

Birmingham City Council

Planning Committee

17 March 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	6	2021/05446/PA 260 Bradford Street Deritend Birmingham B12 0QY Demolition of existing buildings, and construction of 8 storey buildings to Bradford Street and 6 storey building to Green Street comprising 131 apartments (Use Class C3) and 208 Sqm commercial space (Use Class E) with pedestrian thoroughfare through site
Refuse	7	2021/03783/PA 16 Kent Street Birmingham B5 6RD Demolition of existing buildings and redevelopment to provide 116 apartments with a ground floor of 2 commercial units to include Use Classes E(a), E(b), E(c), E(e), E(f) public houses, wine bars, and/or drinking establishments (sui generis) and E(g)(i).

Committee Date:	17/03/2022	Application Number:	2021/05446/PA
Accepted:	18/06/2021	Application Type:	Full Planning
Target Date:	29/04/2022		
Ward:	Bordesley & Highgate		

260 Bradford Street, Deritend, Birmingham, B12 0QY

Demolition of existing buildings, and construction of 8 storey buildings to Bradford Street and 6 storey building to Green Street comprising 131 apartments (Use Class C3) and 208 Sqm commercial space (Use Class E) with pedestrian thoroughfare through site

Applicant:	Blue Door Property Developments Ltd 1712 Warwick Road, Knowle, Solihull, B93 0HU
Agent:	PJ Planning Cradley Enterprise Centre, Box No 15, Maypole Fields, Cradley, B63 2QB

Recommendation

Approve Subject to a Section 106 Legal Agreement

1.0. Proposal:

- 1.1. This application proposes the demolition of existing car repair workshop and the construction of 131 apartments and 208sqm of commercial space as follows:
 - Block A: 8 storey building fronting Bradford Street containing 85 apartments.
 - Block B: 8 storey building front Bradford Street containing 2 commercial units (104.2sqm and 103.6sqm) and 35 apartments.
 - Block C: 6 storey building fronting Green Street containing 11 apartments
- 1.2. Commercial space would be occupied by any of the following uses:
 - E(a) retail other than sale of hot food;
 - E(b) sale of food and drink for consumption on the premises;
 - E(c) (i), (ii) and (iii) financial services, professional services and other appropriate services in a commercial, business or service locality;
 - E(e) medical or health services.
- 1.3. All blocks would have integral plant, refuse storage and cycle storage at ground floor.
- 1.4. The site would also include a new pedestrian link between Blocks A and B which would be part of a new pedestrian connection between Lombard Street and High Street Deritend.



Figure 1: Proposed Site Plan

- 1.5. Housing mix: 1 bed 1 person: 40 units (30.5%) 2 bed 3 person: 62 units (47.3%)
 1 bed 2 person: 1 unit (0.8%) 2 bed 4 person: 21 units (16%)
 3 bed 4 person: 7 units (5.3%)

- 1.6. External appearance: A simple contemporary approach is proposed with brick as the primary facing material and concrete banding to express the floorplates.



Figure 2: Proposed Bradford Street streetscene



Figure 3: Proposed Green Street streetscene

1.7. Proposed cycle storage: 140 spaces. (No car parking spaces proposed.)

1.8. Supporting documents:

Design and Access Statement & Addenda	Planning Statement
Schedule of Accommodation	Financial Viability Statement
Travel Plan	Transport Statement
Preliminary Ecological Appraisal	Energy Statement
Baseline Noise Assessment	BREEAM Pre-assessment
Site investigation – Desk Study Report	
Sustainable Drainage Assessment and Operation and Maintenance Plan	
Archaeology Desk Based Assessment and Heritage Statement	

1.9. [Link to documents](#)

2.0. **Site & Surroundings:**

2.1. The application site comprises a plot fronting onto the northern side of Bradford Street within the Rea Valley Urban Quarter. The western part of the site extends through to Green Street but the larger remaining section is shallower. It is currently occupied by low-rise workshops/sheds associated with a car repair company.

2.2. The site is within Flood Zone 1. It sits on the Digbeth/Deritend Medieval and Post-Medieval Settlement (MBM2290) and the following Listed Buildings are nearby:

- Roman Catholic Church of St Anne – Grade II
- White Swan PH – Grade II
- 27 Alcester Street – Locally Listed Grade B

2.3. Site area: 0.23ha

2.4. The site is located within an area which is undergoing much redevelopment, moving from primarily industrial to a more mixed character with new residential-led development being constructed. To the west a modern apartment building has been recently completed. To the east is a surface level car park and vacant post war works buildings with planning permission for residential development (2016/08443/PA); demolition work has begun. To the north on the opposite side of Green Street is an area of cleared land awaiting construction of apartments, known as the Stone Yard development (2019/07805/PA). To the south on the opposite side of Bradford Street are residential developments nearing completion or occupied on either side of Lombard Street (2014/00452/PA, known as Fabrick Court is completed and occupied, and 2019/07304/PA).

2.5. [Site Location](#)

3.0. Planning History:

- 3.1. None relevant at the application site but the following applications relate to surrounding sites:
- 3.2. 10/9/2014 - 2014/00452/PA - Former Harrison Drape site bounded by Bradford Street, Birchall Street, Cheapside and Lombard Street - Application for the part demolition, refurbishment, conversion and extension to the former Harrison Drape building and the erection of three new buildings to provide a total of 313 residential dwellings and retail unit (Use Class A1) with associated infrastructure, parking and landscaping – Approved subject to conditions.
- 3.3. 18/7/2017 - 2016/08443/PA - 250 & 251 Bradford Street and 25-30 Green Street - Demolition of existing buildings and erection of 130 residential units varying from 4-8 storeys together with 40 car parking spaces and associated works – Approved subject to conditions.
- 3.4. 27/10/2017 - 2017/02454/PA - Land bounded by Green Street, Birchall Street and Bradford Street - Demolition of existing buildings and erection of 140 residential units over 5/6 storeys together with 42 car parking spaces and associated works – Approved subject to conditions.
- 3.5. 11/5/2020 - 2019/07304/PA - Land fronting Bradford Street, Lombard Street and Cheapside - Construction of part 5 part 6 storey building to accommodate 194 no. apartments with associated access from Cheapside - Approved subject to conditions.
- 3.6. 8/9/2020 - 2019/07805/PA - Bull Ring Trading Estate, Green Street - Full planning application for the demolition of all building and the erection of 7no. 6 - 30 storey buildings comprising 995 residential apartments (Use Class C3) and associated internal amenity space, flexible amenity and retail / leisure floorspace (Amenity / Use Class E, Use Class F1, Use Class F2, and Sui Generis Pub or drinking establishment, hot food take away and cinema), car parking, cycle parking, landscaping and access – Approved subject to conditions.

4.0. Consultation Responses:

- 4.1. Transportation Development: No objection. The development has 100% cycle parking and refuse stores provided close to the highway frontages. There are sections of parking restrictions on street that will allow short term waiting by service vehicles. Recommended conditions:
1. A Grampian style condition so the development is not occupied until the redundant footway crossing on Bradford Street and on Green Street are reinstated to full height kerb with a suitable highway agreement.
 2. Cycle parking is provided before the development is occupied.
 3. Construction Management Plan provided before any works including site clearance are carried out to define any impacts on the highway and local network.
- 4.2. Regulatory Services: No objection subject to the following conditions:
1. Noise insulation scheme between commercial and residential premises to be submitted.
 2. Noise insulation scheme for windows/glazing and ventilation within apartments.
 3. Contamination remediation scheme
 4. Contaminated land verification report
 5. Provision of electric vehicle charging point

- 4.3. City Design Team: No objection subject to conditions relating to materials and architectural detailing. Proposal is supported in principle to aid regeneration of the area and the layout facilities new connections. Height of the principal front range is a floor taller than expected but is acceptable with appropriate brick bonding and treatment of flank boundary walls. Architectural approach is simple and robust. Landscaping includes some areas of green roofing and a line of minimalist boundary planting.
- 4.4. Principal Conservation Officer: No objection. The Heritage Assessment identifies the following heritage assets close to the site which could be impacted by the development:

White Swan P.H- grade II listed
Roman Catholic Church of St. Anne- grade II listed
Associated Presbytery of St. Anne's- locally listed
27 Alcester Street- locally listed

In all cases the assessments of the architectural and historic significance and their setting are fair and sufficient and can be supported. Overall the Assessment considers there will be no change to the heritage significance of these assets nor any impact on their setting, their key heritage interests or sightlines. The conclusion of the Heritage Assessment that no harm will be caused to the significance of the listed buildings is supported.

- 4.5. Principal Arboriculturist/Principal Ecologist: No objection subject to conditions requiring bat and bird boxes; details of the biodiversity roofing; and details of the proposed hard and soft landscaping. The current state of the building renders it of low biodiversity value.
- 4.6. Housing: No response.
- 4.7. Leisure Services: Proposal would normally generate a requirement for a contribution towards the provision of public open space however the conclusions of Financial Viability Appraisal are noted.
- 4.8. Employment Access Team: No objection subject to a condition requiring a Construction Employment Plan to be provided prior to commencement.
- 4.9. Lead Local Flood Authority: No objection subject to conditions requiring the submission of a sustainable drainage scheme and a Sustainable Drainage Operation and Maintenance Plan.
- 4.10. Severn Trent Water: No objection subject to a condition requiring drainage plans for the disposal of foul and surface water flows.
- 4.11. Environment Agency: No objection subject to a condition requiring a remediation strategy to deal with the risks associated within potential contamination of the site due to its previous uses.
- 4.12. West Midlands Police: Various queries raised regarding security, access control, lighting, however no objection is raised and in the event of approval a condition requiring CCTV to be installed is requested.
- 4.13. West Midlands Fire Service: No objection.

- 4.14. Birmingham Civic Society: Approach to design and massing is considered appropriate; acceptable provisions for energy reduction; and no impact on setting of the heritage assets. Objections are submitted on the following grounds:
- Incomplete pedestrian route may attract anti-social behaviour. Little detail provided regarding landscaping and lighting. Very little safe outdoor space for residents which is not acceptable in this location.
 - Lack of affordable housing is disappointing, especially in an area very well served by public transport and with the forthcoming Metro extension along Digbeth.

5.0. Third Party Responses:

- 5.1. The application has been publicised by the posting of site and press notices, and notification to local Councillors, Residents' Associations and the occupiers of nearby properties.
- 5.2. 1 representation has been received making the following comments:
- Affordable housing should be provided. The developer's claim that the viability of the scheme would be jeopardised by the obligation to provide 35% affordable housing should be investigated.
 - There is no provision made for waste storage for the commercial unit.
 - The public thoroughfare would risk the privacy and security of property on neighbouring sites and will leave them vulnerable to criminal damage.

6.0. Relevant National & Local Policy Context:

6.1. National Planning Policy Framework

- 6.2. The following paragraphs are particularly, but not exclusively, relevant to the proposal:

Chapter 2: Achieving Sustainable Development – paras. 7, 8, 11
Chapter 4: Decision-making – paras. 56, 57
Chapter 5: Delivering a sufficient supply of homes – paras. 63, 65,
Chapter 8: Promoting healthy and safe communities – paras. 92, 98
Chapter 9: Promoting sustainable transport – para. 110
Chapter 11: Making effective use of land – paras. 120, 124,
Chapter 12: Achieving well-designed places – paras. 126, 130,
Chapter 14: Meeting the challenge of climate change, flooding and coastal change –
paras.152
Chapter 15: Conserving and enhancing the natural environment – paras. 174, 180,
183, 185, 186
Chapter 16: Conserving and enhancing the historic environment – paras. 194, 195,
197, 199

6.3. Birmingham Development Plan 2017:

- 6.4. The application site falls within the City Centre Growth Area identified in policy GA1 in the Local Plan and within the Southern Gateway Growth and Wider Area of Change identified in policy GA1.2 of the Local Plan.
- 6.5. 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
- TP17 Portfolio of employment land and premises
- TP20 Protection of employment land
- TP21 The network and hierarchy of centres
- 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
- TP31 Affordable housing
- TP37 Heath
- TP38 A sustainable transport network
- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development
- TP46 Digital communications

6.6. Development Management DPD:

- 6.7. 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

6.8. Supplementary Planning Documents & Guidance:

- 6.9. Rea Valley Urban Quarter SPD (2020)
- Loss of Industrial Land to Alternative Uses SPD (2006)
- Places for All SPG (2001)
- Places for Living SPG (2001)
- Birmingham Parking SPD (2021)
- Public Open Space in New Residential Development SPD (2007)
- Affordable Housing SPG (2001)

7.0. Planning Considerations:

- 7.1. The main material considerations are: the principle of the development; layout, scale and design; landscaping and biodiversity; sustainability; residential amenity; highway safety; security; drainage/flood risk; heritage; and planning obligations.

Principle

- 7.2. Notwithstanding a general presumption against the loss of employment premises, this proposal is considered to be acceptable taking account of the following:

- the location of the site within the City Centre Growth Area and the Southern Gateway Wider Area of Change;
 - the existing car repair workshop is becoming a non-conforming use due to the changing character of surrounding land uses from industrial to residential as a result of the application of Policy GA1, the Rea Valley SPD and the flexibility offered by the Loss of Industrial Land SPD in respect of the inclusion of residential uses as part of regeneration initiatives;
 - the relatively small size of the site and it being in the lowest category of industrial land set out in the Loss of Industrial Land SPD;
 - the contribution the proposed apartments would make towards meeting the City's housing need; and
 - the identification of the site in both the SHLAA and the brownfield register.
- 7.3. The proposal incorporates two retail units which would be located 558m outside of the City Centre retail core. Policy GA1 supports appropriate scale retail development where it complements the existing retail core as part of mixed-use redevelopments. Given the proposed units total only 208sqm this floorspace is considered to be ancillary to the main residential development.
- 7.4. While the loss of the existing business is regrettable, it does not generate significant employment and the loss of jobs would be offset to a degree by the construction jobs and employment created within the two commercial units proposed.
- 7.5. Concerning the proposed residential mix, 31.3% of units would be 1 bedroom apartments, 63.3% would have 2 bedrooms and a further 5% would have 3 bedrooms. Compared to the SHMA, this represents an over-provision of 1 and 2 bedroom apartments and is not fully in accordance with Policy TP30 that requires a range of dwellings, however the proposed mix is considered satisfactory given the city centre location and is comparable with other consented developments.
- Layout, scale and design**
- 7.6. *Layout:* The Rea Valley SPD seeks, among other things, to improve connectivity particularly for pedestrians and cyclists, in this area and accordingly the site layout is arranged around the creation of a pedestrian route which is ultimately intended to connect Bradford Street and High Street Deritend, crossing over Green Street. While the land to the rear of the application site fronting Green Street is not included within this proposal, the layout encourages rather than prejudices this coming forward in the future.
- 7.7. The position of the proposed blocks is appropriate, being located at the back of pavement as is typical of the area, and the flank walls would adjoin newly constructed blank elevations at which are currently exposed at The Forge apartments immediately to the west of the site.
- 7.8. A landscaped courtyard would be located to the west of the wing of the principal block, adjacent to the boundary with the courtyard car park at The Forge.
- 7.9. The two commercial units would present an active frontage to both Bradford Road and the proposed pedestrian route and the necessary substation would be tucked into the wing of the principal block with suitable access maintained.
- 7.10. *Scale:* The development accords with the height guidelines set out in the Rea Valley SPD. The Bradford Street blocks would be taller than adjacent buildings by up to two storeys however appropriate treatment of exposed blank walls can be secured by condition.



Figure 4: Scale and mass of proposed development (site shown in yellow)

- 7.11. *Design:* The approach is simple and robust with a brick building proposed with floor plates expressed through concrete banding. Full height windows allow for a tidy arrangement of the materials in cells, arranged in a grid. A base, middle and top is formed by lightening the brick colour. Detailed design queries have been addressed positively and amended plans have improved the Bradford Street elevation by introducing winter gardens to the ground floor residential units.



Figure 5: CGI of Bradford Street elevation

Landscaping and biodiversity

- 7.12. The Rea Valley SPD emphasises the need to green the area and to improve biodiversity. The proposed site plan indicates tree planting along the pedestrian route and within the courtyard, and two biodiversity roofs are shown on the roof plan. Given that the site contains no soft landscaping at all at present, the proposal would be a significant improvement and a detailed planting scheme should be secured by condition.
- 7.13. Your Principal Ecologist is in agreement with the conclusion of the Preliminary Ecological Appraisal that the site currently has very low ecological value. The proposed landscaping scheme and biodiversity roofs would enhance the its value and conditions recommended by the Principal Ecologist are attached to ensure the appropriate detailing is secured.

Sustainability

- 7.14. Broadly, 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 vacant site. The Energy Statement refers to the use of efficient heating systems, improved insulation levels, high specification glazing and energy efficient lighting. The energy strategy shows that the development is estimated to achieve a 22.94% reduction in CO2 emissions over the Target Emission Rate through the use of suitable glazing and fabric pipework and ductwork insulation, mechanical ventilation with heat recovery, efficient heating and hot water production, and a Photovoltaic Array of 19kWp. The application is also accompanied by a BREEAM Pre-assessment which indicates a likely rating of Excellent. The development is considered to comply with BDP policies TP3 and TP4.

Impact on residential amenity

- 7.15. Apartments meet the Nationally Described Space Standards in terms of size and are sensibly laid out. The courtyard amenity space is small at approx. 117sqm but it would still be worthwhile for residents as a place to sit outside with neighbours. Five of the ground floor units would have a private terrace, two units would have a winter garden and a further 75 units would have a balcony. Overall, the provision of outside space would be satisfactory for the location. The layout of the site and windows takes account of the existing and approved developments either side of the site and an adequate level of privacy and outlook would be maintained for all residents.
- 7.16. In respect of noise, the Baseline Noise Assessment indicates that the principal impact is from road traffic both during the day and at night, giving a low-medium noise risk for the primary elevations overlooking Bradford St and Green St. To ensure an appropriate internal noise environment, the building fabric would need to provide a minimum sound reduction of 27dB to comply with BS 8233. The Assessment indicates compliance with BS 8233 as structural components of the building could be expected to provide sound reduction in excess of 45dB and standard thermal double glazing in the order of 33dB.
- 7.17. Regular individual noise events of more than 45dB occurred during the monitoring periods and would be likely to cause sleep disturbance. The sound reduction benefits of the standard glazing would be significantly reduced in the event of windows being opened at night for ventilation purposes. Consequently, habitable rooms overlooking Bradford Street and Green Street are proposed to have trickle vents.

- 7.18. Noise insulation is recommended between the commercial units and the first floor apartments and is the subject of a condition.
- 7.19. The external amenity space would be screened from traffic noise by the development and would meet the required noise levels for garden spaces.
- 7.20. There is no objection from Regulatory Services concerning noise, air quality or contaminated land issues, subject to conditions which are attached. The condition relating to electric vehicle charging points recommended by Regulatory Services is not attached as no off-street car parking spaces are proposed within the development.

Impact on parking and highway safety

- 7.21. The absence of any off-street parking spaces within the development and the 100% provision of cycle storage accords with the approach taken in the recently adopted Birmingham Parking SPD. Transportation Development is satisfied with the refuse collection/servicing arrangements and highway safety is not expected to be compromised by the development.

Impact on security

- 7.22. West Midlands Police have reviewed the scheme and have made a number of recommendations concerning access arrangements, lighting and CCTV. Much of the detailed design is beyond the scope of planning and only the CCTV is recommended to be secured through a planning condition and this is attached.
- 7.23. I am mindful that the development includes what is intended to become a public pedestrian route. The route itself would be overlooked by apartments and the commercial units and is wide enough to ensure some privacy for residents. As the route is only partially complete, the remainder expected to come forward as part of redevelopment of the site to the rear, a condition is attached requiring gates to ensure the rest of the development is secure.



Figure 6: CGI showing proposed pedestrian route

Impact on drainage/flood risk

- 7.24. The site lies within Flood Zone 1 and is at low risk of flooding. Sustainable drainage features proposed to be incorporated into the development are the use of permeable paving, green roofs and soft landscaped areas.

Impact on heritage assets

- 7.25. The Combined Archaeology Desk-Based Assessment and Heritage Statement concludes that there is low potential for the recovery of any significant or complex archaeological remains on the site, and that there would be no impact on the setting of the following heritage assets and therefore no change to their historic significance: the Grade II Listed White Swan and RC Church of St Anne and the Locally Listed 27 Alcester St and the buildings associated with the RC Church of St Anne.
- 7.26. While a change to the site and townscape is acknowledged, in relation to the significance of the heritage assets, those attributes of their setting that contribute to their significance and the ability to appreciate those attributes would be unaltered by the proposed development and no harm would be caused to their significance.

Planning Obligations

- 7.27. Independent review of the submitted Financial Viability Appraisal indicates that the proposal could support the provision of 13 affordable units, equating to 10%, as a proportionate mix for low cost home ownership at 20% discount on market value. This is in addition to the public realm works at an estimated cost of approx. £229,000.
- 7.28. This provision, while not meeting the 35% set out in policy TP31, is welcome however closer inspection of the cost of the units with a 20% discount applied indicates they would not be affordable based on the Council's income thresholds. Consequently, an alternative option comprising 5 units at a 40% discount and 2 further units at a 30% discount to meet the First Homes criteria has been agreed as being more appropriate. This would provide fewer units (5% instead of 10%) but more genuinely affordable accommodation.
- 7.29. The proposal includes the southern half of a public route between Bradford Street and Green Street. In keeping with a similar situation at the redevelopment of the Bull Ring Trading Estate on the north side of Green Street (2019/07805/PA) (The Stone Yard), the S106 agreement should require that, once completed by redevelopment of the northern half of the block, the public route must be publicly accessible.

Other issues

- 7.30. The public participation comments are largely dealt with above, other than that relating to refuse storage for the commercial units, for which the agent advises space would be given within the residential bin store.

8.0. Conclusion

- 8.1. The proposed development would provide much-needed housing, particularly given the City's inability to demonstrate a 5 year housing land supply, in a well-designed form, and would make provision for a new pedestrian connection in accordance with recently adopted supplementary guidance. There would be no adverse impact on the surroundings, including on heritage assets or wildlife, subject to the attached conditions, and notwithstanding the loss of a small amount of employment land, the scheme would, on balance, make a positive contribution towards the regeneration of this part of the city centre.

9.0. Recommendation:

- 9.1. That consideration of application 2021/05811/PA be deferred pending the completion of a legal agreement to secure the following:

- a. 5% affordable units at a proportionate mix of 1, 2 and 3 bedroom apartments provided at a discount on market value of 30% for the two First Homes units and 40% for the remaining five units;
 - b. Public access to the pedestrian route linking Bradford Street with Green Street on its completion through redevelopment of the northern half of the route;
 - c. a financial contribution of £1,500 for the administration and monitoring of this deed to be paid upon completion of the agreement.
1. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 29th April 2022, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:
 - a. In the absence of a legal agreement to secure affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017 and Affordable Housing SPG; and
 - b. In the absence of a legal agreement to secure a public access to the new pedestrian route, the proposal conflicts with Policy TP9 Open Space, Playing Fields and Allotments of the Birmingham Development Plan 2017, Public Open Space in New Residential Developments SPD and the Rea Valley Urban Quarter SPD.
 1. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
 2. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 29th April 2022, or such later date as may be authorised by officers under delegated powers, favourable consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

1	Requires the scheme to be in accordance with the listed approved plans
2	Implement within 3 years (Full)
3	Requires the prior submission of a Demolition Method Statement/Management Plan
4	Requires the prior submission of a Construction Method Statement/Management Plan
5	Requires the prior submission of a Construction Employment Plan
6	Requires the prior submission of a contamination remediation scheme
7	Requires the submission of a contaminated land verification report
8	Requires the prior submission of a sustainable drainage scheme
9	Requires the submission of a Sustainable Drainage Operation and Maintenance Plan prior to occupation

-
- 10 Requires the prior submission of a drainage scheme
 - 11 Requires the prior submission of package of sustainability measures to meet CO2 emission savings
 - 12 Requires the prior submission of level details
 - 13 Prior to Above Ground Works: Submission of details of bird/bat boxes
 - 14 Prior to Above Ground Works: Submission of noise insulation (variable)
 - 15 Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
 - 16 Requires the redundant footway crossings to be reinstated prior to occupation
 - 17 Requires the provision of cycle parking prior to occupation of dwellings
 - 18 Requires the submission of a CCTV scheme
 - 19 Requires the submission of gate/railing details
 - 20 Requires the submission of sample materials
 - 21 Prior to Above Ground Works: Submission of architectural details
 - 22 Requires the submission of detailed shop front design
 - 23 Requires the submission of boundary treatment details
 - 24 Requires the submission of details of green/brown roofs
 - 25 Requires the submission prior to occupation of hard and soft landscape details
 - 26 Limits the hours of operation/deliveries/collections regarding Ground Floor Commercial Uses
 - 27 Limits the noise levels for plant and machinery
-

Case Officer: Amy Stevenson

Photo(s)



Photo 1: View of site looking west along Bradford Street

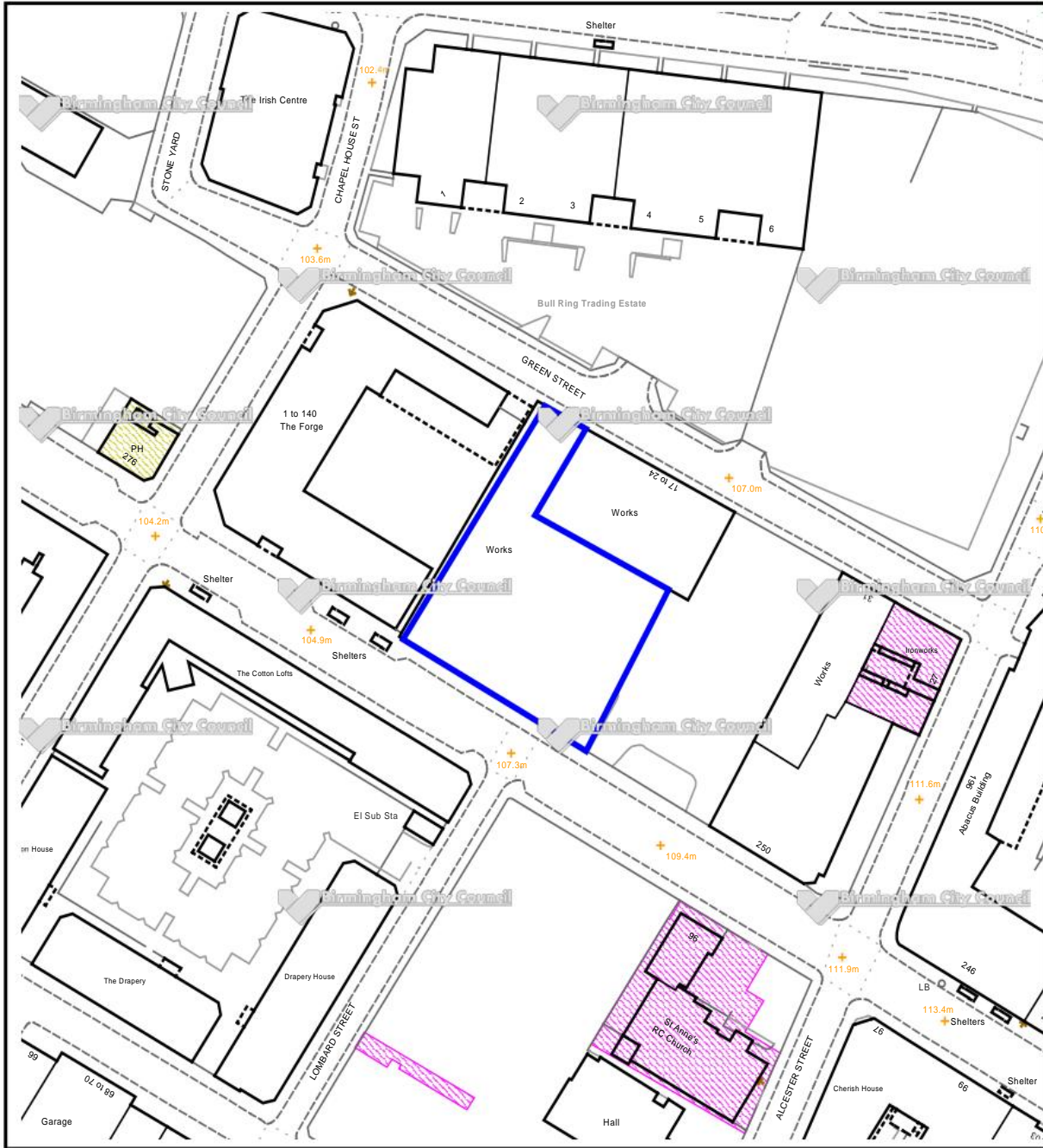


Photo 2: View of site looking east along Bradford Street



Photo 3: Green Street frontage

Location Plan



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Committee Date:	17/03/2022	Application Number:	2021/03783/PA
Accepted:	28/05/2021	Application Type:	Full Planning
Target Date:	31/03/2022		
Ward:	Bordesley & Highgate		

16 Kent Street, Birmingham, B5 6RD

Demolition of existing buildings and redevelopment to provide 116 apartments with a ground floor of 2 commercial units to include Use Classes E(a), E(b), E(c), E(e), E(f) public houses, wine bars, and/or drinking establishments (sui generis) and E(g)(i)

Applicant:	Prosperity Developments and The Trustees of The Gooch Estate 32 George Street, Birmingham, B3 1QG
Agent:	PJ Planning Regent House, 156-7 Lower High Street, Stourbridge, DY8 1TS

Recommendation
Refuse

Report Back

Proposed Amendments

This application was reported to your Committee at the meeting on the 22nd July 2021, when it was approved subject to completion of a legal agreement to secure affordable housing less the cost of noise mitigation works at the Nightingale club. Originally, the noise mitigation works at the Nightingale were to be secured via a planning condition requiring an Agent of Change Agreement. Subsequently, it was proposed that applicant and Nightingale Club would enter into an Agent of Change Agreement at the same time as the S106 Agreement. The application was therefore reported back to your Committee at the meeting on the 6th January 2022, setting out the new mechanism to secure the Agent of Change Agreement, and to update Committee on changes to the design of the scheme. However, the legal agreement has not been completed

More recently, the applicant has confirmed they are no longer willing to enter into an Agent of Change Agreement to secure the Noise Mitigation Works at the Nightingale. Instead they are proposing sealed all windows on the Lower Essex Street elevation facing the Nightingale Club. Units affected are as follows:

Fully Sealed facing Lower Essex Street / Nightingale Club

1st Floor – Plots 1-3

2nd – 8th Floors – Plots 13-15, 25-27, 37-39, 49-51, 61-63, 73-75, 85-87

10th-11th Floors – Plots 103, 110

Total – 26 units (22%)

Partially Sealed Corner Apartments – one elevation facing Kent Street

1st Floor - Plot 4

2nd – 8th Floors – Plots 16, 28, 40, 52, 64, 76 & 88
9th Floor – Plot 97
10th -11th Floors – Plots 104 & 111
Total – 11 units (10%)

In total 37 out of the 116 apartments (32%) are sealed (22%) or partially sealed (10%).

The main issue is therefore whether the proposal would lead to unreasonable living conditions for its future residents that would, in turn, have a harmful effect on the operation of the adjacent existing night club.

Consultation Responses

Regulatory Services – recommend refusal on the proposed scheme involving the sealing of all windows on the Lower Essex Street facade :-

- they would not accept the glazing element of the mitigation scheme proposed in the Hoare Lea Noise Reports. This is because the NR20 approach being proposed significantly underestimates bass noise intrusion and we would require a more effective mitigation design to deal with noise breakthrough on the facade.
- the expected internal standard would be that music and associated noise from the entertainment premises would be inaudible within habitable rooms.
- the noise assessment is only based on sample plots in respect of composite noise intrusion calculations. In order to effectively assess which windows are likely to be adversely affected they would expect the applicant to supply a noise model showing incident levels at each level on each facade.
- they are therefore unable to confirm whether the extent of sealed windows detailed in the application would be sufficient to mitigate the impact as they assume the remaining windows will be provided with openable casements.
- sealed windows create 'acoustic prisons' and result in unacceptable residential amenity and hence are not supported as a general approach.
- there are occasions when we have accepted sealed windows and these generally relate to the need to protect health due to adverse air quality and on occasions in respect of noise where the accommodation is proposed for students or hotels which they do not regard as typical residential use.
- the previously submitted ventilation strategy and overheating assessment has not been revised to ensure that a suitable internal thermal environment can be maintained with sealed windows.
- they will not consider schemes including sealed windows and alternative ventilation to mitigate noise from industrial and commercial uses unless all other options in the noise hierarchy have been evaluated and incorporated or discounted for technical reasons. In such cases EPU will review the mitigation scheme proposed balancing the mitigation scheme against the likely impacts. In this case they have already evaluated and agreed a scheme to mitigate the noise at source to a level that when combined with acoustic treatment at the receptor to achieve acceptable noise conditions and hence sealed windows are not acceptable.

Third Party Responses

Objection on Behalf of the Nightingale - Shortly before the Appeal Hearing, the Developer informed the Nightingale that the Developer was, going to be asking the Inspector to grant a planning permission based upon the terms of the planning application alone, without any Agent of Change Agreement. In other words, the Developer was no longer offering to do any works at all to the Nightingale, and wished to be granted planning permission for their development, for residents to live in, with openable windows, directly across from the Club with its pervasive bass frequencies, and vibrant patron noise. The Appeal was robustly challenged by the Council and on behalf of the Nightingale on grounds that:

- the Application proposal would not be able to protect future residents from invasive and harmful noise impact arising from the Nightingale, and acceptable levels could not be achieved by mitigating the new development alone. Works to the Nightingale were unquestionably required;
- this would be the case whether the proposed windows for the new block were openable or sealed.

This means that Birmingham City Council are on record, in a Planning Appeal, confirming as part of their clear case that it is not possible for the proposal by this Applicant to secure acceptable living standards for residents without works to the Nightingale, and that is the case whether the new residential windows are sealed or not. It therefore follows that BCC would be conflicted and acting inconsistently to purport to grant the application currently before them, which simply asks for permission for the very thing (sealed windows) that BCC has just told a Planning Inspector categorically will not work. To determine the application before the appeal is determined would be premature.

Quality of Life for Future Residents

The Nightingale is a long-established nightclub, catering especially for the LGBTQ+ community, which has operated in Birmingham for around 40 years, and has been in its present premises for over 10 years. The building occupied by the Nightingale was formerly an electrical warehouse. Due to its age and longevity, the Nightingale venue does not have modern and extensive levels of sound attenuation. In addition, the building has a balcony with external speakers facing the appeal site. There is also an outdoor smoking area on Lower Essex Street.

The applicant has proposed that an internal level of NR 20 within bedrooms overlooking Lower Essex Street and Kent Street is a suitable design criterion and, the applicant is proposing sound reduction measures to the building fabric. For windows, the sound reduction requires the use of high-performance secondary glazing along the Lower Essex Street and Kent Street elevations. However, BCC Regulatory Services have confirmed that NR20 will not offer sufficient low frequency noise reduction and even with the windows sealed on Lower Essex Street there would still be noise nuisance from the Nightingale. The Nightclub is very busy Thursday, Friday and Saturday nights until early in the morning. Noise would therefore be a nuisance at noise sensitive times when future residents are trying to sleep. This would lead to Interrupted sleep / sleep disturbance, which can lead to a variety of health issues and have a significant impact on the quality of life. The proposal would therefore create harmful living conditions for future residents.

Furthermore, it is not proposed to have sealed windows on the Kent Street façade. Instead, the windows on this elevation would be openable but with mechanical ventilation to allow the windows could be closed. Regardless of the provision of mechanical ventilation, future occupiers may wish to open the windows for access to fresh air or other reasons, and the actions of the future occupiers are not within the control of either the appellant or the Council. The ability to open the windows would therefore undermine the effectiveness of the proposed mitigation scheme on this facade.

Impact on the Nightingale Club

BCC Regulatory Services have confirmed that if the proposed development goes ahead and residents complain as a result of intrusive noise, they are almost certain to determine a statutory nuisance from the Nightingale and will be legally obliged to serve notice. This in turn could result in the future of the club itself being at risk. They therefore recommend that the only way to resolve the issue is for both sides to enter into an Agent of Change Agreement. The Agent of Change Agreement would significantly reduce the noise breakout from the Nightingale and hence the noise impacting on the proposed development reducing

the mitigation required. However, the applicant is no longer willing to enter into an Agent of Change Agreement with the Nightingale.

The Use of Conditions

The proposed noise mitigation (without an Agent of Change Agreement) is unacceptable as Regulatory Services do not accept the applicants window specification and sealing the windows create 'acoustic prisons' and unacceptable residential amenity. It is theoretically possible to attach a condition that requires a scheme to be submitted with sufficient acoustic properties to meet a specified internal noise environment although this would not address the lack of openable windows. However, the applicant has not demonstrated that it is technically possible to achieve the required mitigation and also the previous ventilation strategy and overheating assessment were not based on sealed windows.

Contribution to Housing Supply

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

Whilst the principle of housing development in this location is acceptable there are other factors which are material and must be balanced against the lack of 5 year supply, namely:-

- Potential loss of the Nightingale would be contrary to Para 93c of the NPPF, which guards against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs
- Without an Agent of Change Agreement for noise mitigation works at the Nightingale the proposed window / building façade specification would not adequately address concerns around noise. The proposal would therefore be contrary to Para 185 of the NPPF which seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life
- Without an Agent of Change Agreement for noise mitigation works at the Nightingale the proposal would be contrary to Policy 187 as the new development cannot be integrated effectively with existing businesses and community facilities (i.e. the Nightingale). The proposed development could lead to complaints about the Nightingale, which could result in having unreasonable restrictions placed on them. If the Nightingale club had unreasonable restrictions placed on them, which forced them to close, this would have an adverse impact on the LGBT community.
- As noise from the Nightingale would be a nuisance the proposal does not provide a high-quality living environment as required by Policy GA1.1. of the BDP

- The potential loss of the Nightingale would not support the growth of the Southside / Highgate Quarter's distinctive cultural and entertainment activities as required by Policy GA1.3. Potential loss of the Nightingale would also be contrary to TP25, which supports the City's tourist and cultural facilities
- Without an Agent of Change Agreement, the proposed development would not protect the Nightingale, which is important venue for the LGBT+ community. As such it would be contrary to Policy TP24 and TP28

In this instance I consider that the lack of a 5 year housing supply does not outweigh the significant and demonstrable harm to the poor living environment for a significant number of prospective residents and potential impact on the Nightingale nightclub, which could ultimately force it to close.

Appeal Application

The original application reference 2018/03004/PA was reported to Planning Committee at the meeting on the 4th March 2021, when Members endorsed the view that had the Local Planning Authority been in a position to determine the application they would have been minded to refuse for the following reasons

- i) The applicant has not demonstrated to the satisfaction of the Local Planning Authority that the proposed glazing / wall specification would when the windows are closed adequately mitigate noise from the Nightingale. This would result in a poor-quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. As such the proposal would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.
- ii) In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale through application of the agent of change principle, the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.
- iii) In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.

Subsequently, the appellant agreed to enter into a legal agreement to provide affordable housing to allow the third reason for refusal to fall away. More recently, on the 6th January 2022, your Committee agreed to amend the reasons for refusal to include reference to the recently adopted Development Management in Birmingham Development Plan Document (DMB). The appeal hearing was held on Wednesday 9th February 2022 and a decision is awaited.

Conclusion

On balance, I consider that the lack of 5 year housing supply does not outweigh the significant and demonstrable harm to the poor living environment for a significant number of prospective residents and potential impact on the Nightingale nightclub, which could ultimately force it to close.

Recommendation

Refuse

- i) The applicant has not demonstrated to the satisfaction of the Local Planning Authority that the proposed glazing / wall specification would adequately mitigate noise from the Nightingale. This would result in a poor-quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. As such the proposal would be contrary to Policies GA1, GA1.3, TP24, TP25, TP28 of the Birmingham Development Plan, Policy DM6 Noise and Vibration of the Development Management in Birmingham Development Plan Document and the Revised National Planning Policy Framework and Public Sector Equality Duty.
- ii) In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale through application of the agent of change principle, the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, GA1.3, TP24, TP25, TP28 of the Birmingham Development Plan, Policy DM6 Noise and Vibration of the Development Management in Birmingham Development Plan Document the Revised National Planning Policy Framework and Public Sector Equality Duty.
- iii) In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.

Report Back 6th January 2022

1. This application formed the subject of a report to your Committee at the meeting on the 22nd July 2021, when it was approved subject to completion of a legal agreement, which is currently being finalised. The purpose of this report is to advise members of changes to the mechanism to secure the Agent of Change Agreement and amendments to the scheme.

Agent of Change

2. Originally, it was proposed to secure the Agent of Change via condition 14, which stated that:-
 - No development shall take place until:
 - i) a detailed specification of noise mitigation works based on the 'Noise Mitigation Measures as agreed on site with The Nightingale Club on 17th February 2021 - Rev H 14th May 2021 Revised Proposals by K4 Architects' has been submitted to and approved by the Local Planning Authority for approval:
 - ii) an agent of change agreement has been entered into between the developer and all relevant parties with a legal interest in the Nightingale to secure the completion of the noise mitigation works at

- the Nightingale at the developer's expense in accordance with the detailed specification that has been approved in writing by the Local Planning Authority, and
 - iii) any necessary planning permission(s) required from the local planning authority to enable the carrying out of the approved noise mitigation works at the Nightingale have been granted, and
 - iv) a methodology for the post completion noise commissioning test has been submitted to and approved by the Local Planning Authority.
- 3. It is now proposed that in the Section 106 Agreement the applicant and the Nightingale (along with the leaseholder and freeholder of the building) enter into a legal agreement to enter into an Agent of Change Agreement in a form attached to the s106 Agreement on the same day as the s106 Agreement. The second point of condition 14 would therefore be amendment to read:-

“a copy of the agent of change agreement that has been entered into between the developer and all relevant parties with a legal interest in the Nightingale to secure the completion of the noise mitigation works at the Nightingale at the developer's expense in accordance with the detailed specification to be approved in writing by the Local Planning Authority has been submitted to the Local Planning Authority, and”
- 4. In addition, it is proposed that the Section 106 Heads of Terms be amended to include reference to the Agent of Change Agreement. A further reason for refusal is also included in the event that the legal agreement is not completed.

Proposed Amendments

- 5. Considering changes to the Fire Regulations the current design has been reviewed, which has led to a number of design changes. In general, the following changes have been made:
 - Floor heights throughout the scheme have been altered to suit the elevation treatment, particularly the position of the parapet on Kent Street where it adjoins the parapet of the neighbouring building.
 - Floor 9 has had 2 units removed from its western flank on Kent Street to achieve the point above.
 - Floors 9, 10 and 11 have each had a unit added along the eastern flank on Lower Essex Street to regain the removed 2 units, with the corner unit on floor 11 being changed to a common room to maintain overall unit numbers in line with the original consent.
 - The elevational treatment has been simplified to remove the extruded Flemish bond within the brick recess panels. Said brick recesses have been increased in depth to 225mm between brick faces.
- 6. Overall, 116 apartments are proposed in both schemes. The two units removed from the western flank on Kent Street are both 2 bedroom apartments (measuring approximately 74sqm), whereas the new apartments are larger (approximately 108sqm) with 3 bedroom. However, I do not consider that this change significantly affects the financial viability of the scheme to such an extent as to justify a new financial appraisal.



Revised 9th Floor Plan

7. The elevational relationship between the lower brickwork façade element and upper brickwork façade element of the taller background are the same, along with the window relationships and parapet lines.
8. On Kent Street, adjacent to Priory House, the building would be 9 storeys, 1 less storey than previously proposed, but because of the increase in floor heights, the building would be similar in height. Further along Kent Street the building would be 12 storeys, as before but because of the increase in floor heights it would be about 3m taller.



Kent Street previous elevation



Kent Street proposed elevation

9. Along Lower Essex Street, the building would be between 9 and 12 storeys as before but with a wider 12 storey element. The whole elevation also be about 3m taller as a result of the increase in floor heights.



Lower Essex Street previous elevation



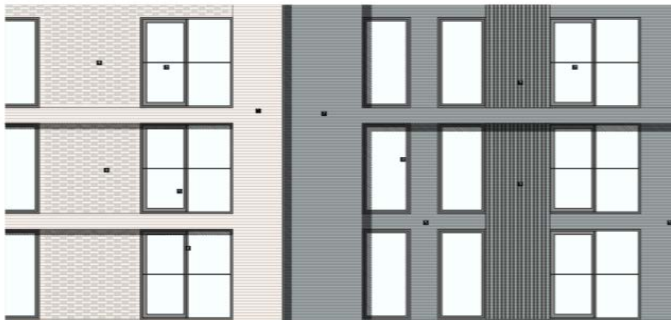
Lower Essex Street Proposed Elevation

10. The City Council's Urban Design Manager has no objections to the proposed amendments.

Examples of brickwork palettes



Examples of alternative bonds



Detail of previous elevation

- ① Brick Facade
- ② Recessed Brick Facade



Detail of proposed elevation

11. The proposals do not significantly impact on the redevelopment proposals for the adjacent developments at Priory House, or the Unitary and Armouries development.
12. I am of the view that the revised proposals are acceptable. The approved plans condition 17 has therefore been updated accordingly.

Recommendation

APPROVE subject to the prior completion of a Section 106 Legal Agreement to secure the following:-

- a. A financial contribution of £750,000 (index linked from December 2018) as a commuted sum toward off site affordable housing, less the cost of noise mitigation works at the Nightingale which are necessary to comply with conditions 13 and 14;
- b. The entering into of an Agent of Change Agreement between the Developer and the Nightingale in respect of the noise mitigation works; and
- c. payment of a monitoring and administration fee associated with the legal agreement of £1,500

and subject to the conditions listed below.

In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 7th January 2022 or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason(s):-

- a. In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.
- b. In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale through application of the agent of change principle, the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, Policy DM6 Noise and Vibration of the Development Management in Birmingham Development Plan Document, the Revised National Planning Policy Framework and Public Sector Equality Duty.

That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.

Original Report

1. Proposal
- 1.1. This application is a resubmission of a previous scheme (application 2018/03004/PA) for demolition of existing buildings and the redevelopment of the

site to create a building of between 9 and 12 storeys, comprising 116 apartments and two ground floor commercial units of 268sqm and 479sqm, respectively.

- 1.2. The residential element comprises 64 x 2-bed (55%) and 52 x 1 bed (45%) apartments as follows:-
 - 9 x Type A - 2 Bed @ 73.4sqm
 - 9 x Type B - 2 Bed @ 74.7sqm
 - 26 x Type C - 2 Bed @ 73.5sqm
 - 8 x Type D - 2 Bed @ 71.8sqm
 - 17 x Type E - 1 Bed @ 55.7sqm
 - 8 x Type F - 1 Bed @ 54.9sqm
 - 8 x Type G - 1 Bed @ 54.1sqm
 - 8 x Type H - 1 Bed @ 50.6sqm
 - 8 x Type I - 1 Bed @ 51.7sqm
 - 3 x Type J - 2 Bed @ 70.9sqm
 - 3 x Type K - 2 Bed @ 70.0sqm
 - 3 x Type L - 1 Bed @ 50.9sqm
 - 2 x Type M - 2 Bed @ 72.3sqm
 - 2 x Type N - 2 Bed @ 75.8sqm
 - 2 x Type O - 2 Bed @ 70sqm
- 1.3. The proposed building would comprise of three blocks: 9 storeys to Lower Essex Street, 10 storeys to Kent Street, and 12 storeys to the corner. The two main facade elements would be constructed with buff brick, with the corner piece constructed with a contrasting black/blue brick. Three different types of brick bond - dog-tooth, extruded Flemish and recessed brickwork – would be used to add interest. Regular window opening groups set up horizontal movements in what are otherwise vertically stacked elevations. Window openings would be full height with some having an aluminium surround reveals and Juliet balconies.



View along Kent Street

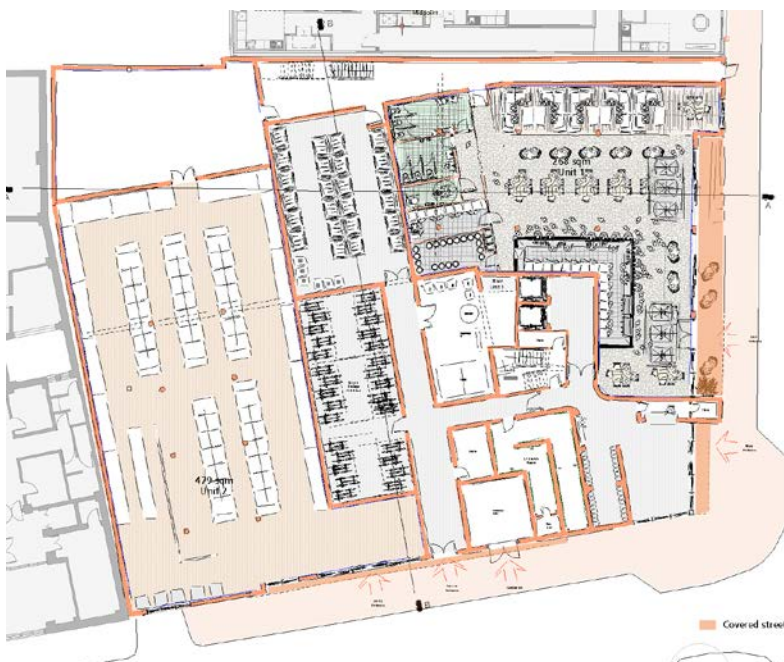
- 1.4. The ground floor is set up against the site boundary apart from the ground floor of commercial unit 1, which is set back from Lower Essex Street to create space for potential outdoor seating. Above ground floor level the building is “L” shaped with wings along both street frontages. At first floor level is a landscaped courtyard garden of 341sqm for prospective residents.
- 1.5. Pedestrian access to the apartments is via the corner of Kent Street and Lower Essex Street. Whilst there is a central courtyard/garden, this is exclusively for residents of the scheme, accessed via the 1st floor. Pedestrian access to

commercial unit 1 is provided along Lower Essex Street and unit 2 along Kent Street.



View along Lower Essex Street

- 1.6. The development proposals do not incorporate onsite vehicle parking. Within the centre of the scheme on the ground floor, a space is allocated for 116 bicycles on a two-tiered rack system, allowing for 1 space per residential unit.
- 1.7. An 83sqm space has been allocated for bin storage in the centre of the site. The storage is accessed through a service corridor from Kent Street. Collection vehicles would stop for a short duration along Kent Street or Lower Essex Street as per the existing waste collection arrangements for the site and adjacent properties.



Ground Floor Plan

- 1.8. In support of the current application the following updated documents have been submitted:-
 - Planning Statement

- Ecology
- Noise
- Energy

1.9. A Viability Statement was submitted with the previous application, which demonstrated that with a policy compliant contribution, the scheme would not be financially viable. The report has been assessed by independent consultants who consider that the scheme can sustain a contribution of circa £750,000.

1.10. [Link to Documents](#)

2. Site & Surroundings

2.1. The application site is located on the south side of the City Centre in the Chinese Quarter, at the junction of Kent Street and Lower Essex Street. It is within close proximity to major attractions; the Hippodrome Theatre, Birmingham Royal Ballet and China Town. The site is also within easy walking distance to the central retail and commercial districts of Birmingham, with a 10 minute walk to Birmingham New Street Station and the Bullring Shopping Centre.

2.1. The site is 0.129 hectares and comprises a 3 storey former office building. The office use has been vacated but the lower floor of the building is in use as an occasional nightclub and entertainment premises.

2.2. The northern site boundary is formed by the Unity & Armouries site which has planning consent for residential development. The scheme is currently under construction. The western site boundary is formed by existing office buildings formerly occupied by Peter's Books, a supplier of educational books and furniture. Planning consent has recently been granted for conversion of this building into residential. On the opposite side of Lower Essex Street to the east is the Nightingale Club and a further phase of the Unity & Armouries development site. Further to the east on Kent Street is Medusa Bar and Sidewalk Bar. These bars / clubs operate each day of the week and open into the early hours of the morning. Surrounding uses include offices, leisure and residential.

2.3. Direct distances from the application site to the nearby late night entertainment venues are as follows:-

- Nightingale Club, Kent Street – 12m
- Medusa Lodge 139-147 Hurst Street – 45m
- The Fox, Lower Essex Street – 45m
- The Loft, 143 Bromsgrove Street – 62m
- Sidewalk, 125-131 Hurst Street – 66m
- Equator Bar, 123 Hurst Street – 78m
- The Village Inn, 152 Hurst Street – 115m
- Missing, 48 Bromsgrove Street – 116m



Aerial view of the proposed development site

3. Planning History

- 3.1. The original application was reported to Committee on the 20th December 2018, when it was deferred for a site visit, further consideration of additional information submitted and the specialist character of the area. Following the Committee site visits, negotiations took place with the applicant and Nightingale to find a way to address the concerns. However, it was not possible to reach agreement and in December 2020 the applicant appealed against non-determination. A decision on the appeal is pending.
- 3.2. In March 2021 a report was considered by your Committee at the meeting on the 4th March 2021, to seek endorsement of the reasons for refusal if the Local Planning Authority had been in a position to determine the application. Three reasons for refusal were agreed:-
 - I. The applicant has not demonstrated to the satisfaction of the Local Planning Authority that the proposed glazing / wall specification would when the windows are closed adequately mitigate noise from the Nightingale. This would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. As such the proposal would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.
 - II. In the absence of an agreement to secure satisfactory noise mitigation measures at the Nightingale through application of the agent of change principle, the proposal would result in a poor quality living environment for prospective residents and complaints against the Nightingale, which could affect the Nightingale and hence the Gay Village. This would be contrary to Policies GA1, TP24, TP25, TP28 of the Birmingham Development Plan, the Revised National Planning Policy Framework and Public Sector Equality Duty.
 - III. In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.

- 3.3. On the 29th April 2021, Committee authorised the City Council to enter into a legal agreement to secure 11 (9.5% provision) affordable low cost housing units to enable the third reason for refusal to fall away.

4. Consultation/PP Responses

- 4.1. Adjoining occupiers, residents associations, Southside BID, local ward councillors, and M.P. notified. Site and press notices displayed. No comments received.

- 4.2. Regulatory Services - following extended monitoring and assessments carried out by all parties a hybrid noise mitigation scheme incorporating facade treatment and treatment at source is the only solution that they will accept. The noise mitigation proposal and supporting documents have been reviewed and they are content that these measures in conjunction with the façade treatment of the development will provide a level of mitigation to address their concerns. The proposal includes: -

- A redesigned and acoustically treated smoking area on the ground floor.
- Replacement of existing ground floor fire doors with acoustically rated fire escape doors.
- Incorporation of additional noise mitigation to the walls on the corner of Lower Essex St and Kent St.
- The creation of a new first floor and second floor open smoking area to the side and rear of the building mitigated with acoustic barriers.
- Closure of the first and second floor balconies.
- Incorporation of additional noise mitigation to the windows on the first and second floors.
- Incorporation of noise mitigation measures to the existing extraction outlets on the roof.
- Provision of new general building extraction to account for the fact that all current external openings will be sealed shut and this plant will be suitably acoustically mitigated and located on the roof.

Recommend an “agent of change” condition to secure the noise mitigation works at the Nightingale and other conditions to secure:-

- Contamination Remediation Scheme and Verification Report
 - Limiting the operation hours / hours of delivery
 - Fume extraction details
 - Demolition / Construction Method Statement
 - Limiting noise from plant and machinery
 - Noise Mitigation Scheme
 - Noise Commissioning Testing
 - Noise Insulation Scheme
- 4.3. Transportation Development – no objections subject to conditions to secure cycle parking and redundant footway crossings on both frontages reinstated. There are two taxi bay areas provided in front of the site on both Kent Street and Lower Essex Street that are only in force from 9pm through to 6am. Consideration should be given to alter the Traffic Regulation Order to provide defined servicing and/or additional on street pay and display parking (comments based on previous application).
- 4.4. Education (School Organisation Team) – request a S106 contribution of £337,986.49 as the development could impact on the provision of places at schools (comments based on previous application).

- 4.5. Leisure Services – in accordance with BDP policy, this development should be liable for an off -site POS contribution of £234,000. This could be directed towards the creation of new POS in the Southern Gateway or an extension / improvement of Highgate Park which is the nearest existing significant green space. As the development is within the City Centre it is not regarded as family accommodation and therefore would not however generate a play area contribution (comments based on previous application).
- 4.6. Employment Access Team – request a S106 planning obligation or condition to secure local employment and training (comments based on previous application).
- 4.7. Local Lead Flood Authority – no objections subject to suitable drainage conditions.
- 4.8. Severn Trent Water – no objections subject to a condition to secure drainage plans for the disposal of foul and surface water flows.
- 4.9. West Midlands Police (comments based on previous application) :-
 - the scheme should be to the standards laid out in the Secured by Design 'New Homes 2016' and Secured by Design 'Commercial 2015' guides;
 - each individual apartment should be treated as a separate dwelling for the purpose of the standards of door security;
 - there is only one communal door into the ground floor lobby area before access is gained to the lifts, stairwell and post room. The creation of only one layer of security within this entrance leaves the building vulnerable to an offender tailgating through the doorway. The lobby should be redesigned, or an additional second, internal, communal door be installed to create an additional line of security;
 - the location of the cycle storage area within the interior of the building would have very little natural surveillance;
 - a suitable CCTV system should be installed to cover the site and an intruder alarm should be installed to the commercial units; .
 - concerned that there is a service corridor between the two retail units and the communal areas of the residential aspect of the building, which could lead to potential issues around offenders accessing one of the uses from the other.
- 4.10. West Midlands Fire Service – approval of Building Control will be required.

5. Policy Context

- 5.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan (saved policies) 2005; Places for All SPG, Places for Living SPG; Affordable Housing SPG; Public Open Space in New Residential Development SPD; Car Parking Guidelines SPD, Draft Development Management in Birmingham DPD and Revised National Planning Policy Framework 2018.

6. Planning Considerations

Principle of Residential Development

- 6.1. The application site is located within the Southside and Highgate Quarter within the City Centre Growth Area as defined by Policy GA1. Policy GA1.3 identifies that development in this location should support the growth of the area's distinctive cultural, entertainment and residential activities, its economic role and provide high quality public spaces and pedestrian routes. Policy GA1.1 also states that the City Centre will be the focus for retail, office, residential and leisure activity. Furthermore, policy states that residential development will continue to be supported in the City Centre where it provides well-designed high quality living environments and this

echoes national planning policy which encourages well-designed development on brownfield land within sustainable locations. The site is also near Smithfield which is identified as part of a wider area of change where a significant mix of uses will be expected. The provision of a residential development with ground floor commercial uses on this site is therefore considered to be acceptable in principle subject to detailed matters.

- 6.2. BDP Policy TP27 Sustainable Neighbourhoods requires that new housing contain a mix of dwellings types, sizes and tenures. Policy TP30 Housing Mix states that proposals for new housing should seek to deliver a range of dwellings to meet local needs and account will be taken of the Strategic Housing Market Assessment which sets out the appropriate proportionate city-wide housing mix.
- 6.3. When assessed against the Strategic Housing Market Assessment, there is a potential projected oversupply of 1 and 2 bed dwellings and an undersupply of 3 and 4 bed dwellings. This is skewed by the high percentage of apartments under construction or consented in the City Centre.
- 6.4. Whilst a high proportion of apartments can be expected in the city centre it is important that the scale of provision proposed for any individual dwelling type and size is not so great as to impact on the ability to create sustainable communities. The proposed development provides only 1 and 2 bedroom apartments. Whilst it is disappointing that the scheme does not include some larger 3 bedroom apartments, I do not consider that refusal could be justified for this reason alone.
- 6.5. When assessed against the Technical Housing standards all apartments comply with the minimum standard of 50sqm and 70sqm for 1 bedroom 2 person and 2 bedroom 4 person apartments, respectively. In addition, the scheme includes an outdoor amenity space of 341sqm. Overall therefore I am of the view that the housing mix and size of the apartments are satisfactory.

Noise

- 6.6. The site is located within a vibrant night-time economy area and directly opposite the Nightingale nightclub. Regulatory Services have had many dealings with the nightclub in terms of noise impacts and currently there is a limited amount of residential development potentially impacted by noise associated with the premises and the conditions do not represent a statutory nuisance.
- 6.7. There have been several noise assessments carried out which identified a significant adverse impact on the facades facing the Nightingale club and the applicant initially proposed mitigation by glazing and building envelope design only. This proposal would have resulted in conditions where when the windows were opened the internal noise environment would be adversely affected and the conditions due to noise from the Nightingale would be a statutory nuisance.
- 6.8. Accepted practice is that when considering noise from commercial enterprises a hierarchy of measures should be considered with the priority being mitigation or prevention of the noise at source and the last option being mitigation by treatment at the receptor (in this case glazing and ventilation to the residential development). During the assessment of the previous application there have been several noise reports and Regulatory Services have carried out joint monitoring with the applicants consultant and the consultant acting on behalf of the Nightingale to agree incident levels at the facades of the proposed development, typical noise levels generated by the operation of the nightclub and also the most likely significant sources of noise escape from the building.

- 6.9. This assessment identified that the primary noise sources were the outdoor smoking and drinking areas on the balconies overlooking the development site, noise escape from some weak structural areas of the building and transmitted noise escaped through the ventilation system located on the roof. There were extended discussions about using the “agent of change” approach and Regulatory Services came to an agreement with all parties that a series of measures could be incorporated at the Nightingale which in combination with the facade treatment at the residential development would lead to an acceptable noise environment. However towards the very end of the discussions the Nightingale suggested that they would wish to carry out different measures to those that had previously been agreed and withdrew their agreement for the original scope of works. However following ongoing discussions with the applicant, the Nightingale and their consultant a revised mitigation scheme at source has been detailed and agreed and on this basis the agent of change principle can be agreed between all parties to address the issues previously raised.
- 6.10. The key issue in respect of this application is that Regulatory Services are not able to support the development on the basis that the only mitigation proposed is facade treatment, primarily glazing and ventilation as this would lead to potential nuisance if windows were opened by the residents and it cannot be a reasonable assumption that residents will be requested to keep their windows closed. However the applicant has submitted an outline scheme to address the noise at source to sit alongside the façade mitigation on the development site.
- 6.11. The key consideration is whether the development would introduce a noise sensitive use in an existing area in circumstances where the resulting residential noise climate may represent a statutory nuisance which may place unreasonable restrictions on the operation of existing businesses. Regulatory Services consider that the mitigation measures would address some of the structural and design issues and this will reduce the noise impact however it will still require the Nightingale to operate responsibly and I am of the view that this addresses the balance.
- 6.12. The process for agreement of these measures as part of an agent of change is complicated by the fact that the works at the Nightingale will require planning permission in their own rights. The completion of the noise mitigation works at the Nightingale will be secured through planning conditions, which will require all of the following to be in place before the residential development commences: (i) a technical specification for the works to be submitted and approved, (ii) an agent of change agreement being entered into between the developer and those with a legal interest in the Nightingale to secure the carrying out of the approved mitigation works at the developer’s expense, and (iii) planning permission for the mitigation works being granted. Further conditions will require a commissioning test prior to occupation to ensure the mitigation works achieve the desired noise mitigation. In addition, safeguarding conditions are attached to secure the proposed noise treatment at the façade of the development.

Urban Design

- 6.13. I have no objection to the redevelopment of the site for an apartment block. It responds to the emerging residential context of the area and will contribute to the regeneration of the Southside area of the City Centre. The development sits at back of pavement and wraps around a street corner with an entrance and a ground floor that is generally well arranged. The proposal is typical for much of the new development being proposed or has secured planning permission in the area. Between nine and 12-storeys will not be incongruous with the new scale of this part of Birmingham.

- 6.14. The City Council's Urban Design Manager has concerns that the design of the external envelope lacks rationale, the materials are inappropriate and the amenity space is poor. These latest design comments differ from the previous design comments for the first application which was identical in design, which just raised concerns about materials, the set back of the reveals and the use of Flemish bond and recessed brickwork to add interest. The developer is unwilling to amend the scheme as it the same as the previous application, which was not refused on design grounds. However, they are willing to review the facade materials. Conditions are therefore attached to secure architectural details and materials that are more reflective and typical to Birmingham. A condition to strengthen the function and design of the principle amenity space at first floor has also been added. On balance, subject to the safeguarding conditions suggested, I consider that the design of the scheme is satisfactory and do not consider that refusal could be justified for this reason.
- 6.15. Comments made by the Fire Service and Police have been forwarded to the applicant. Conditions are attached to secure CCTV and lighting.
- 6.16. A Right of Light Study has been submitted to check whether the habitable units which face into the courtyard at the first and second floor of the proposal receive satisfactory levels of daylight and sunlight. The findings of the Study are that all rooms meet the BRE Average Daylight Factor targets with the exception of three of the living/dining/kitchen units served by windows (two apartments on the first floor and 1 apartment on the second floor). These rooms all achieve ADF scores of 1.8% and above against the BRE recommendation of 2.0%. However, the BRE Guide recommends that where kitchens are part of open plan rooms, they should be linked to a well-lit living room. Since all three rooms achieve ADF scores above those recommended for a living room (1.5%), the quality of daylight should be acceptable.

Sustainability

- 6.17. A sustainable construction statement has been submitted within the design and access statement. The sustainable construction statement has followed the guidance note closely, and has met all the criteria required. An energy statement has also been submitted. The statement has not considered connection to the district heat network, which is in the city centre. The document does not conclude which LZC energy source has been selected for the development. Some energy efficiency measures have been outlined in the statement, but this has not included their predicted energy savings in kWh/m²/ annum. An amended Energy Statement has been submitted, which seeks to address these concerns. This revised document is currently being reviewed and any further comment will be reported.

Ecology

- 6.18. The City Council's Planning Ecologist notes that the building is assessed as having low potential for roosting bats. However, it is recommended that a single dusk emergence/dawn re-entry survey (to be completed between May and August) is completed prior to determination of the planning application. This will provide more conclusive evidence of bats' presence/absence, therefore enabling the impact of the proposed development on legally protected species to be adequately assessed. A further bat survey has been requested and any further comments will be reported.
- 6.19. In relation to other ecological matters, no evidence of nesting birds was found in early 2021, although this would have been before the start of the main nesting season, and not all parts of the building were accessible. The unoccupied nature of the building and the presence of access points means there are opportunities for urban bird species, including feral pigeon, to nest in the building. Therefore, a

precautionary approach to building demolition is required to minimise the risk of harm to nesting birds and to ensure works do not contravene the legal protection afforded to wild birds and their nests. The ecology report includes a recommendation to this effect, and implementation of this recommended mitigation is secured via a condition. Conditions are also attached to new habitats/features as part of the proposed development, including a green / brown roof.

Transportation Issues

- 6.20. The Transport Assessment notes that the site currently accommodates office and leisure uses. It is highly accessible by non-car travel modes, with full integration with pedestrian networks and very good access to regular bus and rail services. The site is also located within the southern area of Birmingham city centre and as such is located within short walking distances of various local amenities and opportunities.
- 6.21. The TA adds that it is highly likely that people choosing to reside in a location such as that of the proposed development site would work within the city centre or immediate surrounding area. Therefore, residents would likely commute to work by walking, cycling and public transport.
- 6.22. BCC Transportation have no objection to zero parking being provided given on-street parking is all controlled across a large area and the site is adjacent to the City Centre. I concur and a condition is attached to secure cycle parking along with an informative to secure the off-site highway works, namely, the reinstatement of redundant footway crossings and review of Traffic Regulation Orders.

Drainage and Ground Conditions

- 6.23. An Outline Drainage Strategy was submitted with the original application, which notes that the site lies within an area classified as Flood Zone 1. The site is smaller than 1 hectare and therefore a Flood Risk Assessment is not required. The report proposes to discharge to the existing STW foul sewer within the site. All surface water would be piped to an underground Attenuation Tank, where the runoff would be stored and discharged at greenfield runoff rates for the site. The development includes a proposed first floor garden 340m² in plan area. It is proposed that some Sustainable Urban Drainage features like tree planters and turf be placed within the garden area to reduce runoff rates.
- 6.24. The Local Lead Flood Authority and Severn Trent Water have raised no objections and suitable drainage conditions are recommended.
- 6.25. The land contamination survey recommends further survey work prior to the commencement of the development and appropriate conditions are attached.

Planning Obligations and Community Infrastructure Levy

- 6.26. Policy TP9 of the BDP requires new public open space should be provided in accordance with the New Residential Development SPD whilst TP31 requires 35% affordable housing unless it can be demonstrated that this would make the development unviable.
- 6.27. A financial appraisal has been submitted to demonstrate that, with a policy compliant contribution the scheme would not be financially viable. The report has been assessed by independent consultants who consider that the scheme can sustain a contribution of circa £750,000. It is proposed to use this money as a commuted sum for off- site affordable housing less the cost of the noise mitigation works at the

Nightingale (costed by the applicant at £661,000) which are being secured through planning conditions.

- 6.28. Education and Leisure Services have requested S106 contributions towards places at schools and public open space respectively. However, in this instance, I consider that using any unexpended money for affordable housing is a greater priority. The site is in a low value residential area and does not therefore attract a CIL contribution.

Public Sector Equality Duty

- 6.29. The Equality Act 2010 introduced a new public sector equality duty. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not;
 - foster good relations between people who share a protected characteristic and persons who do not share it.
- 6.30. This application is only acceptable if an agreement to mitigate noise at source is reached between the City Council, developer and the Nightingale. The reason, for this is that in the absence of an agreement the proposal would potentially be contrary to this Legislation as the scheme could impact upon Nightingale, which is a key venue for the LGBT community.

7. Conclusion

- 7.1. I consider that the scheme is acceptable subject to safeguarding conditions and completion of a legal agreement to secure £750,000 toward off-site affordable housing, less the cost of the noise mitigation works at the Nightingale.

8. Recommendation

- 8.1. That consideration of planning application 2021/03783/PA be deferred pending the completion of a planning obligation to secure the following:
- a) A financial contribution of £750,000 (index linked from December 2018) as a commuted sum toward off site affordable housing, less the cost of noise mitigation works at the Nightingale which are necessary to comply with conditions 13 and 14; and,
 - b) payment of a monitoring and administration fee associated with the legal agreement of £1,500
- 8.2. In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 27 August 2021 the planning permission be refused for the following reason:
- a) In the absence of a suitable legal agreement to secure affordable dwellings the proposal would be contrary to TP31 of the Birmingham Development Plan and Revised National Planning Policy Framework.
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.

- 8.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 27 August 2021, favourable consideration be given to this application subject to the conditions listed below.

1	Requires the prior submission of a contamination remediation scheme
2	Requires the submission of a contaminated land verification report
3	Limits the hours of operation 0700-2400
4	Requires the prior submission of a drainage scheme
5	Requires the prior submission of a Sustainable Drainage Assessment
6	Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
7	Demolition of buildings
8	Requires the prior submission of details of bird/bat boxes
9	Requires the submission of extraction and odour control details
10	Limits the noise levels for Plant and Machinery
11	Requires the prior submission of a Noise Mitigation Scheme
12	Requires the submission of Noise Commissioning Testing
13	Requires the prior submission of noise insulation (variable)
14	Requires the prior submission of details of the Noise Mitigation Measures at the Nightingale
15	Requires the submission of a Commissioning Test for the Mitigation Works at the Nightingale
16	Requires the submission of a CCTV scheme
17	Requires the scheme to be in accordance with the listed approved plans
18	Requires the submission of sample materials
19	Requires the submission of details of green/brown roofs
20	Requires the submission of a lighting scheme
21	Requires the submission of boundary treatment details
22	Requires the submission of hard and/or soft landscape details
23	Requires submission of architectural details
24	Demolition Management Plan
25	Construction Management Plan

-
- 26 Requires an employment construction plan
 - 27 Requires the provision of cycle parking prior to occupation
 - 28 Implement within 3 years (Full)
-

Case Officer: David Wells

Photo(s)

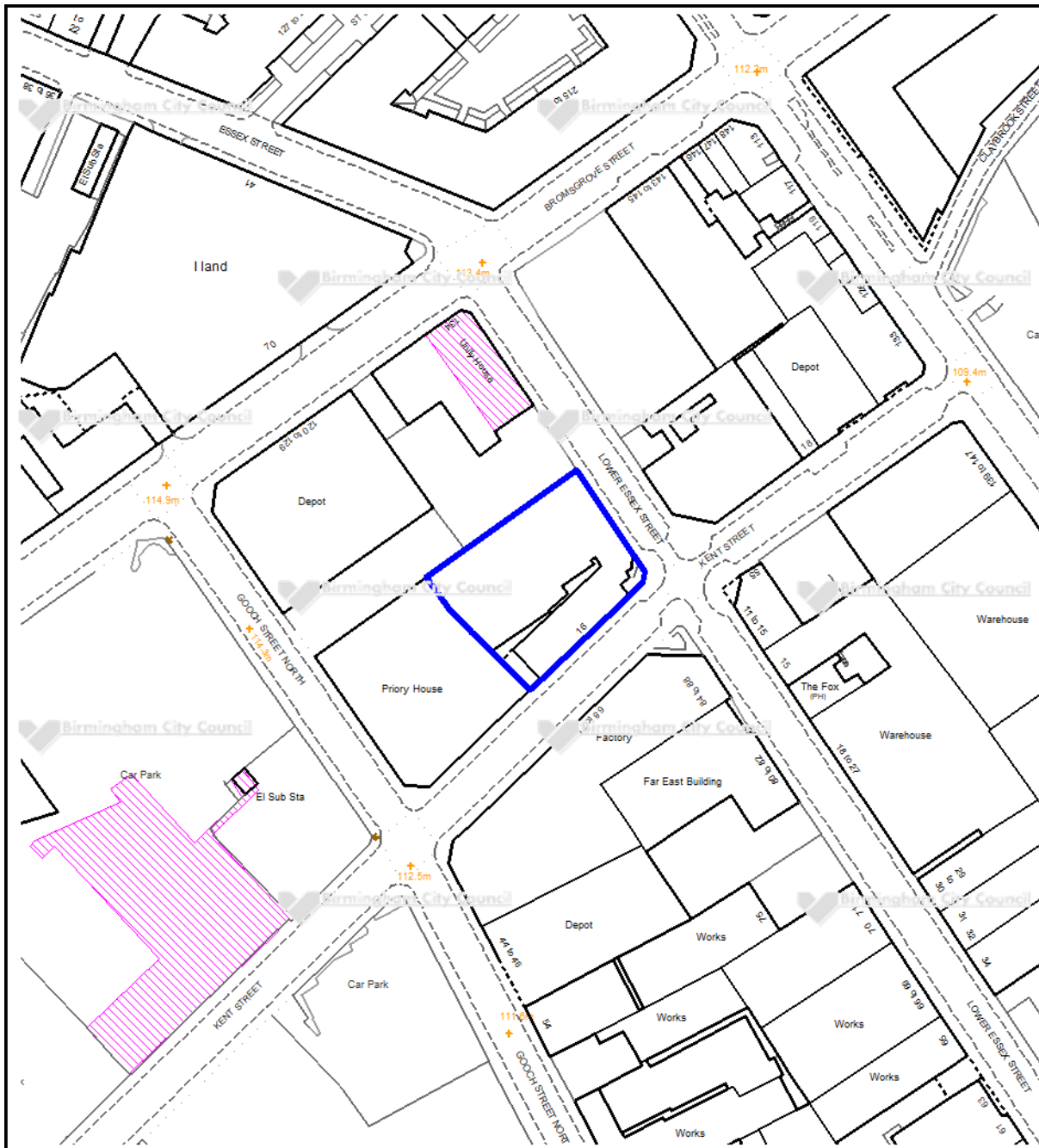


View from Kent Street



View along from corner of Lower Essex Street and Kent Street

Location Plan



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Birmingham City Council

Planning Committee

17 March 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	2021/09993/PA 23 Kingston Road Sutton Coldfield Birmingham B75 7NY Approval of Reserved Matters (scale, layout, landscaping and external appearance) for the development of 121 dwellings, pursuant to Outline Planning Permission 2020/05394/PA.
Approve – Conditions	9	2021/09119/PA 32 Le More Sutton Coldfield Birmingham B74 2XY Demolition of existing property and erection of 2no. dwellinghouses
Approve – Conditions	10	2021/07832/PA DC6 Midpoint Way Prologis Park Midpoint Sutton Coldfield Birmingham B76 9EH Demolition of existing building and erection of replacement B2 / B8 use employment building with ancillary office, car parking, landscaping and other associated works alongside closure of access from Park Lane

Committee Date:	17/03/2022	Application Number:	2021/09993/PA
Accepted:	24/11/2021	Application Type:	Reserved Matters Development
Target Date:	21/03/2022		
Ward:	Sutton Roughley		

23 Kingston Road, Sutton Coldfield, Birmingham, B75 7NY

Approval of Reserved Matters (scale, layout, landscaping and external appearance) for the development of 121 dwellings, pursuant to Outline Planning Permission 2020/05394/PA.

Applicant: Miller Homes Limited
2 Centro Place, Pride Park, Derby, DE24 8RF
Agent:

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application seeks approval for the scale, layout, landscaping and external appearance reserved under planning permission 2020/05394/PA, which granted outline planning permission for the demolition of existing buildings and outline planning permission for residential development (use Class C3), access from Kingston Road and Rectory Road and associated engineering works (with all other matters reserved).
- 1.2 Whilst the outline planning permission restricted the maximum number of dwellings on the site to 145 under condition 4, this reserved matters application proposes 121 dwellings in a mix of houses and flats. The development seeks to deliver 35% affordable housing, in accordance with the Section 106 Agreement, which would equate to a total of 42 units. The proposed housing mix would comprise:
- 6no. 1 bed flats (6no. affordable)
 - 3no. 2 bed flats (3no. affordable)
 - 10no. 1 bed maisonette (10no. affordable)
 - 2no. 1 bed house (2no. affordable)
 - 32no. 2 bed houses (9no. affordable)
 - 48no. 3 bed houses (10no. affordable)
 - 20no. 4 bed houses (2no. affordable)
- 1.3 The proposed layout seeks to build on the principles established through the outline planning application, informed by detailed assessment of the site constraints and conditions. The proposed houses and apartments would be arranged in a series of blocks and linear perimeter ribbons, with pedestrian, cycle and vehicular routes permeating the development site. Open space would be located in the south of the site, near the Rectory Road access, and to the west of the site. The proposed layout incorporates tree retention and planting as well as cycle and pedestrian routes through the residential development and open space to Kingston Road, creating an accessible link to Withy Hill Recreation Ground. The proposed layout would achieve

a density of approximately 45 dwellings per hectare.

- 1.4 The proposed access would remain as approved under the outline planning permission, with the vehicular access achieved from Rectory Road. The road hierarchy within the development site would comprise adoptable highway, adoptable shared surface around the residential blocks, and private drives. A maximum width of 5.5m is proposed for the adoptable highway, with multiple shared surface 'loops' through the site.



Figure 1: Site Layout Plan

- 1.5 The scale and appearance of the dwellings would comprise a mix of two and three storey buildings providing detached and semi-detached houses, apartments and maisonettes. The dwellings would be of a traditional appearance with facing brickwork, off white render, tiled roofs, white UPVC windows and black rainwater goods. A range of roof types, facing brickwork and roof tiles are proposed to create variety and character throughout the development.



Figure 2: A selection of housetypes

- 1.6 The proposed landscaping would comprise a number of landscape planting areas throughout the development alongside the retention of existing trees and planting of new trees throughout the hierarchy of streets. Soft landscaping would buffer many of the driveway parking areas. A drainage attenuation pond would be proposed within a landscaping area to the south of the site which would seek to contribute towards the landscaping proposed.
- 1.7 Private or communal rear gardens are proposed for each residential dwelling. Car parking spaces are proposed in either a driveway or parking court arrangement. Larger dwellings would have a minimum of two car parking spaces with smaller dwellings (flats and one or two bed maisonettes and houses) having a minimum of one car parking space.
- 1.8 The application has been supported by the following documents: Arboricultural Impact Assessment; Noise Assessment; Energy Statement; Planning Statement; Affordable Housing Statement; Flood Risk Assessment and Detailed Drainage Strategy; Transport Statement Addendum; Land Contamination Assessment and Design Compliance Statement.
- 1.9 [Link to Documents](#)

2 Site & Surroundings:

- 2.1 The site extends to approximately 3.1 ha (7.66 acres) and is occupied by the DIO Headquarters. The site contains the three-storey DIO Headquarters building in the northern part of the site, and a range of associated ancillary buildings run north to south through the site.
- 2.2 The eastern part of the site comprises circulation space and parking for approximately 370 cars which is located tight to the boundaries of residential properties to the east in Gunner Grove and Saracen Drive. The western and southern parts of the site generally comprise short mown grass and contain the majority of the significant number of trees that the site contains, particularly along the southern boundary with Rectory Road. The site is generally flat although there is a fall from its north-west corner to its south-east corner adjacent to Rectory Road.
- 2.3 The site is currently accessed from Kingston Road. There is, however, a second access point to the south on Rectory Road, which is currently used only for emergency purposes. There are no Public Rights of Way (PRoW) within or adjacent to the site.
- 2.4 To the immediate north, north-west and east of the site are the residential estates that comprise earlier phases of the redevelopment of the former St Georges Barracks. A short distance from the site's northern boundary is the Withy Hill Park recreation ground. This facility was extended and improved in recent years as part of the overall redevelopment of St George's Barracks. It contains a Children's Play Area, an informal pitch, and large areas of amenity space and wooded areas. To the immediate west of the application site is former military housing in St Georges Close.
- 2.5 [Site Location](#)

3 Planning History:

- 3.1. 10.03.2021 - 2020/05394/PA - Demolition of existing buildings and outline planning permission for residential development (use Class C3), access from Kingston Road and Rectory Road and associated engineering works (with all other matters reserved) – Approved subject to a Section 106 Legal Agreement.

- 3.2. 29.06.2009 – 2009/01620/PA - Redevelopment of the Defence Estates office headquarters involving the demolition of the buildings and the erection of new office space including a reconfigured parking layout and landscaping – Approve subject to conditions.
- 3.3. 03.10.2006 - 2000/03235/PA – Outline application for residential development (DIO Headquarters Site) - Approve subject to conditions and Section 106 Agreement.
- 3.4. Various historic planning applications associated with the operation of the DIO headquarters site which are of no relevance to this planning application.

4 Consultation Responses:

- 4.1 Transportation Development - No objection, subject to requiring conditions to reflect the outline planning permission to be attached.
- 4.2 Regulatory Services – No objection.
- 4.3 City Design and Landscape – recommend conditions to secure hard surfacing, materials, and architectural details.
- 4.4 LLFA – No objection.
- 4.5 Housing – Support delivery of affordable housing on site.
- 4.6 Leisure Services – No comments.
- 4.7 Ecologist – no objection.
- 4.8 Trees – no objection.
- 4.9 West Midlands Police – no objection.
- 4.10 West Midlands Fire Service – no objection.
- 4.11 Severn Trent – reiterate the need for the drainage condition attached to the outline permission to be discharged.
- 4.12 Royal Sutton Coldfield Town Council – object on the grounds that the development is over-intense with an unacceptable density which would have an adverse impact on existing residential neighbours to the site.

5 Third Party Responses:

- 5.1 The application has been publicised by a site notice and press notice.
- 5.2 Four representations have been received making the following comments:
- Concerns regarding boundary treatment proposed and loss of landscaping;
 - Concerns regarding proposed scale and adverse impact on outlook;
 - Affordable housing would have a negative impact on the area;
 - Dust, noise and disruption caused by demolition and construction phase;
 - Additional traffic;
 - Anti-social behaviour; and
 - Removal of lighting leading to vulnerability.

6 Relevant National & Local Policy Context:

6.1 National Planning Policy Framework

Chapter 5 Delivering a sufficient supply of homes (paragraphs 63 – 65)
Chapter 11 Making effective use of land (paragraphs 120, 122, 124 and 125)
Chapter 12 Achieving well-designed places (paragraphs 130 – 133)

6.2 Birmingham Development Plan 2017:

PG3 Place-making
TP27 Sustainable Neighbourhoods
TP28 The Location of New Housing
TP30 The Type, Size and Density of New Housing
TP31 Affordable Housing

6.3 Development Management DPD:

DM2 Amenity
DM4 Landscaping and Trees
DM10 Standards for Residential Development
DM15 Parking and servicing

6.4 Supplementary Planning Documents & Guidance:

Places for Living SPG (2001)
Birmingham Parking Supplementary Planning Document (2021)

7 Planning Considerations:

Background

- 7.1 Outline planning permission has been granted under application reference 2020/05394/PA, for up to 145 dwellings. A policy compliant affordable housing offer was made through the Section 106 Agreement to achieve 35% affordable dwellings on site. There is no requirement for public open space to be delivered through the development due to a previous planning consent on the site which was built out on the neighbouring St George's barracks site, which delivered the public open space for both sites. A financial contribution towards the maintenance and improvement of Withy Hill Recreation Ground was secured through the Section 106 Agreement.
- 7.2 It is considered that the principle of development has been established through the grant of outline planning permission on the site and, accordingly, the main material considerations are the outstanding reserved matters of layout, scale, appearance and landscaping alongside their associated impacts upon residential amenity and highway safety.

Layout

- 7.3 The proposed layout retains the vehicular access from Rectory Road as approved at outline stage, leading to a spine road in the west of the site adjacent to open space, and a series of perimeter and internal blocks of residential dwellings, with a through route created in the south east of the site. Shared surfaces are proposed throughout the development site, which seeks to deliver a residential character whereby pedestrian and cycle movement would be prioritised.
- 7.4 Houses would face public space with private gardens contained to the rear within the block. Houses are generally parallel to the street with a consistent set back and a strong building line which is predominantly followed at corners. The apartment blocks are proposed to be located within corner locations of the site and this is considered

appropriate when considering their increased scale and mass.

- 7.5 Car parking is proposed in a driveway arrangement. In order to reduce the dominance of car parking on the street frontage, the layout incorporates placing it to the sides of the houses in a tandem arrangement. There is a long sweep of frontage parking proposed to plot nos. 43-44 and 73-76 without proportionate landscaping. City Design are of the view that this part of the site would benefit of the reduction in dwelling numbers. Whilst there would be merit in this recommendation to improve the character, regard must be had towards the deliverability of a scheme in respect of density, affordable housing and infrastructure. It is noted that hedgerows are proposed between plots at either end of this block. On balance, I am of the view that there is sufficient green infrastructure to soften the hardstanding proposed in this location.
- 7.6 It is considered that the proposed layout is acceptable with the proposed through route creating a legible layout with a good level of permeability. The layout balances frontage car parking with green infrastructure and landscaping, with the shared surfaces seeking to enhance the residential character.

Appearance and Scale

- 7.7 The proposed dwellinghouses would comprise a mix of two, two and a half and three storey buildings in the form of detached houses, semi-detached houses, apartments and maisonettes. The buildings would have a traditional appearance, constructed of facing brickwork, tiled roofs and UPVC windows with black rainwater goods. A mix of housetypes are proposed with varied elevations and roof styles. These range from one bedroom two person flats to four-bedroom eight person houses. These are standard house types used by the applicant.
- 7.8 There is a general unifying style with traditional proportions, pitched roofs, porches and multi paned windows. The use of 'corner turning' houses to create interest and maximise natural surveillance at corners and junctions is welcomed. The suggested materials are acceptable in principle; however these need to be supported by good quality architectural detailing such as window reveals, projecting sills and roof eaves to add visual interest.
- 7.9 It is considered that the proposed appearance and scale would be reflective of the surrounding residential character and would achieve an urban grain within the development site which would have a suburban character and be appropriate in the context. Conditions are recommended to secure sample materials and architectural details.

Landscaping

- 7.10 The proposed reserved matters seek to secure the details for the green infrastructure and soft landscaping across the development site as well as boundary treatments. The proposals seek to retain a number of trees across the southern area of open space and the western coppice of trees whilst enhancing the retained open spaces with additional planting and hedgerows.
- 7.11 Detailed planting plans have been provided, including size of trees to be planted. Generally, the tree planting would have a good seasonal impact, would be suitable for the use of the site and its housing density, and would make streets more distinctive and memorable. The palette of shrubs and hedges are generally robust and suitable. They are specified at a good size for instant impact with the majority of frontages defined by planting to reinforce defensible space and to have the maximum impact on the public realm.

- 7.12 The proposed boundary treatment would comprise 1.8m high close-board fence for most instances, with alternatives of a 1.8m wall / fence combination and hedges proposed at specific locations. Proposed hedgerows are welcomed as a key part of the development's green infrastructure and an important contributor to enhancing its character. The close board fence and wall / fence combination are considered appropriate in respect of the suburban character.

Highway Safety

- 7.13 The site access was approved as part of the outline application and no alterations have been proposed to this as part of the reserved matters scheme. The proposed layout seeks to secure adoptable highway and adoptable shared surface. The detail of these would be secured through condition 5 of the outline planning permission which covers highway works, and a hard-surfacing condition recommended by City Design and Landscape.
- 7.14 The car parking proposed would meet the guidance set out within Birmingham Parking SPD.
- 7.15 Whilst Transportation Development recommend conditions which would reflect those attached to the outline planning permission, this is not considered necessary as the conditions attached to the outline planning permission would still apply and require to be discharged prior to the occupation of the development.

Residential Amenity

- 7.16 All of the proposed house and flat types (except two) comply with the National Space Standards both in terms of unit sizes and bedroom sizes and in the majority of circumstances exceed adopted internal space standards. The two units which fall under the national space standards are extremely nominal, and would actually meet the minimum internal standards and fall marginally short in respect of the bedroom sizes. It is considered that in the context, adequate residential amenity would be achieved for prospective occupiers.
- 7.17 A garden size plan has been prepared which demonstrates that 40% of the properties have an overprovision, 29% comply with the standards, 2% are just marginally short of the standards and 8% are under providing. The remaining 21% of the properties are apartments. Significant areas of open space providing informal recreation opportunities are proposed to be delivered on site; as well as providing footpath and cycle connections to the north to access the nearby recreation ground. It is considered that the proposed external amenity space would be functional and achieve acceptable levels of residential amenity.
- 7.18 With regards to separation distances between the new development and existing dwellings, the new dwellings on the northern, eastern and western boundaries would achieve the minimum separation distance as set out within Places for Living SPG, of 21.5m between windowed elevations and 12.5m between windowed elevations and flank walls.
- 7.19 In respect of the separation distances within the site, proposed dwellings have been offset from their counterpart to the rear in order to achieve these distances, however I am of the view that this arrangement would not have an adverse impact on prospective residential amenity. There are some instances where the minimum distance between windowed elevations and flank walls within the internal blocks cannot be achieved and deliver approximately 10m separation distance. Whilst this is regrettable, I do not consider it a reason for refusal when balanced against the

benefits of the development and would be unlikely to have the same impact between new dwellings as such a shortfall would between new dwellings and existing dwellings.

- 7.20 Given the garden sizes and separation distances, it is considered appropriate to remove permitted development rights for extensions. A condition to secure this removal has been recommended to be attached to any reserved matters approval.

Other Issues

- 7.21 Concerns have been raised by local residents in respect of the likely disruption that the construction phase of the development could cause. Whilst this is noted, a construction management plan and method statement is required under condition 11 of the outline planning permission. This is still required to be determined for the reserved matters scheme to be implemented. Furthermore, the construction phase is temporary and would be managed through the method statement and management plan.
- 7.22 A number of local representations have mentioned that the development could lead to anti-social behaviour through the occupation of the affordable housing. This is not a planning matter and cannot be considered in the assessment of the reserved matters proposals.

8 Conclusion:

- 8.1 This reserved matters application seeks approval for scale, appearance, layout and landscaping. It is considered that the proposals would achieve an acceptable level of residential amenity for existing and prospective residents, and would make a positive contribution to the surrounding residential character. For the reasons set out above, the application is recommended to be approved subject to conditions.

9 Recommendation:

- 9.1 Approve subject to conditions as noted below.

-
- | | |
|---|------------------------------------------------------------------------|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Requires the submission of sample materials |
| 3 | Requires the submission of architectural details |
| 4 | Requires the submission of hard surfacing materials |
| 5 | Removes PD rights for extensions |
-

Case Officer: Claudia Clemente

Photo(s)

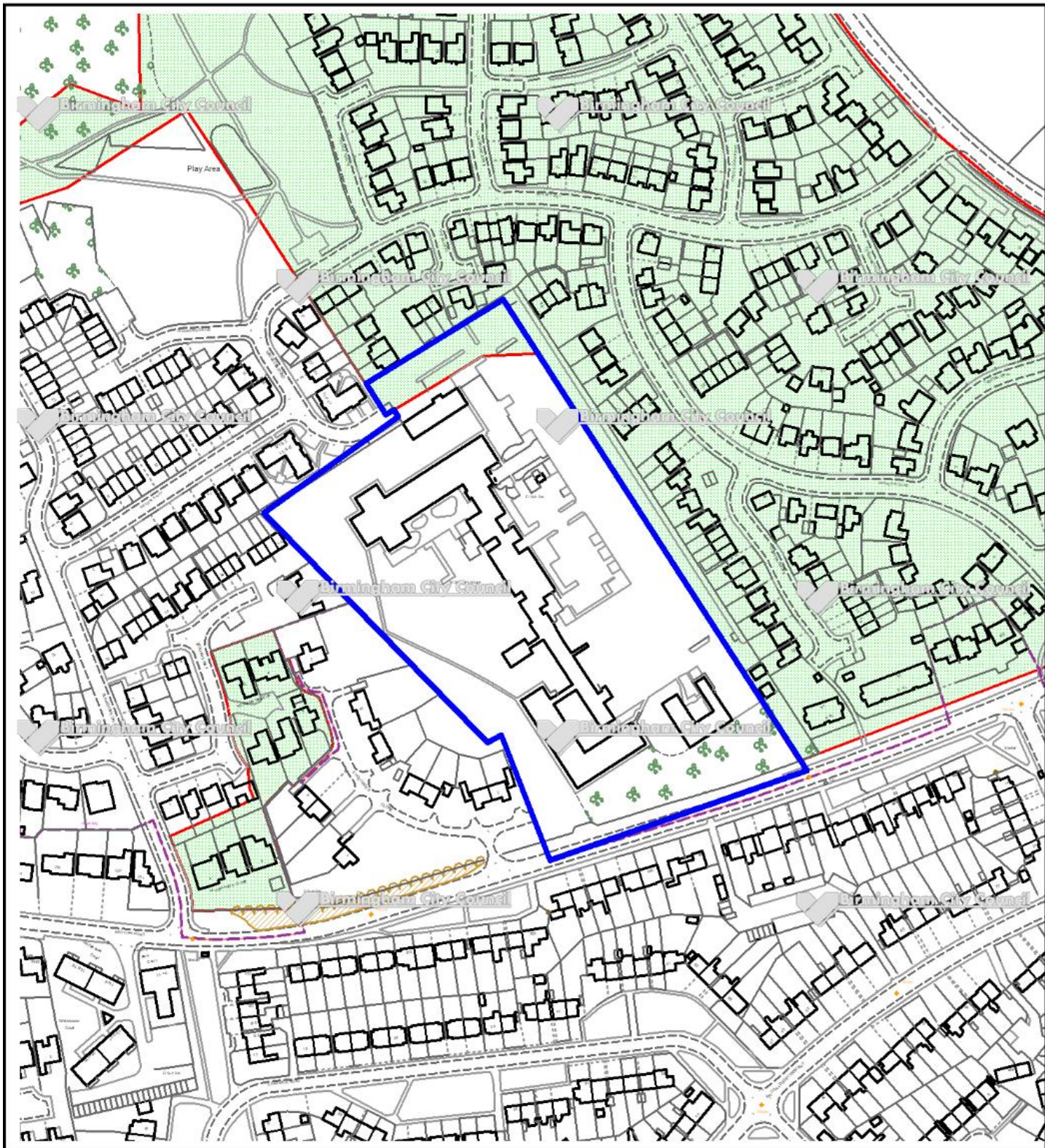


Image 1: Rectory Road boundary



Image 2: Eastern boundary of site

Location Plan



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Committee Date:	17/03/2022	Application Number:	2021/09119/PA
Accepted:	29/10/2021	Application Type:	Full Planning
Target Date:	04/03/2022		
Ward:	Sutton Four Oaks		

32 Le More, Sutton Coldfield, Birmingham, B74 2XY

Demolition of existing property and erection of 2no. dwellinghouses

Applicant:	Lewis James
	32 Le More, Sutton Coldfield, Birmingham, B74 2XY
Agent:	JAB Architectural Design
	1st Floor Masonic Hall Building, 9 Mill Street, Sutton Coldfield, B72 1TJ

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application is for the demolition of an existing dwellinghouse to allow for the erection of two dwellinghouses at 32 Le More, Sutton Coldfield.
- 1.2 The proposed houses are detached, two-storey with accommodation at roof level, incorporating contemporary design including projecting roof gables, materials including brick, timber, render and glazing, Juliet balconies and internal garages. House A has 5 bedrooms and House B has 4 bedrooms. Both houses have gross internal floor areas in excess of 300sqm and garden sizes are 300sqm for House A and 500sqm for House B. The site includes a shared driveway to the front and on-site parking for 2 cars at each house, as well as a single storey detached garage in front of House B. 2 further parking spaces are provided in each garage.



Proposed Block Plan

1.3 The application is supported by the following documents:

- Planning Statement,
- Design Statement,
- Arboricultural Impact Assessment.

1.4 The application documents are available to view [here](#).

2 Site & Surroundings:

2.1 The application site is located at a corner plot at 32 Le More, which is a mature residential cul-de-sac located in Sutton Coldfield. The site comprises a 1970's detached, two-storey dwellinghouse, featuring a large wrap around side/rear garden, tarmacked front drive and several mature trees located around the rear boundary. The overall site area is approximately 1500sqm and the overall footprint of the existing dwellinghouse to be demolished is approximately 170sqm.

2.2 The surrounding area is primarily residential in nature, with the street primarily featuring dormer bungalows designed with gable sections and dormer windows, and the wider area is characterised by a range of dwellinghouses of varying character.

2.3 The site is surrounded by the Four Oaks Conservation Area to the north, east and west, but there are not any statutorily or locally listed buildings in the vicinity.

2.4 The site's location is available to view [here](#).

3 Planning History:

3.1 06/04/1978 – 46885000 – Erection of a dwellinghouse – Approved subject to conditions.

4 Consultation Responses:

4.1 City Design – no objections, subject to the following conditions:

- Submission of architectural details.
- Submission of boundary treatment details;
- Submission of hard/soft landscape details.

4.2 Regulatory Services – no objections, subject to the following condition:

- Requires the provision of a vehicle charging point.

4.3 Transportation Development – no objections, subject to the following conditions:

- All works to remain within the private land ownership;
- No works to infringe out on to the highway.

4.4 Tree Officer – no objections, subject to the following conditions:

- Requires the protection of trees within pre-defined areas;
- Requires tree pruning measures.

4.5 West Midlands Police – no objections, subject to the following recommendations:

- External doors and windows to be fitted to PAS 24 standards;
- For the proposal to be implemented in accordance with the 'Secured by Design' security standards.

4.6 Conservation Officer – no objections.

4.7 Severn Trent Water – no objections.

5 Third Party Responses:

5.1 The application has been publicised by a site notice which was displayed at the site and letters which were sent to resident's associations/neighbourhood forums, MP for Sutton Coldfield, Labour Party Four Oaks Branch, Sutton Coldfield Town Council, as well as neighbouring residents.

5.2 1 letter of objection was received from Sutton Coldfield Town Council, 5 letters of objection were received from residents and a petition objection including 20 signatories was received, making the following comments:

- The design of the proposed houses is out of character with the area and doesn't relate to the appearance of neighbouring properties;
- The proposal would have a harmful impact on the character of the Four Oaks Conservation Area;
- The proposal represents the overdevelopment of the site and will have a harmful cumulative impact on the area;
- The proposed houses would have a poor standard of amenity; Loss of light and privacy at neighbouring properties;
- Noise and disturbance during construction;
- Increase in traffic during construction;
- Increase the risk of crime in the area;
- Negative impact on elderly and vulnerable residents;
- Contrary to a restrictive covenant that related to the site.

6 Relevant National & Local Policy Context:

6.1 National Planning Policy Framework:

6.2 Paragraph 11(d) (Presumption in Favour of Sustainable Development), Paragraph 74 (Maintaining Supply and Delivery of Housing), Paragraphs 130-134 (Achieving well designed places), Paragraphs 189-202 (Conserving and Enhancing the Historic Environment).

6.3 Birmingham Development Plan 2017:

6.4 Policies PG1 (Overall Levels of Growth), PG3 (Place Making), TP27 (Sustainable Neighbourhoods), TP28 (The Location of Housing), TP29 (The Housing Trajectory) and TP30 (The Type, Size and Density of New Housing).

6.5 Development Management DPD:

6.6 Policies DM2 (Amenity), DM4 (Landscaping and Trees), DM10 (Standards for Residential Development), DM14 (Transport Access and Safety) and DM15 (Parking and Servicing).

6.7 Supplementary Planning Documents & Guidance:

6.8 Places for Living SPG, Mature Suburbs SPD, Birmingham Parking SPD, Four Oaks Estate Development Guidelines and 45 Degree Code.

7 **Planning Considerations:**

Principle of Development:

- 7.1 The application site features an existing dwellinghouse located within an established residential area in Sutton Coldfield. The proposal would maintain this established residential use albeit through the provision of two houses rather than one. There are no specific Birmingham Development Plan land allocations which relate to the site, which would prevent its development as proposed from being acceptable in principle. Being within an established residential area, the site is also sustainably located close to local facilities and amenities, near to Mere Green District Centre which provides shops and services, as well as Sutton Park which provides access to green spaces. The site is also located outside of flood zones 2, 3a and 3b, and there are no other specific constraints which would prevent the principle of the proposal from being achieved in this location. The proposal would also boost the supply of large family housing in situation where there is a lack of a five-year housing supply (See Paragraphs 7.17-7.18). I therefore consider that the principle of the proposal is acceptable, subject to the application complying with the other relevant main material considerations.

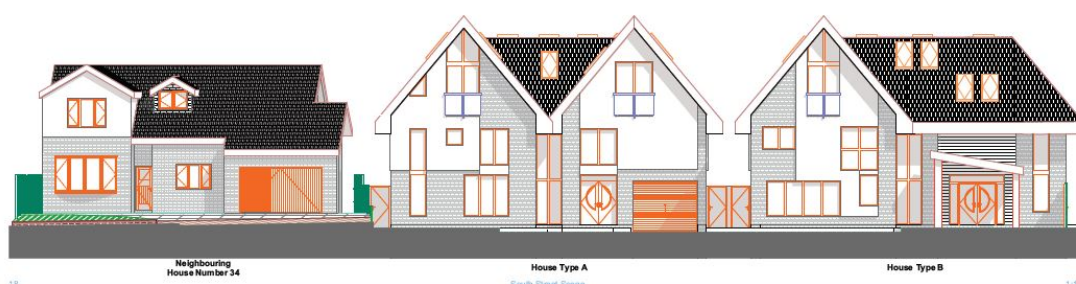
Impact on the Character of the Area;

- 7.2 In terms of the subdivision of the site and the impact on character, the existing plot is substantially larger in area (1500sqm) and wider at its frontage (47m) than typical plots on the street. The resulting plot sizes are 667sqm (House A) and 833sqm (House B) and are still similar or larger than neighbouring plots of 650sqm (30 Le More) and 603sqm (34 Le More). The overall footprints of the proposed houses are 180sqm (House A) and 170sqm (House B), which is similar to the footprint of the existing house at the site (170sqm), and similar to the footprints of neighbouring houses of 200sqm (30 Le More) and 150sqm (34 Le More). With regards to the space between buildings, the gaps between the existing houses at Le More are already small at around 2-3m and this arrangement will be replicated by the proposed houses. The development will also cause no significant increase to the overall density of the area, which is low at approximately 12/13 dwellings per hectare; the proposal resulting in only a marginal increase, still maintaining a low density which is characteristic of this mature suburban area. I therefore consider that the harm to the local character caused by the subdivision of the site would be minimal.



Aerial View of Site

- 7.3 With regards to the scale, design and massing of the proposed houses, this does deviate slightly from the characteristics of the street and may therefore have some visual harm, however, I consider this level of harm to be acceptable in these circumstances. The proposed houses are two-storey, so are generally taller than typical houses on the street, which are predominantly dormer bungalows, including the neighbouring property at 34 Le More. The site is however located at a spacious corner plot and the proposed houses will be setback from the street, with House B in particularly located in the corner and having less impact on the street scene. I also acknowledged that the neighbouring property at 30 Le More features a two-storey forward gable section and is not significantly smaller than the proposed houses. In terms of design, the proposed houses are quite contemporary but seek to reference the street through sloping roofs with projecting gable sections, which I considered to be appropriate design approach, subject to the of submission of further architectural details. I therefore acknowledge that in terms of scale and design, the proposal does introduce a slightly more visually intrusive development to the street, and this may have some harm, but this harm needs to be weighed against the overall benefits of the scheme.



Proposed Street Scene

- 7.4 With regards to the impact the proposal will have on the Four Oaks Conservation Area, the site itself is not actually within the area and the focus of the Conservation Area is primarily on the older buildings along Belwell Lane, which are located well away from the site by virtue of the long rear gardens on Belwell Lane. The existing building to be demolished is of no significant architectural merit and doesn't contribute to the setting of the Conservation Areas, and the proposed houses will have no greater detrimental impact on the character of the Conservation Area.
- 7.5 In summary, due to the spacious nature of the plot and its corner location, I consider that the site's subdivision to allow for the erection two new houses can be achieved without having an overly significant detrimental impact on the character of the area. The application has demonstrated that suitable plot sizes and spatial composition can be achieved at the site and whilst the introduction of this type of built form may have some visual harm, I do not consider this harm to be so significant that it would outweigh the overall benefits of the application. Subject to conditions requiring the submission of architectural, boundary treatment and landscape details, I therefore consider that the development is acceptable with regards to the impact on character.

Residential Amenity:

- 7.6 With regards to the standard of accommodation provided by the proposed houses, House A contains five double bedrooms and House B contains four double bedrooms. The required minimum gross internal floor area for houses of this size are 134sqm for a five-bedroom, eight-person house and 130sqm for a four-bedroom, eight-person house. The gross internal floor areas of the proposed houses are in excess of 300sqm each, therefore the internal layouts of the houses are acceptable and would provide a high standard of accommodation for future residents.

- 7.7 House A will provide a rear garden area of approximately 300sqm and House B will provide a rear garden area of approximately 500sqm, both are well in excess of the 70sqm minimum garden size for family accommodation and are acceptable.
- 7.8 There are no other constraints in terms of any land contamination and noise and disturbance impacts, or any other known constraints which would have a detrimental impact on the standard of amenity provided by the proposed development.

Impact on Neighbour Amenity:

- 7.9 The proposed development complies with the 45 Degree Code to both neighbouring property and will therefore cause no loss of light and outlook to neighbouring occupiers.
- 7.10 With regards to distance separation requirements, the second-floor master bedroom of House A is 12m from the boundary with the rear garden of 69 Belwell Lane, falling short of the 5m per storey setback requirement, which in this case would be 15m. However, I consider that the 3m setback shortfall is acceptable in this instance, as it was noted from the site visit in March 2022 that the boundary between these properties is well screen by a series of mature trees located at the end of the rear garden of 69 Belwell Lane (See Photo 4), and the length of their rear garden is also substantial at 40m. On this basis, I consider that whilst the master bedroom of House A will cause a technical shortfall of the distance separation requirements, it will cause no actual loss of privacy by virtue of the overlooking the garden.
- 7.11 With regards to windows at House B, the bedroom 3 window at the second floor and bedroom 1 window at the first floor are only 7.3m from the boundary with a section of the rear garden of proposed House A, falling short of the 10m (first floor) and 15m (second floor) setback requirement. These windows will not however face the main part of the garden of House A and will only face a small section off the main part of the garden, thus not resulting in any significant loss of privacy. These windows are also 7.5m from the boundary with the rear garden of 67 Belwell Lane, however, they are facing the garden at an oblique angle rather than directly. These windows will also face a very large tree in the rear garden of 67 Belwell Lane (See Photo 3) which will obscure the view from the windows to the garden, and it is also noted that the remainder of the boundary benefits from screening in the form of smaller trees. It is also acknowledged that the first-floor master bedroom windows at House B which do face the rear garden of 67 Belwell Lane, are 12m from the boundary and meet the 10m distance separation requirements. Again, the length of the rear garden of 67 Belwell Lane is substantial at 45m, also mitigating the overlooking impacts. I therefore consider that due to the circumstances of the site and existing boundary treatment, the windows at House B will cause no significant overlooking issues.
- 7.12 With regards to overlooking from the fronts of the proposed houses, the front of House A faces the street so will not cause any overlooking. The front of House B will be 11.7m from the boundary with the side of 30 Le More but will face the rear elevation of their single storey garage and will not therefore overlooking any neighbouring gardens and will cause no loss of privacy.
- 7.13 There are no other amenity impacts by virtue of noise and disturbance to neighbouring occupiers which would warrant refusal of the application.
- 7.14 I also note that the Tree Impact Assessment Plan has been submitted and there is no intention to remove any of the trees which currently provide a level of screening and privacy.

Highways Safety and Parking:

- 7.15 As a result of the proposed development, traffic generation to the site will likely be the addition of 5 x daily 2-way trips, which is relatively low and will easily be accommodated within the surrounding highway network and will not cause any highways safety issues. The site will provide 2 on-site parking spaces and 2 garage parking spaces per dwelling, which is deemed to be an appropriate level in this location and will not cause any significant parking pressure at the site or on the surrounding streets. The highway conditions recommended are noted, but these are not reasonable, in that the development is sited well within the site's red line boundary and there is no concern that the works will fall beyond the application site.

Five Year Housing Supply:

- 7.16 The Birmingham Development Plan became 5 years old on the 10th January 2022. In accordance with Paragraph 74 of the NPPF, 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, this means where the policies which are most important for determining the application are out of date, the titled balance is engaged and 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.
- 7.17 Taking the titled balance into consideration, I consider that the benefits of the proposal in boosting the city's housing supply with a net gain of one high quality, family sized dwelling affords weight in the decision-making process. I have identified some visual harm, primarily due to the scale of the proposed houses being generally larger than those on the street, but overall I do not consider that the adverse impacts of this harm are significant and demonstrably outweigh the benefits. The titled balance affords further weight to the provision of housing and in this case, I consider that the benefits do outweigh the harm and for this reason, the application should be approved.

Other Issues:

- 7.18 Concerns have been raised regarding the impact of construction traffic and this is considered acceptable due to the scale and nature of the proposal and site. Furthermore, concerns have been raised regarding a covenant which relates to the site, but private issues such as this is not a material planning consideration.

8 Conclusion

- 8.1 The application would result in the creation of two large, high quality, family sized dwellinghouses, resulting in a net gain of one additional dwellinghouse at the site. Some minor visual harm and potential privacy impacts have been identified, but this harm is not considered to significantly and demonstrably outweigh the overall benefits of the scheme. In engaging the titled balance, the provision of good quality housing affords weight and during this assessment process I have found that the overall benefits of the scheme outweigh the harm caused and therefore the application is recommended for approval, subject to conditions.

9 Recommendation:

9.1 Approve, subject to conditions.

-
- 1 Requires the submission of architectural details
 - 2 Requires the submission of boundary treatment details
 - 3 Requires the submission of hard and/or soft landscape details
 - 4 Requires the provision of a vehicle charging point
 - 5 Requirements within pre-defined tree protection areas
 - 6 Requires tree pruning protection
 - 7 Requires the scheme to be in accordance with the listed approved plans
 - 8 Implement within 3 years (Full)
-

Case Officer: Thomas Morris

Photo(s)



Photo 1: Front of existing house



Photo 2: The Site from outside 19 Le More

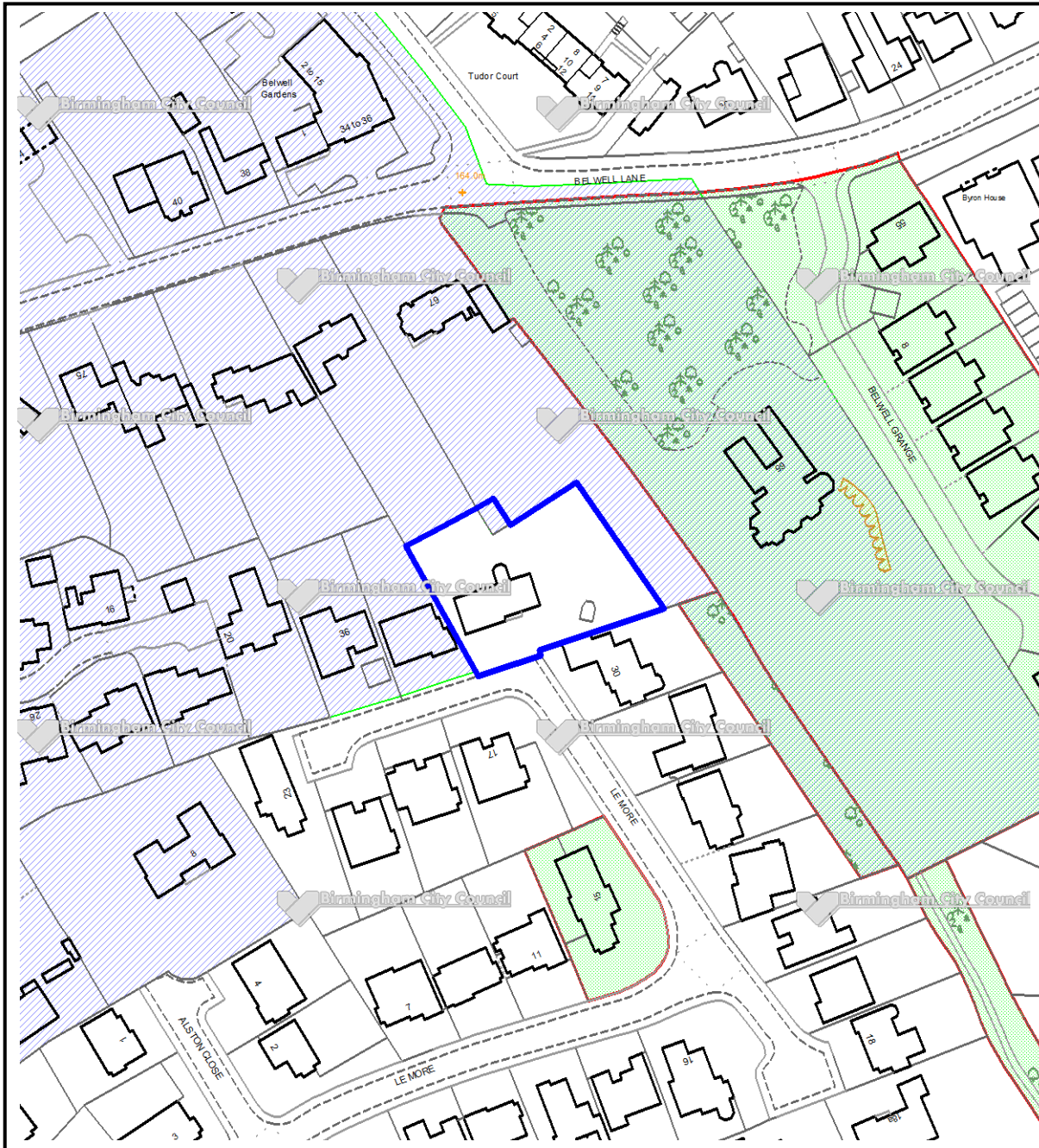


Photo 3: Boundary to the rear garden of 67 Belwell Lane



Photo 4: Boundary to the rear garden of 69 Belwell Lane

Location Plan



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Committee Date:	17/03/2022	Application Number:	2021/07832/PA
Accepted:	09/09/2021	Application Type:	Full Planning
Target Date:	21/03/2022		
Ward:	Sutton Walmley & Minworth		

DC6, Midpoint Way, Prologis Park Midpoint, Sutton Coldfield, Birmingham, B76 9EH

Demolition of existing building and erection of replacement B2 / B8 use employment building with ancillary office, car parking, landscaping and other associated works alongside closure of access from Park Lane

Applicant:	Prologis UK CCCLIV SARL C/o Agent
Agent:	Delta Planning Cornwall Buildings, Newhall Street, Birmingham, B3 3QR

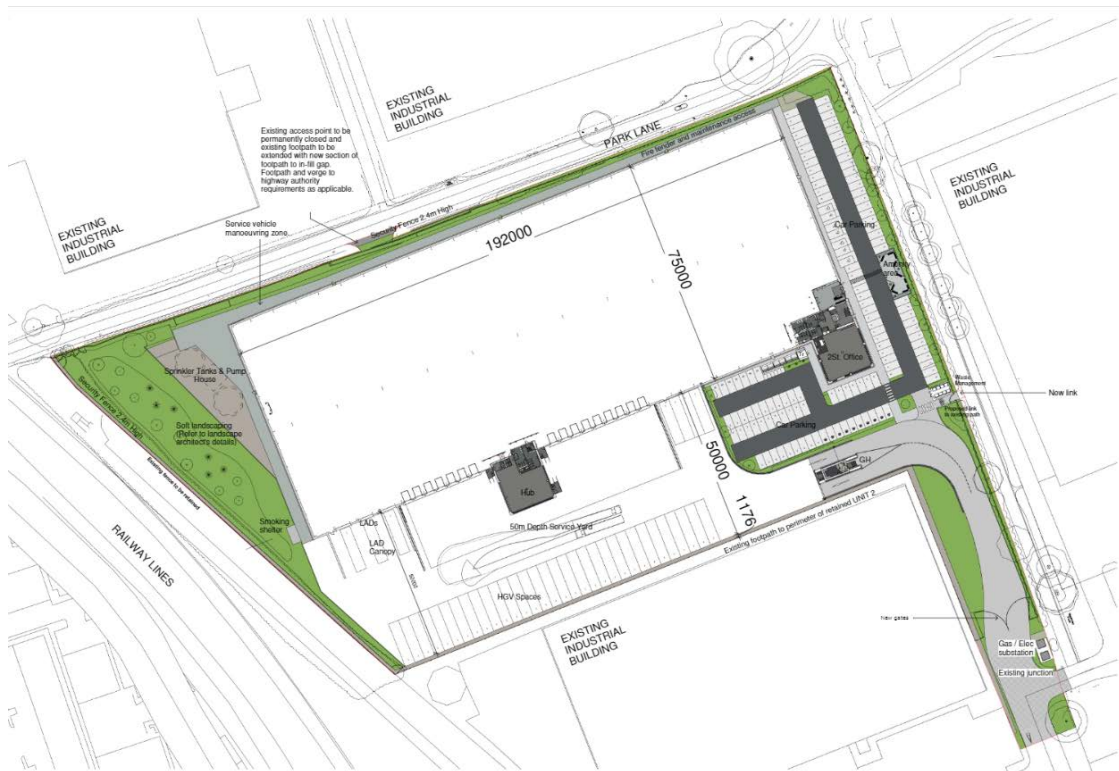
Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 Consent is sought for the demolition of existing building and for erection of replacement B2 / B8 use employment building with ancillary office, car parking, landscaping and other associated works alongside closure of access from Park Lane.
- 1.2 The proposed building would be rectangular measuring 192 metres in length x 75 metres wide x 18.77 metres in height to the ridge. The new proposed Gross Internal Floor Area equates to 15,213sqm (7607sqm B8 use and 7606sqm B2 use) and would include an open plan warehouse/production line along with a two-storey office and amenity block.
- 1.3 The proposal would include the erection of a new gate house and gas/electric substation, sprinkler tanks and pump house, new vehicular and pedestrian access from the estate road. The car parking area comprises 127 car spaces, 6 disabled parking bays, 37 HGV spaces, 30 cycle spaces along with 10 EV charging points, service yard and amenity area.
- 1.4 The application is supported with an Ecological Assessment, Tree Survey, Design and Access Statement, Planning Statement, Transport Statement and Travel Plan, Air Quality Assessment, BREEAM Preliminary Report, Flood Risk Assessment and SUDs Strategy, Site Investigation Report, Noise Impact Assessment and Sustainable Construction / Energy Statement.
- 1.5 [Link to Documents](#)

Proposed Site Plan



2 **Site & Surroundings:**

- 2.1 The application site relates to an existing warehouse building within Midpoint Business Park in Sutton Coldfield. The site area is 3.48Ha. There is a service yard and car park accessed from the estate road to the southeast for HGV vehicles with staff/visitor car park to the northwest corner off Park Lane. There are mature trees and periphery hedge planting to the site boundaries.
- 2.2 The site is bordered by a railway line to the west (and Castle Vale Enterprise Park beyond), by Park Lane to the north (and large industrial building beyond) and by other plots with large industrial buildings to the east and south. To the northeast corner of the site are the frontages of three houses off Park Lane which form part of a recent residential development (planning reference: 2017/03519/PA).
- 2.3 The majority of the site is located within Flood Zone 1, however, part of the site towards the central and south-east corner are within Flood Zone 2.

2.4 [Site Location](#)

3 **Planning History:**

- 3.1 Various planning history with the most relevant/recent being:
- 3.2 17/04/2014 - 2014/02495/PA - Application for prior notification of proposed demolition of various buildings, no prior approval required.
- 3.3 12/06/2014 - 2014/02484/PA - Erection of 2 no. detached industrial/distribution units (Class B1c, B2/B8) including access and servicing arrangements, car parking, landscaping and associated works, approved subject to conditions.

4 Consultation Responses:

- 4.1 Regulatory Services – No objections, subject to conditions requiring contamination remediation scheme, contaminated land verification report, limits noise levels for plant and machinery, implementation of air quality measures including electric vehicle charging provision, bicycle parking provision, and implementation of a Staff Travel Plan.
- 4.2 Local Lead Flood Authority and Drainage Team – No objections, subject to conditions requiring a sustainable drainage scheme, a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan.
- 4.3 Transportation Development – No objections, subject to conditions requiring a Bellmouth/Heavy duty crossing to be installed at site access including visibility splays and any highway works including reinstatement of redundant access.
- 4.4 Employment Team – No objections, subject to conditions requiring a Construction Employment Plan.
- 4.5 The City Tree Officer – No objections, subject to conditions requiring pre-defined tree protection areas and tree pruning.
- 4.6 Conservation – No objections.
- 4.7 City Design – Acceptable, subject to conditions requiring hard/soft landscaping, boundary treatment details, sample materials and architectural details.
- 4.8 The City Ecologist – No objections, subject to conditions requiring the implementation of enhancement measures and bird/bat boxes.
- 4.9 Severn Trent Water – No objections, subject to inclusion of drainage condition.
- 4.10 Environment Agency - No objections.
- 4.11 Network Rail – No objections and provides advisory note to protect the railway and its boundary which include a Risk Assessment and Method Statement (RAMS), fencing and scaffolding within 10m of the Network Rail / railway boundary and drainage proposal, earthworks, BAPA (Basic Asset Protection Agreement) to be agreed between the developer and Network Rail.
- 4.12 West Midlands Fire Service - Advise of Building Regulations Approved Document B.

5 Third Party Responses:

- 5.1 Site notices displayed and press notice advertised. Local councillors and local residents were notified – two response received from Councillor Barrie and Councillor Wood expressing their support of the proposal. They highlight that moving the building back will not make any significant difference to the outlook of the building nor the character of the area. Adverse comments have been received in respect of the upkeep of the grass verge and hedging around the existing building and this development will vastly improve the upkeep of the area as well as providing local employment opportunities.

6 Relevant National & Local Policy Context:

6.1 National Planning Policy Framework

Paragraph 8 - Achieving sustainable development.

6.2 Birmingham Development Plan 2017:

PG3 (Place making), TP1 (Reducing the City's carbon footprint), TP2 (Adapting to climate change), TP3 (Sustainable construction), TP4 (Low and zero carbon energy generation), TP5 (Low carbon economy), TP6 (Management of flood risk and water resources), TP19 (Core Employment Areas), TP26 (Local employment), TP44 (Traffic and Congestion Management).

6.3 Development Management DPD:

DM1 (Air Quality), DM2 (Amenity), DM5 (Light Pollution), DM6 (Noise and Vibration), DM14 (Highway safety and access) and DM15 (Parking and servicing).

6.4 Supplementary Planning Documents & Guidance:

Places for All SPG (2001), Car Parking Guidelines SPD and Sustainable Management of Urban Rivers and floodplains SPD.

7 Planning Considerations:

Principle of Development

7.1 The application site is located within a Core Employment Area and the proposed redevelopment of the site would comprise a new employment building within Use Class B2/B8. The new gross internal floor area would equate to 15,213sq. metres (7607sq. metres of B8 Storage and Distribution use plus 7606sq. metres of B2 use General Industrial), amounting to an overall net increase of nearly 5,000sq. metres of employment floorspace. The proposed building consists of an open plan warehouse/production line along with a two-storey office and amenity block. There would be 200 full-time equivalent employment positions created and the applicant has agreed to the imposition of a condition for a construction employment plan.

7.2 The principle of the proposed redevelopment scheme in this location is considered to be acceptable when considered against policy TP19 of the BDP. The application represents an urban regeneration scheme which would create industrial/distribution space with ancillary office accommodation, on a brownfield site. It would promote sustainable economic growth in an existing industrial area and would generate jobs.

Sustainability

7.3 An Energy Statement has been provided during the course of the application which considers solar thermal panels to be most appropriate to be delivered as an integral part of the development. A BREEAM Pre-Assessment Report has been submitted which demonstrates that Excellent standard is achievable. The development proposal can therefore be considered as having met the requirements of policy TP3 and TP4 of the BDP.

Design and Visual Amenity

7.4 The application site is located within an established industrial estate/logistic park with residential properties to the northeast of the site. Park Lane has a relatively open

character with extensive planting to the north and with the application site buildings to the south set back about 30 metres from the road. The buildings on the north side of Park Lane are set back 12 – 15 metres. The wider employment park has large buildings positioned away from the road and generally well screened by extensive tree and shrub planting.

- 7.5 The proposed development would replace the existing building with a larger footprint and taller building. The new building would be positioned close to the northern boundary with Park Lane, being set back by approximately 5 metres from the road. The materials to be used in the exterior consist of wall and roof cladding in colour coated profiled metal sheeting.
- 7.6 The size and scale of the building is required to meet the operators needs to provide warehouse/production space (B2/B8 use). The applicant has provided additional visualisations and a series of sections across Park Lane and the proposed building. Although, the new building would be situated closer, and more prominent in the views from the houses, than at present; the Landscape Plans submitted shows that the existing tall hedgerow along Park Lane in the northeast corner of the site would be retained.
- 7.7 The relationship between the new residential properties, to the north-east corner of the site and the presence of existing and proposed landscaping is considered acceptable.

Existing and Proposed 3D Visualisation

Below: Existing photo (left) and proposed CGI (right) from Park Lane corner



Below: Existing (left) and proposed (right) CGI from adjacent residential



- 7.8 The scale and massing of the building would be visually reduced through the use of contrasting cladding materials and colours through the different levels of the facades. Landscape screening to mitigate visual impacts of building could be secured through the implementation of the submitted Landscape Concept plan. Furthermore, the proposal would bring back a vacant site into full operational use and subsequently improve the visual amenity of the area.

Environmental matters

- 7.9 The proposed building is for the same use as the building it would replace and the redesign of the building and access road would minimise the impact on residential occupiers by way of noise and disturbance as the nearest residential dwellings are set a distance away. The proposed hours of occupation and use of the development would be on a 24-hour basis. Conditions are attached to limit any noise impact from plant and machinery. As such, I do not consider that the proposal would cause harm to the neighbouring residential dwellings.
- 7.10 An Air Quality Assessment has been submitted which sets out good site practice and the implementation of suitable mitigation measures to reduce the effect of dust and particulate matter. Additionally, the measures proposed include electric vehicle charging provision, bicycle parking provision and implementation of a Staff Travel Plan. Conditions are attached to secure implementation.

Tree issues

- 7.11 The site includes trees and peripheral hedge planting which are considered as important features both aesthetically and ecologically. In order to ensure the safeguarding of the trees nearest to the development as identified by the assessment it is recommended conditions are applied.

Ecology matters

- 7.12 An Ecological Assessment has been submitted with this application which identifies the site as having low ecological interest. In line with the submitted ecology report recommendations for mitigation and enhancement measures to include new areas of species-rich grassland, enhancement of the scrub habitat and bird/bat boxes; conditions are attached for the development to be implemented as such.

Overlooking

- 7.13 No overlooking or intrusion of privacy issue identified.

Loss of light/outlook

- 7.14 No loss of light and outlook would occur to/from any residential properties as a result of the proposed development. The proposed building is approximately 37 metres away from the nearest residential properties.

Highway Safety and Parking

- 7.15 The site is located within the Midpoint Industrial Park and the proposed development is set well back from the public highway. A new vehicular and pedestrian access is proposed from the estate road and includes the closure of the existing access from Park Lane. BCCs Car parking Standards would be met. As such, it is considered that the proposal would not have a material impact on the highway network.

Drainage

- 7.16 A Flood Risk Assessment and Drainage Strategy has been submitted. I am satisfied that the means of drainage can be achieved, and this should be secured by condition to prevent or avoid exacerbating any flooding issues and to minimise the risk of pollution.

Other issues

- 7.17 The development would not have an impact upon any archaeological deposits related to the medieval deer park at Minworth.
- 7.18 The applicant has provided a Fire & Rescue Vehicle Service Access plan showing the details of access and facilities for the fire service. I am satisfied that adequate access and water supply would be provided.

8 Conclusion

- 8.1 The application represents an urban regeneration scheme which would create industrial/distribution space with ancillary office accommodation, on a brownfield site that is designated as 'Core Employment' land within the BDP. It would promote sustainable economic growth in an existing industrial area and would generate jobs.
- 8.2 I consider that the design and siting of the building is acceptable, and the development overall is not expected to give rise to any adverse impact on the amenities of adjoining residents or the highway network. Subject to safeguarding conditions, I do not consider that the proposed development would have an adverse impact on wildlife, the environment, highway safety and the amenities of nearby residents. I therefore consider that the proposal complies with relevant policies set out within the adopted BDP and the NPPF.

9 Recommendation:

- 9.1 That the application is approved subject to the conditions set out below.

-
- 1 Requires the prior submission of a contamination remediation scheme
 - 2 Requires the submission of a contaminated land verification report
 - 3 Requires the prior submission of a sustainable drainage scheme
 - 4 Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
 - 5 Requires the prior submission of a Construction Employment Plan.
 - 6 To ensure that the development achieves BREEAM rating level
 - 7 Energy and Sustainability in accordance with statement
 - 8 Requires tree pruning protection
 - 9 Requirements within pre-defined tree protection areas
 - 10 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
 - 11 Requires the prior submission of details of bird/bat boxes
 - 12 Requires the implementation of the submitted mitigation/enhancement plan
 - 13 Requires the submission of cycle storage details
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- 14 Requires vehicular visibility splays to be provided
 - 15 Requires pedestrian visibility splays to be provided
 - 16 Requires the completion of highway works, prior to first occupation
 - 17 Requires the submission of hard and/or soft landscape details
 - 18 Requires the submission of boundary treatment details
 - 19 Requires the submission of sample materials for windows and façade cladding materials
 - 20 Requires the submission of Architectural Details
 - 21 Requires implementation of air quality measures
 - 22 Limits the noise levels for Plant and Machinery
 - 23 Requires the scheme to be in accordance with the listed approved plans
 - 24 Implement within 3 years (Full)
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Case Officer: Chantel Blair

Photo(s)

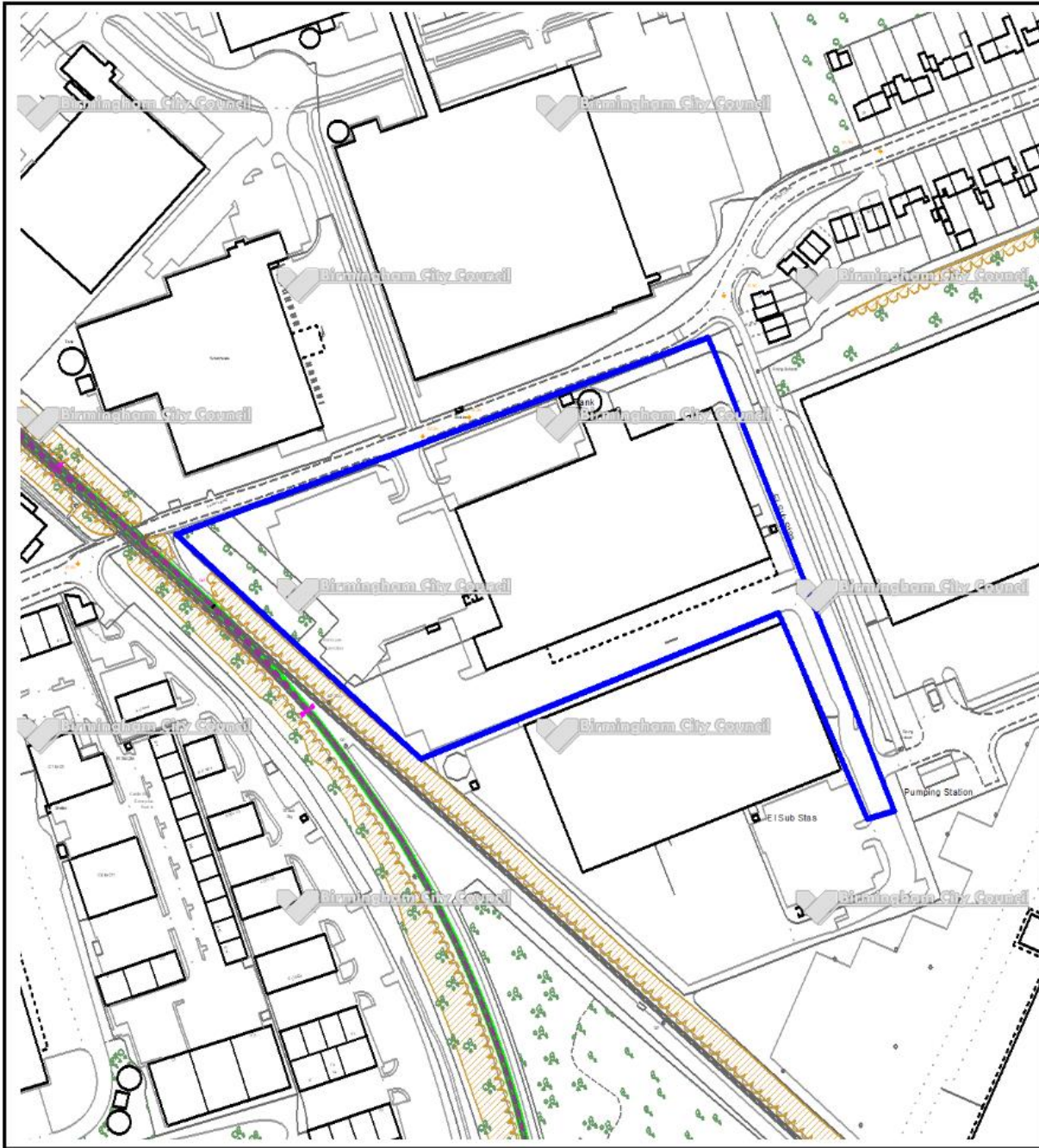
Figure 1: Existing building



Figure 2: Park Lane View



Location Plan



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