

Birmingham City Council

Planning Committee

01 December 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	6	2022/04246/PA Land at Gough Street/Suffolk Street Queensway Birmingham B1 1LT Full planning application for the erection of a purpose-built student accommodation (PBSA) scheme (Sui Generis) including amenity space and landscaping
Approve – Subject to 106 Legal Agreement	7	2017/10551/PA Land at former Monaco House site Bristol Street Birmingham B5 7AS Erection of new mixed use development of between 5 and 10 storeys high plus two towers of 29 + 26 storeys to include 1009 residential units (C3), a residential hub (705sqm) , 1513sqm of retail/commercial use (A1-A5,D1), car parking, new public walkway, landscaping and all associated works

Committee Date:	01/12/2022	Application Number:	2022/04246/PA
Accepted:	25/05/2022	Application Type:	Full Planning
Target Date:	05/12/2022		
Ward:	Ladywood		

Land at Gough Street/Suffolk Street, Queensway, Birmingham, B1 1LT,

Full planning application for the erection of a purpose-built student accommodation (PBSA) scheme (Sui Generis) including amenity space and landscaping

Applicant:	Es Suffolk Birmingham Ltd 161 Drury Lane, London, WC2B 5PN
Agent:	Carter Jonas 2 Snowhill, Birmingham, B4 6GA

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 Consent is sought for Purpose-Built Student Accommodation (PBSA) to provide a total of 540 units. The scheme will comprise of two blocks which stand at 10 storeys (to Gough Street) and 29 storeys (ground floor, roof, plus 27 floors) to Suffolk Street Queensway.



Image 1: CGI of the proposed development, view from Suffolk Street, Queensway.

1.2 Both buildings would be located adjacent to the locally listed Christadelphian Hall; the 29-storey facing onto Suffolk Street Queensway and the smaller 10 storey would be set in and away the Synagogue car park to the west blocks would sit to the east and south of a new courtyard which would be landscaped to provide outdoor amenity space or the students.

1.3 In terms of room schedule the following is proposed:

1.4

- 170 standard studios (16m²),
- 104 standard+ studios (17m²),
- 140 enlarged studios (20m²),
- 118 premium/UA Studios (24 -26m²)
- 8 Vita Ultimate studios (31m²).

1.5 All studios will have a kitchenette, desk/sitting area, storage space, en-suite and bed. Larger studios will include additional lounge type sofa areas.

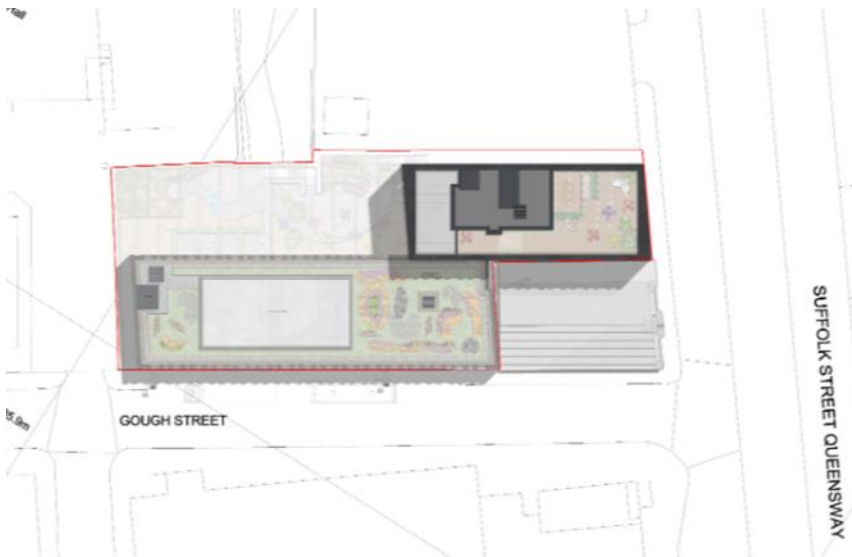


1.6 Image 2: Floor plan of level 2

1.7 The main entrance to the building will be located on Gough Street and an active frontage to Suffolk Street Queensway would also be provided. There are no parking facilities for students and drop off/refuse collection etc. will be via Gough Street. A new layby is to be constructed on the north side of Gough Street for deliveries, refuse collection and drop-offs.



Image 3: Visual of the proposed façade – Suffolk Street Level



1.8 Image 4: Site arrangement plan – view from roof level

- 1.9 The site will be operated by Vita Group who run a similar establishment at the former Pebble Mill Site, Edgbaston. The residence will have a single point of entry for pedestrians which will be through the main entrance located off Gough Street and through a management office which will be manned 24-hours a day, giving the team visibility of everyone entering and leaving the site. Entry will be through a computer-based access control system and every student will be issued with an electronic fob which will give them access to the communal hub space as well as their specific studio.
- 1.10 Non-residents who visit will be required to sign-in and will wait in the reception area for the resident to come and collect them. The site will benefit from CCTV and a bespoke internal and external lighting scheme to ensure that both within the property and outside, a safe and secure environment is created.
- 1.11 There is to be external amenity space on the ground floor, a garden on the 11th floor and a terrace on the 28th floor.
- 1.12 As for internal amenity space I note there is to be a café/cycle store/gym/games room and bookable private dining area will be provided at level 28.

- 1.13 Level 01 Terrace: 243m²
 Level 02 Terrace: 200m²
 Level 28 Roof Terrace: 176m²
 Total External Amenity Space: 619m²
- 1.14 Level 0 Amenity: 342.87m²
 Level 01 Amenity: 654.22m²
 Level 28 Amenity: 60.73m²
 Total Internal Amenity Space: 1057.82m²

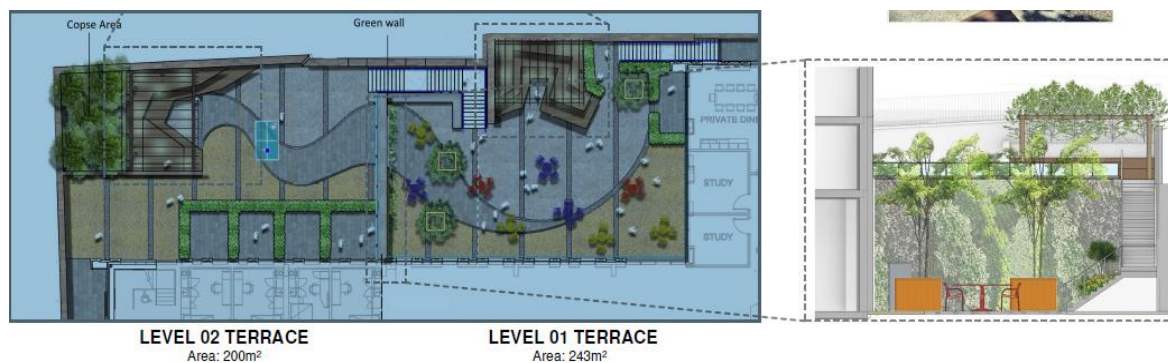


Image 5: Illustration of outdoor amenity area at levels 02 and level 03

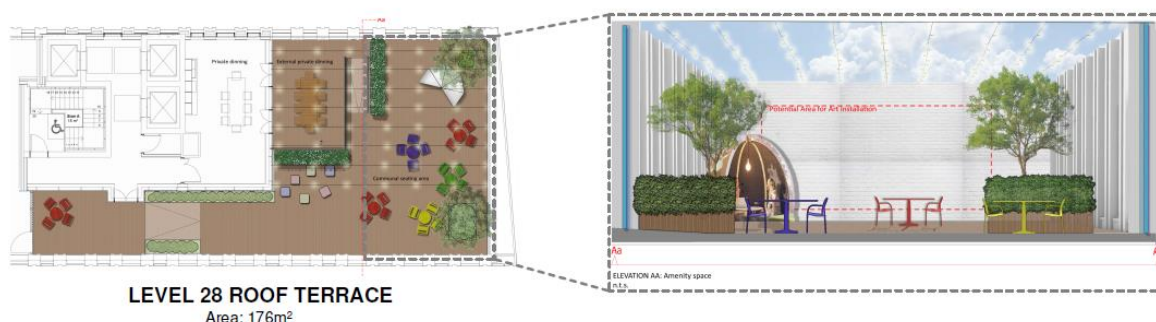


Image 6: Illustration of outdoor amenity at level 28/roof terrace

- 1.15 In terms of appearance the two buildings are to be constructed in a stack bonded brick finish. The 10-storey build would consist of expressed brick columns at roof level, aluminium louvres above the windows, vertical glazing, recessed stacked brick as well as expressed brick columns at entrance soffit. The ground floor entrance off Gough Street would be glazed and set back to include textured projecting brick detail. The ground level that faces onto Suffolk Street will have large sections of glazing and levels above strong architectural details to the gable.



1.16 Image 7: Elevational detailing

1.17 Additional/Amended Plans

1.18 Since the submission of the application additional information has been submitted, façade and ground floor design revisions to the ground floor of the tower, updated drainage information and plans, a massing exercise relative to the neighbouring site, an updated daylight, sunlight and overshadowing assessment, a further daylight/sunlight letter, a resubmission response statement to consultee comments and revised landscape biodiversity details.

1.19 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site is approximately 0.18ha and is located in the city centre on the west side of Suffolk Street Queensway, which is a major highway artery into Birmingham from the south. The site reflects the shape of an "L" in plan, wrapping around an existing late 19th/early 20th century brick and terracotta Locally listed Christadelphian Hall (which sits on the northern corner of Gough Street and Suffolk Street Queensway). As such the site fronts Suffolk Street Queensway to the west and Gough Street to the south.
- 2.2. The application site comprises cleared brownfield land previously occupied by a print works and cultural centre. The site is cleared of buildings and bounded by hoarding. It features 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.
- 2.3. The east of the site and beyond lies the underpass of the Suffolk Street Queensway and on the opposite side of the Queensway is a townscape of median and tall scale buildings, forming a 'wall' of development characterising the area around New Street Station.
- 2.4. To the south of the site is a seven-storey 1970's concrete clad commercial building now used residentially with a multi-storey behind it. Directly north is an area of back-land surface level parking which separates the site from another seven-storey 1970's 7 storey concrete clad commercial building (recently) in residential use. Beyond this

is other new mid-scale residential development as well as the Mailbox retail and leisure complex.

- 2.5. The site is not within or adjacent to a Conservation Area but there are some nearby Heritage assets notably the Grade II* listed Singers Hill Synagogue and on nearby Severn Street some Grade II listed buildings, the former British School, Caretaker's House for the Birmingham Athletics Institute and the Athol Masonic Institute.

- 2.6. [Google site map](#)

3. **Planning History:**

- 3.1 20/09/2019 - Land at Gough Street/Suffolk Street Queensway – 2019/07842/PA – Application to determine the details for condition number 1 (submission of details of green/brown roofs) attached to approval 2018/09086/PA. Approved.

17/06/2019 – Land at Gough Street/Suffolk Street Queensway – 2019/05065/PA – Non Material Amendment to approval 2018/09086/PA for amendment to layout and associated internal reconfiguration. Approved.

01/03/2019 – Land at Gough Street/Suffolk Street Queensway – 2019/01740/PA – Application to determine the details for condition numbers 7 (arboricultural method statement) and 8 (requires tree pruning protection) attached to planning approval 2018/09086/PA). Approved

08/11/2018 – Land at Gough Street/Suffolk Street Queensway – 2018/09086/PA – Erection of 330 bed hotel (Use Class C1) including restaurant, ancillary facilities and associated works. Approved subject to conditions.

- 3.2 Adjacent the application site (northwards)

Received 10th October 2022 and validated 13th October 2022 – Land adjacent Queensgate House 110 Suffolk Street – 2022/07620/PA – Erection of a residential led development comprising 159 residential apartments (Use Class C3), ancillary internal and external residential amenity space, access, cycle parking, landscaping and all other associated works. Pending consideration.

13/01/2022 – Queensgate House, 121 Suffolk Street Queensway – 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 windows and doors. Approved subject to conditions.

22/09/2021 – Queensgate House, Nakira, 121 Suffolk Street Queensway – 2021/05502/PA – Change of use of former nightclub at ground floor and mezzanine floor to offices (Use Class E (g_ (i))) and use of basement as ancillary plant for building. Approved subject to conditions.

22/09/2021 – Queensgate House, Suffolk Street Queensway – 2021/05487/PA – Prior approval for change of use from offices (Use Class B1 [a]) at ground floor (part) and 1st to 7th floors to 67 flats (Use Class C3). Approved.

04/04/2014 – Land at 121 Suffolk Street Queensway - 2013/05474/PA - Application to extend the time of extant planning 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 parking and landscaping. Approved subject to conditions.

19/08/2010 – Land at 121 Suffolk Street Queensway – 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 parking and landscaping. Approved subject to conditions.

4. **Consultation Responses:**

- 4.1 City Design – no objections subject to conditions around final architectural, material and landscaping details.
- 4.2 Conservation – no objections, comments are provided within the report.
- 4.3 Historic England: raises concerns regarding the impact of the tower and the resulting harm that this would cause to the significance of the Grade II* listed Singers Hill Synagogue and the locally listed Christadelphian Hall, through this scale of development within their immediate setting. Further comments are provided and considered in the report.
- 4.4 Victorian Society - object to these proposals as are currently presented and urge the City Council to refuse consent. VS considers the application unacceptable and that the tower completely will overpower the adjacent historic buildings dating from their period of interest, and particularly the locally listed former Christadelphian Hall as its immediate neighbour, as well as the grade II* listed Singers Hill Synagogue. The Victorian Society considers the scheme will have a negative impact on the character and appearance of the adjacent grade II* listed, grade II listed and locally listed buildings, with significant harm to their settings. They consider this to be unacceptable, and particularly if this application is considered alongside other proposals for tall buildings nearby in the Suffolk Street and Bristol Street area of the city. In their view a scheme of more modest scale should be considered for this site in Gough Street and Suffolk Street, and one which remains within the parameters of the scale of the previously consented hotel development at 11 storeys.
- 4.5 Archaeology – no objections, the development is unlikely to affect significant archaeological remains. The site sits beyond the core of the historic town and was not developed until the early 19th century, the previous development of the site will also have impacted upon any buried remains that did survive. No conditions are recommended or any further archaeological investigation.
- 4.6 BCC Transportation Development – no objections subject to conditions requiring the development not to be occupied until highway works under a highway's agreement are provided, cycle parking to be provided and an updated construction management plan.
- 4.7 Tree Officer – no objections subject to tree protection and tree pruning conditions.
- 4.8 Ecology – do not object however seek revisions to the biodiversity offer, tree planting/landscaping. The landscape management plan needs amending (with regards to the volume water required per tree) prior to agreeing to condition the management plan for implementation.
- 4.9 Regulatory Services – no objections subject to conditions requesting a noise insulation scheme, noise levels for plant and machinery, contamination remediation scheme and contamination verification report. No concerns regarding air quality.

- 4.10 Local Lead Flood Authority – objected to the scheme 14.07.22 and sought for further information. Amended plans and reports were submitted and the LLFA reconsulted. The LLFA responded 20.10.22, removed their objection and stated ‘As the proposal has now supplied the STW Developer Enquiry details, we recommend the following conditions to ensure the proposed development complies with the minimum requirements of the NPPF and Policy TP6 of the adopted Birmingham Development Plan: 1. Requires the prior submission of a sustainable drainage scheme and 2. Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
- 4.11 Severn Trent Water – made no comments.
- 4.12 Employment Access Team – no objections subject to employment condition
- 4.13 West Midlands Police - no objections subject to lighting and CCTV conditions.
- 4.14 West Midlands Fire Service – no objections and recommend a design informative
- 4.15 Health and Safety Executive – required further information to comment including the provision of a Qualitative Design Review. As of 29.09.22 HSE confirm they are satisfied with the additional information provided.
- 4.16 Planning and Growth Strategy – no objections subject to conditions regarding energy statement and BREEAM Certificate and concurs there is student need.
- 4.17 Birmingham Civic Society:
- Considers the scheme to accord with GA1., to be sustainably located and situated within a cluster of tall buildings. BCS have reviewed the Heritage Statement and agree with this assessment. They state the scheme would substantially overshadow the locally listed Christadelphian Hall which sits adjacent, but most development here would, unless only of 1-2 storeys, and its principal façade would still be seen and appreciated. BSC acknowledge the positive aspects of the proposal. In terms of design BCS state there are large expanses of curtain wall with little consideration of detail to entrance doors, security, signage, lighting. The facade drawing in Part 14 of the DAS shows 'potential and aspirations' without any commitment to quality of materials, construction and detailing. The façade facing the A38 was considered to present a hostile appearance to the city.
- In summary, BCS support the scheme on many levels, yet encourage the above points regarding design and treatment to be addressed, and object to the scheme in its current form.
- 4.18 Birmingham International Airport – no objections subject to condition.

5. **Third Party Responses:**

- 5.1. The application has been advertised in the press, publicised by 3 site notices and neighbours notified. In addition, the Local MP, local residents' groups and forums have been consulted. Associations and Ward Councillors consulted. 27 neighbouring objectors have submitted 28 letters of objection (as of 22.11).

Friday 4th November 2022 a consultation technical error was identified whereby the Council could not be sure whether all original neighbour notification letters that should have been sent on 8th June were sent.

Neighbours were therefore reconsulted on the application (8th November) for 3 weeks in line with statutory requirements and have until 1st December to make comments. Since re-notifying neighbours 2 further residents have objected. Accordingly, their comments have been considered and have been added to the list of comments/concerns below, I should highlight that these additional comments do not raise any new issues and are like points that have been previously raised and covered in the report below. Should any additional comments be received between 22nd November and 1st December these will be reported to members via an update.

5.2 Neighbours raise the following comments/concerns

- the 28 storeys will block most of the sunlight and overshadow around 200 households and 800 residents living in the apartment block Westside One and Westside Two.
- the 28-storey high rise section is on the North-eastern side which is closest to the Westside One and Westside Two residents.
- the new build is 4 times more in height than the 7 storey which will cause a big impact by blocking most of the sun light and overshadowing the surrounding area.
- scale, height and massing and materiality of this tall proposal appears oppressive and overbearing and moreover is unrelieved by lightness of touch and elevational relief.
- is a dated eyesore that would appear to apply in this case
- very tall buildings require exemplarily design in mitigation of their impact. By no means can this be classed as an exemplarily designed tall building.
- this is fundamentally unacceptable by any reasonable design standard (as well as Birmingham Design Guide) to have such a monolithic windowless faced on such a prominent building.
- it antisocially turns its back on the city and would be very difficult to correct in the future if approved. This cannot be approved in its current design.
- loss of daylight will have an effect on mental health and healthy way of living
- site would be better as a green area
- this will cause noise pollution during and after construction
- loss of privacy
- will destroy the Birmingham Skyline
- will destroy a piece of heritage
- number of student residents will put a strain on local medical services and facilities
- building teams are currently digging up foundations on site already
- site includes no parking and is assumed the car parks around the area will be used, when the road is already blocked with cars
- will destroy local heritage for commercial gain
- will ruin the Birmingham skyline
- out of scale with nearby buildings and would be an eyesore next to the listed church
- a lower building would be acceptable more in line with the previous graduated height application
- would ruin the outlook from my flat dominating my view
- too big and too ugly, not suitable for placement so close to the road and other housing units
- would prefer a 11 or 12 storey building like Westside Two

Objection from adjoining landowner (Queensgate House)

- are disappointed the applicant did not consult with neighbours prior to the submission of the application and provided the opportunity for discussion and feedback
- the approach taken by the developer is not conducive to creating a positive sense of place and making the best and efficient use of land

- the distance and erosion if developable area on the applicant's site is wholly unacceptable especially given the applicant intends to erect a building 0.7metres from the same boundary
- it has not been demonstrated that the scheme can be delivered without adversely impacting upon the applicants own scheme
- states the tower would be only a few metres from the flank of the Locally listed Christadelphian Hall and disputes that the proposed building would contribute positively to the character of the historic environment and therefore the development should not be considered to accord with Policy TP12.
- the Daylight and Sunlight Report does not include an assessment of the impact of the proposals on the forthcoming residential conversion of Queensgate House (as approved under ref: 2021/05487/PA) and as such it is unclear whether the proposed development would have material impact on future residents' availability of light.
- the applicant is keen to participate in a collaborative master planning exercise with the LPA and considers that proposals are capable of being developed which make an effective and efficient use of both the land in its ownership as well as that subject to this current application
- the application proposals by virtue of the significant number of windows in the north elevation would prejudice the delivery of development on the neighbouring vacant site
- the applicant's piecemeal approach does not contribute to delivering a strong sense of place and would not deliver an efficient use of land in support of the Council's overall development strategy. The application therefore fails to accord with Policy PG3.
- refers to residents that reside at 121 Suffolk Street did not receive the first round of consultation letters

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

6.1 National Planning Policy Framework

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

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

TP24 Promotion of diversity of uses within 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
 TP33 Student accommodation
 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

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

Student Accommodation Supply and Demand Update (2022)
 Birmingham Parking SPD (2021)
 Birmingham Design Guide SPD 2022

7. Planning Considerations:

7.1. The main material considerations are:

- a) the principle of the development including location; need, impact on the local neighbourhood and residential amenity; scale, massing and architecture; and the proposed living environment.
- b) the impacts on Queensgate House and car park
- c) the impact on heritage assets.
- d) the sustainability credentials of the development.
- e) the impact on landscaping and biodiversity.
- f) the impact on drainage; and
- g) CIL/Planning Obligations.

Principle of Development

- 7.2 Policy GA1.1 sees the City Centre as the focus for residential activity, furthermore the focus for Westside and Ladywood is to creating a vibrant mixed-use area combining the visitor, cultural, commercial and residential offer into a dynamic well connected area. While the proposed use will not contribute to a mix of uses, the principle of student accommodation development in this location is supported by the BDP, subject to satisfying other relevant local plan policies below. Policy TP33 sets out the policy for student accommodation and sets out the criteria for assessment of off-campus PBSA which relate to need; location; impact on the local neighbourhood and residential amenity; scale, massing and architecture; and the resulting living environment.

- 7.3 A Birmingham Student Demand and Supply Report (CBRE - dated April 2022) has been submitted with the application and indicates that the proposed accommodation would be occupied by students from any of the following institutions:

University of Birmingham
Birmingham City University (City Centre)
Birmingham City University (South)

Aston University
University College Birmingham
Newman University

- 7.4 The applicants CBRE report estimates the existing demand at **16,800** bedspaces based on HESA data 2020/21. However, BCC's latest assessment of demand arising from the main city centres universities shows a current figure of **15,880** bedspaces. This difference was highlighted to the applicant, and they stated the reason for the reports arriving at different figures was because they have included different universities in the demand pool (when calculating the estimated demand). Discussions between the agent and the Planning and Growth Policy office were therefore had around which universities, accommodation needs and demand calculations.
- 7.5 It was agreed that despite arriving at the different figures above, the Student Needs Assessment estimated an unmet demand (including pipeline supply) of 3,224 bedspaces: arising from the 3 main city centre universities. BCC'S latest assessment (at Feb 2022) confirmed a figure of 2,060 bedspaces. Therefore, notwithstanding any corrections that need to be made to the submitted Student Needs Assessment, BCCs assessment confirms there is a level of unmet demand within the City Centre (2,060 bedspaces) which is in excess of current supply when comparing existing demand to existing available and consented supply.
- 7.6 It is considered the data provided shows that there is a demonstrated need for additional PBSA.

Location

- 7.7 There is no formal definition of 'very well located' in the context of policy TP33 however the Guidance Note on Student Accommodation Statements refer to a 15—20minute walk as a guide and is based on BDP policy TP45 Accessibility Standards for new development. This equates to approximately 1.5km.
- 7.8 The proposed development is a five-minute walk from New Street Station. The supporting Student Needs Assessment also states the site is located a short walk (within 0.5miles) of four universities and easy walking distances to other university campuses:
- 11 minute walk/5 minute cycle ride to Birmingham School of Art (3 Margaret Street)
 - 13 minute walk/6 minute cycle to University College Birmingham (Summer Row)
 - 17 minute walk/8 minute cycle to Aston University (Building 5 Aston Business School)
 - 22 minute walk / 8 minute cycle to Birmingham City University (City Centre Campus)
 - 24 minute walk/ 10 minute cycle to School of Jewellery (82-86 Vittoria Street)
 - 26 minute walk/10 minute cycle to the University of Law Birmingham

Image 8: A list of the walking and cycling travel times from the application site to nearby Universities

- 7.9 The above list indicates the site would be beyond a 20minute walk from BCU, School of Jewellery and University of Law Birmingham however it should be noted they are a short cycle ride and can also be accessed easily via bus, tram or train. In addition, the site is in very close proximity to Ulster and Roehampton University and is near to

services, shops, and facilities. Based on the above it is considered that the site to be a suitable location for PBSA.

Site security and management

- 7.10 A Student Management Plan, Security Strategy and Moving in/moving out strategy have been submitted that is submitted and reviewed by West Midlands Police who confirm no objections subject to lighting and CCTV conditions.

Design

- 7.11 Layout

The layout presents a development at the back of pavement with a recess entrance on Gough Street and further access from the front onto Suffolk Street Queensway. Windows are largely orientated sideways in a north and southerly direction. The proximity to the site adjacent (to the north) has been tested via a massing exercise which allows for a separation distance of between 12m (tower) and 20.5m (shoulder) which is comparable to similar relationships elsewhere across the City Centre. Furthermore, the footprint of the tower is somewhat alike other towers too.

- 7.12 With regards to amenity provision, 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 sui-generis shared residential use. Although the space provided falls short of the standards the proposed level of amenity would create several smaller spaces of variety that would enable different residents to have private space. Additionally, 1057.82m² of internal amenity space is being provided and there are several areas of green space in walking distance of the application site. Therefore, I considered the level of amenity proposed acceptable in this case.

Architecture and materiality

- 7.13 The proposed red/orange brick is very positive and a colour which falls in keeps with and respects the base material of City and surrounding heritage assets (including the synagogue and British School). The elements of stack bonding are also very welcomed. The verticality of the long elevations has been organised in way that reflects the linear windows of the adjoining Christadelphian Hall. The scheme also proposes linear modelling of the brick piers.
- 7.14 The design of the windows is generous and the contrast between the rhythm of the north and south elevations of the tower gables is positively interesting. The narrow profile of the tower includes a single thin slot window frame with alternating chamfered blocks of masonry, stepped out within the frame.
- 7.15 A double-height ground floor to Suffolk Street Queensway has been amended to be fully glazed, creating more visual interest at street level, natural surveillance and active frontage to Suffolk Street Queensway. Additionally, the east and west gable ends have been updated so that the projecting brickwork areas are not uniform, to provide further interest to the elevation. The soffits are presented in a matching brick so they read as a whole when one observes the building upwards and the ground floor is opened up with glazing and the internal piloto are now external and a strong feature of cylindrical concrete. The amendments area welcomed and secure a scheme of bespoke and exciting design.
- 7.16 To the top of the tower the crown/parapet is deep and appears to screen planting from view however there appears to be a space left vacant for future signing. Signing and lighting in this location would not be welcomed and should be resisted. As a result, suitable conditions are proposed to control this.

Scale, height and massing

- 7.17 With regards to scale, height and massing some of the sites in the immediate and surrounding area have obtained planning approval for developments of a similar scale, some of which are extant, and others implemented. To the north on Seven Street a 10-storey block has been built, this positions to the side of the neighbouring 1970s 7-storey commercial building (Queensgate House, 121 Suffolk Street) and establishes a base line in height here. The shoulder proposed as part of this application also reflects application 2015/05554/PA that was approved some time ago. Moreover, a number of other residential developments at this scale (and greater) such as 2015/05112/PA for a 12-storey block diagonally to the rear have been and are being implemented to the rear higher ground.
- 7.18 However in relation to the tower element, it can be said Bristol Street and Suffolk Street Queensway host a number of towers along this highway artery. This collection of taller structures creates a density of high-rise that cumulatively creates a character running up to Paradise, Centenary Square and Arena Central which includes taller buildings. City Design have reviewed the application and considers the height (of 29 storeys) is acceptable and is lower than a number of existing towers in close proximity.

Impact on the Townscape

- 7.19 In relation to Townscape, the City Design manager (CDM) considers the TVIA to follow an acceptable methodology and is sound. The CDM states it demonstrates that during operation of the proposed development the effects on townscape character are expected to be negligible adverse at national level, minor beneficial at a local level, to moderate beneficial on the site and its immediate context.
- 7.20 The Visual summary also states that during operation of the proposed development that the effects on visual amenity are expected to range between moderate adverse to negligible/none to minor beneficial. The City Design manager agrees with both findings.



Image 9: CGI view of the proposed tower from the west (from Severn Street)



Image 10: CGI view from the south west (Gough Street/Blucher Street)

Design Principle 19 – Tall Buildings

- 7.21 This proposed scheme features appropriate façade detailing, good quality materials, well designed and generous window openings, well-articulated elevations as well as many other appreciated architecture styles and modelling that would result in the delivery of an exciting and innovative building. Both the tower and shoulder would respond positively within its surrounding context and wider area as well as improve the quality. They would be located along this main highway route through to the City both enhancing the character and in keeping with the establishing density and according to the aims of Design Principle 19 of the Design SPD.
- 7.22 The proposed design is appropriate within the site context and complementary to its surroundings, the design is well proportioned and creative. It is bespoke and exciting and following amendments is considered high-quality design in accordance with Policy PG3 of the BDP and design principles 14 and 19 within the Design Guide SPD. Furthermore, the City Design officer supports the application subject to conditions.

Impact on residential amenity

- 7.23 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.
- 7.24 Adjacent the application site are three blocks in residential use, these being Kensington House to the south, Queensgate House 121 Suffolk Street to the north and Westside One and Two to the east. Letters of objection have been received from Queensgate House, Westside One and Westside Two for the reasons highlighted above (para 5.2) which are discussed in turn. Matters of daylight and sunlight are discussed in paragraphs 7.54 - 7.66. Photos of each building are provided at the end of the report (after the conditions). The image 11 below annotates their location and the application site.

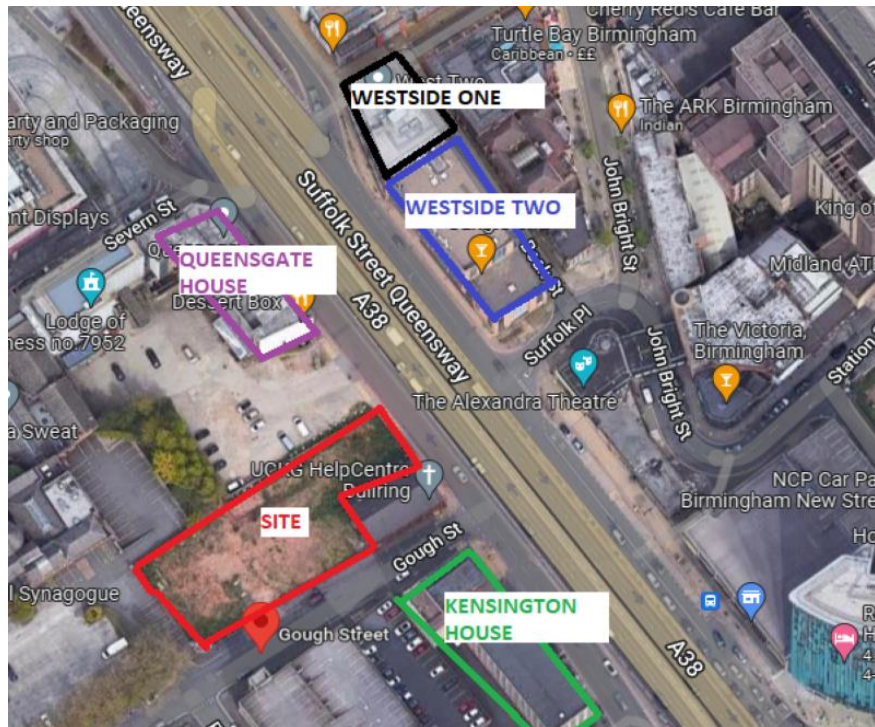


Image 11: A aerial view presenting the location of objecting addresses and application site.

- 7.25 **Kensington House (136 Suffolk Street)**
Kensington House is a 6 storey plus ground floor student residential block whereby its northern facing elevation would face onto the application site with a 10m separation between. Whilst this façade features windows along this gable end these are secondary windows at an acceptable distance, therefore loss of privacy and outlook would be very limited.
- 7.26 **Queensgate House (121 Suffolk Street)**
The adjacent Queensgate House, at its closest point positions 10m away from the proposed 29 storey tower. The gable ends to Queensgate House are mostly flanked walls albeit several secondary side facing windows that look onto the site, therefore impact on views and loss of light would be also limited.
- 7.27 **Westside One and Westside Two**
Westside One and Westside Two are located to the northeast of the site and are separated by the main public highway at approximately 35-57m. Whilst both of these premises feature front facing windows across their entire frontage, I consider the significant separation distance between the existing and proposed would offset any detrimental harm to outlook and loss of privacy.
- 7.28 **The numerical standards in the Design Guide SPD give a separation distance guide of 27.5m and 21m 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 for Queensgate House and Kensington House. 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.**

- 7.29 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 noise and amenity mitigating conditions during construction.
- 7.30 With regards to the increase in density in this location I consider the relationship between the building and street environment has been appropriately balanced. Therefore, notwithstanding the concerns raised it is viewed that the proposed, on balance, would provide an acceptable level of residential amenity for neighbouring residents in accordance with policy and guidance. In relation of daylight and sunlight impacts on the possible future development of adjacent sites, this is discussed in the paragraph 7.54.

Impacts on Queensgate House and car park

- 7.31 An objection has been made by the owner of the adjacent land. This presently comprises a vacant car park and Queensgate House both of which are to the immediate north of the site. Queensgate House has a prior approval consent for its residential conversion (2021/05487/PA) and the objection letter highlights concern with daylight/sunlight impacts and contends that the proposed PBSA scheme will prejudice future development at the Queensgate House (121 Suffolk Street) and its car park.
- 7.32 The effect of a proposed development upon an adjacent site which could otherwise be developed in a different way is capable of being a material consideration for members to consider. If such an effect is considered to be material, then as with all material considerations the weight to be afforded such a concern is for the decision maker.
- 7.33 In this case, members should note that not only have the owners of the adjacent objected on the basis that this proposal will restrict the prospects of developing the adjacent site, but very recently they have submitted a full planning application seeking residential development upon the adjacent site. The scheme seeks planning approval for residential development in the form of a 11 and 15 storey block, a close distance (shortest being approximately 3-4metres) from the site boundary. By means of impact on one another the effect of the grant of Planning Permission for either scheme (the proposed scheme on the application site under consideration and the recently submitted scheme) would mean that the other would not be acceptable (see images 12 - 15 and paragraphs 7.41 – 7.46); to that extent the two schemes are direct alternatives to each other. It is therefore considered that the comparative land use implications of the recently submitted scheme are material considerations to the scheme under consideration in this report. That said, the two schemes are obviously at a different stage in the planning process whereby many of the consultation responses have only recently been received (reply date 10th November) therefore in respect of the recent application the following assessment is based upon the information available to officers at the time of writing.
- 7.34 Members should also bear in mind therefore that the comparative benefits/impacts of one scheme become relevant to the determination and are presented in paragraph 7.47 - 7.50 of the report. However, with regards to the letter of objection, the points raised are addressed below.
- 7.35 **Impact on amenity of the existing Queensgate House Prior Approval Scheme**
In response to the daylight/sunlight concern the applicant recently updated its Daylight and Sunlight assessment to include consideration for the prior approval consent. The report found there to be no unacceptable adverse impacts on daylight/sunlight and stated the below:

- 7.36 'in respect of the committed scheme at 121 Suffolk Street Queensway, Queensgate Business Centre (planning ref: 2021/05487/PA), the results of both daylight assessments and the sunlight assessment record full BRE compliance (100%), commensurate with the BRE's permissible 20% change from former value.'
- 7.37 Additionally, the building consented for residential conversion (Queensgate House), positions (at its closest point) 10m away whereby its flank elevation being the nearest. There are windows to the rear of the QH building, yet views between it and the proposed PBSA scheme would be indirect and at a greater distance. At its southern side the QH building features several windows however these are secondary and set back a further distance therefore harm by means of impact on views, loss of light and privacy would not be at an unacceptable level.
- 7.38 **Prejudicing future development of adjacent land**
In response to an objection from the owners of the neighbouring site alleging that this proposal may have the effect of prejudicing future development at Queensgate House and its car park, the applicant of the PBSA scheme explored the potential for development at Queensgate House car park with the proposed development in situ. That massing exercise presented indicative drawings that show what could potentially be delivered (on site) using a separation distance of 12metres between the building frontages. The indicative drawings showed there is opportunity to create an extended frontage to Queensgate House, along with a rear wing. They show a continuation of the scale at Queensgate House and state there is potential for an additional quantum of development comprising of a new building extending to 14,736m²; arranged over ground floor plus mezzanine and 7 upper floors, tying into the height of the existing residential planning approval for Queensgate House (2021/05487/PA). This demonstrates that the effect of the grant of permission would not be to sterilise the development of the adjacent site, even if it were to put limits upon its potential development.
- 7.39 The exercise also stated further developmental floor space could be secured should the site be redeveloped to include the demolition of the existing Queensgate House.
- 7.40 In July (this year) a pre-application (from the adjoining landowner) was submitted seeking planning advice for development at Queensgate House car park - development closer in position and significantly taller in height than that of the massing exercise. The LPA considered the proposal and by means of design, townscape massing and proximity to the PBSA site the LPA did not look upon the scheme favourably. This has now been followed by the submission of a planning application (discussed below).
- 7.41 **Consideration of the PBSA scheme and the Queensgate House residential full planning application**
Although the recently submitted planning application (10th October) is at an early stage and with some consultee responses recently available (by reason of timing) this report will nonetheless seek to assess the effects of the proposed PBSA scheme upon the ability of the adjacent site (Queensgate car park); to be developed for a 15 storey and 11 storey block without a significant standoff as presented in the application plans (2022/07620/PA). The next five paragraphs consider whether or not the two schemes are incompatible and whether the grant of planning permission of the PBSA scheme would constrain the extent of development on the adjacent Queensgate site. Below are five images taken from the Queensgate planning application pack.



Image 12: Queensgate House Car Park – application red line site boundary



Image 13: Site layout of adjacent Queensgate House application showing the 11-storey block to the left (west) and the 15-storey to the right (east) and north of the PBSA site.

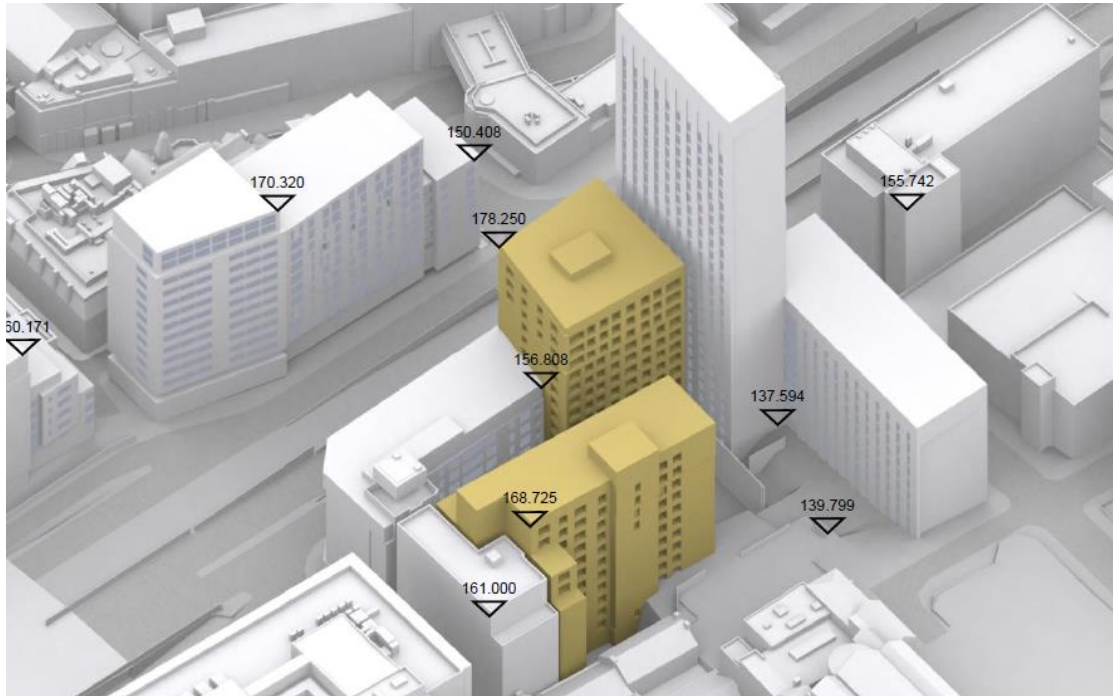


Image 14: Isometric views/images of the Queensgate House application site in isolation (top left) and its proximity to the PBSA boundary (right and bottom).

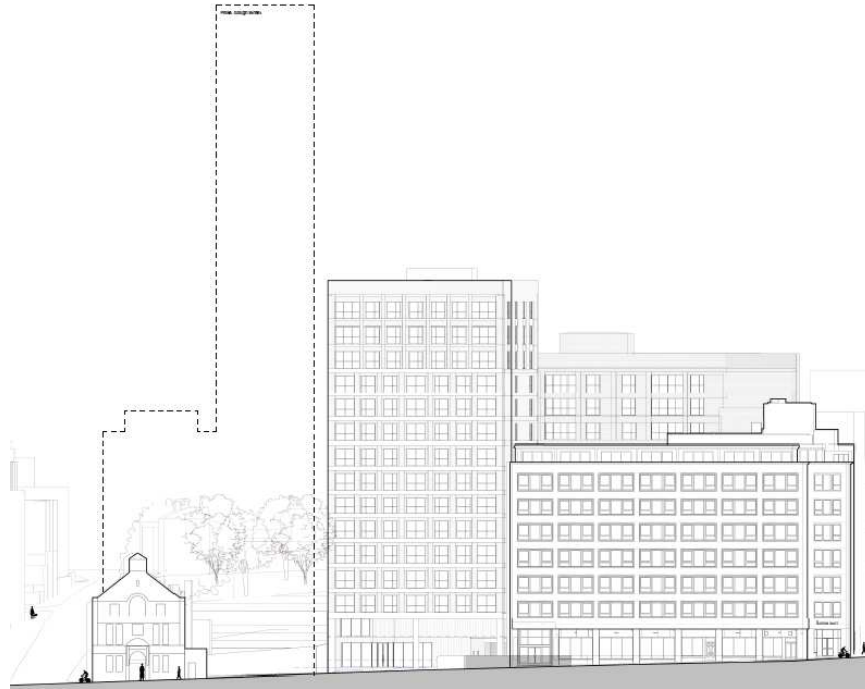


Image 15: PBSA tower in dash lines, residential 15 storey block and 11 storey block (left to right).

7.42 Impact on amenity

By means of appraising the application with its technical documents, a 15-storey building located approximately 3-4m from the proposed PBSA tower would give rise to unacceptable levels of outlook and light to the shown primary side facing windows that would result in an unacceptable standard of living. Furthermore, development on the residential scheme would not only negatively impact on the PBSA scheme but could potentially harm the quality of life for future occupiers of the permitted residential scheme (prior approval consent) for similar reasons.

7.43 Impact on townscape

With regards to design, a 15-storey and 11 storey block to the rear of an existing 7 storey building (QH) in such proximity would appear incongruous and would have a negative impact on townscape in both the immediate and surrounding context. These buildings immediately next to one another would be out of scale and proportion with the surroundings and uncharacteristic in this part of the City Centre.

7.44 Impact on heritage

These buildings in such proximity would bring an even larger scale of development into the wider settings of the close by heritage buildings. It is likely to visually intrude further on a number of views and potentially increase the extent of harm identified when compared to the PBSA in isolation.

7.45 Overall

The above is useful and makes clear that if the PBSA scheme were to be approved it would indeed inhibit some residential development on the adjacent site by reason of its close proximity. Therefore, it would be unlikely for the two schemes to acceptably receive planning approval due to the need for creating adequate standoff, daylight/sunlight impact and high-quality design. If consented, the PBSA application would subsequently reduce the level of residential development being sought in such close proximity.

- 7.46 In summary the proposed PBSA application is inconsistent with the recently submitted application, and taken together with the massing exercise discussed above, the grant of permission in this case will undoubtedly limit the extent of development that could be achieved upon the adjacent car park. Accordingly, if this application is approved and the owners of the adjacent site wished to bring forward development then alternative ways of developing the car park area of land would have to be considered by means of a revised scheme. As a result, it is fundamental to note that the application scheme will have an inhibiting effect upon the development immediately alongside it, and that this inhibiting effect is a material consideration in the determination of the PBSA application; and it is for members to give appropriate weight to this material consideration in the overall planning balance.

Comparative exercise: PBSA vs Queensgate Car Park residential proposal

- 7.47 Given that the application site and the land adjacent to it comprise two possible locations for a tall tower and two buildings of several storeys, albeit at different stages in the planning process, it is considered useful to consider at a high level the comparative position between the two locations; mindful that one involves a fully worked up scheme and the other is at a much earlier stage in the planning process. This is not intended to be a comprehensive list of all material considerations, but consideration of the principal ones; members are referred to both application files should they want more detail. In the planning balance the merits for the proposal can nonetheless be usefully compared. Below presents the merits and demerits of each scheme. Please note the assessment is necessarily limited in detail, without the availability of all consultee responses, further reports, or amendments therefore the comparison is somewhat high level.

7.48 PBSA

Merits

- Deliverable scheme – funding is understood to be currently available subject to determination
- Able to demonstrate public benefits to weigh against the less than substantial harm to heritage assets
- Meets an existing significant student need
- Good design
- High density/efficient use of land in a sustainable location
- CIL contribution of £1,479,011.49
- The design is equivalent to a 47% improvement when compared to Part L Building targets.

Demerits

Heritage Harm

- Low-to-moderate degree of less than substantial harm to the grade II* Singers Hall Synagogue
- Low degree of less than substantial harm to the grade II Former British School, the grade II listed Caretaker's House for Birmingham Athletic Institute and the grade II listed Athol Masonic Building
- Minor harm to the locally listed Christadelphian Hall

7.49 Queensgate House Car Park

Merits

- Loss of existing surface level car park

- Scheme will aid regeneration of a sustainable brownfield site as well as reduce reliance on the car in line with the carbon zero aspirations/planning policy guidance
- Potential to provide much needed housing (159 units) and contribute to the 5yhl
- Provision of 55 (35%) affordable homes
- CIL charge equates to £689,333.84
- Seeks to provide a mix of bedroom size units to include 3 bed units – however revisions to the mix would be sought.
- Makes efficient use of a brownfield site in a sustainable location
- The design is approximately equivalent to a 31% improvement over Part L Building targets.
- The deep reveals of building A are welcomed

Demerits

Daylight and Sunlight Impacts

-Queensgate House (recently converted to residential) – The vertical Sky Component (VSC) results indicate that all of the 48 windows considered will experience a high reduction beyond the BRE guidelines. The NSL results indicate that all 48 rooms considered will experience a high reduction beyond the BRE guidelines.

-Of the 48 windows considered within Queensgate House 2 (4%) will satisfy the BRE guidelines with the remaining 46 experiencing a high reduction beyond the BRE guidelines. Due to the relationship between this building and the development site it is inevitable that a high reduction in sunlight will occur, however of the 46 rooms that fall below the suggested BRE benchmark, 31 will retain Annual Probable Sunlight Hours APSH levels of at least 10%.

-Block B positions approximately 18m from the rear of Queensgate House and proposes several primary windows within its eastern elevation, these windows will face directly opposite existing primary habitable (bedroom) windows (on several floors). This layout could adversely impact on the standard of residential living for existing and future residents by loss of outlook or privacy.

-Seeks to provide a high percentage of 1 bed units (44%) that is not wholly reflective of the current need in the City Centre (where an oversupply of 1 bed units has been identified in the HEDNA)

The City Design Officer has responded to the planning application consultation response and in summary states the following:

-Block A is unflattering in its proportions adjacent to the Queensgate House, contributing little to the character of the style of development developing along Suffolk Street Queensway.

-Neither Block A or B bring anything new or fresh to this very public and highly visible location. The simple generic, gridded, orthogonal elevations are a solution seen time and time again and speak nothing of location, context, or identity.

-The deep reveals of building A are welcomed, but the double step in the brickwork is something being retracted from buildings across the city as it is too difficult to deliver.

Heritage Harm

The submitted Heritage Impact Assessment concludes no harm to any of the assets assessed. BCC's Conservation Officer has responded to the planning application consultation and in summary states:

The application is not supported by a TVIA or any visual analysis so it is difficult for us to conclude whether there will be any actual harmful impacts on the setting of the identified assets. We can presume that a TVIA or any particular heritage views have not been provided as at 15-storeys the building is not classed as a tall building, but it may be something that the planning case officer feels can reasonably be asked of the applicant. Without this evidence base I can only really use the visual evidence as submitted for the Vita scheme as a guide and based on this I would assess the impacts as followings:

Impact on Singer's Hill Synagogue- grade II* listed

It is unlikely that the development would be visible in any significant views of the principal elevation of the building and if this is the case then no harm would be concluded. The development would be visible in views of the south-eastern side elevation of the building (identified as being of some significance), however within these views the development would be read in the context of similarly scaled buildings to the east side of the Queensway and the impact is likely to be negligible/neutral. If it is proven that the development is apparent in any significant views of the principal elevation, then potentially there could be some harm but this would likely be at the lower end of less than substantial.

Impact on the former British School- grade II listed

The development would introduce a large-scale building into the immediate visual setting of the building and would bring much larger development closer to the building and its significant elevations. The development would likely cause a distraction to the appreciation and experience of the listed building but would also be read in the context of the existing setting of an adopted large scale. Taking account of the low harm concluded to this asset by the Vita tower then I would say the harm here would be less and at the very lowest end of less than substantial.

Impact on Masonic Hall and Caretaker's House (86 Severn Street)- grade II listed

I do not think that the development would be visible in any important or significant views of these buildings and therefore no harm is concluded.

Christadelphian Hall- locally listed

For the Christadelphian Hall I would say for the same reasons given on the Vita Scheme some minor harm would be caused to its setting through bringing much larger development closer to the building and competing for prominence in views. The proposed development would detract from existing views of the Hall, looking in both directions along the Queensway, and from Suffolk Place. Should the Vita scheme be built this harm would be removed.

These conclusions are a bit of guess work tied in with some level of professional judgement, but I think if we want to accurately understand if the development will be visible, and potentially harmful, in the absence of a TVIA or any specific heritage views then it may be necessary for the scheme to be modelled in the city model and tested to confirm if it does intrude into any views.

Recommendation

- 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 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. However, it is recommended that the scheme be modelled in the city model as evidence for this if we are to fully conclude a 'no harm' position for these assets.

Recent Consultation Responses

Employment Access Team – no objections subject to condition requiring construction employment plan

Trees – it appears the only tree here are a small group of rather attenuate spindly birch trees. Refer to policy DM4.

Birmingham Civic Society – supports the application and states appropriate mitigation for noise pollution is necessary as the proposed fronts the A38, considers the scheme exhibits a high standard of design.

Severn Trent Water – no objection subject to conditions requiring disposal of foul and surface water flow drainage plans and informative to make contact with STW/submit a Development Enquiry for this development site.

West Midlands Police - seeks clarification regarding:

- sufficient highway space for moving in
- questions if anything will be in place to prevent units being sub-let (i.e. Airbnb)
- asks what hours the concierge would work/whether the building would be staffed 24/7
- will there be CCTV
- is there a lighting plan

No objections and recommends several security measures

City Design and Landscape – as above para 7.49

Conservation - as above para 7.49

Archaeology - I would agree with the conclusions of the submitted archaeological desk-based assessment that the potential for significant archaeological remains on the site is low. I do not think there is any need for any further archaeological work. No objections.

Transportation - no objections subject to minor alterations and conditions

- 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.

- I recommend the area for vehicle access is defined by studs or similar so maintains a suitable space for pedestrians across this forecourt.
- Signage required to advise drivers the egress is left out only.
- Cycle parking, refuse stores and forecourt access areas with associated highway works are provided before the development is occupied.
- A construction management plan is provided before any works commence on site.
- Advisory the highway works need to be progressed with a suitable Highway agreement, likely a s278 agreement, o reinstate redundant footway crossings and provision of new with any associated footway improvements.

Detail;

The site is a public car park that is privately operated. It benefits from vehicle access points from the upper levels of Suffolk Street Queensway which is two lanes one-way in operation towards Paradise Circus and subject to a TRO with double red lines that prevents any loading and waiting. Previous consents have now lapsed that permitted a hotel that had a basement car park. The BCC Parking SPD Nov 2021 altered to state zero car parking is required in the City centre so this aspect is now met in this proposal. It provides 164 cycle parking spaces including room for larger bikes and so provides over 100% cycle parking provision in secure stores, and another 16 in the public realm area.

This development will be a highway improvement by removing the associated car parking vehicle trips and is located in the City centre so accessible by all modes.

The forecourt area is provided with an ingress and egress lane to provide vehicle access. Tracking plans confirm this is possible by a refuse vehicle and fire tender, and up to three private cars could wait in the space clear of the public footway.

West Midlands Fire Service – makes a number of recommendations

Health and Safety Executive (Padhi) – the proposed site does not lie within the consultation distance of a major accident hazard pipeline, no objections.

Ecologist - no comments yet

Historic England - no comments yet and have requested more time by reason of staff shortage

Victorian Society – no comments yet

Planning and Growth Strategy - no comments yet

Health and Safety Executive (Fire Safety) - no comments yet

Leisure Services – no comments yet

Local Lead Flood Authority – no comments yet

Third Parties

8 neighbours have submitted comments, 1 letter of objection and 7 letters of support received for the following reasons:

Objecting comment

According to the light report this building should not be built as they will cause a high reduction of sunlight beyond BRE guidelines to Queensgate Building

Supporting comments

-We need more homes and urge Birmingham Council to support building homes. They urge the Council to approve plans for the land adjacent to Queensgate House Suffolk Street Queensway Birmingham 2022/07620/PA.

-Important to have affordable housing for people, people shouldn't have to struggle in the local area.

-A lot of people are in need for a better living environment/better place to live.

7.50 **Conclusion**

The merits and demerits of both schemes shows how one application is ready for determination yet the other being at an earlier stage in the planning process, requiring further assessments and consideration. Members should have regard to the fact that if permission is granted in respect of this scheme that it will undoubtedly inhibit the delivery of the scheme on the adjacent land. Having considered the comparative merits of the two, it is not considered that the recently submitted scheme offers any significant advantage over the scheme which is presently before members.

- 7.51 Although the proposed scheme will constrain the delivery of development on the adjacent Queensgate House car park it would see the delivery of a high quality, well-designed scheme. It would see the re-use of a vacant site and regeneration in a sustainable location that would provide an acceptable level of residential amenity for neighbouring residents in accordance with policy and guidance. Whilst the proposal would cause minor and low to moderate levels of less than substantial harm of the nearby listed buildings, this harm is outweighed by the public benefits of the scheme. There are no technical objections to the proposal in relation to ecology, drainage, amenity, or transportation, subject to conditions, therefore on balance the proposed scheme, before members is to be preferred.

Microclimate

- 7.52 In support of the application the agent has provided a Wind Microclimate study, Daylight, Sunlight and overshadowing assessment.

Wind

- 7.53 A wind microclimate assessment has been carried out to support the proposals at Gough Street. The study employed computational modelling (CFD) to predict the strength of wind speeds as a result of the development and on the roof terrace of the development itself. The study concluded that with the introduction of the proposed development, wind conditions within the site and immediate surroundings remain suitable for all proposed and existing pedestrian uses including during the worst-case scenarios as shown on page 18 of the report. Furthermore, the introduction of cumulative schemes on the surroundings would not materially impact wind conditions, which remain suitable for all users. The report confirms no mitigation is required.

Daylight, Sunlight and Overshadowing

- 7.54 A Daylight and Sunlight study has been undertaken to assess the impact of the development at neighbouring properties and concludes that the proposed development complies with the 2022 Building Research Establishment (BRE) numerical guidelines. An updated Daylight/Sunlight and Overshadowing Assessment was further submitted in August 2022 following a letter of objection concerning the impact of the proposed on the forthcoming residential conversion of Queensgate House (as approved under ref: 2021/05487/PA). The updated Daylight/Sunlight and Overshadowing Assessment considered the approval at Queensgate House (ref: 2021/05487/PA).

- 7.55 The extent of the scope of the review was determined by considering which

neighbouring properties were likely to experience a change in light because of the implementation of the proposed development. The scope zone (sites within the pink line) is presented below. The orange infill indicates the application site.



7.56 The assessment states that the properties listed below are registered with a residential usage or include a residential component which in turn could experience a change in light because of the implementation of the proposed scheme, these being:

- Kensington House, 136 Suffolk Street Queensway
- Westside Two
- 121 Suffolk Street Queensway House, Queensgate Business Centre (consented)

The report recognised that the application site benefitted from consent for a hotel scheme and as such considered an additional baseline condition for which any change in light as a result of the proposal would cause no significant adverse effects on daylight/sunlight. However, being as though the consent for a hotel has lapsed the consideration for the baseline condition is irrelevant.

7.57 Nevertheless the true existing baseline measured against the proposed development demonstrated a good level of retained daylight and sunlight values. The proposed development related well with neighbouring residential buildings, with transgressions nonetheless recording good, retained daylight and sunlight values.

7.58 The Vertical Sky Component (VSC) results show that 201 out of 251 windows (of the above addresses) (80%) will meet the strict application of the BRE Guidelines. The No Skyline (NSL) results recorded full BRE compliance (100%), commensurate with the BRE's permissible 20% from former value. In terms of sunlight, the technical results show that 185 out of 193 rooms (96%) will meet the strict application of the BRE Guidelines. The majority of transgressions record low existing levels of sunlight and thus a slight change in outlook is likely to trigger a disproportionate change in light. As a result, neighbouring amenity will not be unacceptably impacted because of the scheme in terms of daylight and sunlight.

7.59 It is noted several objections have been received from residents at Westside One. Having forwarded these objections on the consultant confirms the technical assessment did not include Westside One as the building faces away (at some distance) from the site and would be unaffected by the proposed scheme.

7.60 With regards to Westside Two the Vertical Sky Component (VSC) shows that 130 out of 135 windows (96%) will continue to meet BRE guidelines. In the image below the green windows shows BRE compliance.

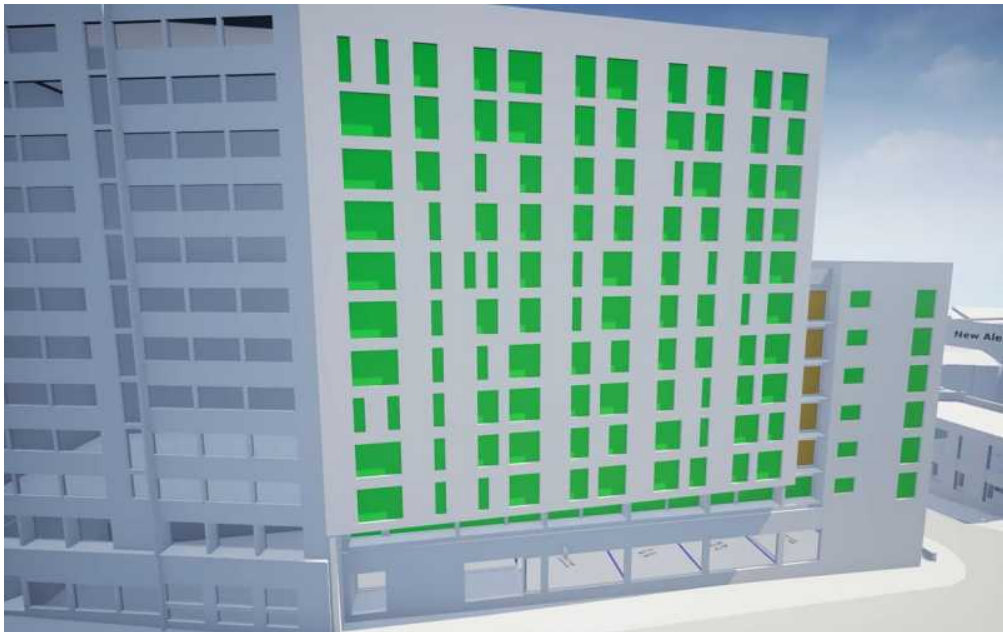


Image 16: Daylight and sunlight results at Westside Two

- 7.61 The few windows that do not meet BRE are shown in amber in the above image. The reason for not meeting BRE is due to the overhang and set back nature of the windows serving these rooms and due to blinkering restricts the existing flow of light. Therefore, any changes trigger a disproportionate percentage change.
- 7.62 With regards to No-Sky Line (NSL) at Westside Two the results show full BRE compliance, commensurate with the BRE's permissible 20% from former value.
- 7.63 And in terms of sunlight the technical results show that 130 out of 131 rooms (99%) will meet the BRE Guidelines – as indicated below.



Image 17: Daylight and Sunlight results at Westside Two

- 7.64 Overall, at Westside Two the daylight and sunlight position are considered excellent and well within the intentions and application of BRE Guidelines.

- 7.65 There are several objections relating to the potential of the proposed scheme causing a significant blockage of light. The way in which overshadowing is measured is through the 2 Hour-In Sun methodology as outlined in the BRE Guidelines. The Daylight/Sunlight and Overshadowing Assessment seeks to establish whether (as a result of a proposed scheme) existing and proposed amenity areas (parks, backyards etc) will have 2 hours of sun to at least 50% of the test area. When considering the proposed scheme, it was noted that there are no such areas local for assessment and was therefore excluded from the scope. As such, the proposed scheme will not overshadow any area as defined as worthy of assessment by the BRE.
- 7.66 In summary, the proposed development will relate well with the neighbouring residential buildings, with transgressions recording good, retained daylight and sunlight values or which do not breach the permissible 20% from former value by virtue of low existing levels of light. The overall effect therefore is the impact upon existing and consented residential development within the study area is not unacceptable. The proposed is therefore compliant with Policies PG3, TP27 of the BDP and principles set out in the Design Guide SPD.

Conservation

- 7.67 There are no designated or non-designated heritage assets within the application site. However, a number of designated heritage assets sit close by and in the wider site area and 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)).
- 7.68 NPPF paragraph 199 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). Caselaw additionally establishes that very considerable weight should be attached to any effect upon the significance of a designated heritage asset and that there should be a presumption against any such adverse effects. Where any such effect arises and is unavoidable then it must be weighed against the public benefits of such a proposal with considerable weight being given to such adverse effects in such balance.
- 7.69 Paragraph 200 of the NPPF states that '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' and '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. 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. Great weight should be afforded to the conservation of designated assets.
- 7.70 In paragraph 203, NPPF states that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect 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'.
- 7.71 Paragraph 206 of the NPPF further states 'local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting

that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably’.

- 7.72 Policy TP12 requires proposals for new development affecting a designated or non-designated heritage asset to be determined in accordance with national policy.

- 7.73 The application is accompanied by a Heritage Statement (Adapt Heritage, May 2022) which assesses the significance and setting of the five identified heritage assets closest to the development and the impact of this proposal on this significance.

Singers Hill Synagogue- grade II*

Former British School- grade II listed

Caretakers House for Birmingham Athletic Institute at No. 82 Severn Street- grade II listed

Athol Masonic Hall- grade II listed

Christadelphian Hall- locally listed

- 7.74 Historic England (HE) have been consulted on the application and have reviewed the submitted Heritage Statement and confirm they have concerns regarding the application on heritage grounds. Historic England state the Heritage Statement and visual impact assessment of the proposals indicate that the development will be particularly prominent in selected views from John Bright Street and Holloway Circus and will be a dominant feature within kinetic views along Commercial Street, Severn Street and Blucher Street. Historic England also state that due to its height, the proposed development will also appear as an incongruous and intrusive element within the central view of the principal elevation and entrance of the Singers Hill Synagogue, as seen from Blucher Street (Appendix 6, Fig A6.6) (see image 17).

- 7.75 Comments from Historic England further state that although there are other tall buildings in the vicinity of the site, as demonstrated by the visual modelling provided by the applicant, at the present time none of these appear in this key view of the synagogue, which is presently undisturbed by modern development. HE state Paragraph 5.24 of the submitted Heritage Statement confirms that the proposed development will be visible above the roofline of the synagogue, disrupting the silhouette of the building and competing with its ‘prominence and overall architectural composition’.

- 7.76 HE considers the proposed development will appear in key views that are fundamental to the appreciation of the architectural form and symmetry of the principal elevation of the Grade II* Singers Hill Synagogue and will cause harm to the significance of this important heritage asset. It is also their view that the new development is likely to dominate and over-shadow the adjacent Locally listed Christadelphian Hall, resulting in a less than substantial level of harm to this heritage asset.

- 7.77 In addition, the Victorian Society has reviewed the application and consider it unacceptable. They state the tower will completely overpower the adjacent historic buildings dating from our period of interest, and particularly the locally listed former Christadelphian Hall as its immediate neighbour, as well as the grade II* listed Singers Hill Synagogue. The Victorian Society considers the scheme will have a negative impact on the character and appearance of the adjacent grade II* listed, grade II listed and locally listed buildings, with significant harm to their settings. The Victorian Society consider this to be unacceptable, and particularly if this application is considered alongside other proposals for tall buildings nearby in the Suffolk Street and Bristol Street area of the city. In their view a scheme of more modest scale should be considered for this site in Gough Street and Suffolk Street, and one which remains within the parameters of the scale of the previously consented hotel development at 11 storeys.

- 7.78 The submitted Heritage Statement assessed the significance and setting of the five identified heritage assets listed above and the impact of this proposal on their significance. The BCC conservation officer has considered this assessment and provides views on each of the assets below.

Singers Hill Synagogue- grade II*

- 7.79 The effect on the relatively undisturbed roofline and silhouette on this view is considered to cause a degree of harm to its significance. Taking into consideration the significance of the building as a whole and those positive aspects of setting which will remain, it is concluded that the level of harm would be 'less than substantial harm' and Paragraph 202 of the NPPF is therefore engaged.
- 7.80 There will be no impacts on the high quality and elaborate interior of the listed building, nor will it affect the group value with other listed buildings in the area. Furthermore, the mass of the proposals closest to the listed building has been reduced when compared to previously approved scheme.
- 7.81 The BCC Conservation officer agrees with the position reached in the Heritage Statement that some harm will be caused to the significance of the Synagogue through development in its setting. It is said the harm arises from the proposed tower which would loom large above the Synagogue, breaking the roof form and impeding on the overall appreciation of the architectural form of this grade II* listed building (see image below).



Image 18: View from Blucher Street

- 7.82 The harm would be 'less than substantial' and based on a compromised ability to appreciate, understand and experience this highly graded heritage asset, the conservation officer places the harm at the low to moderate level of the 'less than substantial' bracket.

Former British School- grade II listed

- 7.83 The Former British Schools complex is located along Severn Street to its northwest and sits within a relatively well enclosed and defined setting which is characterised by both modern and traditional buildings. The complex includes buildings fronting the pavement line of Severn Street and also an earlier block setback behind the site of the original playground. It is enclosed to the west by modern development and a mix of traditional development (Mid-20th century garage and Atholic Masonic Building) with taller modern development beyond. To the south is the Singers Hill Synagogue.

7.84 The building complex is largely experienced from Severn Street where its original use and function as a school remains appreciable, with its former playground and later additions. The original building and its later extensions are principally experienced from the east of the street, facing west due to their position and phasing. In these views along Severn Street, the complex sits in the foreground to the wider cityscape of Birmingham with various tall buildings visible above and alongside the listed building. Due to the tight urban grain and topography of the area, there are no other areas in which to experience the listed building.

7.85 Caretakers House for Birmingham Athletic Institute at No. 82 Severn Street- grade II listed

The building is located along Severn Street to its north west and sits within a relatively well enclosed and defined setting which is characterised by both modern and traditional buildings. It is flanked by a 19th century extension to the Former British Schools complex (to the east and rear) and a modern residential development to the west and south. To the north is the Mailbox development. The building is primarily experienced from various points along Severn Street where its original use and function as a residential terraced house remains legible, alongside its later role as part of the Former British Schools complex. Due to the tight urban grain and topography of the area, there are no other areas in which to experience the listed building.

7.86 Former British School -grade II listed and Caretakers House for Birmingham Athletic Institute at No. 82 Severn Street- grade II listed - impact

The Conservation officer does not fully agree with the position of the submitted Heritage Statement in relation to these two listed buildings (named above). The Statement itself notes that the setting of the complex is characterised by a mix of modern and traditional development but that their immediate setting to Severn Street consists of lower scale buildings of traditional materials and form. Whilst it is acknowledged that a number of larger, modern buildings, including some towers, exist in the wider city centre setting of these buildings, and are indeed visible within their context, this development would introduce a much larger scale much closer to these buildings (Viewpoint below).

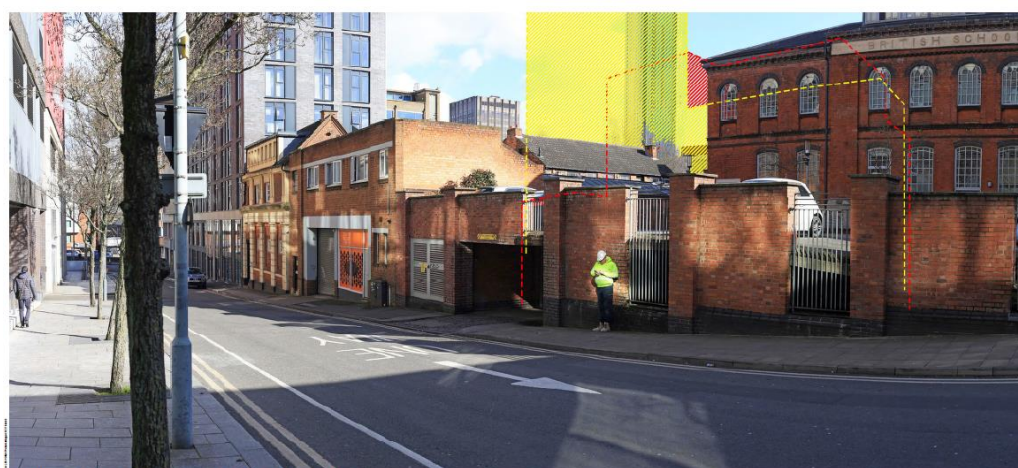


Image 19: View from Severn Street (to the west)

7.87 The Statement references the PPG and the guidance which states that it is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed, but guidance cannot outweigh the requirements of primary legislation which seeks to preserve the setting of listed buildings. The site as exists is not considered to contribute to the significance of the buildings but nor does it harm, therefore being neutral. To introduce a building of this scale into this location is not

considered to preserve the setting to a degree that the tower would not challenge and compete with these more modest historic buildings and diminish an appreciation and understanding of their importance therefore causing harm.

- 7.88 The application site is in direct views of the buildings and the proposed development will be a direct new visual element within the visual setting. The tower will become a visually dominant element although will not interrupt direct views currently had of the listed buildings. Taking account of the fact that the buildings are within the context of both existing and emerging modern and tall buildings and that throughout the late 20th century new buildings have substantially altered their setting, the impact upon significance is concluded by the conservation officer to be minor and at the lower end of 'less than substantial' in Framework terms.

Athol Masonic Hall- grade II listed

- 7.89 At the other end of Severn Street is the Athol Masonic Building which is an early example of a synagogue in Birmingham, dating from 1827. The significance of the building is largely attributed to its surviving interior. Its setting is predominantly characterised by a large modern building to its east and lower scale buildings (associated with the British Schools) to the west. As with other listed buildings on the street, the setting of the Athol Masonic Building is characterised by tall buildings.
- 7.90 BCC's conservation officer does not fully agree with the position of the Heritage Statement in relation to this listed building. The Statement itself notes that the setting of the building is characterised by a mix of large modern buildings, lower-scale traditional buildings and tall buildings. Whilst it is acknowledged that a number of larger, modern buildings, including some towers, exist in the wider city centre setting of this building, and are visible in its context from various vantage points along Severn Street, none of these buildings are readily visible in views of the principal elevation of the building. Although not evidenced by any viewpoint in the TVIA, the officer is not convinced that a tower of this scale would not appear dominant in the backdrop of this building, visually competing with its architectural form. The site as exists is not considered to contribute to the significance of the buildings but nor does it harm, therefore being neutral. To introduce a building of this scale into this location is not considered to preserve the setting to a degree that the tower would not challenge and compete with this more modest historic buildings and diminish an appreciation and understanding of its importance.

- 7.91 The application site is in direct views of the building and the proposed development will be a direct new visual element within the visual setting. The tower will become a visually dominant element in the setting of the building, although it is not clear whether or not it will interrupt direct views currently had of the listed building.
- 7.92 Taking account of the fact that the building is within the context of both existing and emerging modern and tall buildings and that throughout the late 20th century new buildings have substantially altered its setting, the impact upon significance is concluded to be to be minor and at the lower end of 'less than substantial' in Framework terms.

Christadelphian Hall- locally listed

- 7.93 The Christadelphian Hall which is a small place of worship from the early 20th century on a relatively prominent position between Suffolk Street Queensway and Gough Street. The proposed development involves introducing a 28-storey building adjacent to the locally listed building which will help reinstate part of the former tight urban grain of the area. As previously stated, PPG is clear that it is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed.

7.94 Our Conservation officer does not fully agree with the concluding position of the Heritage Statement in relation to the impact on this locally listed building. The Statement itself notes that the proposed development involves introducing a 29 storey tower building adjacent to the locally listed building which is significantly taller. The document considers that whilst visible the new tower is not considered to diminish the significance of the locally listed building which will continue to comprise a prominent building within this part of Birmingham.

7.95 The site as exists is not considered to contribute to the significance of the buildings but nor does it harm, therefore being neutral. Whilst it is acknowledged that a number of larger, modern buildings, including some towers, exist in the wider city centre setting of this building, and are visible in its context from various vantage points, none of these buildings sit adjacent to or are as dominant in principal views of the building as this tower would be. The building has an altered setting but is well represented in views along Suffolk Street Queensway, although in the medium and longer distance views these tend to be screened off by intervening built form. Viewpoints 8 and 12 of the TVIA (below) demonstrates the impact of such a large building next to the locally listed building where it brings the larger scale much closer, appears dominant and visually competes for prominence with this modest heritage asset.



Image 20: View from Suffolk Place (from the north)



Image 21: View from Bristol Street (from the southeast)

7.96 The officer agrees with the Heritage Statement that some aspects of significance will be sustained, but to introduce a building of this scale into this location is considered to challenge and compete with the asset's current prominence. This would, in the officer's

opinion, diminish an appreciation and understanding of its heritage importance causing a degree of harm.

- 7.97 The application site is in direct views of the building and the proposed development will be a direct new visual element within the visual setting. The tower will become a visually dominant element and will interrupt some direct views currently had of the building. Taking account of the fact that the building is within the context of both existing and emerging modern and tall buildings and that throughout the late 20th century new buildings have substantially altered its setting, the impact upon significance is concluded to be minor harm to a non-designated heritage asset in Framework terms.

Other Heritage Assets

- 7.98 The Heritage Statement identifies from a study area of 500m based on a ZTV that there are 55 further heritage assets which could potentially be impacted by the proposed development. Following subsequent field-based exercise a number of these heritage assets were scoped out for further assessment due to:

- the nature and extent of their significance (including visual, functional or historic connections);
- the orientation of view and the way in which a heritage asset is experienced, and the contribution made by setting; and/or
- the current city centre context that characterises their setting and in which the proposed development would also be experienced.

- 7.99 Those assets which are not considered to be affected by the proposed development and the reasons for this are included at Appendix 5. Having reviewed the reasons given in Appendix 5 the officer agrees to these assets being scoped out for further assessment, including the three conservation areas in the wider area, Edgbaston, Warwick Bar and Digbeth, Deritend and Bordesley High Streets Conservation Area.

- 7.100 The Heritage Statement sets out that the uppermost stages of the proposed development may be visible in kinetic or glimpsed views from the Edgbaston, Warwick Bar and Digbeth, Deritend and Bordesley High Street Conservation Areas. Where the proposed development is visible, it will be experienced as part of the wider city centre townscape or skyline and will not affect their significance. This has been explored and confirmed via Vu City Modelling including from Warwick Bar (Appendix 4) and Viewpoint 11 within the supporting TVIA and the officer and case officer concur with the findings.

- 7.101 The scope of heritage assets included for further assessment is set out in Table 2.1 (listed buildings) and Table 2.2 (non-designated heritage assets) of the document. In addition, the Colmore Row and Environs Conservation Area has been included for further assessment. Those assets in close proximity to the development site have been dealt with in depth earlier in these comments. For the remaining heritage assets the Heritage Statement identifies the significance, setting and development impacts on these assets. With reference to the evidenced views of TVIA the effect of the development on the significance these heritage assets it concludes that the impact is acceptable largely being no impact or negligible. The conservation and case officer support these findings.

Summary

- 7.102 The Heritage Statement concludes that the development will cause harm to the grade II* Singers Hill Synagogue. The harm arises due to the visual impact of the proposed development and is 'less than substantial' under the terms of the NPPF and Paragraph

202 of the NPPF is engaged. The Statement concludes no harm to all other designated and non-designated heritage assets assessed.

- 7.103 The Conservation officer generally agrees with the conclusions of the Heritage Statement apart from in relation to the grade II listed Former British School, Caretaker's House for Birmingham Athletic Club, the Athol Masonic Building and the locally listed Christadelphian Hall. In relation to these assets, the officer considers there will be minor harm caused through development in their settings and I concur with this view. As noted above great weight must be given to any impact upon designated heritage assets.
- 7.104 The principal impacts are said to arise from bringing the larger scale of development which exists in the wider setting into the much closer proximity of the immediate setting of these buildings. The effect of this is that the tower will visually intrude on a number of views of each heritage asset, competing and challenging for prominence and diminishing the appreciation, experience and understanding of their significance. The development is moderated by established and emerging development at scale and within this context the extent of harm identified is considered to be minor in extent and less than substantial in terms of Framework policy.

The Conservation officer concludes:

The proposal would cause 'less than substantial harm' to the significance of the grade II* Singer's Hall Synagogue through development in its setting. The harm is considered to sit at the low to moderate degree within the 'less than substantial' bracket.

The proposal would cause 'less than substantial harm' to the significance of the grade II listed Former British School, the grade II listed Caretaker's House for Birmingham Athletic Institute and the grade II listed Athol Masonic Building through development in their setting. The harm is considered to sit at the lower end of the 'less than substantial' bracket on all counts.

- 7.105 Concerns of Historic England and the Victorian Society are noted, and it is agreed the proposed will harm the settings of listed buildings however the harm to the Grade II* Singers Hill Synagogue is considered to be at the low to moderate end of less than substantial. Whereas the harm to the grade II listed Former British School, Caretaker's House for Birmingham Athletic Club, the Athol Masonic Building and the locally listed Christadelphian Hall to be minor. Therefore, in accordance with paragraph 202 of the NPPF the harm should be weighed against the public benefits of the scheme.
- 7.106 The proposed will deliver a number of key benefits to the local area and the wider City including, these being:
- Providing new employment opportunities and supporting the local supply and service chain and positively contributing to tourism spend in Birmingham
 - Provision of approximately 466 full-time equivalent jobs on site during demolition and construction.
 - Provision of 15 full-time equivalent jobs on site through building/site management and other secondary employment by utilising support goods and services in the City and investment during the construction period.
 - Improving footfall and vitality during the day and supporting a thriving evening economy in this part of the City.
 - Regeneration of a large vacant brownfield site on the edge of the city centre

- Delivering a high-quality designed scheme to integrate the site into its surrounding context;
- Provision of purpose-built student accommodation in an appropriate location to meet identified need for additional bed spaces;
- A Community Infrastructure Levy (CIL) Contribution of circa £1.4 million which can be spent on local infrastructure projects
- A BREEAM Very Good and EPC A rated development.
- Landscaped roof terraces with green infrastructure.
- Zero on site car parking promoting active and green travel
- A carbon reduction of 8% will be achieved when compared to the baseline building

7.107 Overall, whilst some harm will be caused to the significance of these listed buildings through development in its setting (to which great weight attaches), it is considered the public benefits listed outweigh the level of less than substantial harm. With regards to paragraph 195 of the NPPF and avoiding or minimising any conflict between a heritage asset's conservation and the proposal, a scheme of reduced scale/alternative design and layout was explored pre planning application however would neither have been viable nor have delivered the same public benefits. During the early stages of developing the scheme, it was realised that adapting the previously approved 330 bed hotel scheme (of 4 and 12 storeys) (2018/09086/PA) to suit Vita's needs would have been impracticable that would lead to an inefficient building with increased construction and operational costs making the scheme unviable. The proposed scheme was developed to ensure majority of the massing was set away from grade II* Singers Hill Synagogue with the plan to reduce harm by positioning the tower to front Suffolk Street Queensway.

Archaeology

7.108 The development is unlikely to affect significant archaeological remains. The site sits beyond the core of the historic town and was not developed until the early 19th century, the previous development of the site will also have impacted upon any buried remains that did survive. No objections are raised neither are conditions recommended or any further archaeological investigation.

Sustainability

7.109 The site is located within the urban area in close proximity to jobs, shops and services and with good public transport links. It would also see the re-use of a largely vacant brownfield site.

7.110 Policy TP3 'Sustainable construction' of the BDP requires development to maximise energy efficiency, minimisation of waste and the maximisation of recycling during the construction and operation of the development, conserve water, consider the use sustainable materials and the flexibility and adaptability of the development to future occupier's requirements. It also requires non-domestic development (including multi-residential accommodation) over a certain threshold to aim to meet BREEAM 'Excellent'. The proposal would therefore be required to aim to meet the BREEAM requirement in TP3.

7.111 A BREEAM Pre-Assessment has been undertaken. The identified credits indicate that the proposed development could achieve a targeted credit score of Very Good. The Council's Guidance note on Sustainable Construction and Energy Statements advises

that if a 'Very Good' rating is proposed instead of an 'Excellent' rating, a statement setting out a reasoned justification for the lower standard should be provided. Subject to this, the achievement of BREEAM Very Good would be acceptable. To secure the BREEAM standard a planning condition is recommended and has been agreed with the agent.

- 7.112 TP4 'Low and zero carbon energy generation' requires development to incorporate low and zero carbon energy generation where viable, and specifically the inclusion of a Combined Heat and Power unit or connection to a district heat network to be given first consideration to non-residential developments over 1,000 m². However, the policy says use of other technologies - for example solar photovoltaics or thermal systems, will also be accepted where they will have the same or similar benefits, and there is no adverse impact on amenity.
- 7.113 An Energy and Sustainability Statement has been submitted which sets out the fabric first and energy efficiency measures that will be deployed. A comparison has been made with CHP which shows that air source heat pumps will provide a greater reduction of carbon.
- 7.114 The energy statement shows that a fabric first approach combined with the inclusion of air source heat pumps will result in a 47% carbon reduced when compared to Part L Building Regulations Baseline. The statement also highlights that when analysed through SAP10, the carbon reduction would be 65% (as the new SAP favour electric). A planning condition will be attached to secure the commitments set out in the Energy Statement. Overall, the proposed energy strategy is acceptable and complies with TP4.

Biodiversity and landscaping

- 7.115 An Ecological Impact Assessment was undertaken which comprises an Extended Phase 1 Habitat Survey being conducted at the site. The report concludes that there should be measures for species-specific enhancement including for bats and birds. These are all included as part of the submitted landscaping drawings and management plan. The development of the landscaping proposals have included specific inputs from the project team Ecologist to ensure ecological enhancements are delivered. The Ecologist has received the application and confirms no objections.
- 7.116 With regards to biodiversity Japanese Knotweed is currently being removed from the site and for a while the site has been clear of vegetation. That said the site has some intrinsic value for biodiversity by way of pollinator species and birds. The ecologist has reviewed biodiversity impact assessment and rates the onsite habitat as being of poor quality and a resultant habitat unit score of 0.36 units. The report also considers the site against the proposed development and landscape.
- 7.117 A green roof and lower-level landscaping of trees and non-native species were proposed that would result in the reprovion of 0.25 habitat units and a resultant (give or take) 30% net loss. Based on this net loss the ecologist asked if we could seek landscape revisions resulting in biodiversity net gain as opposed to net loss.
- 7.118 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. That said the NPPF paragraph 180 states new developments should pursue opportunities for securing measurable net gains for biodiversity; therefore, amended plans were sought to swap non-native species to native species to provide some biodiversity enhancement. Amendments were received and the Ecologist re-consulted however no response has been provided; landscaping details and management plan will therefore be secured by condition.

- 7.119 An Arboricultural Impact Assessment (AIA) has been undertaken and reviewed by the tree officer who confirms no objections subject to conditions. Overall, the proposal accords with Policy TP6, TP7 and TP8 of the BDP and the NPPF.

Drainage

- 7.120 The site is situated within Flood Zone 1, with a very low likelihood (1 in 1000) of flooding. MCR Consulting Engineers have prepared a Sustainable Drainage Assessment in support of the application. Originally the LLFA objected to the application however since reviewing amended details they have removed their objection and are satisfied the Severn Trent Water Developer Enquiry details have been provided and recommend conditions requiring sustainable drainage scheme and a Sustainable Drainage Operation and Maintenance Plan. The proposed development therefore complies with the minimum requirements of the NPPF and Policy TP6 of the adopted Birmingham Development Plan.

Air Quality, Contamination and Noise

- 7.121 The site falls within the city's Air Quality Management Area. Accompanying the application environmental reports have been submitted and reviewed by Regulatory services who confirm no comments or objections subject to conditions around noise and contamination.

Impact on highways

- 7.122 A Transport statement and Travel Plan accompanies the planning application and has been reviewed by BCC Transport Development Officer.
- 7.123 The proposed development provides no car parking which is in accordance with the Birmingham Parking Supplementary Planning Document (2021) which sets out that development within Zone A (City Centre) should not be provided except for some visitor and drop off/pick up spaces. A new lay-by is proposed on Gough Street to facilitate deliveries/taxi pick-up and as set out in Vita's Operational Management Plan, a coordinated timetable with time slots will be delivered to facilitate moving in of students at the start of each intake.
- 7.124 The BCC Transport Development Officer supports the application subject to a number of conditions requiring the development not to be occupied until highway works under a highway's agreement are provided, cycle parking to be provided and an updated construction management plan.
- 7.125 Subject to conditions therefore I consider the proposed development is suitable for residential development and accords with the BDP, DPD and Design Guide SPD.

7.126 Fire Safety

HSE commented on this application and sought for further information. In response a fire safety statement form, qualitative design review and fire response letter have been submitted and such evidently show that fire safety measures have been incorporated into the design. HSE were recently re-notified and confirm they are satisfied. The West Midlands Fire officer raises no objections to the application.

Other Matters

Employment

- 7.127 The developers have submitted an employment method statement and table of local employment delivery in relation to the proposals at Gough Street. This had been provided by the Applicant's construction team following recent discussions with Employment and Access Team.
- 7.128 Although a method statement and table were provided the Employment and Access

team have reviewed these submitted details and would like further discussions and therefore request that a Construction and end user condition is imposed.

Neighbour consultation

- 7.129 Following a second round of consultation neighbours who have written into object have also stated they did not receive the original application consultation letter. Recently a consultation technical error was identified whereby the Council could not be certain whether all original neighbour notification letters that should have been sent on 8th June were sent. Neighbours were therefore reconsulted on the application (8th November) for 3 weeks in line with statutory requirements and have until 1st December to comment.

Existing site works

- 7.130 Local residents have been in touch with the LPA to say works on site have commenced. Having seen photographs and spoken with the agent I can confirm the works relate to remediation and levelling and are not connected to any construction works i.e., piling etc. The site has had a long-standing issue with Japanese Knotweed throughout - JWN is categorised as an invasive species which must be extracted very carefully to depths of 3 meters. The works commenced on the 12th of September and will last approx. 8 weeks. This will include installation of a root barrier around the perimeter of the site.

- 7.131 28 storeys reference

Throughout the report there are occasional references to a 28-storey tower as opposed to 29 storeys, for the avoidance of doubt consultees/residents have commented on the scheme as presented and the height has not changed.

Community Infrastructure Levy

- 7.132 This planning application is CIL liable as it is for purpose-built student accommodation area for CIL whereby the charge equates to £1,479,011.49. This is based on the new floor area being created 17,496.60sq.m

8. **Conclusion**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that if regard is to be had to the development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 8.2 The proposed development would see the delivery of a high-quality designed student accommodation in a vacant sustainable location, the scheme complies with Policies GA1, TP24 and TP33, which are those relating to the promotion of mixed-use development and student accommodation within the City Centre. There are no technical objections to the proposal in relation to ecology, drainage, amenity, or transportation, subject to conditions.
- 8.4 The proposal would cause minor and low to moderate levels of less than substantial harm to the significance of the adjacent listed buildings through development in their setting, however, the setting of the listed buildings in the wider area would be preserved.
- 8.5 Policy TP12 requires proposals for new development affecting designated or non-designated heritage assets to be determined in accordance with national policy. Paragraph 202 states that 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. 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. Great weight should be afforded to the conservation of designated assets (and the more important the asset the greater the weight should be). The benefits of the scheme are:

- 8.6
- Providing new employment opportunities and supporting the local supply and service chain and positively contributing to tourism spend in Birmingham
 - Provision of approximately 466 full-time equivalent jobs on site during demolition and construction.
 - Provision of 15 full-time equivalent jobs on site through building/site management and other secondary employment by utilising support goods and services in the City and investment during the construction period.
 - Improving footfall and vitality during the day and supporting a thriving evening economy in this part of the City.
 - Regeneration of a vacant brownfield site on the edge of the city centre
 - Delivering a high-quality designed scheme to integrate the site into its surrounding context;
 - Provision of purpose-built student accommodation in an appropriate location to meet identified need for additional bed spaces;
 - A Community Infrastructure Levy (CIL) Contribution of circa £1.4 million which can be spent on local infrastructure projects
 - A BREEAM Very Good and EPC A rated development
 - Landscaped roof terraces with green infrastructure.
 - Zero on site car parking promoting active and green travel
 - A carbon reduction of 8% will be achieved when compared to the baseline building
- 8.7
- These benefits taken together are afforded significant weight and are found to outweigh the less than substantial harm identified. 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 an identified unmet demand of student accommodation.
- 8.8
- The development would effectively re-use this brownfield site and provide needed student accommodation in accordance with TP33. 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

9. **Recommendation:**

9.1 Authority is granted to officers to issue a decision, including the appropriate wording of conditions and any planning obligation; UNLESS representations received during the extended consultation period (which expires on 1st December 2022) raise issues of substance which are not otherwise considered in this report; in which case

officers shall remit the application back to be reconsidered by the Planning Committee.

1	Time Limit
2	Approved Plans
3	Materials
4	Architectural details
5	Ecological and Biodiversity Statement
6	Green/Brown Roof
7	Sustainable Drainage Scheme
8	Cycle Parking
9	Updated CMP
10	Tree Pruning
11	Tree protection
12	Noise Insulation scheme
13	Noise levels for plant and machinery
14	CCTV
15	Lighting
16	Construction and end user employment plan
17	Energy and sustainable measures delivered in accordance
18	Boundary Treatments
19	Hard and Soft Landscape Details
20	Hard Surfacing Details
21	Landscape Management Plan
22	Foul and Surface Drainage
23	No signage
24	Bird Bat Boxes
25	Development not to be occupied until highway works under a highway's agreement are provided
26	Contaminated Remediation Scheme

-
- 27 Contaminated Land Verification Report
 - 28 BREEAM Certificate
 - 29 Removal PD for telecommunications equipment
 - 30 Sustainable Drainage Operation and Maintenance Plan
 - 31 Cranes exceeding 150 metres in height (AGL) will require an assessment against Birmingham Airport published Instrument Flight Procedures (IFPs).
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Case Officer: Sarah Plant

Photo(s)



View of site from Suffolk Street, the Queensway



View to side of Queensgate Tower 121 Suffolk Street

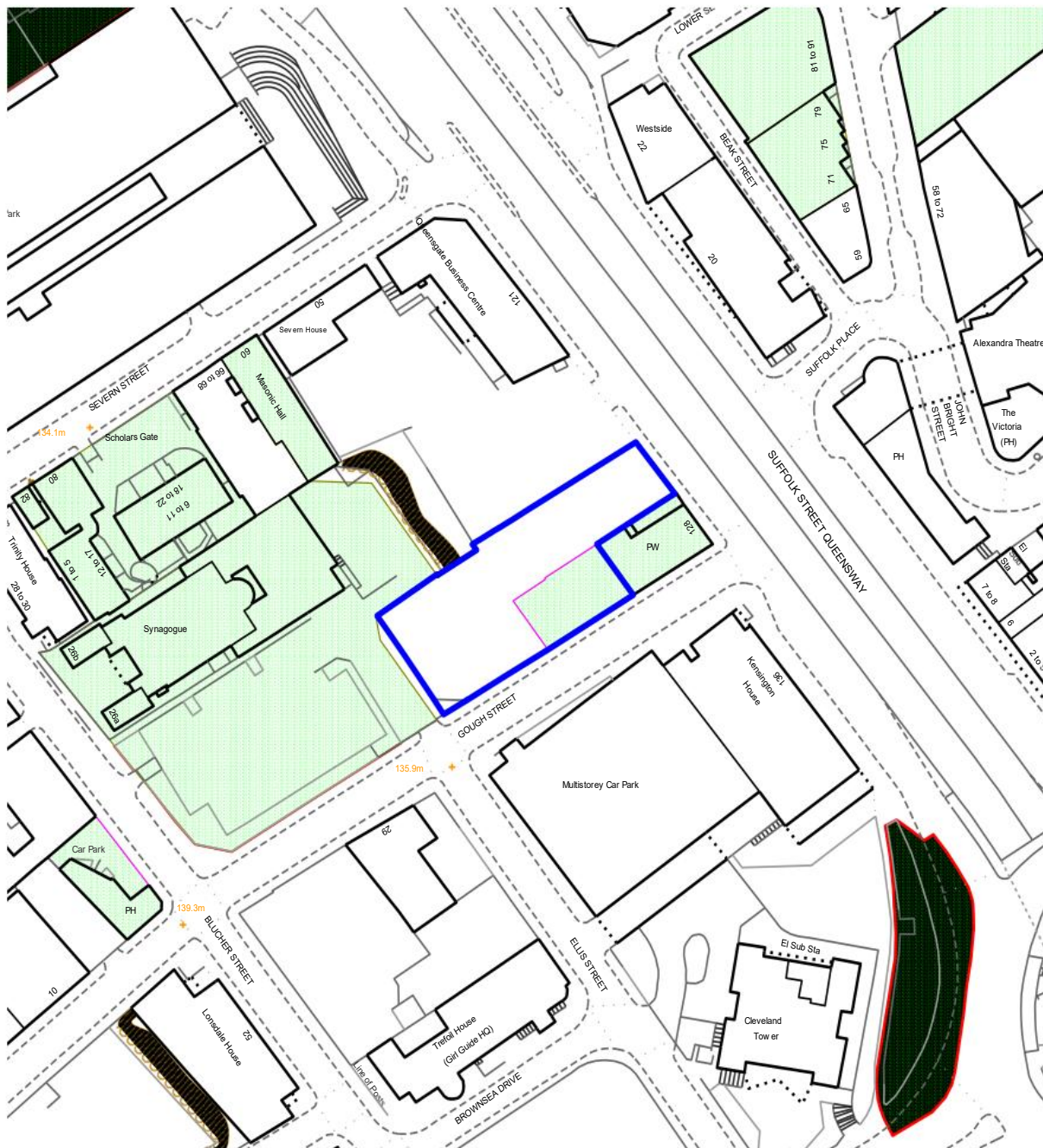


View from Blucher Street of Westside One and Westside Two



View of Kensington House – gable end

Location Plan



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Committee Date:	01/12/2022	Application Number:	2017/10551/PA
Accepted:	19/12/2017	Application Type:	Full Planning
Target Date:	30/06/2022		
Ward:	Bordesley & Highgate		

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

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

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

Recommendation

Approve Subject to a Section 106 Legal Agreement

Report Back

- 1.1 This application was last reported back on 21st January 2021 as a Pre-Action Protocol Letter (PAPL) was issued to the Council on behalf of Benacre Properties (who have an interest in 96-104 Bristol Street). A PAPL is issued prior to a claim for judicial review of a decision. Committee were therefore asked to consider each of the points of the claim contained within the PAPL, along with other additional comments and supporting documents. The details are reported below in the 21st January 2021 Report Back. Committee resolved to determine the application in accordance with the recommendation set out within that report and following the signing of a S106 a decision was issued.
- 1.2 The claimant pursued a challenge of that decision and a hearing took place in October 2021. The grounds for challenge were
 - the Financial Viability Assessment (FVA) was not published,
 - failure to consider loss of light, and
 - failure to apply the High Places policy correctly.
- 1.3 The Judge concluded that the first ground was arguable but dismissed the loss of light and High Places challenges, consequently granting permission to challenge at a substantive hearing. The Judge indicated that in her view the Claimant was disadvantaged by not seeing the unredacted FVA. On that basis the Council agreed a Consent Order to quash the decision.
- 1.4 The application is therefore live again and requires determination. An updated FVA was received (due to the passage of time) and published on the Councils website,

along with an updated daylight/sunlight report following updates to BRE guidance on the assessment of the impacts.

- 1.5 Further to this the Birmingham Development Plan has become more than 5 years old and in accordance with the Standard Methodology (for calculating 5 year land supply) the Council can no longer demonstrate a 5year supply of deliverable housing sites. In addition, the Birmingham Design Guide, Car Parking Guidelines SPD and the Development Management in Birmingham DPD have been adopted, all of which should be considered.
- 1.6 In addition, the former White Lion Public House (Scarlets Nightclub) was Grade II Listed on 26th March 2021.
- 1.7 This matter is therefore being reported back to your committee so that Members can consider the amended Financial Viability Assessment, Policy updates and additional heritage asset. I would therefore invite Members to consider the original report from August 2018, the Report Back of 30th July 2020 and 21st January 2021, together with this Report Back before reaching an overall judgement on the acceptability of the proposed development.

Policy Updates

Five-year land supply

- 1.8 The Birmingham Development Plan (BDP) which was adopted on 10th January 2017 is now more than 5 years old. A review of the BDP has found that it requires updating and the preparation of a new local plan to replace the BDP has commenced. The current five-year housing land supply position is therefore based on the city's Local Housing Need, in line with NPPF paragraph 74.
- 1.9 The 2022 Five Year Housing Land Supply report indicates that the city has 28,144 dwellings on specific deliverable sites which could be completed between 2022 – 2027. Added to this is a windfall allowance of 1,800 dwellings, giving a total supply of 29,944 dwellings. This means the city has 3.99 years' supply, significantly below the five years required by the NPPF. Consequently, paragraph 11d) of the NPPF is triggered and a tilted balance is applied whereby 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.

Daylight/sunlight

- 1.10 As reported previously there is no planning policy within the BDP which quantifies how the level of sunlight/daylight should be assessed. Consequently, the nationally recognised BRE guidelines are used as an indicator as to whether a development is likely to have adverse impact sufficient to warrant refusal.
- 1.11 Since the last report the BRE guidelines have been updated therefore an amended assessment has been submitted and made available on the Council's website. The updated report sets out that the assessment of impact upon adjacent buildings is unchanged. Some adverse impact upon the existing student residents at 96-104 Bristol Street, has been reported and the assessment of this has not altered.
- 1.12 The assessment methodology that is changed in the updated guidance relates to daylight levels within the development itself. The report summarises that despite the change in guidance the results are not materially different to previously considered and are still acceptable.

Parking

- 1.13 Since the application was last reported to members, the Parking Guidelines SPD has been adopted. The application site would fall within zone A as identified by this

document, which requires development to be zero or very low parking. The proposed scheme is inclusive of 335 underground car parking spaces (33%), alongside 35 motorcycle spaces and 1010 covered bicycle spaces (100%). Whilst 100% cycle spaces would comply with the new guidance, the underground parking provision would conflict.

- 1.14 However, the SPD sets out that the new parking standards “will not apply to any detailed or reserved matters planning applications that are already registered prior to the adoption of the SPD” therefore, in this instance the provision of parking is acceptable.

Tall buildings

- 1.15 The High Places SPD, used for guiding development of tall buildings has been superseded by the adoption of the Birmingham Design Guide. Within this guide the Healthy Living & Working Manual (City Notes LW-37 to LW-45) deals with design guidance for tall buildings.
- 1.16 The changes to the guidance have not materially impact upon the considerations of the architecture, scale, mass, townscape and visual impact, microclimate or siting, which have all been found to be acceptable and remain in accordance with the guidance notes cited above.

Other matters

- 1.17 The Development Management in Birmingham DPD has also been adopted (December 2021) since the application was last reported to members. Policy DM10 Standards for Residential Development is now relevant and requires all residential development to meet nationally described space standards, as previously reported these standards are met.
- 1.18 The other policies of this development plan document consider matters such as Air Quality, Contamination, Amenity, Highways Safety, Connectivity all of which were previously assessed and found to be satisfactory. The adoption of the DMBDPD has not materially impact upon those assessments and it has not introduced new issues that had not been previously considered.

Heritage Assets

- 1.19 The former White Lion Public House (Scarlets Nightclub) was Grade II Listed on 26th March 2021 and was therefore not considered in any previous reports to members. This heritage asset is located at the junction of Horse Fair and Thorp Street, approx.300m to the north of the application site, when travelling north along Bristol Street. Similarly, to the conclusions drawn in relation to other adjacent assets identified it is considered that any changes to views north and south along Bristol Street are not harmful to this asset as although visible, the proposed development would be clearly read as part of the modern evolution of Bristol Street beyond, and separate from, the historic built form surviving in the locality.
- 1.20 Therefore, no additional harm to heritage assets is identified.

Financial Viability

- 1.21 The scheme has previously been unable to provide a policy compliant affordable housing position, supported by Financial Viability Assessment (FVA). The previously agreed position was 92 one and two bed Affordable Private Rent units (split 50/50) at 20% below open market rent value.
- 1.22 The updated FVA supports a position of 91 Affordable Private Rent units, split 42(46%) 1 beds 49(54%) 2 beds at 20% below open market rent value (9% affordable housing provision). Therefore, the position has only marginally changed since the previous resolution to grant consent.

- 1.23 Following the submission of an updated Financial Viability Assessment (FVA) in February 2022, the (JR) claimant submitted a review of that unredacted FVA, conducted by an independent surveyor, dated March 2022. The review concluded that in their view the FVA did not adequately justify the inputs/outputs contained within assessment and failed to comply with the National Planning Policy Guidance and RICS Professional Statement in relation to production of FVAs. This was also supported by the claimant's legal opinion that concurred with the conclusions of the claimant's surveyors review of the FVA that he Council should not accept the proposal, other than in accordance with adopted Policy requiring 35% affordable housing.
- 1.24 The Council instructed their own independent surveyor (LSH) to review the FVA. As a result, the FVA was revised, and an amended version submitted in May 2022. This revision was made available on the Councils website and the claimant's planning agent was contacted notifying them of the amended FVA (May 2022 version). No further correspondence has been received. LSH confirmed that in their view the revised FVA addressed the claimant's initial queries, was thorough, containing sufficient level of detail to meet the RICS guidance and for their (LSH's) independent review and report to the Council.
- 1.25 LSH concluded that they are content that the 9% affordable housing provision is the most the site can sustain without impacting upon viability and deliverability. This report has been published to the Council's website since 15th August 2022, no further comments have been received.

Conclusion

- 1.26 None of the above matters substantially alter the conclusions previously made. In addition, a tilted balance now applies, whereby significant weight should be given to the delivery of housing. The identified adverse impacts of approving the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole and therefore the application should be approved.

Recommendation

- 1.27 That the content of the above report is noted and that the resolution is amended to reflect the time frame changes and that planning application 2017/10551/PA should be approved subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) 91 one and two bed Affordable Private Rent units. These units shall be split 42 one beds and 49 two beds, pepper potted across the site. 25% of the affordable units shall be provided by 50% of the private rental units, 50% at 50% occupancy and 100% provided by 90% occupancy. Rental levels (including service charges) shall be retained at 20% below open market rent value in perpetuity. Eligibility will be determined in line with local incomes.
 - b) A review mechanism that requires a financial appraisal shall be submitted for assessment at 75% occupation of each phase. If that financial appraisal identifies a greater surplus then the additional profit shall be split 50/50 between the developer and Local Authority up to a maximum financial contribution of 35% affordable housing. Any additional financial contribution would be spent on affordable housing.

- c) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 1.28 and subject to the conditions listed below.
- 1.29 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 22nd December 2022, or such later date as may be authorised by officers under delegated powers, the planning permission be refused for the following reasons:
 - a) In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 1.30 That the City Solicitor be authorised to prepare, seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- 1.31 That no objection be raised to the stopping-up of Section of footway on Bristol Street and pedestrian subway that runs beneath Bristol Street and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.

Report Back (21st January 2021 and verbal updates)

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

Ground 1 – No delegated authority

- 1.3 The claimant contends that the resolution considered on 30th July 2020 gave authority to officers to issue a planning permission on or before 30th August 2020 and that as a satisfactory legal agreement was not reached by that point in time there is no longer any delegated authority to grant permission and therefore the application must be refused.

- 1.4 The Council's scheme of delegation gives officers authority to agree further extensions of time in order to complete legal agreements and there is therefore no merit in this ground. Notwithstanding this, as a satisfactory legal agreement has now been drafted. I recommend that the resolution is amended to allow completion of this agreement, following your Committee's consideration of this report, no later than 31st January 2021.

Ground 2 – None compliance with High Places SPG

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



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

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

1.11 In summary therefore:

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

Ground 3 – Impact on Historic Environment

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



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

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

Ground 4 – Impact on Amenity

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

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

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

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

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

1.24 In response the applicant has submitted further comments essentially noting

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

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

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



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



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

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

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

Other matters

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

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

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

Recommendation

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

and subject to the conditions listed below.

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

Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.

Report back (30th July 2020) (verbal updates added in bold)

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

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

Recommendation

- 2.1 That the original resolution is amended to reflect the above changes. As such planning application 2017/10551/PA should be approved subject to the completion of a planning obligation agreement to secure the following:
- 2.2 92 one and two bed Affordable Private Rent units. These units shall be split 50/50 and pepper potted across the site. 25% of the units shall be provided by 50% of the private rental units, 50% at 50% occupancy and 100% provided by 90% occupancy and rental levels (including service charges) shall be retained at 20% below open market rent value in perpetuity. Eligibility will be determined in line with local incomes.
- 2.3 A review mechanism that requires a financial appraisal shall be submitted for assessment at 75% **occupation** of each phase. If that financial appraisal identifies a greater surplus then the additional profit shall be split 50/50 between the developer and Local Authority up to a maximum financial contribution of 35% affordable housing. Any additional financial contribution would be spent on affordable housing.
- 2.4 Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 2.5 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 30th August 2020 the planning permission be refused for the following reasons:

In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 2.6 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 2.7 That no objection be raised to the stopping-up of Section of footway on Bristol Street and pedestrian subway that runs beneath Bristol Street and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.
- 2.8 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 30th August 2020, favourable consideration be given to this application subject to the conditions listed below.

Original Report

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

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

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

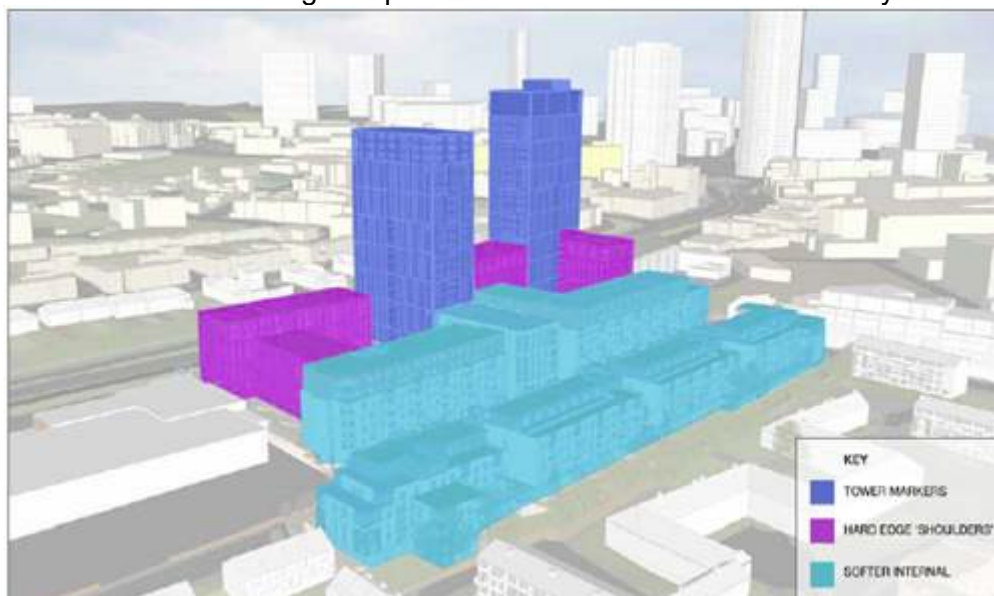


The blocks would be of the following heights:

A – 8 storeys
 B1 – 10 storeys
 B2 – 29 storeys
 C – 10 storeys
 D – 6 storeys
 E – 26 and 7 storeys
 F – 7 storey

G – 7 storeys
 H – 6-7 storeys
 J- 3-5 storeys
 K – 4-5 storeys
 L – 4-5 storeys
 M – 4-5 storeys
 Blocks J-M would sit above 1-2 storeys of car parking (indicated by the dashed line)

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



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

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

1.12 [Link to Documents](#)

2 Site & Surroundings

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

2.6 [Site location](#)

3 Planning History

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

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

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

St Luke's, to the south

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

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

Former Kent Street Baths, to the north

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

Wrentham Street, to the north

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

74-102 Bristol Street, to the north

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

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

4 Consultation/PP Responses

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

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

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

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

5 Policy Context

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

6 Planning Considerations

Background

- 6.1 An issues report about this application was considered at the Planning Committee meeting on 18th January 2018. In response to the issues identified Members largely welcomed the proposal. Members were content with the scale of development and mix of uses and apartment mix but made the following comments;-
- The failure to make a S106 offer is unacceptable given the scale of the proposal
 - The level of community facility is not clear.

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

Principle

- 6.3 The Birmingham Development Plan (BDP) which was formally adopted on 10 January 2017 sets out a number of objectives for the City until 2031 including the need to make provision for a significant increase in population. Policy PG1 quantifies this as the provision of 51,000 additional homes within the built up area of the City which should demonstrate high design quality, a strong sense of place, local distinctiveness and that creates a safe and attractive environments. Policy GA1 promotes the City Centre as the focus for a growing population and states that residential development will be continued to be supported where it provides well-designed high quality environments with the majority of new housing expected to be delivered on brown field sites within the existing urban area. Whilst Policy GA1.3 and Policy TP27 emphasise the importance of supporting and strengthening the distinctive characteristics, communities and environmental assets of each area and the need to make sustainable neighbourhoods.
- 6.4 The application site is located within the Southside and Highgate Quarter within the City Centre Growth Area, it is well connected to amenities and facilities, and is an existing brownfield site. The provision of a residential development with ground floor commercial uses, which would complement and supplement the existing amenity provision in the immediate locality, is therefore acceptable in principle subject to detailed matters.

Design and layout

- 6.5 Local planning policies and the recently revised NPPF (July 2018) highlight the importance of creating high quality buildings and places and that good design is a key aspect to achieving sustainable development.
- 6.6 There have been no significant changes to the design of the proposed development since your Committee considered this application as an Issues report as no issues of concern were raised. The proposed development would range in height from 3 to 10 storeys with two towers of 26 and 29 storeys. Policies PG3 and TP27 state the need for all new residential development to be of the highest possible standards which

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

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

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

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

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

Housing mix

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

Amenity

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

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

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

Transportation

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

Planning obligations

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

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

- 6.27 The previous and revised NPPF and PPG are clear that the assessment of viability for decision-taking purposes should be based on current costs and values. However previous NPPF guidance, RICS guidance and case law have also supported the view that on larger, multi phase projects that take longer to build out that are likely to be subject to changing economic conditions could be appropriately considered for review mechanisms. The revised NPPF and PPG (July 2018) consider that the approach to this matter should remain unchanged and therefore whilst the City has not yet agreed a policy approach for review mechanisms, given the size and scale of this development and the understanding that it will be built in a series of phases (to be controlled by condition) over a longer period of time, I consider it would be appropriate to safeguard the City’s position and require a S106 review mechanism. I consider it would be appropriate to require a S106 review at 30 months and 60 months with any surplus greater than that identified by the submitted, and agreed, financial appraisal being split 50/50 with the Local Planning Authority up to the maximum equivalent value of the 35% affordable housing policy.
- 6.26 I note the request received from the NHS Trust, for a sum of £42,112. Our position is that we do not consider the request would meet the tests for such Section 106 contributions in particular the necessity test (Regulation 122.(2)(a) necessary to make the development acceptable in planning terms). We believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to plan for population growth. Discussions with the relevant Trust are continuing on this matter, in order for us to understand more fully their planned investments in the City and how we might best be able to support that.
- 6.27 Education have also requested a financial contribution however I note education is identified on the CIL 123 list and it would not therefore be appropriate to request a further contribution in this instance.
- 6.28 The site is located in a low value residential area and does not therefore attract a CIL contribution.

Other

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

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

7 Conclusion

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

8 Recommendation

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

- 8.3 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.4 That no objection be raised to the stopping-up of Section of footway on Bristol Street and pedestrian subway that runs beneath Bristol Street and that the Department for Transport (DFT) be requested to make an Order in accordance with the provisions of Section 247 of the Town and Country Planning Act 1990.
- 8.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 26th September 2018, favourable consideration be given to this application subject to the conditions listed below.

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

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

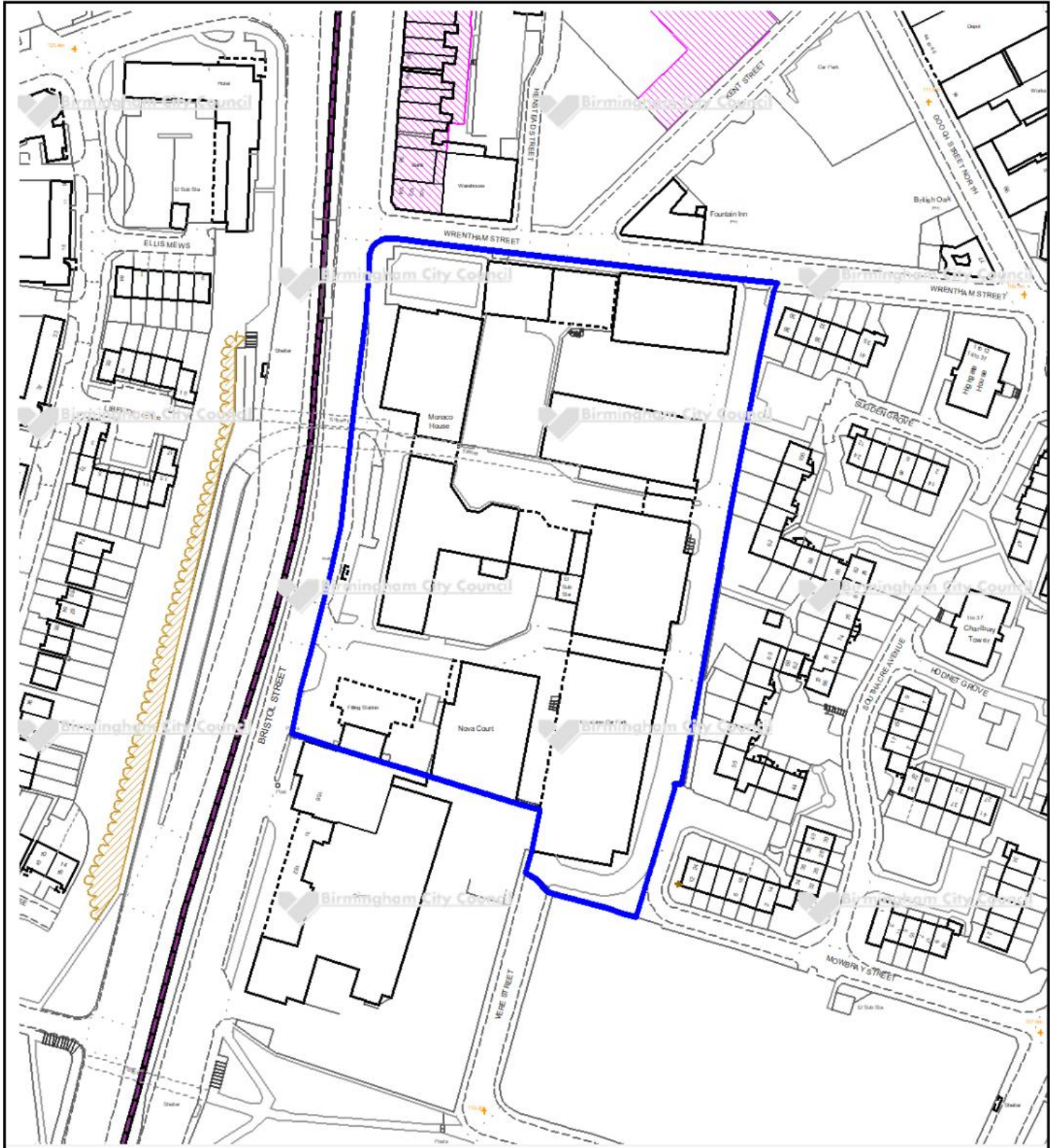
Case Officer: Rhiannon Hill

Photo(s)



Photo 1: Site being cleared

Location Plan



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Birmingham City Council

Planning Committee

01 December 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	8	2020/02566/PA Land off 1-3 Barn Lane Handsworth Birmingham B21 0QX Erection of a three storey block comprising 41 no. supported living units (Sui Generis) with associated landscaping and car parking provision; alterations to highway to allow for site access and servicing arrangements.

Committee Date:	01/12/2022	Application Number:	2020/02566/PA
Accepted:	21/05/2020	Application Type:	Full Planning
Target Date:	02/12/2022		
Ward:	Soho & Jewellery Quarter		

Land off, 1-3 Barn Lane, Handsworth, Birmingham, B21 0QX

Erection of a three storey block comprising 41 no. supported living units (Sui Generis) with associated landscaping and car parking provision; alterations to highway to allow for site access and servicing arrangements.

Applicant:	NSA Developments
	Nsa House, Cornwall Road, Birmingham, B66 2JR
Agent:	Gould Singleton Architects
	Earls Way, Halesowen, B63 3HR

Recommendation

Approve subject to Conditions

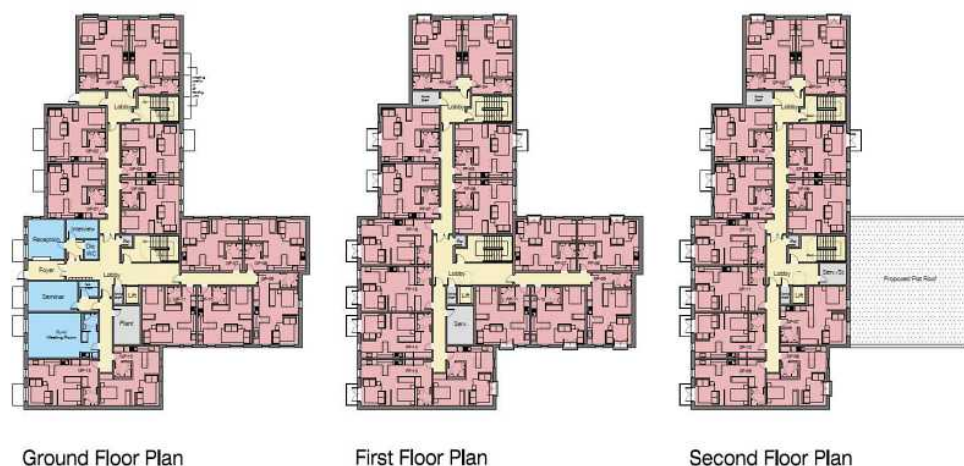
1. Proposal:

- 1.1 The applicant proposes the erection of a 2 and 3 storey building that would accommodate 41 supported living units. Associated works would include the provision of on-site parking and landscaping together with alterations to the highway to allow for site access and servicing. The development would be operated by CLK Homes.



Proposed site plan

- 1.2 The units would comprise 41 one-bedroom studio apartments. The units would range in size between 39 and 42 sq.m. The ground floor would have a foyer; lobby, reception room, interview room, W.C, lift, plant room, gym, meeting room and 13 self-contained living units. The first floor would comprise 16 studio apartments whilst the second floor would comprise 12 studio apartments.



Ground Floor Plan

First Floor Plan

Second Floor Plan

Proposed floor plans

- 1.3 The site area measures 2377 sq.m. The total internal floorspace to be created would measure 2270 sq.m. 6 on-site car parking spaces would be provided with 370sqm of external amenity space to the rear of the site.
- 1.4 The building would be erected using red brick as the main facing brick to its exterior facade coupled with blue bricks. The building would have a flat roof and incorporate windows along its northern, southern, western and eastern elevations. Roof top solar panels are proposed to be installed. Air handling equipment along the rear façade of the proposed new build are also shown. The building would measure approximately 44 metres long, by approximately 32 metres wide by approximately 9 metres tall.



Front Elevation

Barn Lane elevation

- 1.5 The applicant has advised that the property will be used for social housing supporting clients nominated by the City Council with an intention of assisting them to be integrated into local communities and helping them make the most of their potential. They further advise that those nominated will be single homeless or of no fixed abode or suffering financial hardship and/or ex-offenders. The management company will arrange education and advice sessions, job search help etc. on site for the occupants. Other than such support, the residents would live an independent life as tenants within the development.
- 1.6 The applicant advises that a vetting process for accepting tenants will be completed by the tenancy officer, working closely with West Midlands Police, probation services,

mental health teams and other housing providers. A suitability check will be carried out as part of the application for housing and cross referenced with impact/risk the individual may have on others already housed within the site, as well as their employees and the local community. They further add that if the tenancy officer is not satisfied with their checks, the housing offer will not be granted.

- 1.7 The applicant also advises that single women with one child could be housed within the development, until they were suitably rehoused. The applicant sets out this is merely another avenue in an ever-changing environment and adapting to the needs of the service that the building could lend itself should the need arise, and that housing children alongside ex-offenders and other vulnerable individuals is not an option under any circumstances.
- 1.8 The provisional staffing levels are set out as follows:-
- Day Shift
 - 1 Receptionist / Support worker (Provisional Hours 8am - 6pm)
 - 1 Tenancy Officer (Provisional Hours 2pm – 10pm)
 - 1 Support Workers (Provisional Hours 9am – 6pm)
 - Night Shift
 - 1 Support Worker (Provisional Hours 6pm – 2am)
 - 1 Support Worker (Provisional Hours 12am – 8am)
 - 1 Security Officer (Provisional Hours 10pm – 8am)
- 1.9 The applicant states that employee provisional hours are at present set out as 'provisional' merely to indicate the proposed hours of work and supervision of the building over a full day. They anticipate that these hours of work are most likely to be extended to 9-10 hours shifts, and with an additional support worker added once the building is tenanted to full capacity in line with the needs of the residents.
- 1.10 To clarify further, hours of work may vary between each individual with the emphasis placed on dovetailed shift patterns to ensure full supervision of the building and its residents at all times. The applicant confirms the hours will not be reduced from that proposed.
- 1.11 Support to be provided is listed as:
- Personal care: health and wellbeing, washing, preparing meals, medication
 - Running a home: maintain a tenancy agreement, budgeting, paying bills
 - Healthy living: help with making healthy lifestyle choices
 - Building links with the community: developing friendships, contact with family and friends
 - Leisure activities: socialising, going on holiday
 - Education and employment: identifying opportunities, applying for college or jobs, arranging training.
- 1.12 The applicant has submitted a BRUKL document that covers compliance with part L (2013) Building Regulations (energy efficiency); energy calculation baseline calculations, Predicted Energy Assessment documents, noise assessment report, Planning Statement, Sustainable construction statement, Extended phase 1 ecological survey (preliminary ecological assessment), Ground conditions report, Transport statement, flood risk and drainage assessment, travel plan and a tree survey.

1.13 [Link to Documents](#)

2. Site & Surroundings:

- 2.1 The site is located to the south of Soho Road and is set within the boundary of Soho Road local centre. The site area measures 2377 sq.m. The surrounding area

comprises a mix of commercial and residential premises. Part of the site has been identified for potential residential development as part of a SHLAA review in 2020 (following previous consents).



Aerial view with site in the centre of the image

2.2 [Site location](#)

3. Planning History:

- 3.1 24.02.2015- 2014/09107/PA- Erection of three storey building containing ground floor retail units (Use Class A1), 8 flats spread over upper floors, rear parking, amenity area together with creation of new layby to front etc.- withdrawn.
- 3.2 15.05.2008- 2008/00064/PA - Single storey retail building with associated parking area - Withdrawn by Agent
- 3.3 21.02.2007- 2006/07400/PA - Erection of two storey building operating as a ground floor retail unit (use class A1) with ancillary offices above together with new crossover and associated parking- Approved subject to Conditions (this was for part of the current site at 5 Barn Lane).
- 3.4 13.08.1998- 1998/01093/PA -Outline application for redevelopment of site to provide retail units on the ground floor with separate residential accommodation above- Approved subject to Conditions.

4. Consultation Responses:

- 4.1 Transportation Development- No objection subject to conditions.
- 4.2 Regulatory Services- No objection subject to conditions.
- 4.3 City Design- No objection subject to conditions.
- 4.4 City Ecologist- No objection subject to conditions.
- 4.5 Tree officer- No objections.

- 4.6 West Midland Police- Object on the basis of concerns about the impact that the development would have on crime and anti-social behaviour grounds. They also set out the site is within the Soho Business Improvement District and this site could be considered to be going against what they are striving to achieve.
- 4.7 Education- No objections.
- 4.8 LLFA- No objection subject to conditions.
- 4.9 Severn Trent- no objection subject to condition.

5. **Third Party Responses:**

- 5.1 The application has been publicised by site and press notices and the notification of nearby premises, local councillors, local MP, Brook Area Resident Association and shop keepers group, Matthew Boulton Neighbourhood Forum (Soho), Soho Road BID manager, Sandwell and West Birmingham Clinical group, Sparkhill North Neighbourhood Forum were consulted. Representations from Councillor Chaman Lal and Matthew Boulton Soho Gibb Heath Neighbourhood Forum as well as three representations from local residents were received. Their objections/concerns can be summarised as follows:

- Overlooking, overbearing impact, loss of privacy and loss of natural light
- Impact on neighbours' health, wellbeing, safety and security.
- Existing high levels of crime and anti-social behaviour in the area and the proposal will add to this.
- Cause light pollution at night.
- Provides cramped living accommodation.
- Inadequate parking capacity and parking in the locality is already an issue.
- The development is proposed to be located in the middle of a shopping area and where residents are living.
- The car park opposite must be kept nice and clear.
- Seek clarity if the development will be built on 1-3 Barn Lane or 1-5 Barn Lane.
- Will have an adverse impact on the local businesses and the deprived neighbourhood.

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

National Planning Policy Framework

Chapter 2: Achieving sustainable development- paras 8 and 9.
 Chapter 5: Delivering a sufficient supply of homes- paragraph 60.
 Chapter 7: Ensuring the vitality of town centres- paragraph 86.
 Chapter 11: Making effective use of land- paragraph 120.
 Chapter 12: Achieving well designed places- paras 126 and 130

Birmingham Development Plan 2017:

Policies:- PG 3 (Place Making); TP 1 (Reducing the City's carbon footprint), TP 2 (Adapting to climate change), TP 3 (Sustainable construction), TP 4 (Low and zero carbon energy generation), TP 5 (Low carbon economy), TP 6 (Management of flood risk and water resources), TP 21 (Network and hierarchy of centres), TP 24 (Promotion of diversity of uses within centres), TP 27 (Sustainable neighbourhoods), TP 28 (Location of new housing) and TP 30 (The type, size and density of new housing).

Development Management DPD:

Policies: DM 2 (Amenity); DM 3 (Land affected by contamination, instability, hazardous substances); DM 4 (Landscaping and trees), DM 6 (Noise and vibration), DM 10 (Standards for residential development), DM 12 (Residential conversions and specialist accommodation),

Supplementary Planning Documents & Guidance:

A41 (Soho Road) Framework; Birmingham Design Guide, Birmingham Parking SPD.

7. Planning Considerations:

Need for the form of housing

- 7.1 This proposal represents specialist accommodation. 'Development Management in Birmingham' DPD defines specialist accommodation as "Specialist residential accommodation is a generic description used to describe housing that meets the needs of specific groups of people. This can comprise of hostels, shared housing, care homes and supported accommodation for older people and people with mental health, learning disabilities, dementia, physical and sensory impairment, ex-offenders and drugs and alcohol dependency. It does not include age-restricted general market housing, retirement living or sheltered housing". The DPD adds that "It remains a priority for the Council to provide safe environments which facilitate independent living for vulnerable residents and older people in Birmingham. All applications for specialist housing including extensions to existing facilities should have regard to the Council's latest housing needs strategies".
- 7.2 The Birmingham Housing and Economic Development Needs Assessment identifies accommodation for homeless people with needs as an important tenure type that the Council is seeking to address. In that document it sets out that a large proportion of homeless people with needs are single and or single woman with children. It identifies that many of those presenting themselves to the Council as homeless also require support including in relation to access education, employment or training and support for ill health and/or disability and identifies that the City Housing Directorate's transformation programme includes securing more accommodation to meet homelessness demand.
- 7.3 The City Housing Directorate advise that the Supported Housing Strategy, following on from a needs assessment, identifies that they would not seek to have anymore single person supported accommodation. As such it appears that this scheme would not meet an identified need.

Design

- 7.4 The proposal would introduce a modern looking building which would visually enhance the application site and immediate locality. The new building would incorporate glazing and a communal access door along its main public façade that would face Barn Lane, which are positive urban design attributes. The proposed use of a main facing brick that would be broken up by a secondary contrasting brick coupled with glazing and recesses along its building line would help achieve a visually attractive building. The scheme will incorporate soft landscaping that will further enhance the appearance of the development. Furthermore, I do not raise any objection to the scale and mass of the new building. In summary, the development would enhance the

appearance of the site and locality and be in accordance with policy, including DM12 (a) and (d). My design advisor concurs with this view



Proposed Streetscene

Proposed street scene (Barn Lane)

Residential amenity (future occupiers)

- 7.5 The application has been supported by an acoustic report which demonstrates future occupiers would not be exposed to an unacceptable level of noise exposure from nearby commercial uses. Furthermore, it is noted that the cowl of the flue that serves the a nearby takeaway points towards the north (away from the site) and there would be no adverse impact on residents from smell.
- 7.6 Air source heat pumps are proposed and these have not been assessed in respect of noise impact, however Regulatory Services are satisfied that they would have an acceptable impact on residential amenity subject to a safeguarding condition.
- 7.7 Matters related to contaminated land can be addressed through the application of relevant conditions.
- 7.8 The units would range in size between 39 and 42 sq.m and comply with NDSS for 1 bed 1 person self-contained flats. The layout also provides a seminar room and gym for use by the residents. 370 sq.m of external rear communal amenity area would be provided. I consider adequate internal and external accommodation is provided and is in accordance with policy including DM12 (b).

Residential amenity (neighbouring occupiers)

- 7.9 The development would achieve a distance separation of between 11.5 and 13.3 metres from the two storey southern windowed facade of the new build to the rear gardens of houses on Haseley Road to the south. Notwithstanding those dwellings are set just over 1 metre lower, I consider this distance separation is acceptable given the Birmingham Design Guide seeks a distance separation of 5 metres per storey and hence no overlooking issue to those gardens are identified.
- 7.10 The development would achieve a distance separation of just over 15 metres from the three storey rear façade (which would have windows) to the rear garden of number 11 Haseley Road, such a distance separation distance complies with the 5 metre storey set back per storey set out in the adopted Birmingham Design Guide. No overlooking issue identified to the rear yards of properties on Soho Road to the north or indeed the rear of any properties on Soho Road in terms of views from the northern façade of the proposed building.
- 7.11 The southern 3 storey gable wall of the new building would be set approximately 13 metres from the rear façade (excluding lean to and conservatories) of numbers 3 and 5 Haseley Road and would sit at a higher level of just over 1 metre. I do not consider in this instance this would have an adverse impact on those properties in terms of loss of light and outlook from their rear ground floor windows (the nearest windows to the proposed blank gable wall) especially when the positioning of the sun, in terms of its movement in the sky from east to west, is factored in which means the gable wall to the north of those properties would have a limited impact in terms of loss of light. I also consider the distance to be provided would still allow outlook from the rear habitable

rooms to the 3 and 5 Haseley Road. The proposal would not result in an adverse impact on neighbour amenity and in accordance with DM12 (a).

Parking/highway matters

- 7.12 The proposed 6 parking spaces is considered acceptable in respect of this development and its proximity to Soho Road. A tracking plan satisfactorily demonstrates the site could be accessed by larger service vehicles such as a bin lorry. In order to facilitate access for vehicles to and from the site a section of the carriageway would be slightly widened (through a strip of land within the application site). It is considered that the applicant would offer this strip of land for adoption as Highway Maintainable at Public Expense (HMPE) and therefore, this work would likely require to be carried out through S-278 / S-38 agreement.
- 7.13 Furthermore, the submitted drawings refer to a new 1.8m wide footpath within the application site, along the east side of Barn Lane. It is considered that this work would likely require a S-38 agreement, if the proposed footway is to be offered for adoption as HMPE.
- 7.14 For the reasons above, I consider the proposed works to facilitate on-site parking and serving of the development represent a betterment of the existing for motorists along Barn Lane and I do not consider the proposed development would give rise to any adverse impact on parking and highway grounds and is in accordance with DM12 (a). My Transportation advisor concurs with this view.

Crime and anti-social behaviour

- 7.15 Objections to the scheme are noted from WM Police, a local councillor, neighbourhood forum and members of the public. Some of these objectors raise concerns about crime, the fear of crime and anti-social behaviour.
- 7.16 As part of their response, WM Police comments include reference to HMOs which can be a recipe for discord and offer opportunity for crime and disorder. They also identify that the area is subject to extremely high demand from emergency services and that anti-social behaviour is a constant drain on resources. WMP believe that residents will be vulnerable and have a multitude of complex issues thus leading to a chaotic lifestyle. WMP recognise that whether the residents themselves will increase calls to service for the police stands to be seen but it seems likely that the residents would be easily influenced by and fall victim to the existing criminality in the area. They believe that this would not only increase calls to the emergency services but be detrimental to the wellbeing of the residents and also the extended neighbourhood.
- 7.17 Whilst the behaviour of individual tenants is not a planning matter, I note the applicant has set out that the development will vet tenants before tenancies are granted and that there will be staff on site to help manage the development. Crime and the fear of crime is a material planning consideration and it is for the decision maker to determine what weight to give to this matter, including the objection from WMP. Whilst there is evidence from WMP in relation to criminal activities in the wider locality, there is limited evidence that this particular proposal is likely to make the matter worse and the WMP recognise that it stands to be seen if residents would actually increase calls.
- 7.18 In terms of DM12 (a) and cumulative impact, within 100m of the site (and in addition to the commercial premises along Soho Road) there are 72 residential properties of which there are no HMOs shown and 6 properties identified as exempt accommodation. No other support living accommodation was identified within this search. In light of the mixed nature of the site's surroundings, which represents an area of transition between commercial properties to the north and residential properties to the south, it is

considered that the proposal would not have an adverse impact in terms of the cumulative effects of similar uses in the area.

- 7.19 It is noted that the proposed redevelopment of a currently blighted site (which can be exposed to fly tipping, vandalism whilst also having the potential to undermine the security of nearby occupiers), would result in an attractive development with a high standard of amenity and which will be a managed facility. I consider such factors represent a benefit to the proposal.

Ecology

- 7.20 The site has very limited ecological value. Precautionary measures to minimise the risk of harm to nesting birds and slow worms are identified in the submitted ecology report. Implementation of these measures can be secured by condition. Similarly, bio-diversity enhancement of the development can be achieved through appropriate condition to secure features such as landscaping. In summary, no adverse ecological impact from the scheme is identified subject to safeguarding conditions. My ecological advisor concurs with this view.

Sustainability

- 7.21 An energy statement has been submitted which proposes the installation of Air Source Heat Pumps (ASHP's) and Solar PV. The appropriate level of detail on the chosen technologies have been provided. The development is predicted to deliver a 27.27% reduction in Regulated CO2 beyond the Part L1A (2013) baseline. This is considered satisfactory in relation to the requirements of policy TP4 and it is recommended a condition is attached that requires the energy efficiency measures detailed in the submitted energy and sustainability statement are undertaken in the design and construction of the development. My policy advisor concurs with this view.

Drainage

- 7.22 An updated Flood risk and drainage assessment strategy has been submitted. This now demonstrates, in conjunction with the latest proposed site layout plan, that the scheme will be provided with satisfactory drainage. The implementation of the agreed drainage strategy can be secured by condition.

Five Year Housing Land Supply

- 7.23 NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.24 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.

The Planning Balance

- 7.25 There are a multitude of planning considerations that have been set out within this office report and it is for the decision maker to determine what weight to give these in coming to a decision.
- 7.26 There are factors which represent a benefit including the redevelopment of a vacant brownfield site, that is currently prone to criminal and anti-social behaviour, in a sustainable location close to facilities, services and public transport as well as the contribution to the Council's five year housing land supply. Factors that are against the proposal include the City Housing Directorate's view that there is a lack of need for single person supported accommodation and the concerns raised by WMP and others about crime and anti-social behaviour.
- 7.27 In undertaking the planning balance exercise a finely balanced recommendation to approve is offered.

8. **Conclusion**

- 8.1 The application has a number of positive benefits that favour an approval, most noticeably a purpose-built housing scheme to provide supported living units for people in need of such accommodation in a highly sustainable location located within the boundary of the Soho Road District Centre. The proposal would also redevelop a vacant brownfield site that is subject to criminal and anti-social behaviour. This needs to be weighed against the City Housing Directorate's view that there is no need for single person supported accommodation and the concerns from WMP, and others, surrounding crime and anti-social behaviour. Finally, taking into account the Council's five year housing land supply, it is considered that the adverse impact would not significantly or demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, and a recommendation to approve is given.

9. **Recommendation:**

- 9.1 Approve subject to conditions:-

-
- 1 Requires the prior submission of a contamination remediation scheme
 - 2 Requires the submission of a contaminated land verification report
 - 3 Requires the submission of sample 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 lighting scheme
 - 8 Requires the prior submission of level details
 - 9 Requires the submission of a CCTV scheme
 - 10 Requires the submission of details of refuse storage
-

11	Requires the submission of cycle storage details
12	Requires pedestrian visibility splays to be provided
13	Requires the provision of a vehicle charging point
14	Requires the submission of a parking management strategy
15	Requires a package of highway measures
16	Requires details of solar panels to be agreed and then implemented
17	Requires details of air handling units to be submitted, agreed and implemented
18	Requires the submission of a scheme for ecological/biodiversity/enhancement measures on a phased basis
19	Requires the prior submission of details of bird/bat boxes
20	Requires the implementation of the submitted mitigation/enhancement plan
21	Requires the implementation of the approved drainage strategy
22	Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
23	Required energy and sustainability features in accordance with submitted statement
24	Requires details of architectural features
25	Requires the submission of a construction/demolition method statement and management plan
26	Requires the submission a Noise Insulation Scheme
27	Limits the noise levels for Plant and Machinery
28	Sound insulation for plant/machinery
29	Requires details of vehicular visibility splays to be provided
30	Requires drainage details for foul and surface water flows
31	Requires the scheme to be in accordance with the listed approved plans
32	Implement within 3 years (Full)

Case Officer: Wahid Gul

Photo(s)

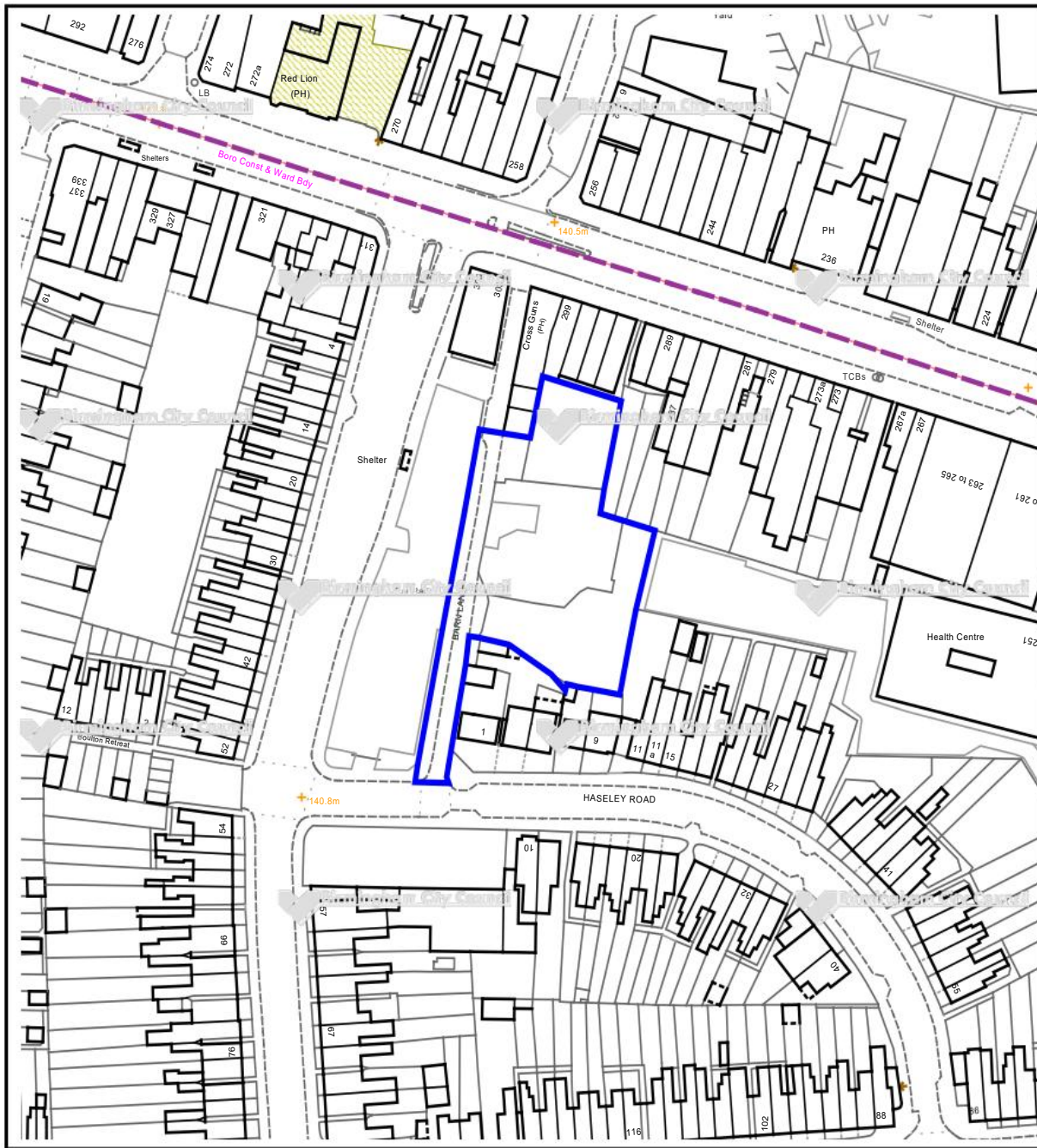


View of Barn Lane looking north



View of site from Barn Lane

Location Plan



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Birmingham City Council

Planning Committee

01 December 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	9	2022/05774/PA Land off Dalmuir Road Longbridge Birmingham Residential development comprising three apartment buildings providing 205 dwellings together with access, parking, landscaping, and associated infrastructure

Committee Date:	01/12/2022	Application Number:	2022/05774/PA
Accepted:	21/07/2022	Application Type:	Full Planning
Target Date:	01/03/2023		
Ward:	Longbridge & West Heath		

Land off Dalmuir Road, Longbridge, Birmingham,

Residential development comprising three apartment buildings providing 205 dwellings together with access, parking, landscaping, and associated infrastructure.

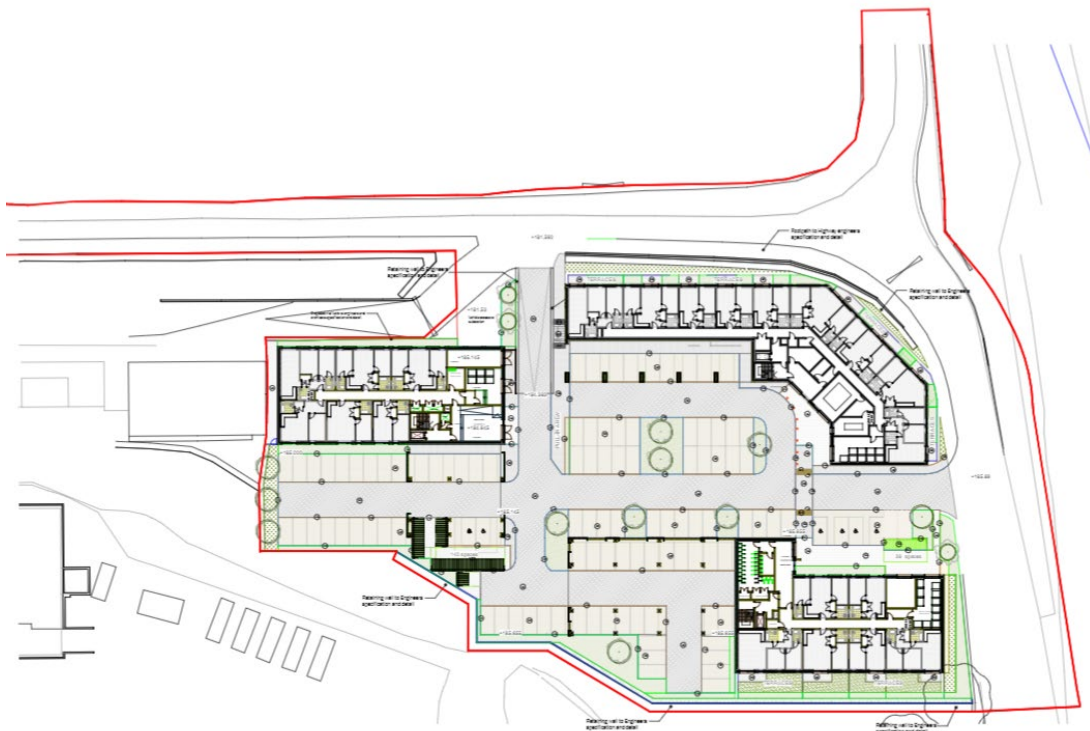
Applicant:	St Modwen Homes Ltd C/o Planning Prospects Ltd, 4 Mill Pool, Nash Lane, Belbroughton, DY9 9AF
Agent:	Planning Prospects Ltd 4 Mill Pool, Nash Lane, Belbroughton, DY9 9AF

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

- 1.1 Planning permission is sought for the erection of three apartment buildings comprising 205 units, with a mix of 100 1-bedroom apartments (49%) and 105 2-bedroom apartments (51%).



Proposed site plan

- 1.2 Blocks A and B would be 5 storeys in height, whilst Block C to the rear would be 7 storeys in height. The finished floor level of Blocks A and B would be some 3m above the road and pavement level.



View of Block B from Cooper Way (adjacent to the railway line)



View of Block A and B from Dalmuir Road

- 1.3 Block A: 47 apartments comprising 24, 1-bedroom and 23, 2-bedroom apartments. 24 of the units would have a balcony. Block B: 69 apartments comprising 40, 1-bedroom and 29, 2-bedroom apartments. 60 of the units would have a balcony. Block C: 89 apartments comprising 36, 1-bedroom and 53, 2-bedroom apartments. 39 of the units would have a balcony. All three blocks would have a resident's terrace on the roof. All the units would comply with the National Space Standards.
- 1.4 All three blocks would be fitted with whole building mechanical ventilation with heat recovery but would not be sealed units.
- 1.5 105 parking spaces are proposed (50.5%), all of which would be provided with an electric vehicle charging point. 5% of the car parking provision would be provided as accessible spaces. Block B would have a secure cycle store within the block with 20

stands whilst Block C would have a secure cycle store with 38 stands. A further 178 cycle spaces would be provided within the shared car park within the central courtyard area.

- 1.6 Refuse storage would be provided within each block.
- 1.7 The application is supported by a Design and Access Statement, Remediation Strategy, Preliminary Ecological Appraisal, Noise Assessment, Phase 2 Geo-Environmental Interpretative Report, Financial Viability Appraisal, Planning Statement, Ecological Construction Management Plan, Surface Water Drainage Strategy, Foul Water Drainage Strategy, Flood Risk Assessment, Transport Statement and a Sustainability Statement.
- 1.8 Amended plans have been received that have removed a storey from Block B, thereby reducing the number of units proposed from 213 to 205 and the car parking provision from 108 spaces to 105. The amendments also include changes to the visual appearance of the blocks including deeper window reveals.
- 1.9 Site area: 1.57Ha including road access, 0.72Ha without road access. Density: 285 dwellings per hectare.
- 1.10 [Link to Documents](#)

2. Site & Surroundings:

- 2.1. The application site extends to 1.57 ha and comprises part of the former North Works of the MG Rover site in Longbridge and relates to a parcel of land off Dalmuir Road, to the south of Longbridge Town Centre. The Site has been cleared of any buildings associated with its former use. It now consists of part remediated areas of hardstanding and self-seeded vegetation. It also includes several retaining features along its boundaries, including gabion walls to the north and brick and concrete walls to the south.
- 2.2. The Site is immediately bounded by Dalmuir Road to the north, an access road to the east, existing trees and vegetation to the south, and an existing energy centre to the west. Beyond this, there is residential development to the north and west. Longbridge Town Centre is situated further to the north and comprises a range of shops, cafés, and restaurants as well as office accommodation. The railway line runs to the east of the Site with existing residential development beyond. The wider former Longbridge Motor Works site is situated to the south of the Site.
- 2.3. The Site is accessed via Dalmuir Road which extends from Lickey Road to the north-west. Dalmuir Road is currently an unadopted, private road and therefore the red line boundary for this application extends up to the adoptable highway (Lickey Road).
- 2.4. [Site Location Plan](#)

3. Planning History:

- 3.1. The wider former MG North Works site has extensive planning history none of which is relevant to this application. The following pertinent history relates to the site and sites adjacent.
- 3.2. 11 October 2022. 2022/05775/PA. Planning permission granted for enabling works including site clearance, remediation, and reprofiling, highway works, installation of drainage infrastructure and construction of a retention wall.

Adjacent sites

- 3.3. Awaiting Section 106 Agreement. 2021/08642/PA. Outline planning application with all matters reserved for future consideration for a mixed use scheme comprising the conversion of the International Headquarters (IHQ), the Roundhouse and the Conference Centre to provide 9,980sqm of employment space, conversion of the Car Assembly Building (CAB 1) to provide up to 4,940sq.m of mixed employment uses, up to 695 new homes and integrated public open space via three accesses from Dalmuir Road, Lickey Road and Lowhill Lane and a further pedestrian and cycle access from Groveley Lane. Site is located to the south of the application site.
- 3.4. 15 September 2020. 2020/02457/PA. Planning permission granted for the erection of residential apartment block comprising 56 apartments (21 x 1 bedroom and 35 x 2 bedroom) with associated access, parking, landscaping and infrastructure.
- 3.5. 21 December 2017. 2017/07621/PA. Reserved Matters approval (to include access, appearance, layout, scale and landscaping) for the erection of 215 dwellings and associated infrastructure pursuant to outline planning permission 2014/09251/PA at Land off Lickey Road (Phase 4) - adjacent to Austin Avenue, Cooper Way and Dalmuir Road, Longbridge.
- 3.6. 24 March 2016. 2014/09251/PA. Outline planning permission granted with all matters reserved for future consideration for residential development (up to 215 dwellings). (Phase 4 Lickey Road)
- 3.7. 16 September 2014. 2014/04442/PA. Planning permission granted for the development of an extra care village comprising 260 units and village centre in a five-storey building with associated car parking, roads and landscaping.
- 3.8. 3 February 2014. 2013/06476/PA. Detailed planning permission granted for a residential development comprising 18 no. 2, 3- and 4-bedroom houses and 64-, 1- and 2-bedroom apartments, access, parking and landscaping (Phase 3 Housing).
- 3.9. 15 November 2013. 2013/06431/PA. Planning permission granted for construction of highway access road & footway, associated drainage infrastructure, lighting & landscaping.
- 3.10. 7 February 2013. 2012/07693/PA. Planning permission granted for highway link road, street lighting and landscaping.
- 3.11. 21 June 2012. 2012/02283/PA. Planning permission granted for recreational park including alterations to river alignment, new bridge, pedestrian cycle bridge, footpaths, hard & soft landscaping and associated river & drainage infrastructure works.

4. **Consultation Responses:**

- 4.1. West Midlands Fire Service – Development will need to comply with Building Regulations.
- 4.2. National Highways – No objection.
- 4.3. Local Services (based on original submission) – No objections. The residential development would trigger the need for a POS and play area contribution at the rate of 2 hectares per thousand population generated in accordance with the BDP. From the mix in the application 321 people are being generated from the 213 residential units being provided. $321 \div 1000 \times 20,000 = 6420m^2 - 1225m^2$ (size of a

junior play area) = 5195m² of POS would therefore need to be provided. Given the nature of the development this would most likely need to be provided off site. 5195m² x £65 (average cost of laying out POS per m²) = £337,675 +£110,000 average cost of a junior play area = Total contribution of £447,675. This would be spent on the provision, improvement and/or biodiversity enhancement of public open space at Cofton Park in the Longbridge and West Heath Ward.

- 4.4. Trees and Ecology- No objection. The site will need to retain the tree protection measures deployed as part of the site clearance and enabling works. The applicant has submitted a Construction Ecological Mitigation Plan which is acceptable for implementation and should be conditioned. The submitted Biodiversity report indicates an approximate 60% biodiversity net gain post development based on the site being quite devoid of habitat pre commencement having held buildings and hard standing in the past. The landscape plans show a reasonable scheme which includes rain gardens, trees and beneficial planting across the ground level and podium level planted areas. The only shortcoming that seemed to be evident was the lack of bat and bird boxes on suitable facades of the buildings - species specific such as swift would be a good inclusion should suitable aspect and clear flight path be available. Recommend safeguarding condition to secure these.
- 4.5. Network Rail – No comments received.
- 4.6. Environment Agency – No objection, subject to conditions relating to contaminated land.
- 4.7. Severn Trent Water – No objection subject to drainage conditions.
- 4.8. West Midlands Police – No objection subject to conditions relating to access control, CCTV, lighting and boundary treatment.
- 4.9. Regulatory Services – No objection subject to a safeguarding condition relating to plant noise. The enabling works included a significant consideration of ground contamination and the submitted information now shows that ground gas monitoring has been carried out and the results in the Phase 2 Geo-Environmental Interpretative Report indicate low risk from ground gas. The noise assessment addresses the glazing and ventilation of the proposed blocks. The assessment states that all three blocks are to be fitted with whole building mechanical ventilation with heat recovery. Acoustic glazing has been specified for facades where modelling has indicated likely exposure to noise levels which may exceed internal noise standards.
- 4.10. Health and Safety Executive – No comments received.
- 4.11. Lead Local Flood Authority – No objection subject to sustainable drainage safeguarding conditions.
- 4.12. Transportation – No objection subject to conditions relating to pedestrian routes, cycle and car parking being provided prior to occupancy. The site sits in the wider redevelopment area and trips have been considered in the previous transport assessments, so no impacts are noted, or mitigation required. The provision being made for cars is 105 spaces with no provision for one bed apartments being marketed as 'car free'. The site is all privately maintained so unlikely to have negative effects of parking demand increasing onto the adjacent roads or further beyond the site to the BCC public highway areas which are over a kilometre walking distance away. Cycle parking is provided at 100%, EVCP provision 100% which is positive, and servicing proposals accessing through the site are also accepted.

5. **Third Party Responses:**

5.1. Site and press notices posted – advertised as a Departure from the Birmingham Development Plan. 798 residents, Ward Councillors for Northfield, Rubery and Rednal and Longbridge and West Heath Wards; MP for Northfield and Resident Associations notified. 15 letters of comment/objection received based on the following grounds:

- Development out of scale with adjacent residential development – buildings are too tall.
- Loss of light and privacy to adjacent residential development.
- Increase in traffic – Dalmuir Road is already very congested.
- Bin store and sub-station very noticeable.
- Where is a park and playground for all this residential development?
- Maintenance of Dalmuir Road – already full of potholes.
- Should deliver a ‘green’ development with no gas boilers, solar panels on the roof, specified number of trees to be planted and electric vehicle charging points.
- Insufficient parking on site – will overflow onto Dalmuir Road which is already full due to the overspill from the adjacent residential development.
- The increase in population locally is not matched by increases in underlying infrastructure e.g. healthcare and education.

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

a. National Planning Policy Framework:

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 10, 11
Chapter 4: Decision-making – paras. 38, 55, 56, 57
Chapter 5: Delivering a sufficient supply of homes – paras. 63, 65
Chapter 6: Building a Strong, Competitive Economy – para 81
Chapter 8: Promoting healthy and safe communities – paras. 92, 98
Chapter 9: Promoting sustainable transport – para. 110-113
Chapter 11: Making effective use of land – paras. 120, 124
Chapter 12: Achieving well-designed places – paras. 126, 130, 131
Chapter 14: Meeting the challenge of climate change, flooding and coastal change – paras. 152, 167 and 169
Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180, 183-188

b. Birmingham Development Plan 2017:

The site is allocated employment land.
PG1 – Overall Levels of Growth
PG3 – Place Making
GA10 – Longbridge
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
TP17 – Portfolio of Employment Land and Premises
TP19 – Core Employment Areas
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
- TP47 - Developer contributions

c. Longbridge Area Action Plan AAP

d. Development Management DPD:

- Policy DM1 – Air Quality
- Policy DM2 – Amenity
- Policy DM3 - Land affected by contamination, instability and hazardous substances.
- Policy DM4 – Landscaping and Trees
- Policy DM5 – Light Pollution
- Policy DM6 – Noise and Vibration
- Policy DM10 - Standards for residential development
- Policy DM14 – Transport Access and Safety
- Policy DM15 – Parking and Servicing

e. Supplementary Planning Documents & Guidance:

- Birmingham Design Guide SPD
- Birmingham Parking SPD
- Public Open Space in New Residential Development SPD
- Affordable Housing SPG
- Nature Conservation Strategy for Birmingham SPG
- Sustainable Management of Urban Rivers and Floodplains SPD
- Loss of Industrial Land SPG

7. **Planning Considerations:**

- 7.1. The application site sits within the Longbridge Area Action Plan (AAP) framework, which forms part of the Development Plan for the purposes of determining planning applications. The AAP contains a shared vision for Longbridge:
"Longbridge will undergo major transformational change redeveloping the former car plant and surrounding area into an exemplar sustainable, employment led mixed use development for the benefit of the local community, Birmingham, Bromsgrove, the region and beyond. It will deliver new jobs, houses, community, leisure and educational facilities as well as providing an identifiable and accessible new heart for the area. All development will embody the principles of sustainability, sustainable communities and inclusiveness. At the heart of the vision is a commitment to high quality design that can create a real sense of place with a strong identity and distinctive character. All of this will make it a place where people will want to live, work, visit and invest and which provides a secure and positive future for local people."
- 7.2. The key issues for determination are the principle of development; employment land supply; housing land supply; design, scale and massing; access and issues relating

to drainage, contaminated land, noise and amenity, ecology/landscape and sustainability.

Five Year Housing Land Supply

- 7.3. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, Paragraph 11d) 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.
- 7.4. 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 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.

Employment Land Supply

- 7.5. As the application site area is less than 10 hectares but over 0.4 hectares, under Policy TP17, the site would be considered as a Good Quality employment site. The Employment Land Availability Assessment 2021 is the most recently published assessment of the employment land supply within the City. This identifies that the supply of available Good Quality employment land is currently at 28.37 hectares of which is below the BDP target of 31 hectares.

Principle of Development

- 7.6. The application site falls within the Longbridge Growth Area covered by policy GA10 of the Birmingham Development Plan (BDP). This policy refers to the ambitions and targets of the Longbridge Area Action Plan (AAP).
- 7.7. The site is allocated under EZ2 of the AAP for B class employment uses and is an allocated Core Employment Area in the BDP. Policy TP19 identifies that within such areas, applications for proposals not in an employment use will not be supported unless an exceptional justification exists. Paragraph 5.9 of the Loss of Industrial Land to Alternative Uses SPD provides examples of where exceptions may exist, which includes proposals where the particular site size requirements make it difficult to find sites which do not involve the loss of industrial land or where the site forms part of a large-scale mixed-use regeneration proposal which has been identified in other City Council planning documents. These policies were written before the changes to the Use Classes Order were introduced in 2020 which has resulted in B1 uses now being classified as an E class use amongst many other commercial uses.
- 7.8. The applicant has included the following arguments within the planning statement to justify the release of this land.
- The AAP states that surplus land within the site is likely to become available for development, suggesting in such circumstances that 'future uses on this land will be considered within the context of the overall aim of the area action plan and adjoining uses'.
 - The AAP policy does not specify that future uses outside of employment uses will be considered. Additionally, the proposal must still satisfy TP19 and the loss of employment land SPD to justify its release for non-employment uses.

- The BDP seeks to retain core employment areas for employment uses to ensure there is a sufficient supply of employment land. It is evident there is a healthy supply of readily available employment land that exceeds the BDP target.
 - TP17 does not refer to releasing land for alternative uses should the reservoir of employment land exceed the targets set out in the BDP. The proposal is still required by TP19 and the loss of employment land SPD to set out expectational justification for the release of this land for non-employment uses.
 - The site is not of sufficient size to accommodate the operational needs of such uses, nor is it an attractive location. The site is bounded by residential dwellings to the north and west which further limits compatibility.
 - The loss of employment land for alternative uses SPD recommends that where it is argued that there is a lack of demand for a particular industrial site, the applicant will need to demonstrate that active marketing has been undertaken for a reasonable period (normally a minimum of two years). There is no evidence that this process has taken place in the submitted documents.
 - The site is brownfield, formally contaminated land with a challenging topography. The costs of remediation and lack of suitable employment uses render the site unviable.
- 7.9. The Planning Statement concludes on this issue that it is not economically suitable or viable to redevelop the site for employment uses. Policy TP19 requires an exceptional justification for non-employment uses in Core Employment Areas. Whilst exceptional justification isn't defined in the BDP; exceptions are described in paragraph 5.9 of the SPD. These include where there are good planning grounds for the loss. Paragraph 5.10 also says that the overall policy approach allows for redundant industrial sites for which there is no market demand for either re-use or redevelopment. Paragraph 5.4 of the SPD also states that *"Where it is being argued that high redevelopment costs make industrial redevelopment commercially unviable, applicants should provide a detailed analysis of redevelopment costs including investigations into land contamination issues"*.
- 7.10. Planning permission is sought for a 205-apartment scheme in three blocks with a mix of 1 and 2-bedroom apartments. The applicant has not addressed how this scheme complies with the employment policies of the BDP and Loss of Industrial Land to Alternative Uses SPD in an acceptable way and no evidence of marketing has been provided. However, the submitted viability appraisal has been assessed by Lambert Smith Hampton and is considered robust.
- 7.11. I consider that there are 'good planning grounds and an exceptional justification under TP19 for the loss of this allocated core employment site. The site is difficult to develop due to its challenging topography and is now surrounded by residential development making the site potentially non-conforming with the surrounding housing if it were to be brought forward for employment. Whilst I note that the City has a shortfall in its good quality sites provision, I consider that the principle of the development is in accordance with policy regarding loss of employment land.
- 7.12. With regards to the principle of residential development on the site, the proposed scheme would contribute towards achieving a 5-year land supply of housing. With regards to policy TP30 (The type, size and density of new housing) the submission proposes 205 dwellings with 49% 1 bedroom and 51% 2-bedroom. The Council's published Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city. This identifies that in the Northfield Constituency, there is a greater need for two and three bedroomed properties. Whilst it is not expected that every proposal would provide the exact mix suggested above, the current proposal appears to represent an over-provision of one and two bed units and it would be preferable to see an increase

in 3 bedroom units. This would contribute to the aim of creating a more varied supply of homes in the area.

- 7.13. However, whilst the mix of unit sizes does not necessarily meet the identified requirements for the area, the site is in the Longbridge Growth Area (GA10), the overall aim of which is to secure comprehensive regeneration and guide future development over a 15-20-year period. The 2021 monitoring report shows that 1,320 dwellings have been built or have consent. These 205 dwellings would help meet this need and the higher percentage of 2-bedroom units would meet the identified need for the Northfield Constituency and would also contribute to this wider 51,000 additional homes that are required to be built in Birmingham by the end of the plan period. On this basis, and given the site's surrounding context, I consider that the site is suitable for residential development and the principle of such is accepted.

Design, Layout, Scale and Massing

Layout

- 7.14. The layout is broadly positive, with a group of three buildings in a perimeter block configuration, addressing the existing streets with a strong building line and active, well fenestrated frontage. The development would address the corner of Dalmuir Road and Cooper Way with a chamfered footprint and public and private areas would be clearly defined, the buildings enclosing the rear courtyard. There would be two vehicular entrances to the site, one from Dalmuir Road and one from Cooper Way, making the development more permeable, connected, and integrated into the context. However:
- The entrances to the flat blocks would all be to the rear and from the courtyard. It would be better for legible front doors to be visible from the street and overlooked by the housing opposite.
 - The dominance of parking in the scheme is of detriment to the quality of the environment. Parking is provided throughout the central courtyard, as well as in undercroft for part of all three blocks.

Height, scale and massing

- 7.15. Opposite the site on Dalmuir Road the height is generally 3-4 storeys whilst this scheme rises to 7 storeys at the rear. This part of Longbridge is further from the influence of the town centre and moving towards a more suburban character. As a result, the proposal is too intensive, with the scale seeming out of context in this location, and the resulting car parking provision dominates the scheme. The rear courtyard is likely to be very shaded and is unlikely to create a positive environment for residents to spend time in or look out on. However, the scale along the Dalmuir Road frontage does attempt to reflect the scale of the housing scheme on the other side of the road but feels two storeys too high at the corner. This has subsequently been reduced through the amended plans however, only by one storey bringing this element down to five storeys opposite existing four storey development.

Design and appearance

- 7.16. The key concern regarding design is that the three blocks have the same architectural treatment and fail to assert an individual identity. However, the establishment of a clear bottom middle and top would create interest and the use of a contrasting material to the top floor would help it to recede somewhat and minimise the perception of scale. The use of brick banding to express the floors would bring interest and the balconies would create some articulation and depth to the facades. Whilst amended plans have changed some of the elevational features including window reveals, they have not addressed all the concerns raised. However overall, I the proposed development would be acceptable in design and appearance.

Landscape design and external works

- 7.18. There are no objections to the hard landscape proposals submitted which include permeable paving to footways and parking spaces in the courtyard. Whilst not natural materials, the quality is acceptable in terms of appearance and robustness. The proposed development would work hard to get the most out of the rear courtyard space in terms of providing planting and soft landscape. However, it would still present as a car park rather than an amenity space as there would be large areas of unbroken hard surfacing. Most of the landscape areas appear sustainable with only a few being too narrow to support planting long term; the most extreme pinch points are to the frontage on the corner and to the borders of the car park adjoining other sites.
- 7.19. The inclusion of rain gardens in the car park is welcomed. Construction details will be required of these features, with an understanding of how water will be channelled into them. This is recommended to be secured by condition. The detailed planting plan for the ground floor is acceptable, within the limitations of the overall layout. Species look appropriate to the context and to the expected shady environment of the car park courtyard. Trees are a good size, although some of the shrub planting densities are rather low. The visuals show that there would be resident access to rooftop space, and details of the roof terraces are included in the landscape plans. The idea is that restricting the size of these would avoid the need for a parapet or barrier at the building line which would have increased the perceived scale of the buildings further. The hard and soft landscape schemes for the roof gardens are acceptable, concentrating on plants which do well in free draining soil and exposed sites. The landscape management plan is also considered acceptable.
- Amenity / quality of accommodation
- 7.20. With regards to separation distances, overlooking and privacy, assuming the site was flat, the separation distance to the existing residential properties opposite would range from approximately 23m (block B) to 34m (block A). The proposed development would however be approximately 3m above the ground level thereby increasing the required separation distance from 27.5m to 33.5m. Despite the required distance falling short in relation to Block B, I consider this to be acceptable and given the level differences, I consider that it would not have an unacceptable impact in terms of loss of light or privacy. The existing properties are south facing in this location and the proposed apartments would not significantly overshadow them. In terms of within the development itself, the key distance of concern would be between the courtyard elevations of blocks B and C, which are around 26.5m apart with the proposed balconies increasing this sense of overlooking however, this impact would be new to new, and as such, would be acceptable. With regards to the unit sizes, all of them would meet the National Space Standards and on this basis, are considered acceptable.
- 7.21. Useable outdoor amenity space for residents is restricted to balcony space, which of course cannot be provided for ground floor flats, and the roof terrace on each block. This would fall below the requirement in the Design Guide SPD of 5sq.m per 1-bedroom apartment and 7sq.m per 2-bedroom apartment. Also, many of the flats, including some two-bedroom dwellings would not have a balcony as they would be permanently located in the shade. However, the balconies that would be provided, would meet the minimum 1.5m depth required by Policy. At present, Austin Park, located within the Town Centre, is within walking distance of the application site but it has no provision for play. The adjacent site at Nanjing would have play provision but development is not yet underway. The nearest play is located at Cofton Park, which is a walkable distance.

Access and parking

- 7.22. The proposed development would provide 105 parking spaces (50.5%), all of which

would be provided with an electric vehicle charging point. 5% of the car parking provision would be provided as accessible spaces. Block B would have a secure cycle store within the block with 20 stands whilst Block C would have a secure cycle store with 38 stands. A further 178 cycle spaces would be provided within the shared car park within the central courtyard area.

- 7.23. Transportation raises no objection in principle subject to conditions ensuring cycle and car parking along with pedestrian routes are provided prior to occupation. The public transport, walking and cycling network are acceptable for this development.
- 7.24. I note the objections and comments received from adjacent neighbours in the residential development constructed by Persimmon Homes on the edge of the town centre. Dalmuir Road, which is currently proposed as the main entrance into this development site, remains in the ownership of the applicant and if parking is an issue and is preventing access and emergency access then this is in the power of the applicant to fix. The adjacent residential schemes were all built in accordance with parking requirements at the time and are within walking distance of public transport – as is this application. As already noted, the proposal would not have any significant effect on the network, including any impact on emergency vehicles, sufficient to refuse planning permission.

Environmental Considerations

- 7.25. The Phase 2 Geo-Environmental Interpretative Report and Remediation Strategy identify the works that would be undertaken to ensure the Site can facilitate future residential development. Regulatory Services and the Environment Agency have reviewed the submitted reports and have no objections to the proposed enabling works subject to conditions relating to land contamination. No further work is required in relation to ground gas protection measures. I concur with their review and the relevant conditions are recommended below.
- 7.26. The submitted Flood Risk and Drainage Strategy demonstrates that the Site is in Flood Zone 1 and would be at no risk of flooding from rivers, tidal, groundwater, sewers or reservoirs and would be at very low risk of flooding from surface water. The Strategy also identifies that the site's future development would not increase flood risk elsewhere. It also provides a drainage strategy for the Site to be implemented as part of the enabling works scheme. To ensure maximum peak discharge is maintained at Greenfield run-off rates, on-site attenuation is considered necessary with a limited discharge rate of 1.8l/s. This has been calculated to ensure management of run-off from the 1 in 100-year storm event with a 40% allowance for climate change. SuDs to be incorporated include underground attenuation storage, permeable paving, green roofs and raingardens on the buildings and geocellular storage. Foul water drainage would discharge to the existing foul network in Lickey Road. The LLFA, the EA and Severn Trent Water have raised no objections to the proposed development subject to drainage conditions which are recommended below, and I concur with their view.
- 7.27. 2 Category 'U' Ash trees have been removed from the site under the previous enabling works planning permission. The submitted Biodiversity report indicates an approximate 60% biodiversity net gain post development based on the site being quite devoid of habitat pre commencement having held buildings and hard standing in the past. The Preliminary Ecological Appraisal identifies the site as comprising short perennial vegetation, hardstanding, broadleaved scattered trees, scattered shrub and walls. An extended Phase 1 habitat survey was undertaken in May 2022. The appraisal concludes with key recommendations which include the production of a construction environmental management plan and a range of other measures that would apply to the redevelopment of the site rather than enabling works for which this

application seeks consent. The City Ecologist raises no objection to the proposed works and a CeMP has been submitted as part of this submission and its implementation is conditioned below. The City Ecologist also recommends safeguarding conditions relating to bird and bat boxes and the retention of the tree protection measures deployed as part of the site clearance and enabling works and these are also recommended below.

- 7.28. A Noise Assessment is submitted in support of the application. This identifies that the noise environment for the application site does not require the residential units to be sealed– all properties would have openable windows or doors onto balconies. The building would also be equipped with Mechanical Ventilation and Heat Recovery (MVHR) which also provides ventilation when windows and doors are closed. As each of the dwellings would have an MVHR unit, adequate internal ventilation would be achievable with the windows closed. Regulatory Services have raised no objection to the proposal on noise grounds subject to safeguarding conditions relating to plant noise.

Sustainable Energy and Construction

- 7.29. Policy TP3 requires new developments to be constructed in ways that:
- Maximise energy efficiency and the use of low carbon energy.
 - Conserve water and reduce flood risk.
 - Consider the type and source of the materials used.
 - Minimise waste and maximise recycling during construction and operation.
 - Be flexible and adaptable to future occupier needs.
 - Incorporate measures to enhance biodiversity value.
- 7.30. A Sustainability Statement has been submitted which addresses each of these requirements of policy TP3 to an appropriate level. The applicant has addressed how the scheme will meet most of requirements of these policies within the sustainable construction and energy statement and within other submitted documents. Apart from photovoltaic panels all options have been ruled out. As none of the plans show the photovoltaic panels in place, a condition requiring their details is recommended below. The Statement also identifies that the proposed development complies with the Standard Assessment Procedure (SAP) for new dwellings that measures energy consumption of a property. The document does not address however, how the development will consider the type and source of materials used and ways in which waste will be reduced and recycling maximised during construction.
- 7.31. Policy TP3 also requires new non-residential developments over 1,000 square metres to achieve BREEAM Excellent standard unless it can be demonstrated that this would make the development unviable. It is recognised that the development proposal will not involve any new non-residential buildings and so the requirement for BREEAM Excellent standard is not required.
- 7.32. Policy TP4 requires new developments to incorporate the provision of low and zero carbon forms of energy generation or to connect into existing networks where they exist, unless it can be demonstrated that the cost of achieving this would make the development unviable. Combined Heat and Power (CHP) is the preferred system of energy generation for residential developments over 200 units or non-residential developments over 1,000 square metres.
- 7.33. The Sustainability Statement considers the use of photovoltaic panels on the roof of all three blocks. As already identified, their details are recommended to be secured by condition below.

- 7.34. Based on the above, I consider that the requirements of TP3 and TP4 have been met.

Other Issues

- 7.35. I note that fifteen letters of comment/objection have been received from residents. Many of the comments have been addressed above concerning car parking, access to green space/parks, scale of development, loss of light/privacy and maintenance of the roads. Comments also related to school place provision and NHS service provision. The proposed development is not of a sufficient scale to seek a separate financial contribution for education provision to that provided for by the City's Community Infrastructure Levy (CIL) however, further funding for education has been secured from the development of adjacent sites. Regarding NHS service provision – this is provided through the NHS, and it is not within the Local Planning Authority's remit to provide these services.

Financial Viability and Section 106 Requirements

- 7.36. A Financial Viability Appraisal was submitted in support of the planning application which, has been independently assessed by Lambert Smith Hampton. Initially, the applicant stated that the scheme could not support any financial contributions or affordable housing – which was noted and accepted by Lambert Smith Hampton.
- 7.37. Policy TP31 requires residential developments of 15 dwellings or more to deliver 35% of the proposed units as affordable housing, with a strong presumption in favour of on-site provision.
- 7.38. After significant negotiation, the applicant now offers the following in terms of affordable housing:
- The provision of 5% affordable housing (11 Units total) comprising 1.25% First Homes (discounted market properties at 30% of market value) (3 units) and 3.75% Social/Affordable Rent (8 units) in perpetuity with mix to be agreed.
- Whilst this falls below the 35% affordable housing policy requirement, this would provide the tenure of properties that the City requires. A higher percentage offer was made but this would have been for further discount market properties rather than the Social/Affordable Rent now secured.
- 7.39. Policy TP9 of the BDP states that new residential developments will be required to provide new public open space broadly in line with the standard of 2ha per 1,000 population. It goes on to say that, in most circumstances, residential schemes of 20 or more dwellings should provide on-site public open space and/or children's play provision. No on-site provision of open space or children's play proposed. However, Cofton Park is within walking distance of the application site.
- 7.40. Local Services have requested £447,675 (based on the original proposal for 213 dwellings) to be spent at Cofton Park. As already identified, the scheme cannot financially support this payment.
- 7.41. The proposal is liable for CIL. However, as the proposed development is within a Low Value Area, the charge per sq./m is £0. Therefore, no payment would be required.

Planning Balance

- 7.42. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. In this case, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.43. The NPPF gives three dimensions to sustainable development: social, economic and environmental. These should not be assessed in isolation because they are mutually dependant. Assessing the planning balance against these three strands, I consider that the likely **benefits** from the proposals would be:

Economic

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

Social

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

Environmental

- Ecological enhancements through new planting, biodiversity net gain
- Redevelopment of brownfield sites

- 7.44. With regards to the potential **harm** arising from the development these are:

- Environmental effects of noise, disturbance, dust etc. during construction phase (this would be controlled through a condition for a CMS)
- Insufficient affordable housing and financial contribution for open space and children's play leading to lack of provision for the site occupants.
- Potential minor negative impact on health provision – albeit that this sits outside of the planning system and the system is unable to provide facilities for Doctor/Dentist NHS Services.

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

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

8. **Conclusion**

- 8.1. The proposed development of the application site for residential purposes is considered acceptable in principle and would make a meaningful contribution towards the Council's 5YHLS and affordable housing. The proposed development would continue to expand the mix and tenure of residential properties within the Longbridge AAP area in accordance with policy requirements. There would be no adverse impact on the amenity of neighbouring occupiers and the proposed development would have a beneficial impact on ecology and landscape locally. The quantum of development proposed can be accommodated on the site and the development would see a significant net biodiversity gain on the site through new landscape and SuDS. On this basis, I have concluded that the proposal is sustainable development.
- 8.2. The financial viability of the site is challenging however the proposed development would provide the best outcome for moving this site forward in accordance with the aims and vision of the Longbridge AAP whilst creating a sustainable community on site.

9. **Recommendation:**

- 9.1. That application 2022/05774/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- a) The provision of 5% affordable housing (11 Units total) comprising 1.25% First Homes (discounted market properties at 30% of market value) (3 units) and 3.75% Social/Affordable Rent (8 units) in perpetuity with mix to be agreed.
 - b) Payment of a monitoring and administration fee associated with the legal agreement 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 23 February 2023, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons: -
- In the absence of a legal agreement to secure on-site affordable dwellings for First Homes and social rent/affordable rent, the proposal conflicts with Policy TP31 of the Birmingham Development Plan, Proposal H1 of the Longbridge AAP and the National Planning Policy Framework.
- 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 by 23 February 2023, or such later date as may be authorised by officers under delegated powers, planning permission for application 2021/08642/PA be APPROVED, subject to the conditions listed below: -

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| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the submission of unexpected contamination details if found |
| 3 | Requires the prior submission of a drainage scheme |
| 4 | Requires the prior submission of a sustainable drainage scheme |
| 5 | Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan |
| 6 | Requires the prior submission of details of bird/bat boxes |
| 7 | Limits the noise levels for Plant and Machinery |
| 8 | Requires the submission of details of a communal satellite dish per residential block |
| 9 | Requires the submission of hard surfacing materials |
| 10 | Requires the submission of a lighting scheme |
| 11 | Requires the submission of boundary treatment details |
| 12 | Requires the submission of roof parapet, roof planter design, roof railings and roof terrace gardens landscaping details |
| 13 | Requires the submission of sample materials |
| 14 | Requires the submission of a CCTV and access control scheme |
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- 15 Requires the submission of photovoltaic panel details
 - 16 Requires the submission of rain garden details
 - 17 Requires the submission of architectural details
 - 18 Construction and Environmental Management Plan/Construction Ecological Management Plan Implementation
 - 19 Requires the Prior Submission of a Construction Employment Plan
 - 20 Removes PD rights for telecom equipment
 - 21 Requires the provision of cycle parking prior to occupation
 - 22 Requires the submission of a residential travel plan
 - 23 Requires the parking area to be laid out prior to use
 - 24 Requires the provision of pedestrian access routes prior to occupation
 - 25 Requires the provision of a vehicle charging point
 - 26 Arboricultural Method Statement and Tree Protection Plan - Implementation
 - 27 Implement within 3 years (Full)
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Case Officer: Pam Brennan

Photo(s)

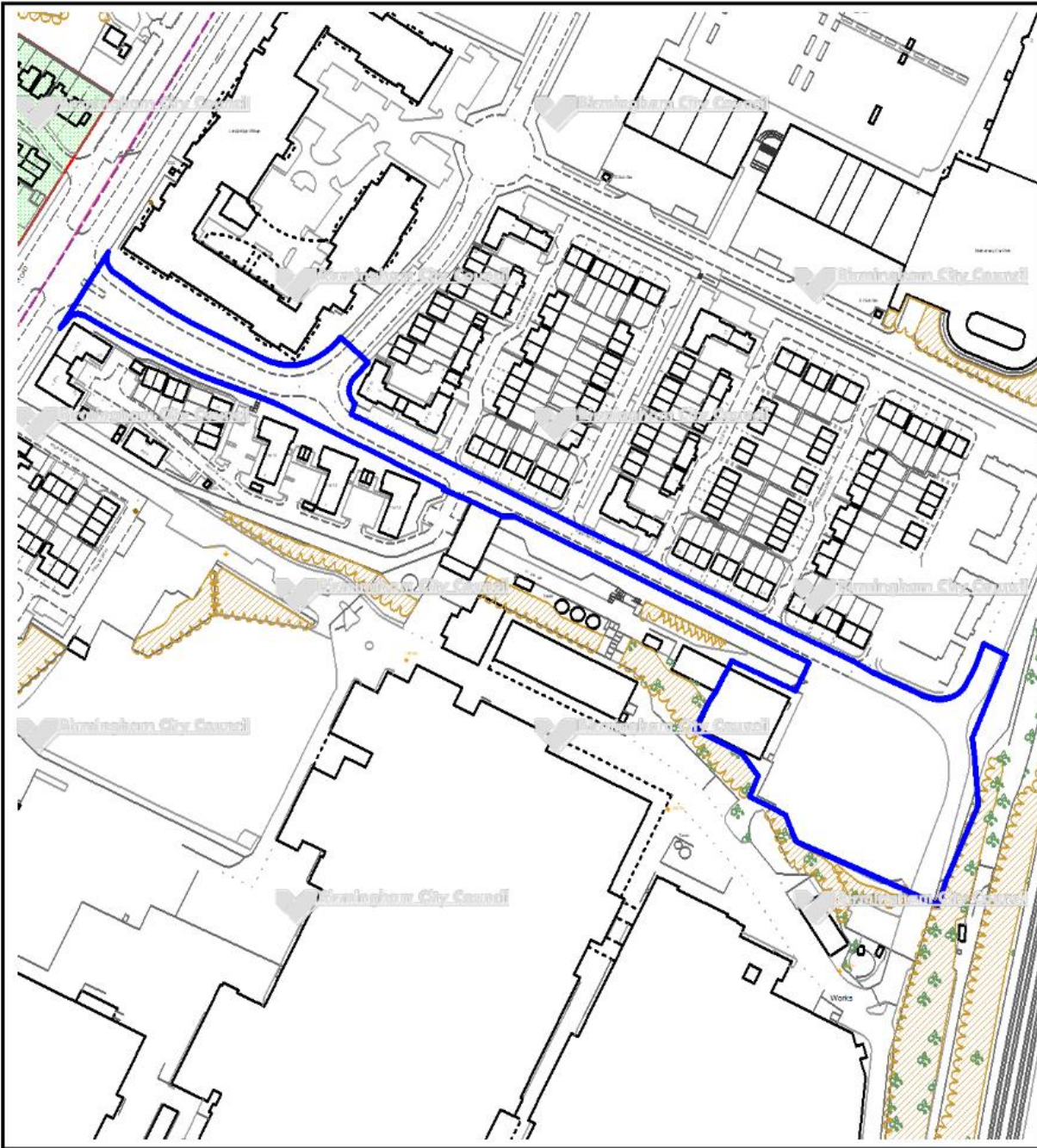


Photograph 1: Corner of application site on Dalmuir Road – position of Block B with Block C behind.



Photograph 2: Frontage of application site on Dalmuir Road – site of Block A

Location Plan



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