chapter 2 – Achieving Sustainable Development  
Chapter 5 – Delivering a sufficient supply of homes  
Chapter 8 – Promoting Healthy & safe Communities  
Chapter 9 – Promoting Sustainable Transport  
Chapter 11 – making effective Use of Land  
Chapter 12 – Achieving Well Designed Places
- 6.2. **Birmingham Development Plan 2017:**  
PG3 – Place making  
TP27 – Sustainable neighbourhoods  
TP30 – The Type, Size and Density of New Housing  
TP35 – Existing Housing Stock  
TP45 – Accessibility Standards for New Development
- 6.3. **Development Management DPD:**  
DM2 – Amenity  
DM6 - Noise and vibration  
DM12- Residential Conversions and Specialist Accommodation  
DM14 - Transport access and safety  
DM15 - Parking and servicing
- 6.4. **Supplementary Planning Documents & Guidance:**  
Birmingham Design Guide (2022)  
Birmingham Parking SPD (2021)
7. Planning Considerations
- 7.1. The key planning issues are; the principle of a care home; character impact; living conditions for prospective occupiers; impact on parking and highway safety and impact on neighbouring residential amenity.
- 7.2. Principle of the use

- 7.3. Policy DM12 of the Development Management in Birmingham DPD applies to the development of specialist accommodation such as what is proposed on this scheme. This policy sets out that specialist accommodation will be supported where the following 5 criteria are met:
- 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.
- 7.4. The supporting text to the policy highlights a preference for the use of large detached properties set within their own grounds. As a detached four bedroom property it is considered that this requirement has been met. Birmingham Children's Trust have confirmed that there are no other children's care homes within the B11 postcode. There is also only one HMO within a 100m radius of the site. The area is therefore dominated by family housing.
- 7.5. The proposal results in the loss of a family home and therefore Policy TP35 is relevant. The City has greatest need for family housing, as identified in the Housing and Economic Development Needs Assessment (HEDNA). The application site falls within the sub-area of Hall Green where table 8.26 highlights a 28% requirement for 2 beds, 42% requirement for 3 beds and 22% requirement 4 bed homes. The proposal results in the loss of a well-proportioned 4 bedroom dwelling. It is acknowledged that there is a high demand for such properties. However, there is also recognised demand for care homes that cater for children with specialist needs. Birmingham Children's Trust have confirmed that they have worked closely with the provider who is well established and has 2 other operational homes in the City. Furthermore, they consider that the proposed site for the new care home has good transport links with access to Stratford Road and Warwick Road. It also has access to local schools and amenities and does not stand out from other homes on the road.
- 7.6. Within this context, it is considered that the loss of a family housing to provide a much needed care home for children with specialist needs can be tolerated in this instance. However, detailed consideration of amenity, character and transportation matters will be considered below.
- 7.7. Character Impact
- 7.8. There are no external changes proposed to the dwelling consequently the proposal would not impact on the character and appearance of the area.
- 7.9. Impact on Adjacent Occupiers
- 7.10. As a detached property the potential for noise and disturbance from within the property is limited with the level of occupation no greater than would be reasonably expected from a 4 bedroom family at home with typically no more than 5 people on site at anyone time (2 adults, 3 children). It is acknowledged that there would be more comings and goings with the changeover of staff which would occur daily and any visits from family and friends. However, there is no reason to suggest this

would be excessive. It is noted that no objections are raised by Regulatory Services.

- 7.11. Furthermore, the provider has worked closely with Birmingham Children's Trust to understand the needs of Birmingham Children In Care in line with Birmingham Children's Trust Sufficiency Statement. The provider is well established and currently has two homes operational in Birmingham. The Trust has confirmed the provider aims to establish a similar ethos and staff teams as in their existing homes, with a focus on meeting the needs of the young people and providing therapeutic care. The provider would work closely with the neighbourhood policing team to understand any local risks that may impact upon the young people and what actions they can take to mitigate such risks. They would also work closely with the neighbours to ensure that the home is an integral part of the community, in the same way as they have done with their other homes. It has also been confirmed that the home would be registered with Ofsted.
- 7.12. West Midlands Police have reviewed the application and are satisfied that the scheme would not lead to increased instances of crime or anti-social behaviour. The WM Police have requested conditions requiring a lighting scheme and CCTV. In light of the small number of residents and the 24/7 presence of staff it is not considered that such conditions are necessary to make the scheme acceptable in planning terms. However, a condition will be attached to limit the number of occupiers.
- 7.13. Quality of accommodation for the proposed occupiers
- 7.14. All of the bedrooms to be used by the children and staff comfortably exceed the size requirements for single occupancy rooms.
- 7.15. A good size communal kitchen and dining room (14.3sqm) and separate lounge (15.8sqm) is provided. In addition, a WC is provided on the ground floor with a family size bathroom on the 1<sup>st</sup> floor. The private rear garden is approximately 67sqm in size. In summary, this spacious property creates an acceptable living environment for the occupiers. Furthermore, The Birmingham Childrens Trust have indicated that the site would provide ideal accommodation for 3 children.
- 7.16. Traffic and Highway Safety
- 7.17. Policy TP38 of the BDP states that "The development of a sustainable, high quality, integrated transport system, where the most sustainable mode choices also offer the most convenient means of travel, will be supported." One of the criteria listed in order to deliver a sustainable transport network is ensuring that that land use planning decisions support and promote sustainable travel. Policy TP44 of BDP is concerned with traffic and congestion management. It seeks to ensure amongst other things that the planning and location of new development supports the delivery of a sustainable transport network and development agenda.
- 7.18. The site is in a sustainable location with regular bus services available. The site provides one off-road car parking space plus a garage. It is noted that concerns have been raised over congestion and parking by objectors. However, the Transportation Officer acknowledges that the demand for parking is usually low in specialist accommodation of this nature and is unlikely to be any more intensive than a typical family home. Furthermore, the applicant has indicated that a number of their staff do not drive and are therefore more likely to use public transport. Transportation have raised no objection subject to a condition to secure cycle storage.

7.19. In summary, it is considered that the proposal would have no undue impact on parking demand or traffic flow and therefore accords with policy TP38 of the BDP and policies DM14 and DM15 of the Development Management DPD.

7.20. Other Matters

7.21. Concerns have been raised over the impact on property prices and the saleability of homes. This is not a material planning consideration.

## 8. Conclusion

8.1. The principle of the change of use is supported. The scheme would create good quality accommodation, there would be no adverse impact on the amenity levels of neighbouring residential occupiers or the highway network. Consequently it is considered the proposal would constitute sustainable development and recommend that planning permission is granted.

## 9. Recommendation

Approval subject to conditions

- 
- |   |  |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full)  |
| 3 | Requires the provision of cycle parking prior to occupation            |
| 4 | Limits the number of permanent residents to 3 children                 |
- 

Case Officer:            Andrew Fulford

## Photo(s)



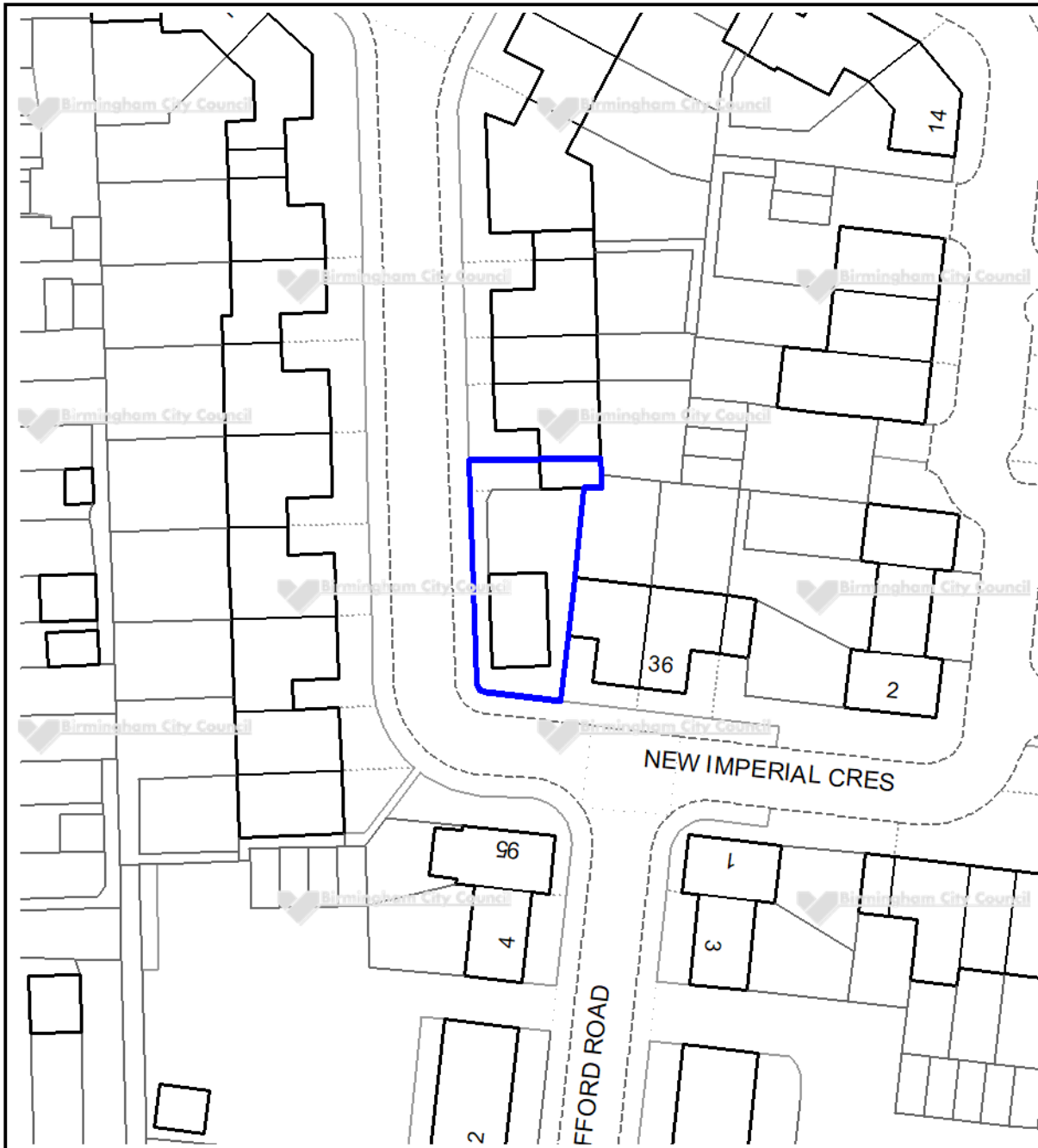
Photo 1: View north towards side elevation of application property



Photo 2: View east towards front elevation of application property



## Location Plan



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Committee Date:	28/09/2023	Application Number:	2023/00568/PA
Accepted:	27/01/2023	Application Type:	Full Planning
Target Date:	28/09/2023		
Ward:	Brandwood & King's Heath		

1 Vicarage Road, Kings Heath, Birmingham, B14 7QA

Change of use from residential dwelling (Use class C3) to residential childrens home (Use class C2) for the accommodation of a maximum of 5 children aged between 8 to 18 years old.

Applicant:	Heartful Care C/o SF Chartered Certified Accountants Fairgate House, 205 Kings Road, Birmingham, B11 2AA
Agent:	Planning by Design 167-169 Great Portland Street, London, W1W 5PF

### Recommendation

**Approve subject to Conditions**

#### 1. **Proposal:**

- 1.1 This application proposed a change of use from a three-storey residential dwelling (Use class C3) to a residential children's home (Use class C2), for the accommodation of a maximum of 5 children aged between 8 to 18 years old. The children admitted to the home would have a learning disability as a primary need, however other second needs could also be present.

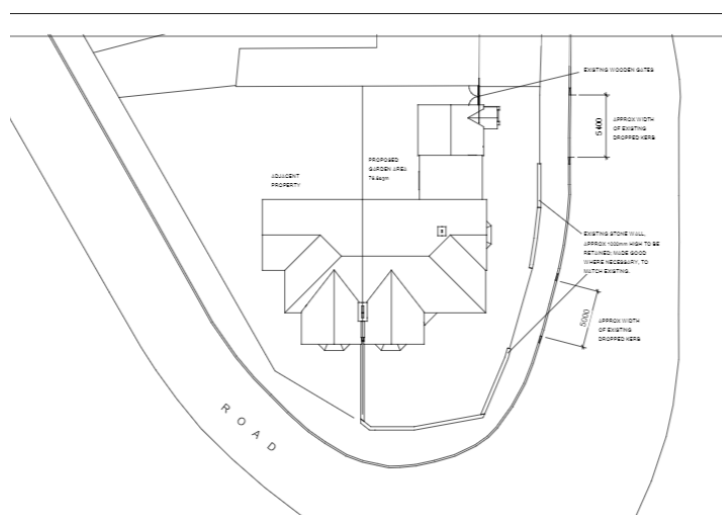


Figure 1: Proposed site plan.

- 1.2 The proposed ground floor would consist of a living room (19.3sqm), study room (19.5msqm), entertainment room (15.5sqm), staff room (13.1sqm), kitchen

(31.52sqm) and bathroom (3.5sqm). At first floor level, there would be 5 bedrooms ranging in scale between 13.3-19.3sqm, a bathroom and 2 ensuite bedrooms serving bedrooms 4 and 5. At second floor level, there would be one bedroom measuring at 19.3sqm. The staff bedroom would be located at first floor level and is labelled as 'bedroom 2' on the floor plans.

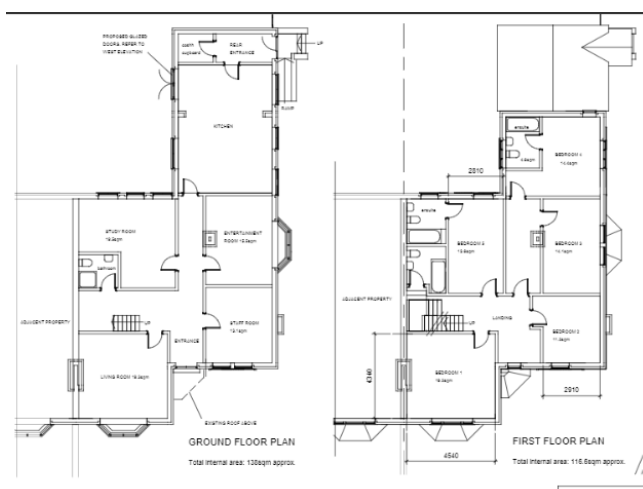


Figure 2: Proposed ground and first floor plan.

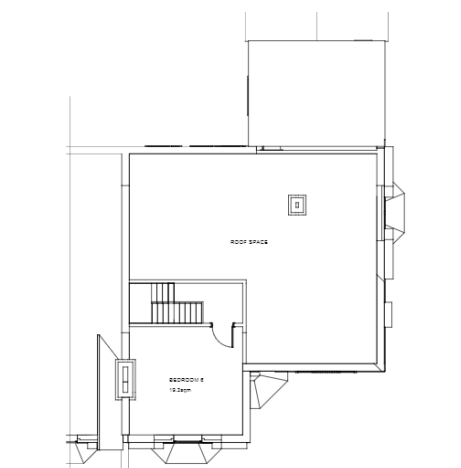


Figure 3: Proposed second floor plan.

- 1.3 The existing rear amenity space of approximately 57m<sup>2</sup> would remain.
- 1.4 The 3 car parking spaces on the front driveway would remain as part of this proposed change of use.
- 1.5 A Design and Access Statement has been submitted in support of the application. The applicant has also provided additional information with regards to the daily operation and management of the children's home, summarised below:
  - The home would operate 24 hours a day, 7 days a week, 365 days a year. There would be between one and three members of staff present during the day and one sleep in night staff or two night wakes during the evening. There will be an OFSTED registered manager on site 5 days a week from 09:00 until 17:30. In addition, there will always be a manager on call ensuring that emergency calls are attended promptly and managed safely.
  - On a typical day, the day staff will arrive on site at 9.15am and complete their shift at 9.45pm. The night staff will arrive onsite at 9.30pm and complete their shift at 9.30am.
  - All staff meetings and training will take place off-site along with any family visits.
  - The children will be attending a school that can meet their needs. If they are not in education and are awaiting a placement, they would be attending an education centre to ensure the routine is consistent.
  - In addition to the existing car parking spaces on-site, the home has access to at least 3 car parks (Institute Road, Kings Heath High Street car park and Britannia) within a ten-minute walk and the organisation will be paying for the car park charge if this is needed. The organisation will be providing staff with incentives and will be paying for their bus and train passes to and from work.
- 1.6 It was requested by Councillor Barker that the application go to planning committee.
- 1.7 [Link to documents](#)

## 2. **Site & Surroundings:**

- 2.1. The application site consists of a three storey, semi-detached dwelling which is located on the corner of Vicarage Road and All Saints Road. The site is set back from the highway by a tarmac driveway to the front and side. There is a private garden area to the rear. The application site is located within the Primary Shopping Area of King Heath District Centre. King's Heath Village Square is situated adjacent to the site.
- 2.2. All Saints Road and Vicarage Road are predominantly residential in nature however there are several shops, cafes and commercial units along Alcester Road. The site is located in a highly accessible area, with several bus stops located in close proximity to the site along Alcester Road.
- 2.3. The application site is currently vacant, having previously been in C3 use. The site was originally in use as a doctor's surgery, before being converted to a solicitors office circa 2008. The building was converted from a Solicitors Office to residential (Use Class C3) in 2015 through the application ref: 2015/01188/PA. The adjoining property No.2 All Saints Road comprises of 3 self-contained flats.
- 2.4. [Site Location](#)

## 3. **Planning History:**

- 3.1. 01/12/2008 - 2008/04084/PA - Change of use from doctors surgery (D1) to solicitors office (A2). Approve subject to conditions.
- 3.2. 08/07/20214 - 2014/02360/PA - Change of use from Financial and Professional (use class A2) to Children's Day Nursery (use class D1). Refuse.
- 3.3. 30/04/2015 - 2015/01188/PA - Change of use from offices (A2) to residential (C3) use. Approve subject to conditions.

## 4. **Consultation Responses:**

- 4.1. Regulatory services – No objections.
- 4.2. Transportation – No objections subject to conditions requiring the provision of secure cycle storage to the rear.
- 4.3. West Midlands Police – Objection in relation to existing crime in the area and the impact this would have on the proposed change of use.
- 4.4. Children's commissioning/ Birmingham Children's Trust support the proposal and highlight the following:
  - The provider has engaged early with the Trust to share proposals and is keen to work with the Trust.
  - The provider has addressed original concerns regarding the size of bedrooms and lack of a bath.
  - Ofsted will inspect the home and its policies and interview the Home Manager before they will consider registering the home.
  - The home will only be registered once Ofsted are satisfied that everything is in place.

Once registered, Ofsted will regularly inspect the operation of the home, the care provided to the young people, the progress being made by the young people and the management of the home.

- The Trust will undertake due diligence before considering making a placement with this provider and will not make any placements until satisfied that the home is registered with Ofsted.

## **5. Third Party Responses:**

- 5.1. A site notice has been displayed for 21 days, local ward councillors, residents associations and surrounding occupiers have been notified of the proposal. Four neighbour objections were received, in addition to an objection from Councillor Barker and the Kings Heath Residents Forum. Two letters of support were also received. The objections received are summarised below:
- The site currently has issues of crime and anti-social behaviour and crime associated with the proposed future use.
  - Concerns were raised about the credentials of the company running the care home and how the residential home will be run.
  - Noise pollution concerns from proposed entertainment room.
  - Impact on the residential amenity of the adjoining property and surrounding residential occupiers.
  - Work has already commenced for the change of use.
  - Parking concerns.
  - Concerns whether the proposal internal and external amenity space is adequate.
  - Loss of a family dwelling.
  - The proposal could have a detrimental impact on All Saints Youth Project facility opposite the site.
- 5.2. Councillor David Barker raised objection to the application for the following reasons:
- The property may already be operating as the proposed use.
  - Safety concerns due to the location of the proposal adjacent to a busy street.
  - Parking concerns due to increased traffic to site.
  - Whether internal amenity would be adequate.
- 5.3. The letters of support received are summarised below:
- The proposal would provide much needed accommodation where there is a lack of such facilities.
  - The children's home would be an improvement on the existing use.

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

- 6.1. National Planning Policy Framework: Paragraph 130.
- 6.2. Birmingham Development Plan 2017: PG3 (Place marking), TP27 (sustainable neighbourhoods), TP30 (The type, size and density of new housing), TP35 (the existing housing stock), TP45 (accessibility standards for new development).
- 6.3. Development Management DPD: DM2 (Amenity), DM6 (Noise and vibration), DM12 (Residential conversions and specialist accommodation), DM14 (Transport access and safety), DM15 (Parking and servicing).
- 6.4. Supplementary Planning Documents & Guidance: Birmingham Design Guide (SPD) and Birmingham Car Parking Guidelines (SPD).



## 7. **Planning Considerations:**

- 7.1. The main considerations in the determination of this application are the principle of the proposed use as a residential children's home, visual amenity, the standard of accommodation and quality of the living environment for future occupiers, impact on residential amenity and highway safety and parking.

### Principle of Development –

- 7.2. The National Planning Policy Framework (NPPF) seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It encourages the effective use of land by utilising brownfield sites and focusing development in locations that are sustainable and can make the fullest use of public transport, walking and cycling. The NPPF also seeks to boost housing supply and supports the delivery of a wide choice of high-quality homes, with a mix of housing (particularly in terms of type/tenure) to create sustainable, inclusive and mixed communities.
- 7.3. Policy PG3 of the Birmingham Development Plan (BDP), states 'all new development will be expected to demonstrate high design quality, contributing to a strong sense of place' and 'make best use of existing buildings and efficient use of land in support of the overall development strategy'. New development should 'reinforce or create a positive sense of place and local distinctiveness, with design that responds to the site conditions and the local area context, including heritage assets and appropriate use of innovation in design' and 'create safe environments that design out crime'.
- 7.4. Policy TP30 of the BDP refers to the type, size and density of new housing across the city. The policy states that new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable communities. In assessing the suitability of new residential development full consideration will need to be given to the site and its context.
- 7.5. Consideration must be given to Policy DM12 of the Development Management in Birmingham Document which applies to the subdivision or conversion of properties into self-contained dwelling units and the development of specialist accommodation, such as Care Homes. The policy states that "Such development will be supported where:
- 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."*

- 7.6. In terms of cumulative effect, a review of the Councils GIS Live Mapping data for HMOs demonstrates that within a 100m radius of the application site at No.1 Vicarage Road, there are a total of 2 registered HMO's out of the 42 residential addresses. This equates to 4.76% of properties within a 100m radius which is below the 10% threshold. As such, I do not consider that the approval of this scheme would lead to an overconcentration of HMO's within the area.
- 7.7. The property is a three-storey, semi-detached dwelling and it is considered that the proposed children's home would be located within a sufficiently sized plot. The proposed use and location is considered acceptable in principle, given that it would have an adequate amount of internal and external amenity space. At ground floor level, there would be a living room (19.3sqm), study room (19.5msqm), entertainment room (15.5sqm), staff room (13.1sqm), kitchen (31.52sqm) and bathroom (3.5sqm). At first floor level, there would be 5 bedrooms ranging between 13.3-19.3sqm, a bathroom and 2 ensuite bedrooms serving bedrooms 4 and 5. At second floor level, there would be one bedroom measuring at 19.3sqm. A condition limiting the number of children to a maximum of 5 shall be imposed.
- 7.8. In relation to paragraphs (c) and (d) of policy DM12 of the Development Management in Birmingham Plan, the site is located within the Kings Heath Local Centre and its associated facilities and within walking distance of good public transport links and local schools. Thus, the proposed children's home would be located in a highly sustainable location. In addition, there are no extensions proposed to facilitate the proposed change of use and thus the development utilises the existing footprint of the property. It is considered that activities associated with the proposed use would be similar to that of a family dwelling and as such the proposal would not cause any undue noise and disturbance to adjoining occupiers, over and above what would be expected from the existing residential dwelling house use. Whilst a full assessment of the impact of the proposed development on the amenity of future occupiers and the amenity of adjacent residents will be assessed later in the report, the proposed development would not appear to constitute an overuse or a significant over intensification of the existing building. The proposal would therefore, appear to accord with the broad principles of parts c) and d) policy DM12 of the Development Management in Birmingham Plan.
- 7.9. Concerns have been raised that the proposal would lead to the loss of a family dwelling. Policy TP35 of the BDP states that the loss of residential accommodation would only be permitted if there are good planning justifications or an identified social need. Whilst the premises would operate as a residential children's home, it would not be entirely out of keeping in that it would share some characteristics of a residential C3 use albeit accommodation for a specific group of individuals. There is high demand for the provision of residential children's homes such as the proposed and it is considered that although the proposal would result in the loss of a large family dwelling, it would meet an additional housing need which is in short supply. It is therefore considered that there are social and planning justifications for the proposed use and the proposal would not conflict with Policy TP35 of the BDP.
- 7.10. It is important to note that, given the location of the property within a mixed commercial area, it is more likely that a future use of the property would either be commercial as it has historically been or a small children's home. Although planning consent was granted for residential use in 2015, it doesn't appear that the property has been utilised for such use for very long. The application property was previously used as supported housing.
- 7.11. Given the above, it is considered that the principle of the proposed change of use from residential dwellinghouse (Use Class C3) to a residential children's home (Use

Class C2) is acceptable, subject to other material planning considerations assessed in full below.

Visual amenity –

- 7.12. The only external change would be to the West elevation at ground floor level, where a set of glazed doors would replace the existing window. The proposed materials and finishes of the door would match the existing. Therefore, I do not consider that the proposed minor alteration would have a harmful visual impact.

Impact on amenity: future occupiers –

- 7.13. The Birmingham Design Guide does not set internal space standards for residential children's homes however the Nationally Described Space Standards provide a useful benchmark to judge the quality of accommodation and living environments for this type of development.
- 7.14. The proposal would consist of 5 designated children's bedrooms and one staff bedroom (bedroom 2 on plans). Each of the bedrooms would accord with the 7.5m<sup>2</sup> internal floor area that would be required to serve as a single bedroom and each bedroom would benefit from a window providing outlook and sunlight. Using the Nationally Described Space Standards as a guide, the property would house a total of 6 occupants over three floors overnight, if this number of people were to occupy a dwellinghouse at any one time, a minimum of 129m<sup>2</sup> of gross internal floor space would be required to accord with the NDSS. The existing property substantially exceeds this internal space requirement and would provide a spacious level of accommodation for the number of children who would reside at the property and the staff that would work there.
- 7.15. City Note LW13 contained within the Birmingham Design Guide SPD stipulates that there should be 10m<sup>2</sup> of private external amenity space per occupier for a C2 use. The property benefits from 57m<sup>2</sup> of private external amenity space to the rear which would be used as a private garden area which would serve the five children that would live at the property and would also serve the one staff member that would be staying over at the property. Based on the number of people who would be staying overnight at the premises, the external space would fall slightly short of the required 60m<sup>2</sup>. However, as the shortfall would only be 3m<sup>2</sup> and as the property still benefits from a large internal floor area and is located within close proximity to public outdoor spaces in the local area, I do not consider that this slight shortfall would have a detrimental impact on the amenity of future occupiers. Overall, I consider that the proposal would result in a good level of accommodation for future occupiers and would accord with the principles of policies DM2 and DM12 of the Development Management in Birmingham Plan and the guidance contained within the Birmingham Design Guide.

Impact on amenity – existing residents and local character –

- 7.16. Concerns have been raised by neighbouring occupiers regarding the impact the proposed change of use would have on the amenity of neighbouring occupiers with particular concern raised to the entertainment room adjacent to the adjoining wall with No.2 All Saints Road and potential noise pollution. Amended plans received show that the proposed entertainment room has been relocated to the other side of the property to minimise any noise disturbance to the neighbouring occupier. It is also important to note that No. 2 All Saints Road contains 3 self-contained flats which is considered to be less sensitive from a noise perspective than a single dwelling house. Living within an apartment block you would expect some levels of noise from neighbouring occupiers living either above or below.

- 7.17. The proposed use would operate as a small residential children's home. It is acknowledged that there may be some material differences between the proposed use and a residential family home (use class C3). However, with five children staying at the property, between one and three members of staff during the day and one sleep in night staff or two night wakes, staff training and visits from family members occurring off-site and children attending local schools, I consider that this would be similar to the occupancy, comings and goings, operations and character of a family dwelling house as opposed to a large scale C2 use. Thus, the proposed development would not result in a significant change to the character of surrounding residential properties. The impact of the proposed use could therefore be considered suitable within a semi-detached property and any impacts that arise could be safeguarded in the same way that noise from other residential properties could be safeguarded.
- 7.18. There have been no objections raised by the Council's Regulatory Services Team and subject to conditions restricting the number of occupants and requiring the submission of a noise insulation scheme, the proposal would accord with the requirements of policies DM2, DM6 and DM12 of the Development Management in Birmingham Plan. I therefore do not consider that the proposed change of use would have a detrimental impact on the amenity of neighbouring occupiers or the character of the surrounding area.

#### Highway safety and car parking –

- 7.19. The site benefits from an existing driveway, which the applicant states can accommodate 4 cars. Transportation development stated that to allow for manoeuvring, 3 cars is a more realistic figure however this aligns with the parking provision requirements within the Birmingham Parking SPD (2021). The applicant has confirmed that none of the children would have their own cars. The applicant also confirmed that any training and visits would take place offsite and therefore would not increase parking demand.
- 7.20. The proposed residential children's home is located in close proximity to several car parks (Institute Road, Kings Heath High Street car park and Britannia) which are within a ten-minute walk from the home. Transportation development considered that the proposed residential children's home is located in a very accessible area with multiple bus stops present on Alcester Road and the applicant has confirmed that the organisation will be paying for their bus and train passes to and from work, thus encouraging sustainable mode of transport to and from the site.
- 7.21. Concerns were raised by Councillor Barker and neighbouring occupiers regarding highway safety and that the proposed use would increase parking demand and congestion. The applicant confirmed that all family visits and staff training would take place off-site. Given, that there is sufficient space on the driveway to accommodate the parking demand of staff and that bus and train passes will be provided to staff to incentivise travel via public transport, I do not consider that the proposal would have a detrimental impact on highway safety or parking.
- 7.22. The Transportation development officer raised no objections to the proposed change of use. They did not consider that the proposal would have a detrimental impact on highway safety, nor that the parking demand associated with the children's home would be any greater than the current use or the previous use of the building as a commercial premises up until 2015. I concur with this view and consider that the proposed change of use would accord with the requirements of Policies DM14 and DM15 of the Development Management in Birmingham DPD.

#### Other issues

- 7.23. Concerns have been raised by West Midlands Police with regards to existing crime around the site and the implications this could have on the proposed children's home. Whilst the existing crime rates surrounding the site are acknowledged, it is not reasonable to conclude that the proposed children's home will intensify crime. Is it considered that safeguarding measures will be put in place by the owner to mitigate criminal activity at/surrounding the site. It is evident that this proposal would be regulated by the correct governing bodies with frequent inspections. For this reason, it is not considered that this proposal would give rise to anti-social behaviour and crime.
- 7.24. Concerns have also been raised by neighbouring occupiers regarding the credentials of owners. The Children's Trust have confirmed that there is no requirement for those setting up the organisation to have experience in care but that Ofsted will complete checks on the Directors and organisation and the service will have to be registered with Ofsted once planning permission has been obtained.

## 8. **Conclusion**

- 8.1. The proposed change of use would deliver a much-needed residential children's home, without causing significant harm to the character of the area or amenity of neighbouring occupiers. I consider that the proposal would aid in the creation of a mixed community. The proposed change of use would accord with policies contained within the NPPF, BDP, Development Management in Birmingham DPD and the Birmingham Design Guide. The application is therefore recommended for approval subject to planning conditions.

## 9. **Recommendation:**

9.1. Approve subject to conditions.

- 
- |   |  |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans       |
| 2 | Implement within 3 years (Full)  |
| 3 | Restricts the number of children living in the property to a maximum of five |
| 4 | Prevents the use from changing within the use class                          |
| 5 | Requires the submission of cycle storage details                             |
| 6 | Requires the prior submission of details of a noise insulation scheme        |
- 

Case Officer: Sophie Fearon



**Photo(s)**







## Location Plan



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Committee Date:	28/09/2023	Application Number:	2023/04799/PA
Accepted:	17/07/2023	Application Type:	Variation of Condition
Target Date:	16/10/2023		
Ward:	Stirchley		

1256-1258 Pershore Road, Stirchley, Birmingham, B30 2YA

Variation of condition 1 (approved plans) attached to approval 2020/04405/PA to submit amended plans to accommodate an increase in height of the building, external fire escape staircase has been added to provide secondary means of escape from 1st and 2nd floor levels and inclusion of electrical sub-station

Applicant: Rayman Developments Ltd  
2 Clemens Street, Leamington Spa, CV31 2DL  
Agent: AT Architects  
Kingsley House, 63 Holly Walk, Leamington Spa, CV32 4JG

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Recommendation

**Approve subject to Conditions**

**1. Proposal:**

- 1.1. This is a Minor Material Amendment (MMA) application which proposes changes to the design and appearance of the mixed use scheme approved under reference 2020/04405/PA. The key changes proposed are as follows:
- An increase in the height of the development by approximately 0.6m on Pershore Road and 0.2m on the Twynning Road elevation;
  - Addition of external staircase to the rear;
  - Internal alterations to the ground floor layout including inclusion of internal sub-station, relocation of staircase and reconfiguration of bin and cycle stores;
  - Reconfiguration of first and second layouts with additional study room on first floor; and
  - Alterations to fenestration on Pershore Road elevation with the introduction aluminium framed glazed doors to serve the substation, inclusion of additional metal door (Anthracite Grey) and reduction in size of glazed shop front.



Image 1: Ground floor layout

- 1.2 The applicant has an extant consent on the site (2020/04405/PA) and work has commenced on site, which is a strong material consideration. The key planning issues were debated at the time of the previous approval. With a Section 73 application, LPA's should not be reopening the principal of development where the policy framework has not changed, which is the case here. This report therefore focuses on the impacts of the proposed changes to the previous approval.
2. Site & Surroundings
  - 2.1. The application site sits within the Stirchley Local Neighbourhood Centre on the corner of Pershore Road and Twynning Road. The site was previously occupied by a traditional 2 storey building that was last used as a barbers and an antiques store with flats above. This building has now been demolished with work commenced on the scheme that already has consent (2020/04405/PA).
  - 2.2. Adjacent buildings on the Pershore Road generally consist of traditional 2 storey terraced properties although the adjacent unit No. 1250 Pershore Road is a larger detached property. These properties are generally in a mix uses including retail, restaurants and hot food takeaways. To the east of the application site are terraced dwellings on Twynning Road which are all 2 storeys in height. Bournville train station is 550m southwest of the application site.
3. Planning History
  - 3.1. 2020/04405/PA - Demolition of existing buildings and erection of 3 storey building consisting of ground floor commercial use (A1-A4) and 31 units of student accommodation. Approved on 19<sup>th</sup> March 2021.
  - 3.2. 2022/07296/PA - Application to determine details for conditions 3 (materials) and 14 (construction method statement) attached to approval 2020/04405/PA. Approved on 17<sup>th</sup> November 2022.
  - 3.3. 2023/00639/PA - Non material amendment to Planning Approval 2020/04405/PA for increase in overall building height and addition of rear external emergency escape staircase and addition of internal electrical sub-station and changes to fenestration. Refused on 31<sup>st</sup> January 2023 as changes were too extensive to be considered under an NMA.
  - 3.4. 2023/01317/PA - Variation of condition 1 (approved plans) attached to approval 2020/04405/PA to incorporate an increase in height of the building, addition of external emergency staircase, changes to fenestration details and inclusion of internal electrical sub-station. Refused on 3<sup>rd</sup> May 2023 due to the harm to the



character of the area, inadequate private amenity space and loss of privacy for adjoining occupiers.

- 3.5. 2023/01318/PA - Application to determine details for conditions 8 (levels), 11 (sustainable drainage scheme), 21 (solar PV location) and 22 (air source heat pump location) attached to approval 2020/04405/PA. Under consideration.
- 3.6. 2023/04031/PA - Application for a Non-Material Amendment to planning approval 2020/04405/PA for the submission of amended plans to allow for changes in height overall building height, addition of external emergency escape staircase at rear, addition of internal electricity sub-station. Refused on 13<sup>th</sup> July 2023 as changes were too extensive to be considered under an NMA.

4. Consultation

- 4.1. Lead Local Flood Authority – Clarification sought over the impact of changing levels.
- 4.2. Police – No objection subject to conditions requiring the provision of CCTV and lighting scheme.
- 4.3. West Midlands Fire Service – No objection
- 4.4. Regulatory Services – No objection
- 4.5. Transportation – No objection

5. Third Party Responses:

- 5.1. Local occupiers, Ward Councillors, MP and resident associations were notified. A site notices and a press notice have been displayed, with 20 letters of objection received. The following concerns have been raised:
- Scheme should be built in accordance with original approval;
  - Fire escape should have been considered previously;
  - Loss of privacy from external staircase;
  - Harm to character of the area;
  - No parking;
  - Increased traffic and congestion;
  - Disruption to local residents;
  - Negative community impact;
  - Excessive scale;
  - No demand for student accommodation;
  - Too many HMOs in the area;
  - Family housing should be built instead;
  - Harmful impact on the regeneration of Stirchley;
  - Loss of light;
  - Lacks waste storage and cycle storage provision;
  - Not in keeping with local architecture;
  - Biodiversity enhancements needed;
  - Overbearing; and
  - Impact on property prices
- 5.2. An objection has been received from Councillor Locke raising the following concerns:
- No consideration of the occupiers of adjacent properties;
  - Homes will be overlooked; and

- Detracts from the character of the area.

6. Relevant National & Local Policy Context:

6.1 National Planning Policy Framework:

Chapter 2 – Achieving Sustainable Development  
 Chapter 5 – Delivering a sufficient supply of homes  
 Chapter 7 - Ensuring the vitality of town centres  
 Chapter 8 – Promoting Healthy & safe Communities  
 Chapter 9 – Promoting Sustainable Transport  
 Chapter 11 – making effective Use of Land  
 Chapter 12 – Achieving Well Designed Places  
 Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change  
 Chapter 15 – Conserving and Enhancing the Natural Environment  
 Chapter 16 – Conserving and Enhancing the Historic Environment

6.2 **Birmingham Development Plan 2017:**

PG3 - Placemaking  
 TP3 – Sustainable Construction  
 TP4 – Low and Zero Carbon Energy Generation  
 TP6 – Management of Flood Risk and Water Resources  
 TP12 – Historic Environment  
 TP21 – Network and Hierarchy of Centres  
 TP24 - Promoting a diversity of uses within centres  
 TP33 – Student Accommodation

6.3 **Development Management DPD:**

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

6.4 **Supplementary Planning Documents & Guidance:**

Birmingham Design Guide SPG  
 Stirchley Framework SPD  
 Birmingham Parking SPD

7. Planning Considerations

7.1. Principle of development

7.2. Extant consent 2020/04405/PA secured the principle of a mixed use scheme on the site with ground floor retail and student accommodation above. A previous variation of condition application was refused under application 2023/01317/PA for the following reasons:

- Harmful impact on the character and appearance of the area;
- Loss of privacy; and
- Insufficient outdoor amenity space

7.3. It is necessary to consider whether the changes to the design, layout and appearance address these concerns to deliver a scheme that is acceptable in terms of the impact on the character of the area and residential amenity.

7.4. Layout and Design

- 7.5. National policy sets out that applications which seek to amend consents should not be supported where it results in an inferior outcome. Specifically, paragraph 135 of the NPPF states:

*Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme.*

- 7.6. This matter has also been addressed in local policy with The Birmingham Design Guide SPD in paragraph 2.184 of the Principles document stating:

*Value engineering will inevitably be applied through the construction process, but it should not be used as a tool to deteriorate the quality of the building or landscape. Its role should be to resolve construction challenges, ensure best value and aid build efficiency.*

- 7.7. This application seeks changes to the appearance and layout of the scheme, although to a much lesser extent than was previously sought under refused application 2023/01317/PA. The height of the scheme would increase by 0.6m on Pershore Road and 0.2m on Twynning Road above what was previously approved. These minor increase are considered to inconsequential which is demonstrated in image 2 and image 3. It is important to note that the height of the development does not exceed the height of adjoining properties on either Pershore Road or Twynning Road. The original concept of the scheme was based on the traditional 'frontage building and rear wing' arrangement, and to reflect this the Pershore Road elevation was taller than the Twynning Road elevation. This amended scheme retains that arrangement.



Image 2: Proposed Twynning Road Elevation



Image 3: Twynning Road elevation approved under App No. 2020/04405/PA

- 7.8. The amended scheme also proposes changes to the ground floor openings on the Pershore Road elevation. The previously improved scheme includes a wide glazed shopfront to the commercial unit plus a door serving the refuse store. The amended Pershore Road elevation narrows the glazed shopfront by 2.7m, introduces a second door and wide glazed double doors. The glazed double doors would provide access to the sub-station which the applicant has had to incorporate into the

scheme. The single doors serve the refuse store and electric meter. Whilst the narrowing of the glazed shopfront is not ideal the glazed double doors do give the impression of providing natural surveillance. On balance, the changes to this elevation are considered acceptable.



Image 4: Proposed Pershore Road Elevation



Image 5: Pershore Road Elevation approved under App No. 2020/04405/PA

- 7.9. The final external change is the addition of an external staircase at the rear of the building. This is required to provide a secondary means of escape for the occupiers in the case of emergency. Whilst it would have been preferable for a secondary means of escape to have been incorporated into the design of the building the staircase is not visible from any public vantage points and has also been reduced in scale when compared to previously refused application where the staircase extended up to the roof rather than just the second floor.

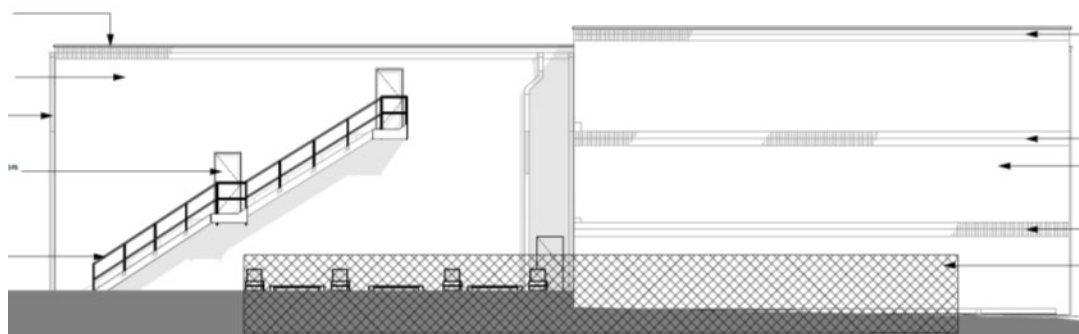


Image 6: Proposed rear elevation

- 7.10. In summary, the minor changes proposed do not undermine the design of the originally approved scheme and maintain the character and appearance of the area. This is in accordance with Policy PG3 of the BDP, Birmingham Design Guide SPD and NPPF.
- 7.11. Residential Amenity
- 7.12. Concerns have previously been raised of the loss of privacy that could occur from the external staircase in relation to No. 3 Twynning Road. However, the positioning of the 2 storey rear wing of No.3 and the substantial side elevation of No. 1248 Pershore Road greatly limits any views into the garden of No.3 Twynning. Furthermore, the reduction in the height of the staircase so it only extends up to the second floor rather than the roof also reduces the prospect of any overlooking. It is also important to remember that the external staircase would only be used as an emergency exit so would not be used regularly.
- 7.13. The previous variation of condition application did not show the area behind the building as private amenity space for the student occupiers. The plans submitted with this scheme indicate that the area to the rear forms part of the private amenity space for the occupiers which is therefore the same as the originally approved scheme which totalled 110sqm size. On this basis the level of private amenity space is considered acceptable.
- 7.14. The reconfiguration of the internal layout has increased the amount of communal space with an additional study room provided on the first floor. This change is supported.
- 7.15. The scheme still proposes 32 studios, all of which are of an acceptable size and layout.
- 7.16. In summary, the proposal would have no impact on the amenity levels experienced by neighbouring occupiers and creates an acceptable living environment for the proposed occupiers which is in accordance with Policy PG3 of the BDP, Policy DM2 of the Development Management DPD and the Birmingham Design Guide SPD.
- 7.17. Other Matters
- 7.18. As the number of bedrooms remains unaltered and the footprint has not changed the proposal would have no additional impact upon transportation, landscaping or ecology matters.
- 7.19. The LLFA have queried how the changes would impact on the previously submitted drainage scheme. Due to the minor nature of the changes it is not considered that there would be any notable impact on the drainage scheme. Furthermore, the drainage conditions attached to the original scheme would be attached to this new approval.
- 7.20. A variation of condition application effectively grants a new planning permission for the whole development and therefore all conditions attached to the original will be recommended for this scheme but will be updated where conditions have already been discharged.
- 7.21. Concerns have been raised over the impact on property prices but this is not a material planning consideration.
8. Conclusion



- 8.1. The changes proposed through this minor material amendment application are considered to be minor in nature and do not detract from the design of the original scheme or harm the character of the area. Furthermore, the changes have no undue impact on the living environment for the proposed occupiers or occupiers of adjacent properties. The proposal is therefore accords with policy PG3 of the BDP, policy DM2 of the Development Management DPD, the Birmingham Design Guide SPD and the NPPF.

9. Recommendation

9.1 Approval subject to conditions

- 
- |    |  |
|----|--|
| 1  | Requires the scheme to be in accordance with the listed approved plans   |
| 2  | Implement within 3 years (Full)  |
| 3  | Requires the use of previously approved external materials   |
| 4  | Requires the submission of hard and/or soft landscape details  |
| 5  | Requires the submission of hard surfacing materials  |
| 6  | Requires the submission of boundary treatment details  |
| 7  | Requires the submission of a landscape management plan   |
| 8  | Requires the submission and approval of building & site level details  |
| 9  | Implement in accordance with submitted Arboricultural Method Statement   |
| 10 | Requires tree pruning protection   |
| 11 | Requires the prior submission of a sustainable drainage scheme   |
| 12 | Requires the submission prior to occupation of the properties of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 13 | Requires the submission of a scheme for ecological/biodiversity enhancement measures   |
| 14 | Implementation of a construction management plan   |
| 15 | Requires the submission of a CCTV scheme   |
| 16 | Requires the submission of a lighting scheme   |
| 17 | Requires the submission of a Student Management Plan   |
| 18 | Implementation in accordance with Air Quality Statement  |
| 19 | Maximum occupancy of 31 students   |
| 20 | Submission of final BREEAM good certificate  |
| 21 | Installation of solar PV   |
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22 Installation of air source heat pumps

23 Implementation of recommendations within Noise Assessment

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Case Officer: Andrew Fulford

## Photo(s)

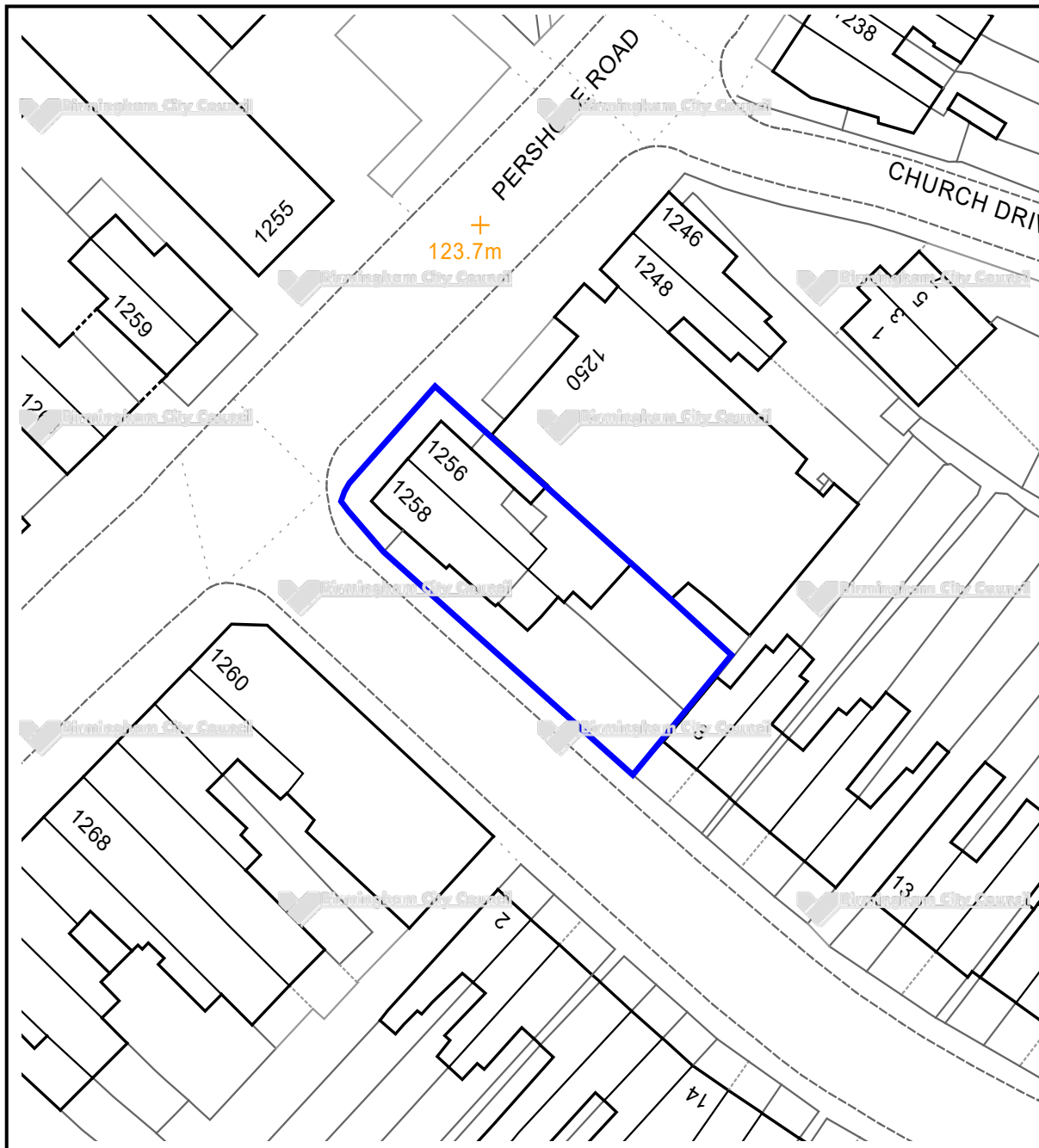


Photo 1: View from Pershore Road showing construction commenced on approval 2020/04405/PA



Photo 2: View from Twynning Road

## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**28 September 2023**

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	13	<p>2023/04905/PA</p> <p>Aston Villa Football Club Trinity Road Aston Birmingham B6 6HE</p> <p>Section 73 application for Variation of Conditions attached to Planning Permission reference 2022/06776/PA (Demolition of the existing North Stand, club-shop, gatehouse and Academy building; and the redevelopment of the site comprising the erection of a new North Stand and a multi-use leisure building (to provide match day and non-match day) for sports, retail, commercial, community and cafe/ bar uses and facilities; internal reconfiguration of the Trinity Road stand; provision of new public realm, hard and soft landscaping works, new and revised access arrangements, car parking provision; and other associated works) to facilitate external amendments to the facade to allow for the insertion of an internal mezzanine into the North Stand (for use as a shop and to provide a F&amp;B offer) and other associated works, and enable the independent construction and occupation of the buildings as referred to as the North Stand and Villa LiveC3) above, with parking, landscaping and all other associated works</p>
Approve - Conditions	14	<p>2023/04984/PA</p> <p>Aston Villa Football Club Trinity Road Aston Birmingham B6 6HE</p> <p>Partial demolition of the former Academy building, external alterations and refurbishment of remaining bays for use as a multi-purpose community and events space and associated food/ beverage offer, with ancillary offices, public realm, car and cycle parking, OB compound and associated works</p>



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Committee Date:	28/09/2023	Application Number:	2023/04905/PA
Accepted:	19/07/2023	Application Type:	Variation of Condition
Target Date:	18/10/2023		
Ward:	Aston		

Aston Villa Football Club, Trinity Road, Aston, Birmingham, B6 6HE

Section 73 application for Variation of Conditions attached to Planning Permission reference 2022/06776/PA (Demolition of the existing North Stand, club-shop, gatehouse and Academy building; and the redevelopment of the site comprising the erection of a new North Stand and a multi-use leisure building (to provide match day and non-match day) for sports, retail, commercial, community and cafe/ bar uses and facilities; internal reconfiguration of the Trinity Road stand; provision of new public realm, hard and soft landscaping works, new and revised access arrangements, car parking provision; and other associated works) to facilitate external amendments to the facade to allow for the insertion of an internal mezzanine into the North Stand (for use as a shop and to provide a F&B offer) and other associated works, and enable the independent construction and occupation of the buildings as referred to as the North Stand and Villa Live

Applicant: Aston Villa Football Club  
Villa Park, Trinity Road, Aston, Birmingham, B6 6HE  
Agent: WSP  
WSP House, 70 Chancery Lane, London, WC2A 1AF

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Recommendation

**Approve subject to Conditions**

1. **Proposal:**

- 1.1 The proposal is made under Section 73 of the Town and Country Planning Act 1990 to vary conditions attached to the full planning permission 2023/06776/PA for the demolition of the existing North Stand, club-shop, gatehouse and Academy building; and the redevelopment of the site comprising the erection of a new North Stand and a multi-use leisure building (to provide match day and non-match day) for sports, retail, commercial, community and café/ bar uses and facilities; internal reconfiguration of the Trinity Road stand; provision of new public realm, hard and soft landscaping works, new and revised access arrangements, car parking provision; and other associated works.
- 1.2 The approved development increases the spectator capacity from 42,657 up to 50,065 and modernise the environment around Villa Park to ensure that it is a football and entertainment venue that can be enjoyed by fans, visitors to Birmingham, and the local community year-round and into the future.

- 1.3 The proposal is described as an *Application under Section 73 of the Town and County Planning Act (1990) to amend planning permission (LPA ref: 2022/06776/PA) to insert an internal mezzanine into the North Stand (for use as a shop and provide a F&B offer), façade amendments and other associated works, and enable the independent construction and occupation of the buildings referred to as the North Stand and Villa Live.*
- 1.4 The principal amendments are summarised as –
- minor façade alterations and internal changes to the North Stand to incorporate a ticket office, shop and increased food and beverage offer; and
  - repositioning of the Villa Live building
  - amend existing conditions to separate the North Stand and Villa Live developments to enable works to commence on the North Stand and allow the occupation of the North Stand independent of the Villa Live elements of the permission.
- 1.5 The conditions affected by the proposals and subject to amendment are –
- Condition 1 – Implementation  
Condition 2 – Development in accordance with approved plans;  
Condition 4 – Construction management plan;  
Condition 5 – Construction employment plan;  
Condition 6 – Construction method statement;  
Condition 7 – Remediation scheme;  
Condition 8 – Drainage details;  
Condition 10 – Construction ecological management plan;  
Condition 11 – Security threat and risk assessment;  
Condition 19 – Hard and soft landscaping details;  
Condition 24 – CCTV;  
Condition 25 – External lighting;  
Condition 26 – Matchday operational management plan;  
Condition 27 – Non-matchday site management plan;  
Condition 28 – Event (non-football) management plan;  
Condition 29 – approval and implementation of s.287/s.38 works;  
Condition 30 – Completion of delivery and service areas; and  
Condition 31 – Car parking facilities.
- 1.6 The planning strategy for the redevelopment of Villa Park has been reworked through this s73 application to ensure that the North Stand can come forward for development immediately, and new proposals for the refurbishment of the Stumps Academy building and car park (considered under application reference 2023/04984/PA) fulfil wider functions of Villa Live in the ‘meanwhile’ period. This scenario will allow the future delivery of Villa Live and the completion of the original consented scheme in the future.
- 1.7 The application is accompanied with the following –
- Planning Statement (with consideration to heritage)
  - Design and Access Statement
  - Updated sustainable construction statement
  - Updated fire strategy
  - Statement of Community Involvement
- 1.8 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The site comprises Villa Park, the home of Aston Villa FC, a stadium first constructed in 1897 in the former grounds of Aston Hall, which were partially sold off for development throughout the nineteenth century. Like with most sports stadiums, it has been gradually developed over time, with the current structures erected between 1976-2001.
- 2.2 Aston Villa are a world famous football club, one of only six English teams to win the European Cup/UEFA Champions League, and have won the English top level league championship 7 times, FA Cup 7 times, and League Cup 5 times. The club has spent 109 seasons in the top tier of English football, the second most of all clubs, is ranked 9<sup>th</sup> in the all time Premier League table, and have the seventh highest total of major honours won amongst English clubs.
- 2.3 Villa Park is one of the oldest and most famous venues in world football. It has hosted international football in three different centuries, including matches during 1966 World Cup and Euro 96, and has hosted England internationals, the first in 1899, the most recent in 2005. At domestic level, Villa Park has hosted 55 FA Cup Semi Finals, more than any other ground. It hosted the 1981 League Cup Final Replay, and the 2012 FA Community Shield. Famously, with regards European football, the last ever UEFA Cup Winners Cup Final was held at Villa Park. Its pedigree and legacy as an elite football stadium is therefore substantial and longstanding.
- 2.4 The site is adjacent to the grade I listed Aston Hall, a Jacobean mansion of 1618-35 and one of the city's principal heritage assets. Aston Hall is situated within Aston Park, a 17th Century deer park and Registered Park and Garden (also included in the grade I list boundary of the Hall), and in the Aston Hall and Church Conservation Area, which the stadium abuts. Aston Hall's Stable Range and Lodges are separately grade I listed. Also within the Conservation Area is the grade II\* Church of St. Peter and Paul, a church mentioned in the Domesday Book of 1086, though the oldest remaining elements date from the C15 and the most recent additions were erected in 1908. Also, within the Conservation Area is the locally listed Holte Hotel, a Jacobean Revival inn from the Victorian period. To the north of the stadium is the grade II listed Witton Lane Tramway Depot, built 1882 and extensively altered for electric trams in 1904.
- 2.5 Non-designated heritage assets considered to contribute to the historic character of the area and are close to adjacent to the application site include the Aston Hotel, a Jacobean Revival C19 pub on the corner of Witton Lane and Witton Road. Another is the Victorian hall building several doors down on Witton Road, currently the Birmingham Settlement Aston building, historically used variously as a Refreshment Room (when the site was still part of Aston Park, pre-1890), the Pavilion Electric Theatre (c.1900-20), part of the Aston Barracks and as a billiards hall. This building is owned by Aston Villa. Much of the area that surrounds the north, west and east of the grounds consists of Victorian brick terraced housing, contributing to a largely intact historic setting.
- 2.6 The Villa Park complex is bordered on two sides by roads – Witton Lane and Trinity Road; and to its North and West, residential properties formed of terraced houses on Witton Road and Nelson Road. The stadium is accessed primarily from Witton Lane, with access also from Trinity Road. A further third 'emergency' access exists on Nelson Road.
- 2.7 The existing North Stand and access from Witton Lane is shown below –



- 2.8 A link to the 'Site location' (from google maps) can be accessed here – <https://goo.gl/maps/Sr27d64a2Ld8G5a18>
- 2.9 The aerial below shows Villa Park centre, and its relationship with its immediate and wider local area. Aston Hall and associated Aston Park is to the South, with M6 Motorway to the East, with Spaghetti Junction on the edge of the picture, *right*, and the A34(M) extending westwards below Aston Hall. Brookvale, Aston Villa's under construction academy training centre is located to the North East with railway line below, running diagonally across the image.



### 3. **Planning History:**

2023/01507/PA – *Proposed refurbishment of the Holte End Stand façade and revised hours of operation* – Approved w/conditions



2022/06776/PA – *Demolition of the existing North Stand, club-shop, gatehouse and Academy building; and the redevelopment of the site comprising the erection of a new North Stand and a multi-use leisure building (to provide match day and non-match day) for sports, retail, commercial, community and cafe/ bar uses and facilities; internal reconfiguration of the Trinity Road stand; provision of new public realm, hard and soft landscaping works, new and revised access arrangements, car parking provision; and other associated works* – Approved w/conditions

2019/05039/PA – *Prior Notification for the demolition of the Club Shop and Academy* – Approved w/conditions

1997/04749/PA – *Planning application for the extension of the Trinity Road Stand including retention of Trinity Road on its current alignment and extensions to the former Holte Public House to form a hotel* – Approved w/conditions

1996/04147/PA – *Planning application for the extension of the North Stand and alterations to the North Stand roof* – Approved w/conditions

#### 4. **Consultation Responses:**

The **Council's Transportation Manager** has not returned formal comments at the time of writing, however having discussed the application with the Transportation Manager, no in principle issues or concerns were raised, including the separation of conditions to enable the North Stand and Villa Live to come forward independently.

The **Council's Design Officer** has no objection.

The **Council's Conservation Officer** has no objection.

The **Council's Ecologist** comments the conditions attached to the original planning consent should be re-imposed, with amendments to the wording as required to allow for the North Stand to be built and occupied ahead of Villa Live.

The **Council's Arboriculturist** has no objection.

The **Council's Regulatory Services Officer** has no objection subject to conditions 4, 6,7, and 15 of approval 2022/06776/PA being carried forward. It is agreed the wording of these can be amended to allow phased implementation.

The **Council's Planning and Growth Strategy Team** has no objection noting the principle of development has been established.

The **Council's Employment Access Team** has no objection subject to conditions securing employment opportunities for local people during and post the construction phase are reimposed, however are happy these are reworded to reflected the phased approach outlined.

The **Local Lead Flood Authority** object to the variation of condition because it's not supported by a Sustainable Drainage Assessment and Operation & Maintenance Plan that complies with Nation Planning Guidance on Policy TP6 of the adopted Birmingham development Plan.

**National Highways** has no objection.

**Environment Agency** has no bespoke comments to make, however references their standing advice.



**Historic England** advises they are not offering advice on the application and suggest the views of the Council's specialist conservation and archaeological advisers are sought and considered.

**Severn Trent Water** has no objection subject to requested conditions regarding plans for the disposal of foul and surface water flows are imposed on any permission.

**West Midlands Fire Service** confirms their previous comments (*highlighting the approval of Building Control will be required to Part B of the Building Regulations 2010, and setting out matters which will need to be incorporated within the final detailed design*) stand.

**West Midlands Police** has no objections subject to the conditions set out in planning application 2022/06776/PA remain valid for this application, and notwithstanding the development will come forward in stages, it will be beneficial if the Hostile Vehicle Mitigation (HVM) risks can be considered across the site as a whole at each stage.

5. **Third Party Responses:**

- a. Public consultation included the displaying of a Site Notices around the stadium area, including multiple points on Witton Lane, Trinity Road, Nelson Street, and Station Street. The appropriate three Ward Members and two local MPs were notified in writing. A total of 428 adjoining local properties and Perry Aston Residents Association were consulted by notification letter.
- b. A **local resident** objects referencing the noise, disruption and traffic from events at Villa Park and litter that results. Concern is also expressed over the impact on Station Road and Witton Lane during the redevelopment phase.

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

a. National Planning Policy Framework (if relevant)

Although read as a whole, the following sections and paragraphs are particularly relevant:

Section 2: Achieving sustainable development  
Section 5: Delivering a sufficient supply of homes  
Section 8: Promoting healthy and safe communities - Paragraph 91-92  
Section 9: Promoting sustainable transport - Paragraph 104, 110-113  
Section 11: Making effective use of land - Paragraph 118  
Section 12: Achieving well-designed places - Paragraph 124-132  
Section 15: Conserving and enhancing the natural environment  
Section 16: Conserving and enhancing the historic environment – Paragraph 189-202

b. Birmingham Development Plan 2017:

Policy PG2: Birmingham as an international city  
Policy PG3: Place making  
Policy GA3: Aston, Newtown and Lozells  
Policy TP1: Reducing the Cities Carbon Footprint  
Policy TP2: Adapting to climate change  
Policy TP3: Sustainable construction  
Policy TP4: Low and zero carbon energy generation  
Policy TP6: Management of flood risk and water resources  
Policy TP7: Green Infrastructure

Policy TP8: Biodiversity and Geodiversity  
 Policy TP9: Open space, playing fields and allotments  
 Policy TP11: Sports facilities  
 Policy TP12: Historic environment  
 Policy TP21: The network and hierarchy of centres  
 Policy TP24: Promoting a diversity of uses within centres  
 Policy TP25: Tourism and cultural facilities  
 Policy TP26: Local employment  
 Policy TP27: Sustainable neighbourhoods  
 Policy TP38: A sustainable transport network  
 Policy TP39: Walking  
 Policy TP40: Cycling  
 Policy TP44: Traffic and congestion management  
 Policy TP45: Accessibility standards for new development

c. Development Management DPD:

DM1 – Air quality  
 DM2 – Amenity  
 DM3 – Land affected by contamination, instability and hazardous substances  
 DM4 – Landscaping and trees  
 DM5 – Light pollution  
 DM6 – Noise and vibration  
 DM14 – Transport access and safety  
 DM15 – Parking and servicing

d. Supplementary Planning Documents & Guidance:

*Birmingham Design Guide SPD*

- Principles Document
- Birmingham ID Manual
- Streets and Spaces Manual
- Landscape and Green Infrastructure Manual
- Healthy Living and Working Manual
- Efficient and Future Ready Manual

e. Legislation

*Environment Act 2021*

*Town and Country Planning (Environmental Impact Assessment) Regulations 2017*

*Equalities Act 2010*

*Planning (Listed Buildings and Conservation Areas) Act 1990*

7. **Planning Considerations:**

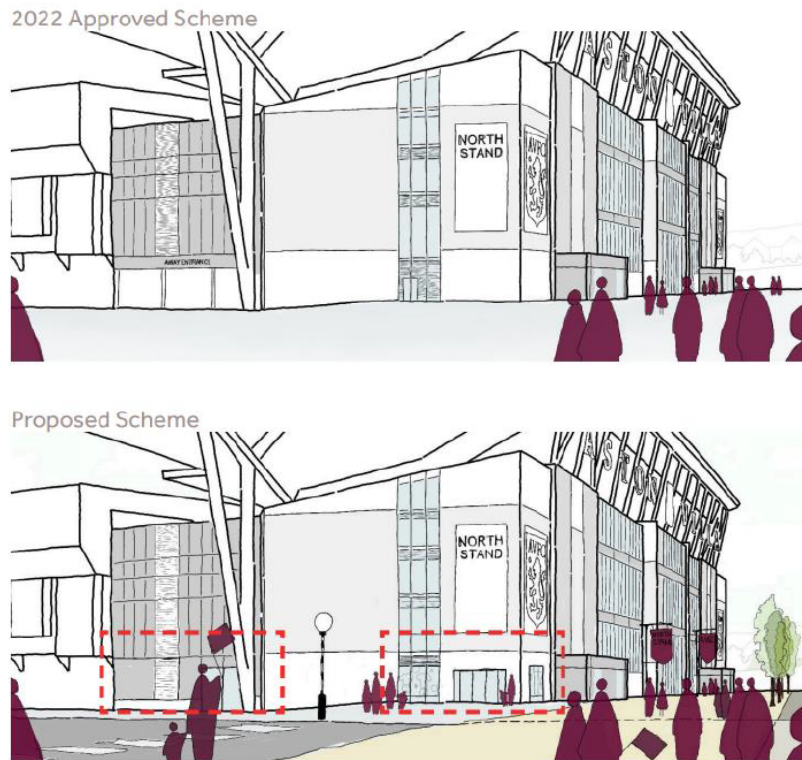
7.1 Section 73 of the Town and Country Planning Act 1990 enables an applicant to apply to amend or remove conditions attached to an extant planning permission. It is mainly intended to allow flexibility in the planning system by allowing conditions to a planning permission to be changed without risking the entirety of the consented scheme. The principle of the development is established and it is the changes sought that can be considered only.

7.2 The amendments to conditions under this proposal fall under two categories –

- Design changes to facilitate the development

- Separation of the North Stand and Villa Live elements within the wording of the original conditions

7.3 Design amendments are proposed to enable the façade amendments to take place and amend the location of Villa Live. The amendments are proposed to enable the introduction of a mezzanine floor to allow for the inclusion of a Club Shop and increased food and beverage offer in the North Stand. This requires minor façade alterations to allow for new entrances to be created in the eastern and western corners of the Stand. Sketches of the original approved elevations and proposed amendments are shown below –



7.4 The amended location of Villa Live enables the conversion and use of the Academy Buildings and ensure consistency regarding the width of Villa Way – an important match/ event day and community feature. The approved (left) and proposed (right) site layouts are shown below –



7.5 A final amendment is the retention of a plant room located in between the existing North Stand and Trinity Road Stand which was to be demolished under the original

permission. This small two storey brick building houses important mechanical and electrical equipment which would be disruptive and expensive to relocate. The amendments propose retaining this block and re-cladding it to match the proposed North Stand cladding panels, where existing windows are located these will be upgraded and this top floor will be used as media accommodation. This is shown below, as approved; *Top*, and as proposed; *Bottom* –



- 7.6 There were a number of design aims and objectives we, as Birmingham City Council, wanted to secure within the original proposals. The two main objectives were –
- Create a stand alone piece of architecture that has high design merit
  - Create a strong active frontage on Witton Lane and significantly enhance the streetscene and streetscape
    - Combined, this achieves a significant improvement to the local setting and public realm
- 7.7 It is considered the amendments would individually and cumulatively maintain the achievement and securing of these requirements. With regards the North Stand, it was considered the proposals as approved represented an exceptionally high quality piece of architecture in its own right, however also builds on and advances the architectural and visual integrity and history of Villa Park. The changes to the North Stand do not undermine that assessment. The relocation of the shop to the corner of the stand

facing Witton Lane builds on one of the Council's objectives and creates a further enhanced and active frontage and streetscene.

- 7.8 The 'opening up' of the Villa Park site and connectivity through the site from Witton Lane to Trinity Road and Aston Hall represents a significant public benefit is retained within the amended proposals (caveated with security/ management of event exceptions as previously agreed under 2022/06776/PA).
- 7.9 With regard made to the wider public realm improvements and landscaping approved under 2022/06776/PA, the proposals show enhancements to Witton Lane, which still improves the character and appearance of the area, reduces and softens what is currently a very urban appearance and creates a more engaging, pleasant environment, will still be achieved. As before, suitably robust planting and species will be required (and the wider ecological and biodiversity benefits are noted).
- 7.10 Planting within the site, specifically delineating 'Villa Way' and around the North parking areas continues to soften and dilutes the 'sea of tarmac/ hardstanding' but also creates a natural and pleasing method of separating out uses and should be used or incorporated as far as possible.
- 7.11 Overall, in design terms the proposed amendments are minor variations from the approved permission and individually and cumulatively still result in a high quality development that enhances the locality in respect of architecture, amenity and functionality.
- 7.12 The original application was found to amount to *less than substantial harm* to the setting of adjacent heritage assets, ranging from negligible to low level, and not considered to harm the significance of the locally listed Holte Hotel or other non-designated heritage assets.
- 7.13 In accordance with NPPF paragraph 203, the identified harm was weighed against the public benefits of the proposal, and it was considered the identified wider benefits of the proposal, which includes the significant public realm, public open space, and sustainability improvements, along with the significant economic benefits identified within this Report, outweigh the less than substantial heritage harm identified. The *less than substantial harm* was considered to be at the lower end of that scale, ranging from negligible to low level, with significant enhancements and improvements derived from the proposals over the existing situation, which further contributes to minimising the harm.
- 7.14 Assessing the scale and nature of the amendments it is concluded that individually and cumulatively they will not create harm to the adjoining conservation area or the nearby heritage assets including the Grade II listed tram depot or Grade I listed Aston Hall.
- 7.15 As such it is considered that the original heritage assessment and position is still valid with regards the development in totality, and as such the proposals still comply with local plan heritage policies, the heritage aims and objectives of the NPPF and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 7.16 The relocation of Villa Live, which moves slightly further into the curtilage associated with the area surrounding the North Stand, is now approx 57 metres from the rear curtilage of the nearest dwellings on Nelson Road as compared to the previous approx. 63 metres distance.
- 7.17 Having regard to the separation distance and range of conditions applied to the Villa Live building (hours of use, restrictions on amplified music, noise mitigation, etc) and noting the comments from Regulatory Services, it is considered adjoining residential



amenity is still secured to satisfactory levels with respect to the use of Villa Live. It is also noted Villa Live will still actively pull people away from the boundary of the properties on Nelson Road, where currently fast food kiosks are located and as a consequence, people gather.

- 7.18 The Council's Ecologist confirmed the EclA submitted in support of 2022/06776/PA remains valid in the context of this Section 73 application; and the proposed amendments do not result in any new or additional ecological impacts.

7.19 **Amendment to Conditions**

- 7.20 Further to the design amendments discussed above, it is proposed to restructure numerous conditions to enable the new North Stand and Villa Live buildings to come forward independently from each other.

- 7.21 The principle of this restructuring is acceptable and no consultees object to the approach. Examples of the rewording include –

- *No demolition or construction works shall take place for the North Stand or Villa Live until...*
- *Prior to the first use of the North Stand or Villa Live...*
- *The hereby approved North Stand and Villa Live buildings shall not be first individually used until...*
- *Prior to the first use of each of the North Stand and Villa Live...*

- 7.22 The above approach enables the relevant conditions to be partially discharged with regards the relevant building without requiring details relevant to the other being submitted. This enables a phased approach to the overall development and priority placed on starting work on the new North Stand, which is more impacted by time sensitivities related to the football calendar and hosting Euro 2028.

**Other Matters**

- 7.23 The objection from the LLFA it noted, however the in-principle assessment of drainage has been carried out under the previous permission and accepted. It was and still is considered Policy TP6 – *Management of Flood Risk and Water Resources* is complied with. The proposed drainage strategy underpinning 2022/06776/PA demonstrated that the disposal of surface water from the site will not exacerbate existing flooding and that exceedance flows will be managed, and surface water discharge rates have been improved to the equivalent site-specific greenfield runoff rate for the areas relating to the North Stand and Villa Live developments. Realistic, achievable SuDS are proposed with the development and Severn Trent Water had no objections.

- 7.24 The concerns of the local resident regarding noise, disruption and traffic from events at Villa Park and litter that results are all noted, as is their concerns regarding the impact on Station Road and Witton Lane during the redevelopment phase. These matters are addressed through conditions and mitigation measures, which include numerous traffic, construction and event management plans (which feature review and adaptation mechanisms to ensure ongoing appropriateness).

- 7.25 Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made... as a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

- 7.26 Accordingly, condition 1 from 2022/06776/PA reimposed on any subsequent S73 permission must be updated from the previous text requiring commencement within 3

years from the date of the Decision Notice (22 December 2022) to read, if Committee approves the application today –

*The development hereby permitted shall be begun before 22 December 2025.*

*Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and the National Planning Policy Framework.*

- 7.27 The proposals approved under the original application were subject to a Screening Opinion request. The LPA determined an Environmental Statement was not required in the Adopted Screening Opinion as follows –

*The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The proposal is listed in Schedule 2, exceeds the thresholds but is not in a sensitive area as defined in the Regulations.*

*Based on the information provided, it is considered that the likelihood of significant adverse environmental effects is low in this instance and confined to the local area. The proposal is therefore not considered to represent EIA Development and an Environmental Statement is not required.*

- 7.28 Having regard to the scale and nature of the amendments proposed and reviewing these against the Adopted Screening Opinion, it is concluded that position stands, and the proposal still does not represent EIA Development and an Environmental Statement is not required.
- 7.29 Compliance with the Equalities Act 2010 has been maintained both through the consultation process and with regards to the resultant proposals further to the amendments assessed and described in this report.
- 7.30 The economic and community benefits secured by the original permission are unaffected by these amendments. Conditions securing employment opportunities and community access to facilities originally imposed on 2022/06776/PA are retained and ported on the list of conditions under the recommendation, below.

## 8. **Conclusion**

- 8.1 The proposed amendments do not alter or change the previously approved use or the scale of development on the site, which remain the same; nor do the proposals change the fundamental principle of the approved scheme. The amendments do not introduce new or significantly different impacts. The amended proposal represents a policy compliant sustainable development that accords with the Development Plan and aims and objectives of the National Planning Policy Framework. The proposed amendments reflect the latest position of the applicant and development in terms of its function and viability.
- 8.2 The alterations proposed as part of this Section 73 application reflect necessary delivery evolution and are critical to the successful delivery of this strategically important scheme in accordance with policy.
- 8.3 On this basis the amendments are acceptable and planning permission and should be approved.

## 9. **Recommendation:**

Subject to the conditions listed below, approval is recommended.

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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 design and access statement
4	Construction Management Plan
5	Requires the prior submission of a construction employment plan.
6	Requires the prior submission of a contamination remediation scheme
7	Prior submission of a remediation scheme
8	Submission of drainage details
9	Requires the submission of external materials and detailing
10	Construction Ecological Management Plan (CEcMP)
11	Submission of a Security Threat and Risk Assessment
12	Travel Plan
13	Extract ventilation and odour control equipment details
14	Villa Live Noise Mitigation Scheme
15	Requires the submission of a contaminated land verification report
16	Villa Live 'dynamic wall' temporary external appearance details
17	Requires the submission of a community access agreement
18	Requires the prior submission of an end use employment plan.
19	Requires the submission of hard and/or soft landscape details
20	Secure, covered cycle storage details
21	Submission of signage details and illumination
22	Green roof and wall details
23	Details of accessibility features and facilities
24	CCTV details
25	Details of external lighting
26	Matchday Operational Management Plan
27	Non matchday Site Management Plan
28	Event (non football) Management Plan
29	Approval and implementation of s.287/ s.38 works

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30	Completion of delivery and service area
31	Provision of car parking facilities
32	Noise Levels for Plant and Machinery
33	External MUGA Operational Hours
34	Noise monitoring
35	Incorporation of sustainability and energy efficiency measures
36	EV charging parking spaces
37	Restriction of use
38	Gates open inwards
39	Hours of use
40	Amplified Sound/ Music outside Villa Live

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Case Officer: Carl Brace

## Photo(s)



Existing access from Witton Lane, North Stand and intersection with Doug Ellis Stand



View over existing North Stand Car Park towards the Villa Store and Ticket Office





Existing intersection of North Stand and Trinity Road Stand

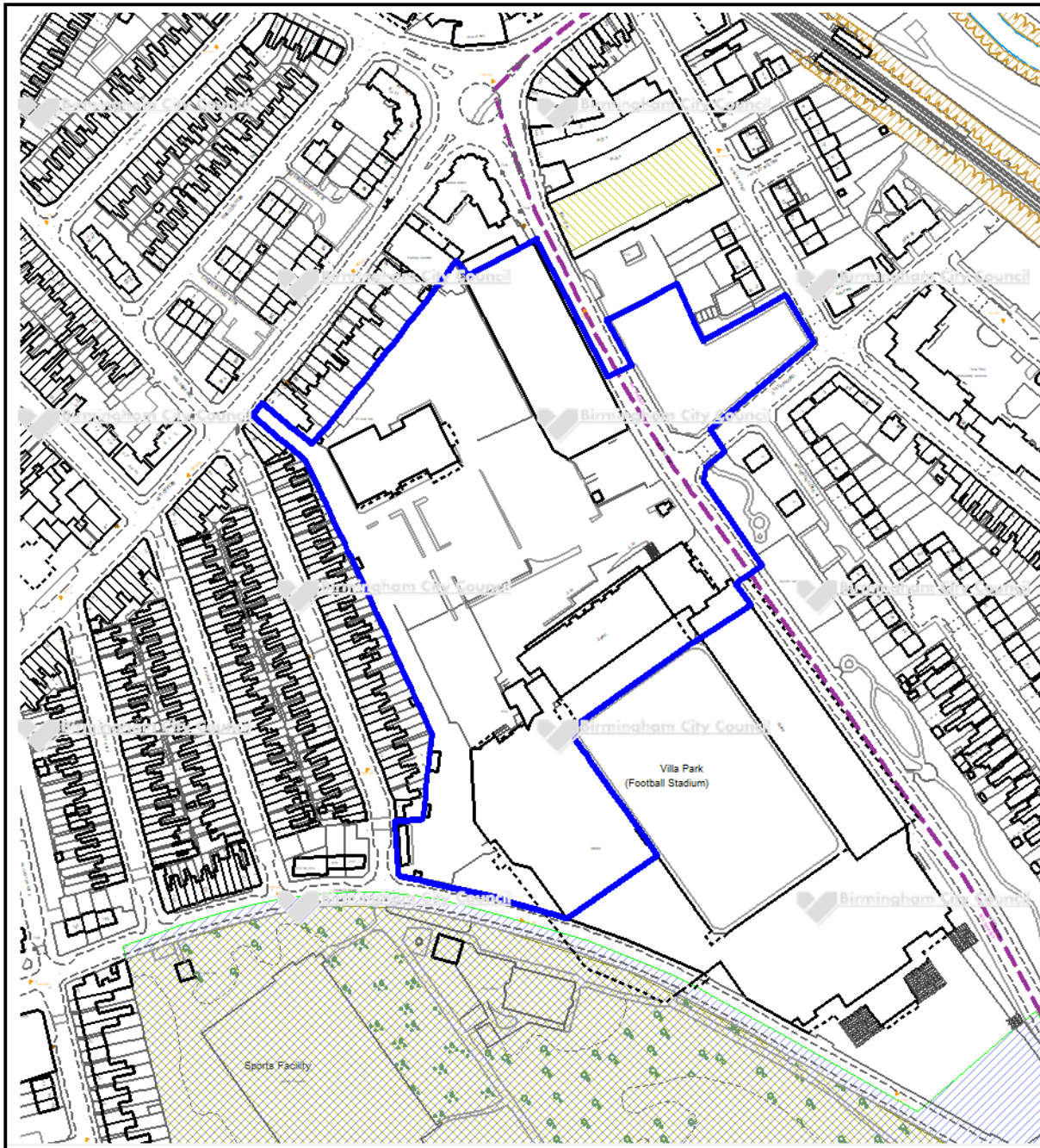


Panoramic Photograph showing rear of Nelson Street dwellings, *left* and North Stand, *right*.



View over Car Park towards Nelson Road, *left* and Villa Store, *right*

## Location Plan



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Committee Date:	28/09/2023	Application Number:	2023/04984/PA
Accepted:	21/07/2023	Application Type:	Full Planning
Target Date:	20/10/2023		
Ward:	Aston		

Aston Villa Football Club, Trinity Road, Aston, Birmingham, B6 6HE

Partial demolition of the former Academy building, external alterations and refurbishment of remaining bays for use as a multi-purpose community and events space and associated food/ beverage offer, with ancillary offices, public realm, car and cycle parking, OB compound and associated works

Applicant: Aston Villa Football Club  
Villa Park, Trinity Road, Aston, Birmingham, B6 6HE  
Agent: WSP  
WSP House, 70 Chancery Lane, London, WC2A 1AF

#### Recommendation

**Approve subject to Conditions**

#### 1. **Proposal:**

- 1.1 The proposed development is for the partial demolition of the former Academy building, external alterations and refurbishment of remaining bays for use as a multi-purpose community and events space and associated food/ beverage offer; with ancillary offices, public realm, car and cycle parking, OB compound and associated works.
- 1.2 The existing site and wider site area is shown below, with existing North Stand *left*, Academy Building *centre and right* fronting Witton Lane, and the existing car park area and club shop *behind*.



- 1.3 The application is a full application for planning permission to demolish two structural 'bays' of The Warehouse to enable its refurbishment for an enhanced fan-zone / food

and beverage building. The Warehouse is currently used for a number of sports / community events and has a food and beverage offer. It is envisaged that following the refurbishment the building will support the enhanced following uses:

- Event floorspace (that can also be used as a sports pitch);
- Community space;
- Food and beverage offer and courtyard;
- Bar / Microbrewery;
- Offices
- Toilet facilities; and
- OB compound/ outdoor sports area (located adjacent to the building in the car park).

1.4 The proposed internal layout is shown below –



1.5 The proposals include the retention of six bays of the existing academy building (approx.2,550m<sup>2</sup>) with the southernmost two to be demolished. A new facade will be introduced to the South which opens onto an outdoor fan zone and raised terrace. The southern four bays of the building will contain a flexible event floor, food and beverage courtyard and Microbrewery together with a service spine that contains the back of house, WC, changing and support facilities. The building will be connected to the outdoors flexible Multi Use Games Area which will be on the west side of the building, creating a sports complex on nonmatch days, with the MUGA used as the Outside Broadcast (OB) compound on match days. The two northern bays will contain office space for Villa staff with a mezzanine level. The proposed site plan is shown below –



- 1.6 The principle features of the proposals are –
- The demolition of two existing structural bays;
  - The refurbishment of the existing building and external alterations (including the creation of new accesses and windows);
  - Resurfacing of the existing car park (and creation of a new OB compound);
  - Public realm enhancements and landscaping;
  - Demolition of existing club shop and ticket office
- 1.7 The inclusion of these uses, alongside the amendments to the North Stand (assessed under application 2023/04905/PA) intend to ensure that all of the benefits of the Villa Live proposals are provided from the outset.



*Proposed visual of the proposals and view over Witton Lane towards Villa Park.*





*Existing View along Witton Lane towards Villa Park*

- 1.8 The proposals, along with demolishing two bays of the existing Academy Building, also includes the demolition of the existing club shop building and other ancillary buildings and structures highlighted in red on the part Plan below –



- 1.9 The application is accompanied with the following –

- Planning Statement
- Design and Access Statement
- Transport Statement
- Sustainable construction statement
- Statement of Community Involvement
- Flood Risk Assessment and Drainage Statement
- Ecological Statement
- Heritage Technical Note
- Noise Assessment
- Odour Assessment

- Waste Management Plan
- Stage 1 Road Safety Audit

1.10 [Link to Documents](#)

## 2. **Site & Surroundings:**

- 2.1 The building subject of the application is a large single-storey brick warehouse that is estimated to date from the inter-war period. It is brick-built with steel roof trusses, and it is understood it was originally built by one of Birmingham's breweries. Currently, original openings in the Witton Lane elevation have been 'bricked up' save for an emergency exit. The building is currently retained as a series of eight linked gabled sheds, largely unelevated, constructed in brick with corrugated metal sheet roof coverings. The walling to the east range is largely blank except for a modern double door entrance to a 'Family Fun Zone'. The west wall onto Witton Lane has several original doors and openings blocked up, including two wider vehicle entrances that form part of a façade.
- 2.2 To the rear, along with access points to the building, is a large expanse of surface level parking which extends to the boundaries of the site and includes those with residential properties on Nelson Road and Witton Road. Within the car park area is the existing club shop building, which is of no architectural or historic merit or interest.
- 2.3 The wider site comprises Villa Park, the home of Aston Villa FC, a stadium first constructed in 1897 in the former grounds of Aston Hall, which were partially sold off for development throughout the nineteenth century. Like with most sports stadiums, it has been gradually developed over time, with the current structures erected between 1976-2001.
- 2.4 Aston Villa are a world famous football club, one of only six English teams to win the European Cup/UEFA Champions League, and have won the English top level league championship 7 times, FA Cup 7 times, and League Cup 5 times. The club has spent 109 seasons in the top tier of English football, the second most of all clubs, is ranked 9<sup>th</sup> in the all time Premier League table, and have the seventh highest total of major honours won amongst English clubs.
- 2.5 Villa Park is one of the oldest and most famous venues in world football. It has hosted international football in three different centuries, including matches during 1966 World Cup and Euro 96, and has hosted England internationals, the first in 1899, the most recent in 2005. At domestic level, Villa Park has hosted 55 FA Cup Semi Finals, more than any other ground. It hosted the 1981 League Cup Final Replay, and the 2012 FA Community Shield. Famously, with regards European football, the last ever UEFA Cup Winners Cup Final was held at Villa Park. Its pedigree and legacy as an elite football stadium is therefore substantial and longstanding and will be further enhanced as it is a designated 'host stadium' for the upcoming 2028 UEFA European Football Championships which will be held in the UK and Ireland.
- 2.6 The stadium complex is adjacent to the grade I listed Aston Hall, a Jacobean mansion of 1618-35 and one of the city's principal heritage assets. Aston Hall is situated within Aston Park, a 17th Century deer park and Registered Park and Garden (also included in the grade I list boundary of the Hall), and in the Aston Hall and Church Conservation Area, which the stadium abuts. Aston Hall's Stable Range and Lodges are separately grade I listed. Also within the Conservation Area is the grade II\* Church of St. Peter and Paul, a church mentioned in the Domesday Book of 1086, though the oldest remaining elements date from the C15 and the most recent

additions were erected in 1908. Also, within the Conservation Area is the locally listed Holte Hotel, a Jacobean Revival inn from the Victorian period. To the north of the stadium is the grade II listed Witton Lane Tramway Depot, built 1882 and extensively altered for electric trams in 1904.

- 2.7 Non-designated heritage assets considered to contribute to the historic character of the area and are close to adjacent to the application site include the Aston Hotel, a Jacobean Revival C19 pub on the corner of Witton Lane and Witton Road. Another is the Victorian hall building several doors down on Witton Road, currently the Birmingham Settlement Aston building, historically used variously as a Refreshment Room (when the site was still part of Aston Park, pre-1890), the Pavilion Electric Theatre (c.1900-20), part of the Aston Barracks and as a billiards hall. This building is owned by Aston Villa. Much of the area that surrounds the north, west and east of the grounds consists of Victorian brick terraced housing, contributing to a largely intact historic setting.
- 2.8 The Villa Park complex is bordered on two sides by roads – Witton Lane and Trinity Road; and to its North and West, residential properties formed of terraced houses on Witton Road and Nelson Road. The stadium complex is accessed primarily from Witton Lane, with access also from Trinity Road. A further third ‘emergency’ access exists on Nelson Road.
- 2.9 A link to the ‘Site location’ (from google maps) can be accessed here – <https://goo.gl/maps/Sr27d64a2Ld8G5a18>
- 2.10 The aerial below shows Villa Park centre, with the existing Academy Buildings directly to the North, and their relationship with the immediate and wider local area. Aston Hall and associated Aston Park is to the South, with M6 Motorway to the East, with Spaghetti Junction on the edge of the picture, *right*, and the A34(M) extending westwards below Aston Hall. Brookvale, Aston Villa’s under construction academy training centre is located to the North East with railway line below, running diagonally across the image.



### 3. **Planning History:**

2023/01507/PA – *Proposed refurbishment of the Holte End Stand façade and revised hours of operation* – Approved w/conditions



2022/06776/PA – *Demolition of the existing North Stand, club-shop, gatehouse and Academy building; and the redevelopment of the site comprising the erection of a new North Stand and a multi-use leisure building (to provide match day and non-match day) for sports, retail, commercial, community and cafe/ bar uses and facilities; internal reconfiguration of the Trinity Road stand; provision of new public realm, hard and soft landscaping works, new and revised access arrangements, car parking provision; and other associated works* – Approved w/conditions

2019/05039/PA – *Prior Notification for the demolition of the Club Shop and Academy* – Approved w/conditions

1997/04749/PA – *Planning application for the extension of the Trinity Road Stand including retention of Trinity Road on its current alignment and extensions to the former Holte Public House to form a hotel* – Approved w/conditions

1996/04147/PA – *Planning application for the extension of the North Stand and alterations to the North Stand roof* – Approved w/conditions

#### 4. **Consultation Responses:**

The **Council's Transportation Manager** has not returned formal comments at the time of writing, however having discussed the application with the Transportation Manager no in principle issues or concerns were raised and it was confirmed the Stage 1 RSA had been reviewed.

The **Council's Design Officer** comments *the proposal represents sensitive and sustainable reuse of the existing building as an asset for the club on match days and more generally for the wider community all year round*. The inclusion of office space and the reinstatement and addition of windows facing the public realm, especially along Witton Lane, will animate the street and make for a more attractive streetscape. Conditions to secure external materials, detailing, and landscaping are requested.

The **Council's Conservation Officer** is supportive of the proposed repurposing of the building and its refurbishment and considers it would enhance the setting of the [adjoining] listed building. Conditions regarding materials, external details and finishes are recommended.

The **Council's Ecologist** notes *from an ecology aspect there is little to be concerned about*. The Ecological Impact Assessment has adequately assessed and dealt with potential issues. Conditions regarding the construction phase and green roof details are recommended.

The **Council's Arboriculturist** has no objection.

The **Council's Regulatory Services Officer** has no objection subject to relevant conditions of approval 2022/06776/PA being applied here to safeguard health and amenity.

The **Council's Employment Access Team** has no objection subject to conditions securing employment opportunities for local people during and post the construction phase.

The **Local Lead Flood Authority** object to the proposals on the basis the proposed drainage strategy fails to meet the minimum requirements of Planning Policy TP6 of the adopted Birmingham Development Plan and the minimum requirements of

paragraphs 167 to 169 of the NPPF. The proposed discharge outfalls to a public sewer, written confirmation to the developer, demonstrating that the proposed discharge rate and location are acceptable to Severn Trent Water is required and we do not believe that Severn Trent Water will support the proposed discharge rates into their network, as recent developer enquiry letters from them state that they look for a minimum 50% reduction in flows.

**National Highways** are satisfied that the proposals are unlikely to impact the operation and free flow of the SRN and confirm no objections to the grant of planning permission.

**Historic England** advises they are not offering advice on the application and suggest the views of the Council's specialist conservation and archaeological advisers are sought and considered.

**The Garden's Trust** has no comments.

**Severn Trent Water** has no objection subject to requested conditions regarding plans for the disposal of foul and surface water flows are imposed on any permission.

**West Midlands Fire Service** highlights the approval of Building Control will be required to Part B of the Building Regulations 2010. Further comments set out matters which will need to be incorporated within the final detailed design.

**West Midlands Police** has no objections subject to requested conditions and other recommendations being implemented.

5. **Third Party Responses:**

- a. Public consultation included the displaying of a Site Notices around the stadium area, including multiple points on Witton Lane, Trinity Road, Nelson Street, and Station Street. The appropriate three Ward Members and two local MPs were notified in writing. A total of 405 adjoining local properties and Perry Aston Residents Association were consulted by notification letter. No responses received.

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

a. **National Planning Policy Framework**

Although read as a whole, the following sections and paragraphs are particularly relevant:

Section 2: Achieving sustainable development  
Section 5: Delivering a sufficient supply of homes  
Section 8: Promoting healthy and safe communities - Paragraph 91-92  
Section 9: Promoting sustainable transport - Paragraph 104, 110-113  
Section 11: Making effective use of land - Paragraph 118  
Section 12: Achieving well-designed places - Paragraph 124-132  
Section 15: Conserving and enhancing the natural environment  
Section 16: Conserving and enhancing the historic environment – Paragraph 189-202

b. **Birmingham Development Plan 2017:**

Policy PG2: Birmingham as an international city  
Policy PG3: Place making



Policy GA3: Aston, Newtown and Lozells  
 Policy TP1: Reducing the Cities Carbon Footprint  
 Policy TP2: Adapting to climate change  
 Policy TP3: Sustainable construction  
 Policy TP4: Low and zero carbon energy generation  
 Policy TP6: Management of flood risk and water resources  
 Policy TP7: Green Infrastructure  
 Policy TP8: Biodiversity and Geodiversity  
 Policy TP9: Open space, playing fields and allotments  
 Policy TP11: Sports facilities  
 Policy TP12: Historic environment  
 Policy TP21: The network and hierarchy of centres  
 Policy TP24: Promoting a diversity of uses within centres  
 Policy TP25: Tourism and cultural facilities  
 Policy TP26: Local employment  
 Policy TP27: Sustainable neighbourhoods  
 Policy TP38: A sustainable transport network  
 Policy TP39: Walking  
 Policy TP40: Cycling  
 Policy TP44: Traffic and congestion management  
 Policy TP45: Accessibility standards for new development

c. Development Management DPD:

DM1 – Air quality  
 DM2 – Amenity  
 DM3 – Land affected by contamination, instability and hazardous substances  
 DM4 – Landscaping and trees  
 DM5 – Light pollution  
 DM6 – Noise and vibration  
 DM14 – Transport access and safety  
 DM15 – Parking and servicing

d. Supplementary Planning Documents & Guidance:

*Birmingham Design Guide SPD*

- Principles Document
- Birmingham ID Manual
- Streets and Spaces Manual
- Landscape and Green Infrastructure Manual
- Healthy Living and Working Manual
- Efficient and Future Ready Manual

e. Legislation

*Environment Act 2021*

*Equalities Act 2010*

*Planning (Listed Buildings and Conservation Areas) Act 1990*

7. **Planning Considerations:**

7.1 **Principle**

- 7.2 The principle of redevelopment of the site for an improved and new associated facilities for matchday and non matchday use is acceptable in principle. I reach this conclusion for the following reasons –

- The site is not allocated and is not covered by any particular designations within the adopted Birmingham Development Plan or Aston, Newtown & Lozells Area Action Plan
  - Having regard to the existing use and activities, including their scale, nature and frequency, on the site
  - Having regard to the provisions of extant planning permission 2022/06776/PA
  - The nature of the proposal and its immediate context and adjoining existing and proposed land uses
  - The site is not within Flood Zone 3 as defined by Environment Agency mapping
- 7.3 Further to the above, the proposal by its nature will fulfil a key growth objective under Policy PG2, that Birmingham will be *promoted as an international city supporting development, investment and other initiatives that raise the City's profile and strengthen its position nationally and internationally.*
- 7.4 **Existing and Proposed Uses**
- 7.5 The proposals are assessed against the fact Villa Park already hosts approx. 21 home matches per season as well as on occasion, a summer concert per year and business conferences. Further to this, the current Club Shop and Academy Fan Zone buildings attract circa 100,000 visitors per annum. These will be replaced by the 'Villa Live' flexible entertainment venue capable of hosting a greater variety and size of events between 200 and 2,000 people, as well as hosting match day fans and televised away games.
- 7.7 These events will include community events (110 envisaged per annum), gigs, cultural festivals, student nights, and e-gaming, corporate and exhibition events, as well as stadium tour, club store and café visitors. The non-matchday use will attract up to 334,000 visitors per annum, split as follows usage based on annual attendance:
- Sports screenings within Villa Live – circa 51,500;
  - Music and cultural events within Villa Live – circa 23,600
  - Corporate and exhibition events within Villa Live – circa 26,400;
  - Community events within Villa Live – circa 26,000; and
  - Stadium tours – circa 8,500.
- 7.8 With regards the defined use the application form states the intended use is Use Class F2 – *local community* which is expanded to include shops, halls and meeting places, and areas for outdoor sports and recreation, and Use Class E – *commercial, Business and Services*. In broad terms this is agreeable, however to define the acceptable uses further for clarity and allowing flexibility of use of, specifically Villa Live, and in interests of adjoining residential amenity, it is considered acceptable uses within the new North Stand and Villa Live are considered to be Use Class Order uses F1 (a), (b), (c), (d), (e); F2 (a), (b), (c); and E (a), (b), (c)(iii), (d), (f) and (g)(i). It is recommended this is defined within a condition.
- 7.9 **Transportation**
- 7.10 Movements associated with non matchday activities are not considered to represent an issue with either highway safety or capacity. Matchdays obviously create the biggest influx of people and movements to, from and around the site and immediate local area of Witton. Pre- and post-match catering/ entertainment offers within the proposals will encourage people to arrive at the venue earlier and leave later, therefore reducing the amount of people in entering/ leaving the stadium at peak times.

- 7.11 Ported from the original North Stand/ Villa Live permission under 2022/06776/PA, measures to mitigate and influence traffic related impacts and behaviour include 'hard measures' which are physical interventions and infrastructure. These include increasing cycle parking and facilities, extension of pedestrian wayfinding, and public realm improvements. The proposed 'soft measures' are non physical interventions, which activate or encourage new patterns of behaviour or matchday operations.
- 7.12 The measures proposed which will not only mitigate the net impacts of the uplift in trips across different modes but will also deliver additional benefits, both to supporters and users of Villa Park and the wider community.
- 7.13 These measures will be captured and secured through a Transport Management Plan, Match and Event Day Management Plans, and a Travel Plan condition, where further consultation with key stakeholders and the ability to review and adapt and improve measures as necessary will be a central feature. This is to ensure real tangible benefits and gained are made, noting the local community, supporters, and the club themselves recognise the need and desire for improvements with regard match/ event day movements in, around and from the site.
- 7.14 Noting the nature of conditions attached to permission 2022/06776/PA, these are reproduced and amended as appropriate here, including relating to the construction phase and uses of the site, and the conformation of no objection from Highways England, the proposals are considered acceptable in highway terms and satisfy the test of NPPF paragraph 111 as a there would not be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network will not be severe. The proposals will facilitate betterment over the existing situation, promote and facilitate sustainable transport and help foster a change in patterns of behaviour. Accordingly, Development Plan policies TP38 and TP44, and policy DM14 of the Development Management in Birmingham DPD are satisfied.
- 7.15 **Design**
- 7.16 There are a number of design aims and objectives we, as Birmingham City Council, wanted to secure within the Villa Park redevelopment proposals that specifically relate to this application. The main objectives were to create a strong active frontage on Witton Lane and significantly enhance the streetscene and streetscape. It was considered these aims combined would secure and achieve a significant improvement to the local setting and public realm.
- 7.17 The proposal represents sensitive and sustainable reuse of the existing building as an asset for the club on match days and more generally for the wider community all year round. The inclusion of office space and the reinstatement and addition of windows facing the public realm, especially along Witton Lane, will animate the street and make for a more attractive streetscape, as shown below on the *Proposed Elevations* –



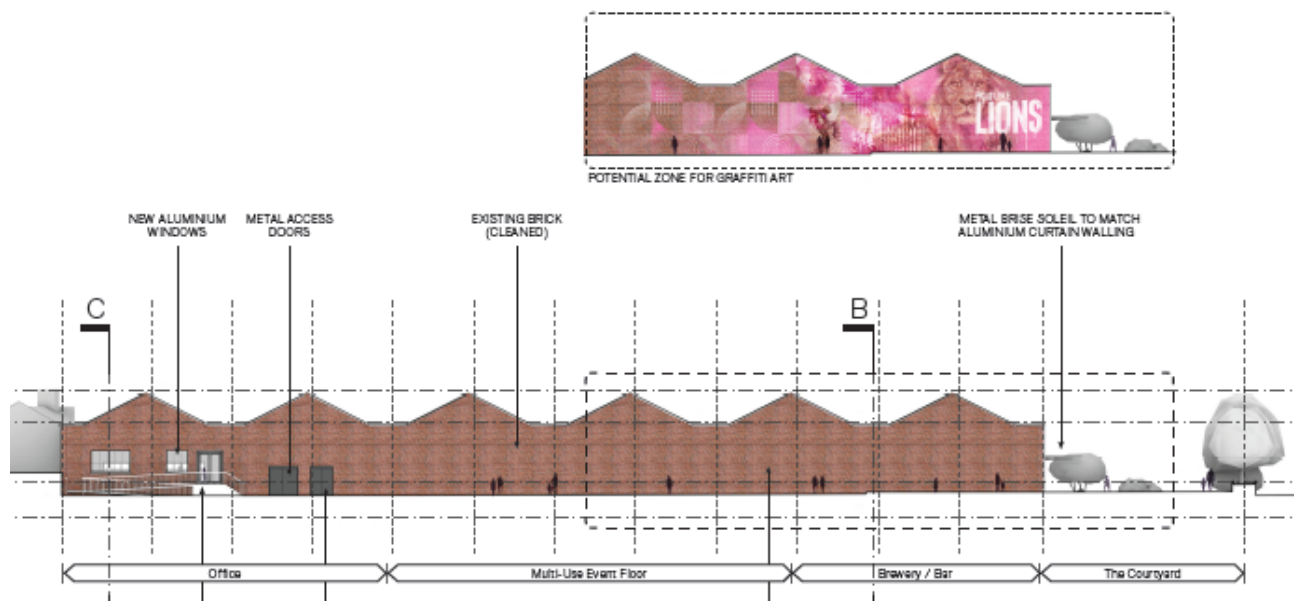
- 7.18 A courtyard and new feature entrance articulated in the building's South elevation, as shown below, provide a significantly enhanced public realm and streetscene, utilising an appropriate architectural response to the building's repurposing.



- 7.19 These wider public realm improvements and landscaping proposed, these represent significant improvement opportunities. The landscaping where the site intersects with Witton Lane greatly improves the character and appearance of the area, reduces, and softens what is currently a very urban and tarmac dominated environment, and creates a more engaging, pleasant environment. New, usable public realm across the site totals 4,250 sq metres. Suitably robust planting and species will be required. Conditions will ensure both delivery of appropriate planting and overall landscape management in the long term. Planting within the site, specifically delineating 'Villa Way' and the vehicular entrance between the courtyard and arrival plaza, and around the parking areas softens and dilutes the 'sea of tarmac/ hardstanding' but also creates a natural and pleasing method of separating out uses, as shown by the Plan except below –



- 7.20 In similar style to the ‘dynamic wall’ on the approved Villa Live, here a dynamic ‘graffiti wall’ is proposed over part of the external West (car park facing) elevation as shown below. The ‘dynamic wall’ offers commercial and contextual benefits, creates flexibility, interest, and uniqueness. A condition is recommended to cover this aspect to save the need for repeat Advert Consent applications for each new design and enabling their ‘approval’ through such a mechanism would represent a beneficial and expedient approach.



## 7.21 Historic Environment and Heritage Assets

- 7.22 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting “to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”
- 7.23 When considering the impact of a development proposal upon the setting of a Heritage Asset, there are several stages. Firstly, identifying those assets which may be affected and their significance. Then those aspects of their setting which



contribute to the significance are identified and lastly the impact of the development upon this significance. It should be noted that a view to or from a Heritage Asset does not necessarily mean that a site is within those assets setting, this depends upon whether that view contributes to the significance of the asset. Also, a site can be within the setting of a heritage asset without their being a direct view under certain circumstances. The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of its setting which contribute to its significance. The protection for setting of 'Heritage Assets' within the NPPF also supports the protection of setting of conservation areas.

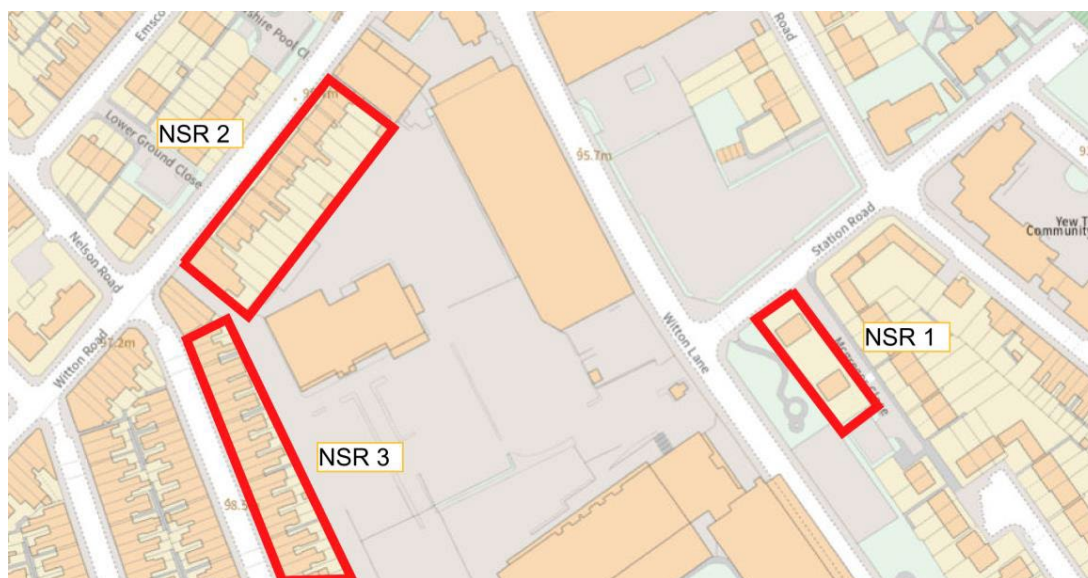
- 7.24 Nearby heritage assets to the wider site area are Grade I Aston Hall, Grade II\* Church of St. Peter and St. Paul, and Aston Church and Hall Conservation Area, and Aston Park, and the impact on them and their settings have been assessed and considered. Given the scale and nature if the proposals assessed under this application and their intervisibility and relationship with those named assets, no impact is identified.
- 7.25 The proposed development is however within the setting of the Grade II listed former Witton Lane Tramway Depot. After assessment, Conservation Officers would not consider the building to be a non-designated heritage asset in its own right, however it is a characterful former industrial building that contributes to the streetscene, social and built history of the area and the setting of the listed tram depot opposite.
- 7.26 The proposed repurposing of the building and its refurbishment is considered to enhance the setting of the listed building and overall, the application creates no harm to any adjoining heritage assets or their setting. There is a *Minor Adverse* impact due to some limited loss of the two bays that form the overall existing building, however this is offset by its wider retention and adaptive re-use. The overall effect on the building in heritage terms is considered negligible. Within the wider setting, the opening of the windows facing west along Witton Lane will have Minor Positive effect on the overall setting of the immediate area along Witton Road.
- 7.27 Aston Hall is located outside the Club's ownership, however robust Match and Event Day Management Plans are secured by condition which will include matters such as ensuring adequate refuge facilities and the potential for post match/ event local clean up strategies are provided.
- 7.28 The proposals are also not considered to harm the significance of the locally listed Holte Hotel or other non-designated heritage assets, and as such there is no conflict with NPPF paragraph 203. It is noted there are no archaeological priority areas on or near the site.
- 7.29 **Residential and General Amenity**
- 7.30 The assessment of impact on amenity is two fold – firstly, the impact on adjoining dwellings and other land uses from the built development proposed; and secondly, impacts from the uses on and associated with the proposals in regards to adjoining dwellings and other land uses. As with the assessment of transportation impacts it is important to remember the site currently hosts a stadium with matchday crowds of approx. 43,000, and on non match days hosts conference and banqueting events, concerts, and has an onsite shop and has extant planning permission under 2022/06776/PA to increase stadium capacity to up to 50,065 and erect the Villa Live 'entertainment/ multi use' building.
- 7.31 The Academy building has good separation from the nearest neighbouring residential buildings and the proposals do not create new impacts over the existing situation in terms of scale, massing and impacts with regards overlooking, shadowing or daylight.

The overall effect therefore is the impact upon existing residential development within the area is acceptable. The proposed is therefore compliant with Policies PG3, TP27 of the BDP and principles set out in the Design Guide SPD.

7.32 Noise and Nuisance

7.33 The application is accompanied by a Noise Assessment which concludes *It is considered unlikely that noise from these areas would result in significant noise impacts, however, consideration will need to be given to the specification of fixed plant and the design of the building fabric at the design stage.* This position is agreed.

7.34 The nearest noise sensitive receptors (NSR) are shown below and located at McGregor Close (NSR1), Witton Road (NSR2), and Nelson Road (NSR3). It is noted the facing elevation of these properties are the rear elevations and curtilage areas.



7.35 The majority of proposed uses are located within the main building. Those which are anticipated to generate the most noise are the Multi Use Event Floor (MUEF); food and beverage Courtyard; and the Micro Brewery / Bar Area.

7.36 The MUEF, which is the largest internal area and the area where most noise is likely to be generated, is to be located at the eastern façade, adjacent to other internal spaces to the west, north and south. These adjacent uses will act as a buffer with respect to noise break-out from the MUEF to the external environment, and by extension, the nearby NSRs.

7.37 Regulatory Services are content that noise can be adequately conditioned by hours of operation and the incorporation of a noise mitigation scheme. It is also noted the proposals will actively pull people away from the boundary of the properties on Nelson Road, where currently fast food kiosks are located and as a consequence, people gather. The external MUGA space will also be subject to conditions relating to its use and management. Conditions regarding plant noise impacts will, further to these details, safeguard adjoining amenity.

7.38 In respect to the noise impacts we are satisfied that the increased capacity and range of uses will not significantly alter the existing impacts on noise sensitive receptors. It is also noted the building relates well to the 'high street' area of Witton, where numerous uses are found, including a conference and banqueting centre (opposite on Witton Lane), supermarket, take aways and a public house.

- 7.39 With regards the increased use and the operation of the building, particularly if there are to be music led events taking place in this building and its associated external space, Regulatory Services are content to utilise conditions to protect amenity, and it is noted parallel legislation also provides protection from a statutory noise nuisance.
- 7.40 The matchday operation and influx of spectators has a significant impact on the immediate stadium area, along with wider local impacts. Given the existing volumes of people associated with a matchday or event, (and approved uplift from the new North Stand) it is considered the proposals individually and cumulatively will not create a significant adverse impact over existing amenity impacts. Notwithstanding that, the proposals through themselves and event management plans secured by condition, can even with the increased numbers, create a better mitigated impact on the local area and its residents than exists prior to the implementation of 2022/06776/PA, or this and s73 application 2023/04905/PA.
- 7.41 **Environmental Impacts**
- 7.42 As part of the assessment, Officers have taken account that there are existing uses and the approved Villa Live building is intended to offer all year round use and this is therefore a consideration.
- 7.43 *Air Quality*
- 7.44 The proposal includes the incorporation of a new facility which is designed to open every day of the year, close to residential receptors which will have cooking equipment.
- 7.45 An odour assessment has been submitted, based on the absence of any complaints for the existing operation and sniff tests being carried out on the third party vendors in the external areas of the stadium. Regulatory Services have no issue with odour management and are content to condition the requirement for all kitchen extraction systems to be provided with suitable equipment to mitigate odour.
- 7.46 It is considered unlikely that the proposed redevelopment would significantly alter the existing baseline odour environment. Drawings to indicate the location of the extraction points from all cooking operations is required to agree the location and height of these prior to above ground construction and is secured by condition.
- 7.47 *Contaminated Land*
- 7.48 The current North Stand appears to be located on a raised platform of made ground which has the potential to contain contaminants. There is a noticeable change in ground levels between the North Stand and its entry points, and the car park area adjoining it.
- 7.49 Regulatory Services have previously found despite the low sensitivity of the end use, further ground investigation will be required to confirm the presence of any contaminants and other obstacles to development and propose mitigation accordingly. These further works, as required by suggested condition, should take place prior to the commencement of development and will follow best practice guidance and be compliant with Local Plan Policy TP6 and Development Management in Birmingham DPD Policy DM3.
- 7.50 **Ecology**
- 7.51 The Site does not contain or intersect with any Habitats of Principal Importance as designated under the Natural Environment and Rural Communities (NERC) Act 2006.

Identified Habitats of Principal Importance are all located within Aston Park to the south of the Site, the closest parcel of Deciduous Woodland being 15m south of the Site off Trinity Road, and the parcel of Woodpasture and Parkland 15m south of the Site in the same area. No Ancient Woodland is identified within 1km of the Site.

- 7.52 No trees are proposed to be felled and there is limited vegetation contained on the site so work near trees is unlikely. There are no trees that are subject to a Tree Preservation Order on or adjoining the site.
- 7.53 The 2022 consented scheme was supported by an Ecological Impact Assessment (EclA). This was informed by an ecological data search and survey/assessment work completed in July 2022. The results and recommendations contained in the 2022 EclA were stated as valid for up to two years from the date of survey.
- 7.54 An updated EclA has been submitted in support of the current planning application; the assessment of impacts associated with these proposals has been informed by the ecological data search and site surveys completed in July 2022. As the current proposals are for a reduced level of development, with the majority of the former Academy building to be retained, the Council's Ecologist is satisfied there will be no additional impacts to those identified previously in the 2022 EclA.
- 7.55 The mitigation measures set out in Section 3 of the EclA are acceptable. A condition to secure the preparation, approval and implementation of a Construction Ecological Management Plan (CEcMP) which incorporates the construction-phase mitigation measures described, is recommended.
- 7.56 Whilst it is noted the Environment Act 2021 recently brought in a mandate for a minimum 10% biodiversity net gain the implementation of this requirement is currently delayed until approx. Nov 2023 therefore it is not reasonable to insist developers comply. Notwithstanding that, the NPPF paragraph 180 states new developments should pursue opportunities for securing measurable net gains for biodiversity.
- 7.57 From an existing baseline of near zero, a number of biodiversity gains are provided within the proposals. The proposals will increase the level of green infrastructure on the site with new tree, shrub and herbaceous perennial planting. This will mean the proposals enhance the site's ecological value and deliver a biodiversity net gain. To maximise its ecological value, the planting must include native and near-native species and ornamental varieties with proven ecological benefits (eg species of RHS's Planting for Pollinators database). Further details of the planting scheme, including identifying benefits for biodiversity, is recommended to be secured by condition.
- 7.58 Overall, the proposal accords with Policy TP6, TP7 and TP8 of the BDP and the relevant aims and objectives of the NPPF.
- 7.59 **Drainage**
- 7.60 The site currently comprises a vast expanse of hard standing and tarmac, in addition to the existing buildings, with little to no green infrastructure.
- 7.61 It is proposed to discharge surface water from the site to the existing public surface water sewer and combined sewer network as existing.
- 7.62 There is limited scope to incorporate other green SuDS within the site. The functional requirements of the site require large areas of car parking and hardstanding for the movement of vehicles and people. Large open SuDS such as a swales or detention

basins are not appropriate given the use and activity of the site. Furthermore, below ground there is the significant presence of utilities infrastructure over the car park area of the site.

- 7.63 Severn Trent Water has no objection to the proposed drainage arrangements subject to conditions, which will also address technical points raised by the LLFA and secure appropriate details and maintenance arrangements.
- 7.64 It is worth noting the North Stand and Villa Live development (2022/06776/PA) will provide a new drainage system and site wide measures. This will include attenuation of flows from the overall site area to equivalent greenfield runoff rates. Areas which are to remain broadly as existing will retain their existing drainage systems. This approach results in a 53% reduction in runoff rate from the site and this accords with Paragraph 167 of the NPPF, as the policy simply requires a betterment in runoff rates for major developments.
- 7.65 As such, and whilst noting the objection from the LLFA, it is considered Policy TP6 – *Management of Flood Risk and Water Resources* is complied with. The proposed drainage strategy demonstrates that the disposal of surface water from the site will not exacerbate existing flooding and that exceedance flows will be managed. It is also noted Severn Trent Water has no objections.
- 7.66 **Safety and Security**
- 7.67 One of the primary objectives for such a development is to reduce opportunities for crime and anti-social behaviour, and in so doing enhance the safety of members of the public. It is recognised that certain elements within the design of such a scheme can promote or deter criminal behaviour. ‘Designing out Crime’ principles seek to reduce or eliminate risks through the design or redesign of networks and the immediate surrounding areas. Good design can make a major contribution to both the prevention of crime and the reduction of fear of crime and must be the aim of all those involved in the development process.
- 7.68 Having viewed the submitted plans and associated documents, West Midlands Police (Design Out Crime Team, Counter Terrorism Security Advisor, Football Liaison Team) have no objections subject to the imposition of conditions which were agreed on 2022/06776/PA.
- 7.69 Underpinning the security design, a *Security Threat and Risk Assessment* (STRA) will be undertaken to identify credible criminal and terrorist threats, enabling informed decision-making by stakeholders. This is crucial in ensuring that appropriate and proportionate measures are developed. The STRA shall embrace all aspects of the Aston Villa development planning boundary and incorporate liaison with the Police Counter Terrorism Security Advisor (CTSA) and the Designing Out Crime Officer (DOCO)’. The plan is to complete a Vehicle Dynamic Assessment (VDA) to support the incorporation of formally rated Hostile Vehicle Mitigation (HVM) measures to fully protect “Villa Way” and provide a safe and secure place to meet both on match days and non-match days. The inclusion of rated HVM measures will always provide the best protection against a determined individual with nefarious intentions.
- 7.70 With regards these non match day concerns, certain opening and closing times for the building, pre booking systems for the MUGA and other facilities, and as currently a 24/7 security patrol and on site presence, along with enhanced CCTV will help ensure smooth running of the site and deter risk of crime and anti social behaviour. The site will be a controlled through a managed process with an operational strategy around this agreed and finalised in conjunction with stakeholders such as WM Police. A condition secures it implementation and review.



- 7.71 The club recognises existing matchday impacts upon the local community and is actively engaged through this application and 2022/06776/PA to address these impacts. Whilst many issues are civil matters or matters for the Police, however a matchday management plan; and matchday traffic plan are both subject to agreement by condition with input from West Midlands Police, the Highways Authority, and relevant stakeholders. These plans could ensure, for instance, suitable provision of waste and recycling bins, litter picks, increased stewarding presence and other measures to minimise the impact during and after matches or other large events. These Plans will also have a mechanism of review so measures which are effective can be retained or increased further, and those less successful can be reconfigured or replaced with alternatives. The review process will involve appropriate key stakeholders including WM Police.
- 7.72 The West Midlands Fire Service comments provide several informatives that have been shared with the club and will be included within the final design of the development following the detailed design process and for the Building Regulations submission.
- 7.73 **Economic Assessment**
- 7.74 The redevelopment assessed here is one part of the wider redevelopment of Villa Park, and both individually and as part of the wider proposals, can act as a catalyst for economic growth, with wider benefits than just the Club. The immediate location, Aston, along with Birmingham itself can benefit throughout the lifetime of the development, from the construction phase through to its completion and use.
- 7.75 The proposals will contribute to the growth of jobs and Gross Value Added (GVA) in the following principle ways:
- by creating temporary employment linked to the construction project;
  - by employing more staff on-site to operate the expanded facilities;
  - by attracting visitors whose off-site visitor expenditure will create jobs in other businesses in Birmingham and the West Midlands;
  - by the club incurring additional operating expenditure which will create employment in the supply chain in Birmingham and the West Midlands; and
  - by new employees spending their wages on goods and services in the economy (induced effects).
- 7.76 Aston Villa are already an important employer in the local area, currently supporting 500 full-time equivalent jobs at Villa Park. As a result of the redevelopment plans here and under 2022/06776/PA it is anticipated that this will result in the creation of 125 full-time equivalent on-site jobs.
- 7.77 Aston Villa creates economic impact by attracting visitors to Birmingham who spend with other businesses (hotels, bars, shops, taxis etc.) which in turn, creates and supports employment. It is estimated visitors to Villa Park (post-redevelopment) will spend an additional £9.4 million with businesses elsewhere in Birmingham (£3 million on matchdays and £6.4 million on non-matchdays) including accommodation, food, beverage, retail, and transport a year, totalling off site expenditure of £32.3 million a year.
- 7.78 The economic commitment of redeveloping these buildings is important to the area and further shows redeveloping Villa Park rather than relocating is the clubs long term position. This is significant to Aston and the surrounding local area. The commitment and investment to the local area is expected to help with the regeneration and economic prosperity of Aston and Witton, through itself and attracting further investment to the area.

- 7.79 Policy TP26 – *Local employment* sets out the Council seeks to work closely with developers to identify and promote job training opportunities for local people and encourage the use of the local supply chain to meet the needs of new developments. In order to ensure that the benefits of new development wherever possible are targeted at local people, developers are encouraged to sign up to targets for the recruitment and training of local people during the construction phase of development, and where appropriate for the end use.
- 7.80 The club has agreed, as they did with their Brookvale site and the North Stand development, to conditions which to secure job opportunities for local people during and post construction phase in conjunction with the Council's Employment Access Team.
- 7.81 Accordingly, the proposals represent important economic investment and opportunity for the local area and Birmingham city as a whole.
- 7.82 **Development Sustainability**
- 7.83 The proposals maximise the reuse of the existing academy building structure and envelope minimising the project overall embodied carbon footprint. Along with following Part L requirements as related to existing buildings, the proposal maximises the use of passive cooling measures and natural ventilation. For conditioned spaces ASHP will be used for spaces cooling and heating.
- 7.84 Measures that would be incorporated into the scheme to limit carbon emissions and reduce climate change are outlined in the Sustainable Energy and Construction Statement, and include:
- Mixed mode ventilation using cross flow natural ventilation for the vent area, supported by mechanical system to mitigate overheating risks;
  - Provision for shades on the southern façade;
  - Maximising the use of the existing structure and envelope to minimise the associated embodied carbon with procured new materials;
  - Lo-flo sanitary fittings on toilets;
  - Dedicated space for the segregation and storage of operational recyclable waste volumes;
  - Efficient fans with low Specific Fan Power;
  - Efficient interior and exterior lighting power densities;
  - Electrification of energy end uses, including hot water generation.
- 7.85 The above demonstrates that a range of sustainability measures have been incorporated into the scheme, which is therefore assessed as compliant with Local Plan Policies TP1, TP2, TP3, TP4 and TP5

## 8. **Conclusion**

- 8.1 The proposals are assessed against the three objectives of sustainable development as follows –
- 8.2 *Economic Objective*
- 8.3 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth. In this context, the proposals score, in economic terms positively. The proposals will support economic growth arising from:

- Investment in the local area and Birmingham as a whole
  - Increased spend in the local area and Birmingham as a whole
  - Increased employment opportunities during and post construction on and off site
- 8.4 The positive economic benefits arising from the scheme are considered to be significant and will include direct economic betterment. On the basis of the scale and nature of the development, I attach significant weight to these benefits.
- 8.5 *Social Objective*
- 8.6 Planning's social role incorporates providing support to strong, vibrant and healthy communities, and by fostering a well-designed and safe built environment.
- 8.7 The proposal delivers a mix and range of social benefits, through creating a high quality built environment with improved public realm, new accessible public space, and increased access to recreation and business facilities for the local community. The proposal also offers employment opportunities for local people.
- 8.8 As such the social objective is considered to be satisfied and I attribute significant weight to the benefits in community terms, particularly establishing sustainable communities and a sense of place the development will secure.
- 8.9 *Environmental objective*
- 8.10 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).
- 8.11 The proposal will enable more sustainable patterns of activity through providing new and enhanced services and facilities through the re use and adaptation of an existing building, accessible by public transport and promoting non vehicular movements. Substantial landscaping and biodiversity gains are also delivered over the existing situation.
- 8.12 Policy TP12 requires proposals for new development affecting designated or non-designated heritage assets to be determined in accordance with national policy.
- 8.13 NPPF in Paragraph 199 – 202 states *Great weight should be afforded to the conservation of designated assets (and the more important the asset the greater the weight should be) and is clear Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. However, where a proposal will lead to less than substantial harm to the significance of a heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*
- 8.14 The benefits of the scheme are:
- Providing new employment opportunities and supporting the local supply and service chain and positively contributing to tourism spend in Birmingham
  - Create and contribute to significant off site expenditure
  - Provision of new full-time equivalent jobs post construction.
  - Improving footfall and vitality during the day and supporting a thriving evening economy in this part of the City.
  - Regeneration and investment outside the city centre

- Delivering an high-quality designed scheme to integrate the site into its surrounding context;
  - Retention, re use and repurposing of an undesignated heritage asset
- 8.15 These benefits taken together are afforded significant weight. The scheme would provide economic and environmental benefits by means of employment, visitor spend during the construction phase and over the long-term supporting a significant number of jobs as well as providing upgraded World Class facilities for sport that will increase the visibility and potential of Birmingham to host major events.
- 8.16 The proposal would result in the enhancement to the setting of designated assets over the existing situation, which further contributes to minimising the benefits of the proposals.
- 8.17 In accordance with NPPF paragraph 203, the identified harm has been weighed against the public benefits of the proposal, and it is considered these wider benefits of the proposal, which includes the significant public realm, public open space, and sustainability improvements, along with the significant economic benefits identified within this Report, would outweigh any heritage harm if it was identified.
- 8.18 *Summary*
- 8.19 Taking all of the above into account, it is considered that the public benefits arising from the proposals, as outlined above are positive. There is very limited evident harm arising in relation to other technical matters as discussed above, and officers do not feel that the impacts of the development should tip the planning balance in favour of refusal. The application delivers a sustainable, high quality development that meets wider aspirations of Birmingham being promoted as an international city supporting development, investment and other initiatives that raise the City's profile and strengthen its position nationally and internationally. As such I attach positive weight to the proposals.

## 9. **Recommendation:**

- 9.1 Approval is recommended subject to the conditions listed below (that may be amended, deleted or added to providing the amendments do not materially alter the permission.

### 9.2 **List of conditions –**

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- |   |  |
|---|--|
| 1 | Implement within 3 years (Full)  |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Construction Management Plan   |
| 4 | Requires the prior submission of a construction employment plan.       |
| 5 | Requires the prior submission of a contamination remediation scheme    |
| 6 | Prior submission of a remediation scheme                               |
| 7 | Submission of drainage details   |
| 8 | Requires the submission of external materials and detailing            |
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9	Construction Ecological Management Plan (CEcMP)
10	Submission of a Security Threat and Risk Assessment
11	Travel Plan
12	Extract ventilation and odour control equipment details
13	Noise Mitigation Scheme
14	Requires the submission of a contaminated land verification report
15	Requires the submission of a community access agreement
16	Requires the prior submission of an end use employment plan.
17	Requires the submission of hard and/or soft landscape details
18	Secure, covered cycle storage details
19	Submission of signage details and illumination
20	Details of accessibility features and facilities
21	CCTV details
22	Details of external lighting
23	Matchday Operational Management Plan
24	Non matchday Site Management Plan
25	Event (non football) Management Plan
26	Approval and implementation of s.287/ s.38 works
27	Completion of delivery and service area
28	Provision of car parking facilities
29	Noise Levels for Plant and Machinery
30	External MUGA Operational Hours
31	Noise monitoring
32	Incorporation of sustainability and energy efficiency measures
33	Restriction of use
34	Gates open inwards
35	Hours of use
36	Amplified Sound/ Music outside
37	Graffiti Wall

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Case Officer: Carl Brace

**Photo(s)**



View North along Witton Lane, note Grade II listed Tram Depot, Right



View along Witton Lane towards Villa Park



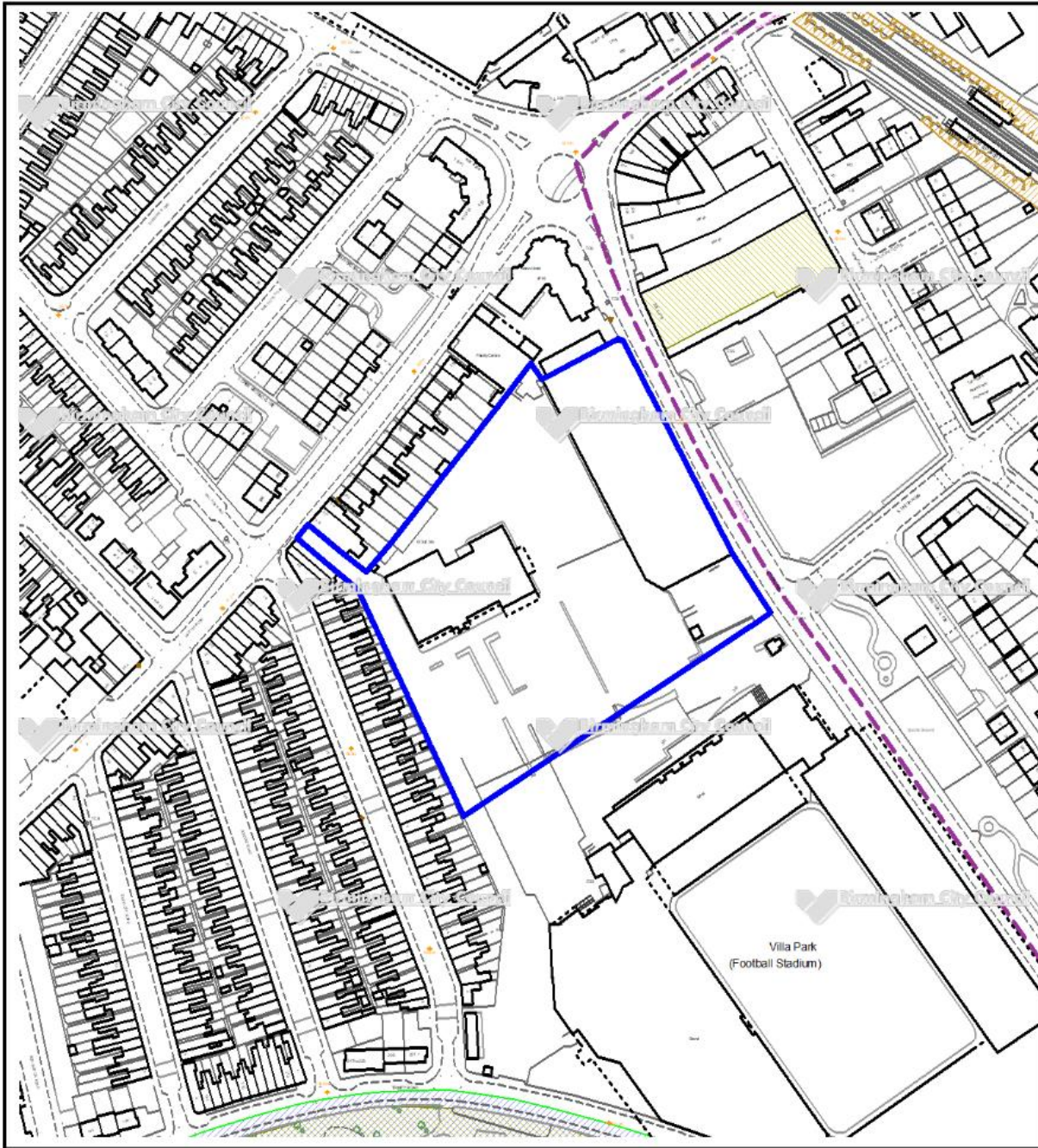
View over Villa Park car park towards Academy Building



Existing car park area, club shop *Left*, and Academy Building *Right*



## Location Plan



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