

Birmingham City Council

Planning Committee

29 September 2022

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve - Conditions	6	2022/05457/PA 1750-1756 Pershore Road Cotteridge Birmingham B30 3BH Change of Use from ground floor retail and first floor residential use to a large No. 12 bedroom House in Multiple Occupation (Sui Generis) with external alterations
Approve - Conditions	7	2022/05441/PA 8 Shutlock Lane Kings Heath Birmingham B13 8NZ Change of use from dwelling house (Use Class C3) to childrens care home (Use Class C2)

Committee Date:	29/09/2022	Application Number:	2022/05457/PA
Accepted:	11/07/2022	Application Type:	Full Planning
Target Date:	30/09/2022		
Ward:	Stirchley		

1750-1756 Pershore Road, Cotteridge, Birmingham, B30 3BH

Change of Use from ground floor retail and first floor residential use to a large No. 12 bedroom House in Multiple Occupation (Sui Generis) with external alterations.

Applicant: MB&N Credit Services Holdings Ltd
29-30 Roman Way, Coleshill, Birmingham, B46 1HQ

Agent: Claremont Planning Consultancy Ltd
Somerset House, 37 Temple Street, Birmingham, B2 5DP

Recommendation
Approve subject to Conditions

1. Proposal:

- 1.1. This application is being presented to committee as the number of objections exceeds 20. Planning consent is sought for the proposed change of use from a ground floor retail (use Class E) and first floor residential (Use Class C3) to a 12 bedroom HMO (sui generis) at 1750 - 1756 Pershore Road in Cotteridge.
- 1.2. The ground floor would consist of 4 en-suite bedrooms, a communal kitchen/diner (35sqm), communal lounge (21sqm) and reception area (16.8sqm). The first floor consists of a further 8 en-suite bedrooms. The bedrooms vary between 14.5 and 22sqm in size. A bin store and cycle storage would also be incorporated within the ground floor.



Image 1: Proposed Ground and First Floor

- 1.3. To facilitate the change of use the existing shop front would be removed and this would be replaced with a number of smaller ground floor windows and a single front door. 4 balconies would also be installed at first floor level on the rear elevation.



Image 2: Proposed front and rear elevations

- 1.4. A communal rear garden is provided measuring 65sqm. This would be created through the demolition of existing outbuildings.
- 1.5. Through the life of the application the number of bedrooms has been reduced from 14 to 12 with the amount of communal space increasing.

- 1.6. [Link to Documents](#)

2. Site & Surroundings:

- 2.1. The application site consists of a traditional mid terrace property which is located between a hot food takeaway and an upholstery store. The ground floor retail unit is vacant and 4 residential flats are located at first floor level. Cotteridge Primary School is located opposite on the Pershore Road with dwellings located at the rear of the site. The immediate street scene comprises of a mixture of other similar style properties with a mix of uses in the locality. The property is within short walking distance to the main commercial centres of both Stirchley and Cotteridge.

- 2.2. [Site Location Plan](#)

3. Planning History:

- 3.1. No relevant history

4. Consultation:

- 4.1. Transportation Development – no objections subject to provision of cycle storage.
- 4.2. Regulatory Services – No objection subject to noise insulation condition.
- 4.3. West Midlands Police – No objection subject to condition requiring access control system, use of window restrictors and applicant secures HMO license prior to first use.

5. Third Party Responses:

- 5.1. Neighbours and local ward councillors were consulted for the statutory period of 21 days and a site notice displayed. 55 letters of objection have been received raising the following concerns:

- Already insufficient parking in nearby residential streets;
- Increased traffic and highway safety concerns;
- Safeguarding concerns with school opposite;
- Loss of privacy;
- Increased noise and disturbance;
- Already too many HMOs in the locality;
- Good quality family housing needed instead;
- Increased crime and anti-social behaviour;
- No space for waste storage;
- Increased levels of refuse in street;
- Cramped living conditions;
- Too many occupiers proposed;
- Harmful impact on local community;
- Local businesses could suffer;
- Retail use should be protected;
- Existing occupiers made homeless;
- Potential reduction in house prices; and
- Increased pressure on local services such as GPs and schools;

5.2. A letter of objection has been received from Councillor Locke raising the following concerns:

- Already too many HMOs nearby; and
- Concerning that proposal is opposite a school;

6. Relevant National & Local Policy Context:

6.1. National Planning Policy Framework

Chapter 2 – Achieving Sustainable Development
 Chapter 5 – Delivering a sufficient supply of homes
 Chapter 8 – Promoting Healthy & safe Communities
 Chapter 9 – Promoting Sustainable Transport
 Chapter 11 – making effective Use of Land
 Chapter 12 – Achieving Well Designed Places

6.2. Birmingham Development Plan 2017:

PG3 – Place making
 TP27 – Sustainable neighbourhoods

6.3. Development Management DPD:

DM2 – Amenity
 DM6 - Noise and vibration
 DM11 – Houses in Multiple Occupation
 DM14 - Transport access and safety
 DM15 - Parking and servicing

6.4. Supplementary Planning Documents & Guidance:

Birmingham Design Guide SPD (2022)
 Houses in Multiple Occupation SPD (2022)
 Birmingham Parking SPD (2021).
 City Wide Article 4 Direction 2020.

7. Planning Considerations:

7.1. The proposed development has been assessed against the objectives of the above planning policies. The key considerations are the principle of development, housing

land supply, loss of retail space, character impact, quality of living environment proposed, impact on neighbouring occupiers and impact on highway network.

7.2. Principle of Development

7.3. Using the most robust data available to the Local Planning Authority, including Council Tax records, Planning Consents and HMO Licensing information it is revealed that within 100m of 1750-1756 Pershore Road there are 118 residential properties. Of these properties and including the application site as a proposed HMO, 4 are identified as being HMOs, 3 are in use as supported accommodation equating to 7.6% of houses within the 100m of the application site that are not in use as family dwellings. I therefore consider that the proposal would comply with policy DM11 contained within Development Management in Birmingham Development Plan Document (DPD) which states the change of use of a family dwelling to a HMO will be permitted where it does not result in more than 10% of dwellings within a 100m radius being used as HMOs. Furthermore, with the adjacent properties in commercial use there is no risk of a family dwelling being sandwiched between HMOs.

7.4. Housing Land Supply

7.5. The Birmingham Development Plan which was adopted more than five years ago the Local Housing Need figure must be applied when calculating the five year housing land supply.

7.6. The Council's estimate of deliverable sites is 22,341 dwellings for 2021- 2026 (including windfall allowance). The Local Housing Need (LHN) target over the same period is 35,440 dwellings (including a 5% buffer). This equates to a 3.15 years supply and represents a shortfall against the LHN requirement.

7.7. As a result, the Council cannot demonstrate a five year housing land supply which means that the presumption in favour of development applies in accordance with Para 11d of the NPPF. The consequences of this are that the 'tilted balance' will be engaged for decision taking. This means that the assessment shifts from a neutral balance where the consideration is whether the harm outweighs the benefits to a tilted balance, where the harm would have to significantly and demonstrably outweigh the benefits justify the refusal of residential development. This assessment will take place in the concluding section of this report where weight will be placed on the delivery of 12 new bed spaces. However, it is important to factor in that the proposal does result in the loss of 4 x 1 bedroom flats. Although this loss is considered to be acceptable as there is not an overriding need for this type of accommodation.

7.8. Loss of retail

7.9. The proposal would result in the loss of a retail unit. However, the site is located outside of any defined centre between Cotteridge and Stirchley Local Centres. On this basis there are no grounds to resist the loss of the retail use.

7.10. Character Impact

7.11. The proposal results in the loss of the existing shop front which has been poorly maintained in recent years. The replacement red brick frontage with evenly spaced window openings would match the first floor and is not dissimilar to the residential terraces located to the north east of the application site.

- 7.12. Concerns have been raised over bin storage with the potential for bins to be left on the public highway. However, dedicated bin storage is provided with direct access on the Pershore Road meaning that it is unlikely that bins will be left on the public highway. The proposal therefore has no harmful on the character of the wider area in accordance with Policy PG3 of the BDP.
- 7.13. Quality of Living Environment for Proposed Occupiers
- 7.14. The property would contain two floors with 12 individual bedrooms. Each bedroom would exceed the minimum required area of 7.5 sqm as stated within Policy DM11 in the Development Management in Birmingham DPD.
- 7.15. The communal kitchen and dining room would measure 35sqm which provides sufficient space for 12 residents to cook, store food and cooking implements and eat. The shared lounge is 21sqm which is considered to be of an acceptable size for 12 residents when taking into account the size of the kitchen and dining room.
- 7.16. In terms of the residential amenity of future occupiers of the premises, the adopted HMO SPD advocates that 10sqm of amenity space should be provided per resident, equating to 120 square metres. The property has approximately 65 square metres of shared private amenity space and 4 properties have a private balcony of 4.9sqm. When including the balconies there would be a shortfall of approximately 36sqm however the site is within short walking distance of Cotteridge Park and other open spaces such as Kings Norton Park are easily accessible via excellent public transport links. Furthermore, it is also of note that the existing 4 flats currently have no external amenity space. In light of the above, it is considered that the level of provision is acceptable in this instance.
- 7.17. My Regulatory Services Officer has highlighted the proximity of an extraction flue associated with the adjacent hot food takeaway. However, there is already residential accommodation in close proximity to the hot food takeaway and there is no history of any complaints in terms of noise, vibration or odour.
- 7.18. Following the receipt of amended plans, no bedrooms are located on the ground floor front of property which should ensure that occupiers are not exposed to excessive noise and disturbance from the adjacent Pershore Road. Furthermore, a condition is recommended requiring a scheme of noise insulation to protect residential amenity.
- 7.19. Amenity Impact on Adjoining occupiers
- 7.20. It is also important to consider the amenity impact on the occupiers of adjoining premises. First floor residential flats are located adjacent to the site. Bearing in mind that the existing premises has residential accommodation at first floor level it is considered that there would be no notable difference in noise levels.
- 7.21. Concerns have been raised over the potential for a loss of privacy in relation to the residential properties at the rear located on Frances Road. However, even when utilising the balconies, a separation distance in excess of 10m would be retained as required by the Birmingham Design Guide SPD.
- 7.22. Crime and Anti-Social Behaviour
- 7.23. West Midlands Police initially raised concerns that the development would lead to increased crime and anti-social behaviour. However, following the submission of amended plans and further information West Midlands Police no longer object to the application. The amended plans reduced the number of residents creating a more

spacious living environment. The applicant has also confirmed that the property would not be used as supported accommodation and would instead be aimed at young professionals.

- 7.24. Objectors have raised concerns over the close proximity of Cotteridge Junior and Infant school which is directly opposite the site. However, assumptions cannot be made over who the future occupiers of the proposed development would be and consequently there is no evidence to suggest that the proposal will unduly impact on pupils attending the school or increase crime and anti-social behaviour.
- 7.25. Highways Matters
- 7.26. No off street parking is offered at the application site with residents relying upon the unrestricted on street parking options in nearby residential streets which objectors have raised as a concern. There are regular buses along Pershore Road towards the City Centre and towards the southern part of the city. Bournville and Kings Norton railway station are also both located within a 10-15 minute walk of the application property.
- 7.27. Transportation Development have not raised any objections to the development and do not consider the proposed use would have a notable impact upon traffic and parking demand at this location when compared to the previous combined use of 4 flats and ground floor retail. The site benefits from good quality public transport links and therefore I do not consider that there are grounds to resist the proposal in terms of parking issues.
- 7.28. The provision of secure cycle storage is shown on the submitted plans and a condition is attached to ensure that this is implemented.
- 7.29. Other Matters
- 7.30. Concerns have been raised that existing tenants may become homeless however this is not a material planning consideration.
- 7.31. The proposed development would not attract a CIL contribution.
- 7.32. Planning Balance
- 7.33. The proposal does result in the loss of 4 flats however there is no overriding need for this type of accommodation. Weight must be attached to the provision of 12 bed spaces which will help boost supply, albeit only by a modest amount. With no significant harm identified the scheme should be approved.

8. Conclusion:

- 8.1. The proposed development would boost housing supply and raises no concerns in terms of amenity, character or transportation considerations. Consequently, the proposal accords with Policy PG3 of the BDP, policies DM2 and DM11 of the Development Management DPD, the Houses in Multiple Occupation SPD and the NPPF and is recommended for approval.

9. Recommendation:

- 9.1. Approval subject to conditions

-
- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires that the materials used match the main building
 - 3 Implement within 3 years (Full)
 - 4 Requires the prior submission a noise insultaion scheme
 - 5 Maximum number of 12 occupants
 - 6 Requires the provision of cycle parking prior to occupation
 - 7 Prevents occupation until single storey rear extension has been demolished
-

Case Officer: Andrew Fulford

Photo(s)



Photo 1: Front elevation of site from Pershore Road

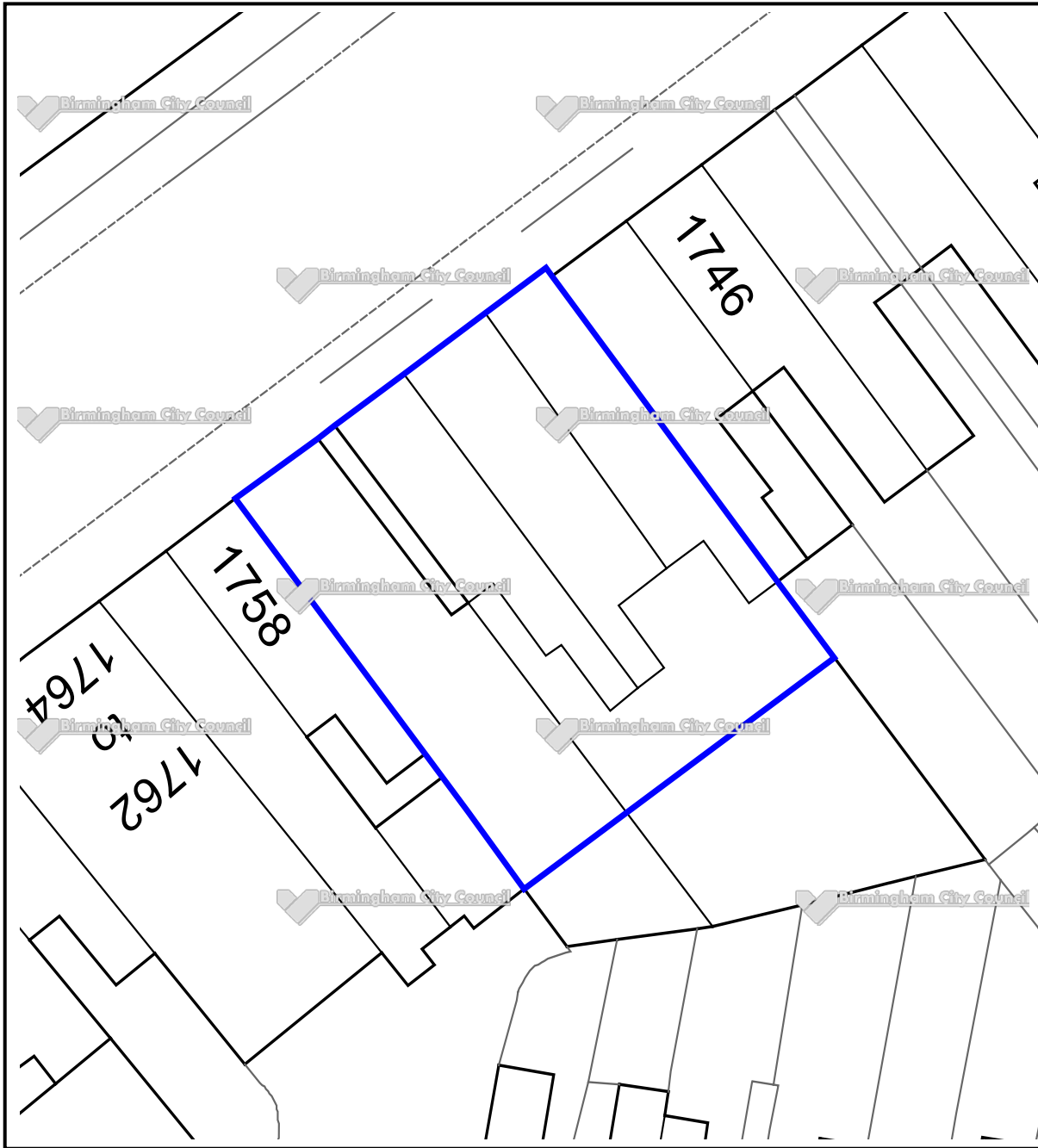


Photo 2: View north east down Pershore Road with application site in foreground



Photo 3: View south west down Pershore Road with application site in foreground

Location Plan



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

Committee Date: 29/09/2022 Application Number: 2022/05441/PA
 Accepted: 28/07/2022 Application Type: Full Planning
 Target Date: 22/09/2022
 Ward: Moseley

8 Shutlock Lane, Kings Heath, Birmingham, B13 8NZ

Change of use from dwelling house (Use Class C3) to childrens care home (Use Class C2)

Applicant: Hafeez
 8 Shutlock Lane, Kings Heath, Birmingham, B13 8NZ
 Agent: MADE Architecture Limited
 Dominion Court, 43 Station Road, Solihull, West Midlands, B91 3RT

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1. This application seeks consent for change of use from dwelling house (use class C3) to care home for up to 2no. young people (use class C2) at 8 Shutlock Lane, Kings Heath, Birmingham, B13 8NZ.
- 1.2. The change of use would not involve any changes to the external elevations of the property.
- 1.3. The change of use would involve minor changes to the internal layout of the property. The existing ground floor 'store' room would be converted into an 'office' space. All other rooms including function and size would remain the same. The floor plan, set over two floors would be as follows:

Ground Floor:

- Utility (9sqm)
- Kitchen/Pantry (8.8sqm)
- Living Room (15.6sqm)
- Dining Room (11.8sqm)
- Bathroom (2.2sqm)
- Hall/Porch (7.5sqm)
- Office (8.8sqm)

First Floor:

- Bedroom 1 (14.9sqm)
- Bedroom 2 (12.2sqm)
- Bedroom 3 (7.2sqm)
- Bathroom (3.6sqm)
- WC (1sqm)
- Landing (6.8sqm)

- 1.4. Two of the bedrooms would be used by the 2no. children and one of the bedrooms to be used by staff.
- 1.5. Private amenity space would also be provided in the form of a rear garden which is generous in size, measuring approximately 204sqm and would primarily comprise grass lawn. The Agent has confirmed in writing that there is no boundary fence currently existing between No. 8 and neighbouring No. 10 Shutlock Lane.
- 1.6. The proposed care home for young people would be occupied by up to 2no. residents aged between 10 and 17 years old. The Statement of Purpose submitted states that the children will require some form of care having *'emotional and behavioural difficulties'*. The home can accommodate short, medium- and long-term placements and, where necessary, emergency admissions. The intention of the care home is that *'staff and children will be residing as a collective family'*.
- 1.7. The agent has been contacted regarding staffing details and has provided additional information. The care home would employ 9 full time members of staff. The Statement of Purpose document submitted summarises the specific allocation of staff:
- 1 x Home Manager
 - 1 x Deputy Manager
 - 2 x Senior Care Worker
 - 5 x Residential Care Workers
 - 'Bank Staff' – (organisational bank care team which offers additional support as and when required)
 - 'Agency Staff' – (organisation also has relationships with some recruitment agencies who are able to provide suitably qualified and experienced staff in a 'last resort' situation)
- 1.8. During each day there would be two staff on site in addition to a Manager. During the night time there would be 2 staff on site with 1 staff member 'sleeping' and the other staff member working a 'waking night'. Staff change overs would occur twice per day with the morning shift starting at 07:30am (night staff leave and day staff arrive) and the night shift starting at 21:30pm (1no. day staff leaves, 1no. night staff arrives and 1no. day staff remains on site to do 'sleeping' shift).
- 1.9. The Management Plan states that there will be some visitors anticipated including parents/family members and social workers. Visits would be *'very occasional and planned in advance to ensure limited visits to the home'*.
- 1.10. No alterations to parking or access arrangements have been proposed as part of this application. The existing 2no. car parking spaces available at the site frontage would be retained.
- 1.11. The facility would be operated by Serenity Specialist Care Ltd, an established organisation providing accommodation and care for children from ages 8 to 17. The organisation was established in 2010 and currently operates two children's homes within Birmingham. Serenity Specialist Care Ltd have *'worked well with Birmingham Children's Trust and other local authorities in the West Midlands'*. In this instance, the proposed care home would *'provide children and young people with the right care packages and staff supervision during the settling in period and ongoing. The residents will have community risk assessments and be supervised accordingly. A full induction and integration programme into the location will be implemented,*

reviewed and monitored'. a company who specialize in care of children with emotional and behavioural difficulties. The organisation will 'place young people in this property who require some form of care [those with mild learning disabilities or challenging behaviour]. The care that will be provided would be administering medicine if required and would involve the usual household chores such as washing, cleaning, and cooking. The idea is that the staff and children will be residing as a collective family'. Children would attend school during the week.

1.12. [Link to Documents](#)

2. Site & Surroundings:

- 2.1. The application site occupies a corner location and relates to a two-storey semi-detached 3-bedroom family dwelling with a hipped roof design. There is a single storey element to the side of the property with a flat roof. The property is set back from the highway with a driveway to the front with parking space for 2no. cars and grass lawn to the side. The property fronts onto Shutlock Lane close to a T-junction where it meets Dad's Lane. To the rear the property has a single storey conservatory extension and a generously sized garden comprising grass with some mature vegetation towards the rear curtilage boundary. The agent has confirmed that there is no existing boundary treatment between No. 8 and No. 10 Shutlock Lane, however the applicant would endeavour to install this prior to occupation of the property as a children's home.
- 2.2. The property is located within a predominately residential area. According to a report run from 'real-time' GIS mapping, within a 100m radius of the site there is one existing HMO at No. 4 Shutlock Lane and no existing 'supported accommodation' establishments. The closest 'Housing Supported Exempt Accommodation' is located approximately 500m from the site. Immediately opposite the site is Highbury Park public green space.
- 2.3. The site currently has a lawful use as a residential dwelling (Use Class C3). In 2021 a householder planning permission was granted for erection of a single storey forward and rear and two storey side and rear extensions (approval reference: 2021/02118/PA). Whilst this extant permissions remain valid, the proposed floorplans demonstrate that the extensions would not be built and the agent has confirmed in writing that the extension works have not been commenced. As such, the application plans are considered accurate and the permission, not implemented, would not impact the validity of this proposed change of use.
- 2.4. [Site Location Plan](#)

3. Planning History:

- 3.1. Post 1990 Planning History:
- 2006/01878/PA – Erection of two storey side, single storey forward and part two storey, part single storey rear extensions – Refuse (24/05/2006)
 - 2006/03936/PA - Erection of part two storey, part single storey rear, two storey side and single storey forward extensions – Approve subject to conditions (15/08/2006)
 - 2021/02118/PA - Erection of single storey forward and rear and two storey side and rear extensions – Approve subject to conditions (26/05/2021)

- 3.2. Enforcement History:
- 3.3. Although there is no enforcement history directly associated with the application site, it is worth noting a recent enforcement case which relates to land to the rear of the site and to which an Enforcement Notice was served to a number of people, including the owner of No. 8 Shutlock Lane, the applicant for this current application.
- 2017/1139/ENF – Land to the rear of 90, 92, 94, 96, 98, 100, 102 and adjacent to 104 Dads Lane – ‘Without planning permission: (i) the unauthorised erection of fencing/hoarding boards on the land (ii) the material change of use of the land from open space to storage of products associated with a commercial use’ - Decided 20/04/2020 – Case closed on 20/03/2020 ‘Having now spoken with the complainants on this case, it is clear that the hoardings/fencing have been removed and the enforcement notice has been complied with’.

4. Consultation Responses:

- 4.1. Environmental Pollution Control have been consulted – Raise no objections to the proposal.
- 4.2. Children’s Commissioning Services have been consulted – Raise no objections to the proposal and provide a detailed positive review of the provider and the proposed care home summarising that *‘This provider is known to Birmingham Children’s Trust (BCT) and has run children’s homes in Birmingham since 2014 with two homes currently registered with Ofsted. The provider engages well with BCT and has a long standing relationship’*.
- 4.3. Tree Officer has been consulted – Raises no objections to the proposal.
- 4.4. Transportation Development have been consulted – Raise no objections to the proposal subject to attachment of conditions which require provision of an electric vehicle charging point prior to first occupation of the development and installation of secure and sheltered cycle storage.
- 4.5. West Midlands Police have been consulted – Raise no objections to the proposal. WMP advise that the applicant should view safety and crime prevention advice for new homes at: <http://www.securedbydesign.com>.

5. Third Party Responses:

- 5.1. A site notice has been displayed for 21 days (from 26/08/2022 to 15/09/2022), local ward councillors, MP, residents associations and surrounding occupiers have been notified of the proposal.
- 5.2. 36 individual objection responses have been received from local residents and an objection petition has been submitted, signed by 55 individual residents from 34 households. It should be noted that some residents have submitted letters of objection and signed the petition and similarly, in some cases multiple letters of objection have been received from a single household. In these cases, this has been considered as a single objection. The responses raise the following key concerns and reasons for objection:
- Lack of consultation with local residents – concerns that letters inviting residents to comment were only sent to immediate neighbours

- Neighbours have already experienced issues with the landlord who owns the site:
 - o Previous activity undertaken by landlord – primarily relating to ‘illegal’ use of and activity on land to rear of No. 102-112 Dad’s Lane which he owns and ‘erection of an illegal warehouse on land at the back of Dads Lane’ (Enforcement reference 2017/1139/ENF – Decided 20/04/2020 – Case closed on 20/03/2020 with notice stating ‘Having now spoken with the complainants on this case, it is clear that the hoardings/fencing have been removed and the enforcement notice has been complied with. As such the case should now be closed.’)
- Demographic of tenants could result in increase in anti-social behaviour in the residential locality, reducing the perceived safety of the area
- Concerns that whilst the care home is said to be for ‘children’ the home would house residents aged between 16-21 which objectors consider to be ‘young adults’
- Concerns that up to 20 young people could be housed at the care home which is too many
- Already issues with crime in the area (burglaries, fires, drug dealing etc) which could be exacerbated by proposal
- No fencing existing between No. 8 and No. 10 which would enable residents’ access to No. 10 which currently stands empty and ease of access to allotments to the rear of the property
- Lack of supervision of the occupants by staff who may ‘only visit once per day’
- Lack of information regarding what the proposal would entail, operation of the home and how the young people will be cared for
- Application misleading true intent of the scale of the care home i.e. plans show 3-bedrooms not 5-bedrooms which would be the case if application 2021/02118/PA is accounted for
- Presence of Japanese Knotweed in the garden of the application site – concern that this is spreading to neighbouring properties
- Proposal not in keeping with other properties in the locality and would alter the character of the quiet residential area
- Impact of proposal upon parking provision which is already inadequate and may result in illegal and dangerous parking on this busy section of highway
- Impact upon highway safety as the application site sits near a busy road junction
- Concern that if the property were to be extended it would block light to neighbouring properties
- Loss of a family dwelling – reducing family suitable housing stock
- No information shared regarding a risk assessment
- Impact of development on appeal of the area, devaluing the locality and reducing house prices
- Concerned about private providers of care homes such as this one – concern that support/care provided may be inadequate
- Request to ascertain details of the Provider and review their history
- The proposed dwelling backs directly onto land which has been left unkempt and disregarded for over 30 years and has become a site for illicit drug dealing and drug abuse – this would be hazardous for any young people housed in this location
- Already vulnerable, elderly people living in this area and this could make them more vulnerable
- Greater noise pollution, air pollution and environmental issues given increase in number of visitors and traffic associated with proposal
- Issues with the previously approved householder application

(2021/02118/PA) with local resident unhappy with how the Planning Officer dealt with assessment of the application (lack of site visit and inaccurate assessment)

- Concern that approved extension (2021/02118/PA) could be built and could house more children
- Approved extension 2021/02118/PA is not shown on the application plans, the plans show the existing layout of the dwelling as unchanged following proposed change of use (concern that this is inaccurate)
- Increased noise and disturbance, lighting and more coming and goings
- The proposal is shown to be in 'Kings Heath' on the address, not Moseley therefore 'application should be ruled stay of proceedings'
- Location opposite Highbury Park means this area could become a focal point for anti-social behaviour
- No information/discussion is provided of precautions taken to guarantee that the neighbourhood is not put in danger and/or the specific risk locals may experience
- Proposed use would increase pressure on local services and waste collection
- Why have other locations not been considered?

- 5.3. Moor Green Residents Association have objected to the application on grounds that *'they have not been given the full information available. We are aware that there is a current approved planning application to considerably extend this house at the side and the rear of both storeys. The change of use application does not refer to this and suggests that the building will remain on exactly the same footprint. Clearly if the use of the building is changed to a care home and then considerably extended it will mean additional children can be accommodated. We should have had this information in order to help us decide whether to make any comments about the change of use application. We need clarification as to whether the children's home will be on the same footprint as the current building or if it is proposed to enlarge the building'*.

The Resident Association has been provided with additional information (available in the public domain accessed at the Birmingham City Council Planning Portal online) which demonstrates that the previously approved extensions are not intended to be built out and the footprint of the building would remain as existing (3-bedroom). The Moor Green Resident Association have provided the following additional comments: *'Thank you for confirming that the proposed extensions to this property will not be built. Please would you confirm that this means the planning application for these extensions 2021/02118/PA no longer has approval and that any alterations to the building will now be subject to a further planning application. Moor Green Residents recognise the need for suitable accommodation for children in difficult circumstances. We are not unwelcoming nimbys. However, there is so little information with this application for change of use that we feel we must continue to object. It is not clear how many children would be accommodated or what age they would be. Rumours abound that they may be up to the age of 21 which we do not view as children. There is no indication of the numbers of staff and whether they would be living in or operating an arms-length support system if the children were over 16. There is no information on the type of need that children who might be accommodated might have. Understandably, some local residents are fearful of an increase anti-social behaviour. Some are concerned at the proximity of the house to Shutlock Lane which is a narrow, twisty and busy road where cars travel too fast despite the 20mph limit. There are no plans for traffic calming measures along Shutlock Lane in the proposals currently under consideration for low traffic networks in Kings Heath and Moseley. This property has a history of difficult residents where police have had to be called. It certainly does not look well maintained. We are also aware that the owner of 8 Shutlock Lane also owns a piece of derelict land behind*

houses further up Shutlock Lane. An enforcement notice had to be issued to prevent a business being illegally operated on that site. The site is an eyesore and quite possibly dangerous. These factors do not fill us with confidence that a children's home would be well run.'

- 5.4. The Moseley Society have objected to the application on grounds that *'1) There is no information about how the children's home will be run, how many children and what ages they will be. There is no provision for staff to sleep onsite shown on the plans, just the change of the former garage from storeroom to office. The applicants have shown no evidence that they have any experience or understanding of the running of children's homes. Is that not a requirement of such a planning application? 2) Application 2021/02118/PA for 'Erection of single storey forward and rear and two storey side and rear extension' was approved on 26.05.2021. Those plans have not yet been implemented but should that be done the number of bedrooms would increase from 3 to 4. If this application for change of use is granted, the extensions could still be built, and the children's home expanded without the need for further permission. 3) In the 1990s most of Moseley, including Shutlock Lane, was included in an Area of Restraint policy to prevent any further concentration of institutional uses and to retain family housing for families. We note that even in roads not covered by this policy, applications for change of use to children's care home have been refused because it would result in the loss of a family home. For example, 2022/01513/PA was recently refused for this reason because 'The proposed change of use from a 4-bedroom dwelling to a care home would result in the loss of the type of family accommodation for which there is an identified need within the City. As such the proposal is contrary to Policy DM12 of the DMB DPD, Policies PG3, TP35 and TP27 of the BDP and the NPPF'. 8 Shutlock Lane has not yet been altered to become a 4 bedroom house, but it has permission for that to be done and the same principle applies to 3 bedroom family homes.'*
- 5.5. Councillor Kerry Jenkins has submitted an objection response, raising the following concerns *'There is a shortage of family run homes in this area and when up for sale, remain on the market for a very short time. Shutlock Lane appears in the Area of Restraint, a policy put into place policy to prevent any further concentration of HMOs and institutional uses so that these houses could be retained for family housing. Moseley Society have identified that even in roads not covered by this policy, applications for change of use to children's care home have been refused because it would result in the loss of a family home. They cite the example, 2022/01513/PA, recently refused for this reason because "The proposed change of use from a 4-bedroom dwelling to a care home would result in the loss of the type of family accommodation for which there is an identified need within the City. As such the proposal is contrary to Policy DM12 of the DMB DPD, Policies PG3, TP35 and TP27 of the BDP and the NPPF. Application 2021/02118/PA for "Erection of single storey forward and rear and two storey side and rear extensions" was approved in May 2021. Those plans have not as yet been implemented but if done the number of bedrooms would increase from 3 to 4. If this application for change of use is granted, the extensions could still be built, and the children's home expanded without the need for further permission. The proposed change is not in line with the character of the local community and is likely to have a detrimental impact on the neighbourhood amenity. The proposed change of use will result in an increase of traffic and nuisance and will adversely affect neighbouring properties.'*
- 5.6. Councillor Izzy Knowles has submitted a comment noting the *'great many objections to the application'* and raising concerns that *'the application for a children's home has been made based on the current size of the house with no reference to the approval to enlarge it. I do know the property and it has a large area of land at the rear which is currently accessible from the road. Do you have any plans to visit the*

site? I will submit comments which are likely to be an objection.' A further, final comment has been received from Councillor Knowles which states that following:

6. Relevant National & Local Policy Context:

- 6.1. The following local policies are applicable:
- Birmingham Development Plan (BDP)
 - Development Management in Birmingham DPD
 - Birmingham Parking SPD
 - Birmingham Design Guide SPD (Adopted 09/09/2022) – supersedes the following:
 - o Places for Living SPG
 - o Specific Needs – Residential Uses SPG
 - o Places for Living (2001)
 - o Places for All (2001)
 - o The 45 Degree Code
 - Moseley Community Led SPD (2014)
 - Housing and Economic Development Needs Assessment (HEDNA) 2022
- 6.2. The following national policies are applicable:
- National Planning Policy Framework (NPPF)

7. Planning Considerations:

- 7.1. The key planning issues are; the principle of a care home; character impact; living conditions for prospective occupiers; impact on parking and highway safety; impact on neighbouring residential amenity; impact on trees and landscape; and drainage.

Principle of Development:

- 7.2. The National Planning Policy Framework (NPPF) seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The NPPF also seeks to boost housing supply and supports the delivery of a variety of housing including tenure which meets the needs of groups with specific housing requirements in order to create sustainable, inclusive and mixed communities.
- 7.3. Policy TP27 of the BDP supports requirements of the NPPF stating that '*all residential development will need to demonstrate that it is meeting the requirements of creating sustainable neighbourhoods which are characterised by providing a wide choice of housing sizes, types and tenures catering for all, good access to facilities and public transport and creating strong sense of place.*' The Moseley Community Led SPD acknowledges this policy and notes the local objective seeking to '*support a range of house types without compromising the unique character of Moseley*'.
- 7.4. Policy TP30 of the BDP states that proposals for housing should seek to deliver a range of dwellings to meet local needs and supports the creation of mixed, balanced and sustainable neighbourhoods. This policy identifies that account will be taken of the Strategic Housing Market Assessment (SHMA) (2013), which sets out the total need for housing in Birmingham from 2011 to 2031. It should be noted that the Council recently published its Housing and Economic Development Needs Assessment (HEDNA) 2022 which updates the SHMA.

- 7.5. Policy TP35 of the BDP states that best use will be made of the existing housing stock and the City Council will seek to prevent the loss to other uses (through conversion or redevelopment) of housing which is in good condition. Such loss of residential accommodation will only be permitted if there are good planning justifications or an identified social need for the proposed use.
- 7.6. Policy DM12 of the Development Management in Birmingham DPD applies to the development of specialist accommodation and states that such accommodation will be supported where the following 5 criteria are met:
- It will not lead to an unacceptable adverse impact on the amenity, character, appearance, parking, public and highway safety of the area, taking into account the cumulative effects of similar uses in the area.
 - The accommodation and facilities, including outdoor amenity space and provision for safety and security, is suitable for the intended occupiers.
 - It is accessible to local shops, services, public transport and facilities appropriate to meet the needs of its intended occupiers.
 - The scale and intensity of the proposed use is appropriate to the size of the building.
 - It will not result in the loss of an existing use that makes an important contribution to the Council's objectives, strategies and policies.
- 7.7. Additional text supporting this policy highlights a preference for the use of large detached properties set within their own grounds.
- 7.8. The proposal would provide a specialist residential accommodation for up to 2no. children between the age of 10 and 17 who require some form of care having '*emotional and behavioural difficulties*'. As such, satisfying the requirement for delivery of a mixture of accommodation types within the city. Whilst the property to be converted is semi-detached and therefore not 'preferable' with regard to policy, the property is generous in size with 3 large bedrooms, significant external amenity space (204sqm) and would comfortably accommodate the proposed maximum 2no. children and 1no. 'residential'/'sleeping shift' staff member.
- 7.9. With regard to the cumulative impact of the proposed change of use to a care home for young people and its compatibility with the locality, consideration is given to the impact of the loss of a 3-bed residential family dwelling and the impact upon the residential character of the area.
- 7.10. Policy TP30 of the BDP and the DMB seeks delivery of housing of a range of types to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. However, conversions to create specialist accommodation may be resisted where it would result in an '*over concentration of similar uses in the immediate area, would cause harm to the character and function of an area or amenity*'. In assessing 'need' consideration is given to the recently published Housing and Economic Development Needs Assessment (HEDNA), which now supersedes the Council's Strategic Housing Market Assessment (SHMA) 2013.
- 7.11. The SHMA identified the total housing need in Birmingham over the plan period (2011 to 2031), concluding greatest housing need for 2-bedroom houses (30.8%), followed by 4+-bedroom houses (28.1%) and 3-bedroom houses (26.3%). However, the HEDNA has found that currently, demand is greatest for 3-bedroom houses (40%) closely followed by 2-bedroom houses (35%) (refer **Figure 1** below).

	1-bedroom	2-bedrooms	3-bedrooms	4+-bedrooms
Market	5%	35%	40%	20%
Affordable home ownership	20%	40%	30%	10%
Affordable housing (rented)	20%	35%	25%	20%

- 7.12. In this instance, whilst the proposed children's home (Use Class C2) would technically result in the 'loss' of a 3-bedroom family dwelling (Use Class C3), there are a number of mitigating factors which require consideration. Firstly, the HEDNA highlights the need for dwellings of 2, 3 and 4-bedrooms as smaller accommodation can result in 'overcrowding'. The proportion of households with dependent children in Birmingham is higher than the regional and national average with around 34% of all households containing dependent children (Census 2011). Analysis from the HEDNA shows a notable level of overcrowding in households with dependent children, with nearly 20% being considered as overcrowded using the bedroom standard, this compares with just 3% of households with no dependent children. On this basis, the proposal, which would see the 3-bedroom nature of the property retained and its modest use for up to 2no. children means that it would contribute to mitigation of this identified overcrowding issue. In addition, whilst the lawful use of the application property would become a C2 'care home' use, it would function in a manner akin to that of a family dwelling with '*staff and children residing as a collective family*', providing safe, bespoke accommodation for children. On balance, unlike the conversion of a residential dwelling into a HMO or 1-bedroom self-contained flats, the use as a small home for just 2no. children would still have the character of a family dwelling and could easily be used in the future for such a use. It would not remove the dwelling from our stock of houses and would satisfy a clear demand for more specialist living accommodation for children in need.
- 7.13. An assessment of the area using GIS mapping technology shows that there are 42 residential addresses within a 100m radius of the site. There is one registered HMO at No. 4 Shutlock Lane and no existing 'supported accommodation' establishments within a 100m radius of the site. Given these existing conditions, the proposed 1no. care home would result in 2.4% of properties within this 100m radius being supported/specialist living accommodation. As such, the proposal would not significantly alter the nature of the locality which would retain its predominantly residential status. In addition, the submitted Statement of Purpose confirms that the children's home would operate in a way similar to a family dwelling and the built form would remain as existing both internally and externally (minus the minor internal alteration identified at point 1.3 above) therefore the residential character and function of No. 8 Shutlock Lane would not be lost. On balance, the proposal would retain the residential nature of the dwelling and complement the wider residential surroundings therefore the location and compatibility of this proposal is acceptable.
- 7.14. The site is in close proximity to some amenities, namely a co-operative supermarket 300m west of the site (4-minute walk) and Kings Heath Local Centre and Primary Shopping area 1200m east of the site (18-minute walk). There is public transport available along Dad's Lane, namely bus services 27 and 76 which stop 120m east of the site and provide links to Selly Oak, Kings Heath and Solihull. This is therefore considered to be a sustainable location.
- 7.15. Based on the above review, the application site appears to be an appropriate location in principle for a care home. Notwithstanding this, detailed consideration of amenity, character and transportation matters is considered below.

Visual Amenity

- 7.16. Paragraph 126 of the NPPF states that *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*
- 7.17. In this instance, only a minor internal change is proposed which would see an existing 'store' room converted into an 'office' room for use by staff. No external changes are proposed. Given this, the residential appearance of the dwelling would be retained, hence the character and appearance of the property and locality would not be impacted.

Residential Amenity

- 7.18. Policy DM2 of the DPD states that *'all development will need to be appropriate to its location and not result in unacceptable adverse impact on the amenity of occupiers and neighbours. In assessing the impact of development on amenity the following will be considered: visual privacy and overlooking, sunlight, daylight and overshadowing, aspect and outlook, access to high quality and useable amenity space, noise, vibration, odour, fumes, dust air or artificial light pollution, safety considerations, crime, fear of crime and anti-social behaviour, compatibility of adjacent uses, individual cumulative impacts of development'*.
- 7.19. Design Principle 13 of The Birmingham Design Guide SPD (adopted 09/09/2022) states that 'All new development must ensure it does not have an unacceptable impact on the amenity, outlook or privacy of existing or new residential properties. The City Council will assess the impact of form, scale, height, mass and/or outlook of a proposal; and apply minimum privacy distances and the 45 Degree Code as a base set of standards'. With regard to impact of this proposal, given that the development would not involve any extensions or additional massing, there would be no residual impact in terms of the 45-degree code and therefore no impact upon light availability or overshadowing for neighbours. The proposed internal alterations are minor, converting a ground floor storage room into an office. All habitable rooms and their windowed outlook would remain as existing and therefore application of separation distances would not be relevant. Overall, I do not consider that the proposal would have a detrimentally harmful impact upon neighbouring occupiers with regard to privacy, overlooking and outlook and therefore would comply with Design principle 13 and BDP Policies PG3, TP27 and DMB Policies DM2 and DM11.
- 7.20. With regard to noise and light pollution, whilst the application property is semi-detached, the level of occupation for up to 2no. children with 2no. on-site staff at any given time (4no. total occupants would be no greater than would be reasonably expected from the existing 3-bedroom family home. Whilst it is acknowledged that there would be more comings and goings considering staff change overs and visits from resident's family members and support workers, the submitted Management Statement confirm that trips generated by the care home would not be excessive and would be within 'sociable hours' in relation to the residential nature of the area:
- Staff change overs would occur twice daily at 7:30am and 21:30pm
 - Visitors (including other staff members such as registered managers, deputy managers, social workers and/or family members of the young people living at the home) could attend the care home however, visits would be controlled requiring pre-arrangement
- 7.21. With regard to safety, West Midlands Police have been consulted and raise no objections to the proposal. The consultation response does not identify any risk

relating to anti-social behaviour or safety. Notwithstanding this West Midlands Police have stated that the applicant may wish to view safety and crime prevention advice for new homes, details of which are included as an informative. I concur with this view and given that the property would provide safe, bespoke accommodation for a small number of children (2no.) with *'staff and children residing as a collective family'* I do not foresee any notable safety issues.

- 7.22. Consideration has been given to the acceptability of the property as providing satisfactory living conditions for future occupiers. This has been assessed by reviewing the internal arrangements and the external amenity space provided. Whilst Policy DM12 of the DMB states that *'specialist accommodation is most appropriately located in large detached properties rather than smaller detached or semi-detached properties'*, the policy goes on to recognise that *'in instances where smaller properties are proposed for conversion, this could be acceptable provided amenity of adjoining occupiers is safeguarded and adequate outdoor amenity space (16sqm per resident) can be provided on site'*. As outlined in points 7.19 to 7.21 above, amenity of adjoining occupiers would not be compromised. Furthermore, the available private outdoor amenity space totals 204sqm which equates to 102sqm of space per child which is significantly greater than the policy standard.
- 7.23. The bedrooms provided offer the following floorspace:
- Bedroom 1 (14.9sqm)
 - Bedroom 2 (12.2sqm)
 - Bedroom 3 (7.2sqm)
- 7.24. Bedroom 1 and Bedroom 2 both accord with the Nationally Described Space Standards (double bedroom minimum 11.5sqm). Whilst Bedroom 3 would be considered 'sub-standard' against the NDSS, which requires single bedrooms to have a minimum floorspace of 7.5sqm, the shortfall of 0.3sqm is marginal. Coupled with the good sized communal living spaces provided including separate kitchen, dining and living area and the generous external amenity provision, I am satisfied that the 0.3sqm shortfall could be considered de-minimis and would not compromise the living conditions of future occupants significantly to warrant refusal of the application.
- 7.25. In summary, the above assessment demonstrates that the proposal would not compromise amenity of neighbouring residents nor the amenity of future occupiers and could be supported.

Highway Safety and Parking

- 7.26. The Transportation Development Officer raises no objections to the proposal given that *'It is not expected traffic and parking demand associated with the site will differ notably to that generated by a 3-bed family home. In addition to the off-street parking offered there are unrestricted on street options and good public transport links.'* I concur with this view and consider it reasonable to conclude that the proposal would not incur any adverse impacts in terms of highway safety or parking and as such would be acceptable.
- 7.27. Notwithstanding the above the Officer requires attachment of two conditions. The first requiring the provision of an electric vehicle charging point prior to first occupation of the development. The second requiring the provision of secure and sheltered cycle storage *'to ensure residents, staff and visitors have access to these facilities (in line with BCC Parking SPD 2021)'*. These are considered appropriate

and proportionate conditions which will secure sustainable development and an accessible facility for employees and visitors attending the site.

Other Matters

Local Consultation Comments

- 7.28. Regarding resident concerns relating to impact of change of use on residential character of locality (use out of place) and homes/local area 'loosing value' – issues of character are addressed in the above assessment. Furthermore, property/area value is not a material planning consideration therefore does not form part of this assessment.
- 7.29. Regarding resident concerns around increased traffic, strain on parking availability and negative impact upon highway safety – Points 7.26 to 7.27 of the above assessment addresses highway safety and parking and finds that the proposal would be acceptable in this regard.
- 7.30. Regarding resident concerns around increase in anti-social behaviour, compromising safety and negative impact of proposals upon existing 'vulnerable' local residents i.e. children and elderly –West Midlands Police have not raised any objection to the proposal and given the small number of children living at the property (max 2no.) there is no evidence to suggest any disturbance would result. As such this issue is not considered to comprise a sufficient reason for refusal.
- 7.31. Regarding resident concerns around noise, disturbance, air pollution and environmental issues associated with the care home – issues of residential amenity for neighbours have been addressed in points 7.13 to 7.21 of the assessment above and has found no detrimental impact resulting from the proposal.
- 7.32. Regarding resident concerns around lack of consultation with local residents - letters were sent to adjoining neighbours and a site notice was displayed for 21 days therefore the duty of the Council to inform local residents has been satisfied.
- 7.33. Regarding concerns around issues residents have already experienced with the landlord/applicant (particularly with reference to use of and activity on land to rear of No. 102-112 Dad's Lane which applicant allegedly owns and to which enforcement reference 2017/1139/ENF [nb: now closed case] relates) - This assessment simply considers whether the proposed development and nature of use is suitable at this specific site. Previous civil issues between the applicant and neighbours are not a material planning consideration. Furthermore, the existing planning and enforcement history relating to the site and relevant land in proximity has been acknowledged at Section 3 of this report and given due consideration throughout assessment.
- 7.34. Regarding resident concerns around lack of information provided relating to operation of the children's home, what the proposal would entail and precautions that would be put in place to ensure mitigation of safety implications for neighbourhood – The Agent has provided additional details including thorough documents: Management Plan, Statement of Purpose, Sufficiency Strategy, Visitor Policy and Good neighbour Policy. These documents and the above assessment address operational and management issues.
- 7.35. Regarding resident concerns around the age of the children being '16-21', the large number of children being housed 'up to 20 children' and the 'lack of supervision with only one visitation from staff per day' – The supporting documents submitted state that the children's home will house a maximum of 2no. children between the ages of 10 and 17 years old and there will be 2no. staff on site at all times.

- 7.36. Regarding resident concerns around absence of boundary fencing between No. 8 and No. 10 Shutlock Lane – The Agent has been contacted and confirmed that the application intends to erect a fence prior to occupation of the property, see Point 2.1. However, in order to ensure this action, condition 3 has been attached.
- 7.37. Regarding resident concerns that the proposed floorplans show layout of children's home as same as existing property, not reflective of recently approved extensions (application reference: 2021/02118/PA) – The extant approval is a separate application. The proposed change of use does not involve any extension works, the dwelling footprint would remain as existing.
- 7.38. Regarding resident concerns that, if extended, the property would block light to neighbouring dwellings and enable housing of more children – The proposal does not include any extensions or additional massing therefore blocking of light would not be a concern, as noted at point 7.19.
- 7.39. Regarding resident concerns that the proposals would result in loss of a needed family dwelling – Point 7.14 to 7.18 of the above assessment addresses this issue and concludes that the proposal would be acceptable.
- 7.40. Regarding resident concerns relating to presence of Japanese Knotweed to the rear garden of the application site – Photos have been provided by local residents of the alleged Japanese Knotweed. In order to secure the development and mitigate any potential harm resulting from spread of this invasive plant, a condition is attached requiring submission of a method statement to remove 'invasive weeds'.
- 7.41. Regarding resident concerns relating to impact of proposal upon highway safety and parking – Point 7.26 and 7.27 of the above assessment demonstrates that this would not be compromised.
- 7.42. Regarding resident concerns relating to the provider of the care home and adequacy of care provided – This assessment simply considers whether the proposed development and nature of use is suitable at the application site, who is applying for the permission is not a planning consideration. The permission is attached to the site, not the applicant. Notwithstanding this, Children's Commissioning Services have been consulted and raise no concerns regarding the proposal or provider providing detailed positive comments as summarised at point 4.2.
- 7.43. Regarding resident concerns relating to the location of the proposed care home which would back directly onto land which *'has been left unkempt and disregarded for over 30 years'* and has allegedly 'become a site for illicit drug dealing and drug abuse' would be hazardous for children at the home – This assessment relates to the application site, land within the red line boundary. Although it is noted that the land to the rear is overgrown, there is no evidence to suggest that alleged 'drug dealing' is an on-going issue and this would not be a material planning consideration for this change of use proposal. Furthermore, point 7.21 confirms that West Midlands Police have not raised any safety concerns.
- 7.44. Regarding resident dissatisfaction with the way that previously approved householder application (reference: 2021/02118/PA) was dealt with – This current application is separate from the extent householder extension approval. The way in which the previous approval was 'dealt with' is not relevant to this current change of use application.
- 7.45. Regarding resident concerns that the proposed application site is advertised as

'Kings Heath' when it should be 'Moseley' – The application site is located within the Moseley Ward boundary. The address of the site being '8 Shutlock Lane, Kings Heath, Birmingham, B138NZ' has not impacted upon consultation undertaken or prejudiced the assessment in any way. Councillors from the Moseley and Stirchley Wards have been consulted as have Residents Associations from the Moseley, Kings Heath and Stirchley areas.

- 7.46. Regarding resident concerns that the proposal would increase pressure upon local services and waste collection – As outlined in the above assessment, the proposed children's home would operate in a way akin to a 3-bedroom family dwelling and therefore no significant additional pressure on local services is anticipated.

8. Conclusion

- 8.1. The siting, scale and appearance of the proposed development would be in keeping with the character and appearance of the existing building and surrounding locality. The compatibility of the proposal within the surrounding locality is acceptable and residential amenity would not be impacted. Considering the above assessment against local and national policies, the proposed Change of use from dwelling house (Use Class C3) to care home for 2no. young people (Use Class C2) constitutes sustainable development and is recommended for approval subject to conditions.

9. Recommendation:

Approve subject to conditions

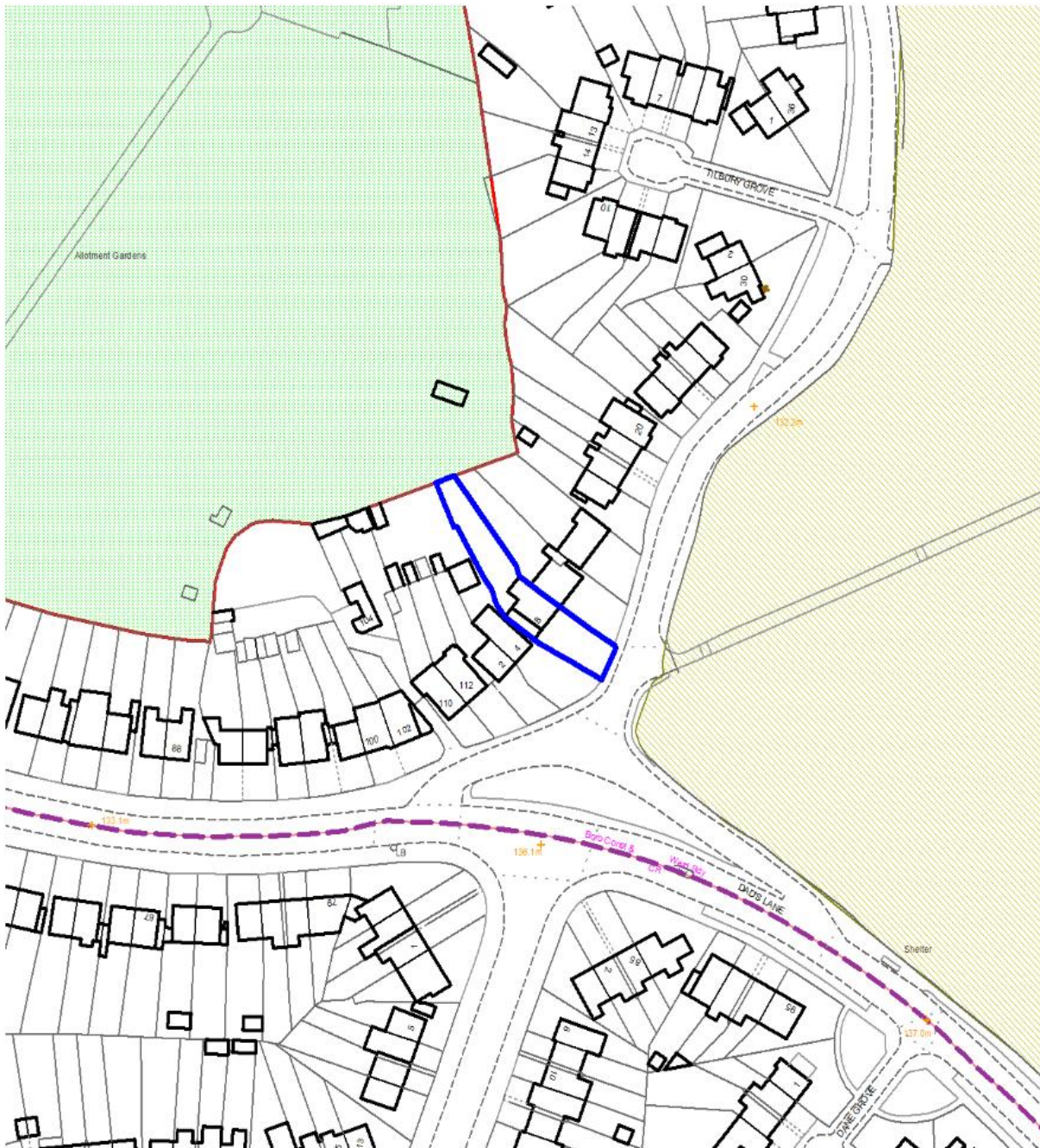
-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans |
| 2 | Implement within 3 years (Full) |
| 3 | Requires the prior submission of a method statement for the removal of invasive weeds. |
| 4 | Requires the provision of a vehicle charging point |
| 5 | Occupation limited to 2 children |
| 6 | Requires the provision of secure and sheltered cycle storage prior to occupation. |
| 7 | Requires the submission of boundary treatment details |
| 8 | Requires the prior submission of noise insulation (variable) |
-

Case Officer: Anne Kenchington

Photo(s)



Location Plan



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

Birmingham City Council

Planning Committee

29 September 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 – Subject to 106 Legal Agreement	8	2021/10265/PA Holland Road Car Park Land off Holland Road Sutton Coldfield Birmingham B72 1RQ Erection of 43no. retirement apartments for the elderly, associated access, landscaping and ancillary development.
Approve - Conditions	9	2022/00122/PA Odeon Cinema Maney Corner Sutton Coldfield B72 1QL Listed Building Consent for the internal modernisation of existing standard tiered seating in all four Auditoria to accommodate upgraded sofa seats, installation of flex step lift to foyer, existing female WC entrance and wall layout altered to accommodate a new accessible WC and creation of external ramped access to front doors.
Consent Revoked	10	2022/06492/PA Windsor Street Nechells - Windsor Street Holder Station B7 4DN Revocation of Hazardous Substances Consent under Section 14 of the Planning (Hazardous Substances) Act 1990.

Land adjacent to Carey Academy
67 Warren Road
Kingstanding
Birmingham
B44 8QH

Erection of a single storey building for the
manufacture of Irish Dance costumes (a tailoring
unit) associated with Carey Dance Academy and
associated parking.

Committee Date:	29/09/2022	Application Number:	2021/10265/PA
Accepted:	06/12/2021	Application Type:	Full Planning
Target Date:	07/10/2022		
Ward:	Sutton Trinity		

Holland Road Car Park, Land off Holland Road, Sutton Coldfield, Birmingham, B72 1RQ

Erection of 43no. retirement apartments for the elderly, associated access, landscaping and ancillary development.

Applicant:	McCarthy Stone Retirement Lifestyle Ltd Ross House, Binley Business Park, Harry Weston Road, Coventry, CV3 2TR
Agent:	The Planning Bureau Ross House, Binley Business Park, Harry Weston Road, Coventry, CV3 2TR

Recommendation

Approve Subject to a Section 106 Legal Agreement

1. **Proposal:**

- 1.1 This planning application seeks permission for the erection of 43no. retirement apartments for the elderly, alongside associated access, landscaping and ancillary development on a vacant car park at Holland Road, adjacent to the Empire Cinema.



Figure 1: Holland Road proposed frontage

- 1.2 The development would consist of a single three / four storey block of 26no. one-bedroom apartments and 17no. two-bedroom apartments set within landscaped grounds. A homeowner's lounge, reception, guest suite, buggy store and refuse store would be provided at ground floor. The upper floors would be accessed by three

staircases in the north, west and east of the building, and an internal lift in the centre of the building. An electric sub-station would be proposed to the north west of the building. A total of 24no. parking spaces would be proposed for use of the development to be located along the western boundary with the existing Holland Road vehicle access to be retained and improved. 5no. parking spaces would be retained to the rear of the cinema for the use of cinema staff and visitors.



Figure 2: Proposed Site Plan

- 1.3 The building would be constructed of a mix of brick and render with Juliette balconies and traditional walk on balconies located on the upper floors. A furnished roof terrace is proposed on the third floor with communal kitchen and WC for use of residents. The roof terrace would be set back from the Holland Road frontage and would overlook the communal landscaped gardens to the rear of the building. The communal landscaped areas would consist of lawn and planting areas to the north of the building.
- 1.4 The apartments would comprise an open plan kitchen / diner and living room, bathroom and bedrooms. In the two-bedroom apartments, the master bedroom would benefit from an en-suite bathroom. The one-bedroom apartments would achieve a floorspace of approximately 50 sqm, with the two bedroom apartments achieving a floorspace of approximately 70 sqm.
- 1.5 The development would comprise C3 use residential units which would be occupied by residents aged over 60. The building would be staffed by a manager and support staff. Five full time equivalent jobs would be generated by the development, with domestic assistance included as part of the service charge to the long lease of each residential unit.
- 1.6 The site area equates to approximately 0.3ha, delivering a density of approximately 143 dwellings per hectare (dph).
- 1.7 The application has been submitted with the following supporting information: Air Quality Assessment; Arboricultural Survey & Impact Assessment; Archaeological Desk Based Assessment; Biodiversity Net Gain Calculation and Assessment; Daylight/Sunlight Assessment; Design and Access Statement; Drainage Strategy; Ecology Assessment; Heritage Settings Assessment; Noise Assessment; Statement of Community Involvement; Transport Statement; and Tree Constraints & Protection Plan.

1.8 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site comprises an existing car park associated with the adjacent Empire Cinema. The car park provides 100 spaces for chargeable use of cinema goers and visitors to the area. It is understood that the car park is not currently operational due to the temporary closure and forthcoming refurbishment of the cinema.
- 2.2. The site is located on Holland Road, just outside the Sutton Coldfield Town Centre boundary. The site comprises an area of approximately 0.3ha.
- 2.3. The site is triangular in shape and is bounded by a car park to the north residential properties to the south, and the retained Grade II listed Empire Cinema building and a mix of commercial and retail units to the west. A TPO is in place on the northern boundary which protects a number of existing trees.



Figure 3: Aerial view of site

2.4. [Site Location](#)

3. **Planning History:**

- 3.1. Adjacent Empire Cinema - 2022/00122/PA – Listed Building Consent for the internal modernisation of existing standard tiered seating in all four Auditoria to accommodate upgraded sofa seats, installation of flex step lift to foyer, existing female WC entrance and wall layout altered to accommodate a new accessible WC and creation of external ramped access to front doors – Pending determination.
- 3.2. No relevant planning history in respect of the car park.

4. **Consultation Responses:**

- 4.1. Transportation Development – recommend conditions to secure pedestrian visibility splays; secure and covered cycle parking; disabled parking spaces and electric vehicle charging points; review of existing TROs; and any alteration to footway crossing and all associated highway works to be carried out to departmental specifications at applicant's expense through appropriate agreement.
- 4.2. Regulatory Services – raise concerns regarding noise impact on prospective residents from plant associated with neighbouring Iceland car park. Conditions are recommended to secure contaminated land remediation and verification and extraction and odour details for the communal kitchens.
- 4.3. City Design – recommend conditions to secure scheme of hard and soft landscape works; boundary treatment details; sample materials for windows and façade cladding; levels; and architectural details for windows, external doors, building facades, roof and rainwater goods
- 4.4. Conservation – advise that the development would have a low level of less than substantial harm on the adjacent grade II listed building.
- 4.5. LLFA – recommend conditions to secure sustainable drainage and operation management.
- 4.6. Ecologist – recommend conditions to secure bird / bat boxes, implementation of acceptable mitigation / enhancement; landscape and ecological management plan; and scheme for biodiversity roofs.
- 4.7. Trees – recommend conditions to secure tree pruning and requirements within tree protection areas.
- 4.8. Leisure Services – advise that off-site contributions for public open space and play provision are not relevant for this type of retirement development.
- 4.9. Historic England – no comment.
- 4.10. Severn Trent Water – recommend condition to secure the provision of drainage plans for the disposal of foul and surface water flows.
- 4.11. West Midlands Police – no objection subject to adhering to secured by design principles.
- 4.12. Royal Sutton Coldfield Town Council – object on the grounds that the loss of customer parking would have a negative impact on the viability of the cinema; development contrary to policies EC3 and BE11 of the Sutton Coldfield Town Centre Masterplan; the development of the car park should comprise “enabling development” to fund the refurbishment of the cinema; and the development comprises over-development which would have an unacceptable impact on neighbouring properties and prospective residents.

5. **Third Party Responses:**

- 5.1. The application has been publicised by site notice and press notice. The local MP and Ward Member has been notified. Neighbours and resident groups have been notified. 37 representations objecting have been received making the following comments:
 - Impact on the viability and operation of the cinema;

- Loss of car parking;
- Noise impact of cinema on prospective residents could threaten long term future of cinema;
- Impact on accessibility of cinema by virtue of removal of car parking;
- Impact of development on historic fabric of cinema;
- Increase traffic congestion and parking demand on surrounding residential roads;
- Design out of character with the surrounding area;
- Poor landscaping design;
- Over-intense development;
- Lack of affordable / social housing;
- Application should incorporate the refurbishment of the cinema to safeguard its future;
- Discrepancies in plans and application submission documents;
- Inadequate disabled parking provision for residential development;
- Building is too high and would have an adverse impact on light;
- Loss of privacy;
- Impact on local amenities, particularly GPs;
- Over-saturation of retirement developments in the area;
- No disabled parking space for cinema users;
- Inadequate parking for the proposed development;
- Proposed drainage strategy inadequate; and
- Development would increase elderly population in the area.

5.2. Seven representations supporting the application has been received making the following comments:

- Sustainable location for development;
- High quality design;
- Achieves objectives of Sutton Coldfield Masterplan to consolidate parking
- Achieves objectives of Birmingham Development Plan for modal change;
- Scope for cycle parking within the development for use by cinema goers;
- Scope for basement parking to retain some parking for use by the cinema;
- Demand for retirement accommodation in Sutton Coldfield;
- Will facilitate the refurbishment of the cinema; and
- Regenerate tired and disused site.

5.3. Cinema Theatre Association – object on the grounds of the loss of the car park and the impact that this could have upon the viability of the cinema, as well as the lack of commitment that the proceeds of the sale would fund the refurbishment of the cinema.

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

6.1. National Planning Policy Framework: Chapter 5 – Delivering a sufficient supply of homes; Chapter 11 - Making efficient use of land; Chapter 12 – Achieving well-designed places; Chapter 16 – Conserving and enhancing the historic environment

6.2. Birmingham Development Plan 2017: PG3 Placemaking, TP12 Historic Environment, TP27 Sustainable Neighbourhoods, TP28 Location of New Housing, TP30 The Type, Size and Density of New Housing, TP31 Affordable Housing

6.3. Development Management DPD: DM1 Air Quality, DM2 Amenity, DM4 Landscaping and Trees, DM6 Noise and Vibration

6.4. Supplementary Planning Documents & Guidance: Birmingham Design Guide (2022);

7. **Planning Considerations:**

- 7.1. **Principle of Development** – The application site comprises an existing car park associated with the adjacent Empire Cinema. The car park was previously charged through a pay and display and is within the ownership of the cinema. It is understood that the majority of users of the car park were visitors to the cinema, however the car park was not restricted to only use by the cinema. Having regard to the location of the cinema, within the Sutton Coldfield Town Centre boundary, there is no requirement for a town centre use to have a dedicated car park given the availability of public transport links and the wider policy objectives set out within both the Birmingham Development Plan and Sutton Coldfield Town Centre Masterplan to achieve a modal shift from private vehicle for such trips. The loss of the car park is accordingly considered acceptable in principle.
- 7.2. The surroundings to the application site comprise a mix of residential and commercial uses. Whilst the application site itself sits outside of the town centre boundary, regard has been had towards diversity of uses in such an edge of centre location and, subject to site specific considerations, the principle of development of residential units at the application site is considered to be acceptable. The presence of such a large car park on the edge of the town centre is considered to be an inefficient use of land and the proposed development would contribute towards sustainability objectives on this basis.
- 7.3. The proposal seeks to deliver retirement apartments, with a minimum occupancy age of 60 years old. Policy TP27 of the BDP relates to Sustainable Neighbourhoods and requires “a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages”. The application proposals to provide accommodation for elderly residents would achieve this objective. Whilst it cannot be guaranteed that any person moving into retirement apartments would be a resident of Sutton Coldfield and the locality, it can be assumed that this would normally free up a larger family home. On this basis, the development would help address a general need for older person’s accommodation and consequently help to free up family accommodation elsewhere in the city.
- 7.4. The proposed density amounts to approximately 143 dwellings per hectare. Policy TP30 accepts that higher densities would be accepted in sustainable locations with good public transport links and access to local amenities. It is considered that the proposed development would have an acceptable density in the context of its location and make an efficient use of land in accordance with chapter 11 of the NPPF.
- 7.5. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.6. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council’s five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites.

Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.

- 7.7. **Design and Layout** – The development proposes a three – four story block of development in an east west orientation, with a projecting rear wing in the north west of the site. The proposed layout is considered to comprise an efficient use of land with car parking proposed on the western boundary and communal gardens located in the north east of the site, achieving separation between the spaces. Entrances are proposed to the building from the Holland Road frontage and on the western elevation. The building is set back 2m from back of pavement in order to allow for landscaping planting and pathways to the front. It is considered that active frontages are achieved by the building.
- 7.8. The proposed scale of four storeys in the western end of the site reducing to three storeys in the east is considered to appropriately address the context of the site surroundings, with the more imposing cinema reflected in height, whereas the three-storey element addresses the existing two storey semi-detached dwellings opposite. It is considered that this approach also acknowledges the level change going east down Holland Road.
- 7.9. The projecting elements to the front façade provide vertical rhythm along Holland Road, similar to the houses located opposite. The use of brick banding to all elevations and the ‘projecting render architrave with ashlar banding’ around windows on the street frontage references the art deco cinema, whilst brick and render complement the front facades of the existing houses. The contemporary architectural approach is supported.
- 7.10. External balconies stand on columns and therefore appear rather stuck on to the façade rather than being an integral part of the design and are slightly incongruous features along the existing residential street. Their use along Holland Road is, however, limited and the corner-turning balconies do help to mark the site entrance, whilst the set back does mitigate impacts on amenity of residents living opposite. On balance, it is considered that such balconies would be acceptable.
- 7.11. It is considered that the development proposals would achieve an acceptable layout and would make a positive contribution to what is a mixed character of commercial and residential premises at present. City Design have been consulted on the proposals and recommend a number of conditions to ensure the quality of design and appearance, which have been recommended to be attached to any grant of planning permission.
- 7.12. **Impact on Heritage Assets** – The application site forms part of the existing curtilage of the grade II listed cinema located to the west of the site. The Odeon Sutton Coldfield is one of the most architecturally significant cinemas in Britain as the work of Harry Weedon’s Birmingham-based practice and the building that set the art-deco style for the whole national chain in the late 1930s. The proposals incorporate art-deco detailing with brick banding on the upper floors to compliment the cinema.
- 7.13. The Conservation Officer has been consulted and in terms of scale and appearance, the development is considered to be acceptable, and the views of the cinema’s front elevations would be unchanged. However, as the proposals relate to development within the curtilage of the listed building, regard must be had towards the impact on the listed building, including its optimum viability as a successful cinema. A submission has been received from the owner of the cinema which confirms the intention to refurbish the cinema, and that other branches of the cinema elsewhere in the country successfully operate without the provision of car parking. The spaces to be retained by the use of the cinema would comprise staff parking immediately to the rear of the listed building.

- 7.14. Furthermore, a listed building application seeking consent for the refurbishment of the cinema has been submitted by the owner of the cinema and is being considered by Planning and Conservation Officers. The Conservation Officer concludes that the proposed development would represent a low level of less than substantial harm to the listed building due to the loss of historic facilities that could harm its long-term viability as a cinema.
- 7.15. It is noted that a number of representations from members of the public, amenity societies and the Cinema and Theatre Association suggest that the acceptability of the proposed development should be contingent on the refurbishment of the cinema, given that it is understood that the refurbishment would be funded through the sale of the land proposed to be developed. With this in mind, advice has been sought from both the Council's Conservation Officer and legal team.
- 7.16. The Council's Conservation Officer has confirmed that the proposed development of the car park would have a low level of less than substantial harm on the adjacent grade II listed building. Legal advice has been sought from the Council's solicitors who advise that should the impact on the designated heritage asset comprise less than substantial harm, this should be weighed against the benefits that the scheme could deliver. Whilst it is considered that the benefits comprise the delivery of a well-designed residential development which make a contribution of 43 units to housing land supply on a sustainably located site on the edge of Sutton Coldfield town centre, discussions on this have been ongoing with the applicant throughout the application process. Given the public interest and cultural importance of the cinema locally, the applicant and the cinema have agreed to enter into a legal agreement to ensure funds from the sale of the car park are committed to fund the refurbishment of the cinema. The funds would be secured as part of the planning obligations to be attached to any grant of planning permission.
- 7.17. The listed building application for the refurbishment of the cinema provides a degree of reassurance that there is a commitment by the owner to the future of the cinema. Accordingly, the impact of the proposals on designated heritage assets is considered to be acceptable.
- 7.18. **Impact on Residential Amenity** – The application proposals would achieve separation distances between the Holland Road frontage and the existing dwellings opposite of between 25m and 30m. This is considered acceptable in the context of Places for Living numerical standards. Due to the orientation of the proposed building and the commercial surroundings, no concerns are raised in respect of overlooking or loss of light, particularly as the site is on the northern side of Holland Road.
- 7.19. Concerns raised by local residents are noted. Whilst the development would introduce residential premises on what is currently a vacant site and even in its most intense use currently would not present the mass or scale of the proposed development, it is considered that the development would be unlikely to have a significantly adverse impact on neighbouring residential amenity, opposite residential properties.
- 7.20. In terms of prospective residential amenity, the proposed apartments would achieve internal floorspaces of approximately 50sqm for one bedroom apartments and 70sqm for two bedroom apartments. This is consistent with the minimum floorspaces as set out under policy DM2 of the Development Management in Birmingham DPD. The communal gardens and roof terrace achieve approximately 1,100sqm of furnished and landscaped space for the recreation and enjoyment of the residents. Birmingham Design Guide (BDG) requires 5sqm per 1-bed apartment and 7sqm per 2-bed apartment delivered as communal space. The proposals would equate to approximately 25sqm per apartment. This would significantly exceed the standards set

out in the BDG, and the quality of the communal space is considered to be likely to achieve significant wellbeing benefits for the residents that would make use of this. It is also noted that each of the ground floor units would benefit from small private terraces and the corner flats on the upper floors would benefit from walk on balconies.

- 7.21. To the north of the application site is the Iceland supermarket car park. Within the car park are two shipping containers that provide the home shopping chiller storage. It is understood from site visits undertaken by both the Planning Officer and Regulatory Services Officer that the compressor for one of the containers operates constantly, and the fan on the adjacent container operates intermittently. It is believed that the units do not have any lawful planning consent and enforcement investigations have commenced. Ideally, the chiller units would either be removed, relocated or enclosed. However, it is noted that the disturbance would be generated from an external source which does not sit within the red line boundary and accordingly the applicant would have limited power and influence over eliminating this nuisance.
- 7.22. The noise generated is audible along the northern boundary of the application site and is anticipated to cause a nuisance to prospective residents occupying flats in the north east wing of the building at the upper floors. There is also plant and traffic noise associated with the supermarket, which is considerably less disruptive. Whilst it is acknowledged that prospective residents would be aware that the site is adjacent to a supermarket car park and its associated paraphernalia, the noise from the chiller units is considered to be substantially greater than what would typically be expected from such a neighbouring use.
- 7.23. To address this noise, the applicant has proposed that windows should not be opened, and the units would be cooled by mechanical ventilation. Regulatory Services are of the view that this is not a practical or realistic solution in a retirement facility and would have an adverse impact on the residential amenity of prospective residents. Discussions between the Planning Officer and Regulatory Services Officer have concluded that the impact to the ground floor would be mitigated through boundary treatment, and a sufficient boundary treatment could also be secured on the roof terrace. With regards to the units at the upper floors, as the living room, kitchen and dining room comprise one open plan space, it is considered that the affecting noise would not be unacceptably disruptive on the basis that this is a multi-functional room with various activities likely to be ongoing. Accordingly, our concern relates to the bedrooms of the apartments on the first and second floors on the northern frontage, facing the car park. It is considered that eight bedrooms in six flats would be adversely affected and would need to have sealed windows with mechanical ventilation.
- 7.24. Regulatory Services have advised that it is their policy to recommend refusal for such mitigation when commercial noise is the reason. The prospective residents will be elderly and be in their properties for longer periods of time than younger members of the community. Being able to open windows for reasons of wellbeing and air circulation would be likely to be necessary for them. For an intermittent / occasional noise a strategy to close windows for short periods might be acceptable (depending upon the frequency of occurrence and duration of the disturbance) however the continuous plant noise would effectively require residents to keep windows closed. As noted above, I am of the view that this would relate only to bedrooms on the affected elevation given the multi-purpose use of the open plan areas, which would typically be used overnight. Whilst I am conscious of Regulatory Services concerns, on balance, given the wider benefits of the scheme, I consider that the proposed approach for the affected bedrooms to have sealed windows would be acceptable and can be further mitigated by a noise insulation scheme to be secured by an appropriately worded planning condition, which has been recommended to be attached to any grant of planning permission.

- 7.25. It is noted that the adjacent cinema could be a generator of noise given that the building is understood to have plant with louvres facing the western elevation of the proposed building at a height of approximately 6m. The cinema was not operational at the time of the noise survey submitted in support of the application. The distance between the cinema and the proposed western elevation at its closest would be 15m. Given the proximity of existing dwellings on Maney Corner and Holland Road at a comparable distance with the proposed development, an addendum to the noise assessment submitted to support the application has assumed that the plant noise would already be subject to maximum limits to ensure residential amenity otherwise there would be a history of complaints. Whilst there is no planning history at the cinema which confirms this assumption, there is no recent history of complaints and it is considered that the proposed glazing would mitigate any noise from the cinema plant. It is noted that the cinema is outside of the red line boundary, and the site location warrants a variety of town centre uses withing its proximity. On this basis, it is considered that the proposed noise mitigation would address any disturbance caused by cinema plant.
- 7.26. **Impact on Highway Safety** – The proposed loss of the car park is considered in respect of the impact on surrounding roads and the demand for parking and associated congestion. The application site is located in Zone B as designated within Birmingham Parking SPD. The SPD sets out maximum parking requirements in zone B, given the high public transport accessibility, high to medium population density and site's being well served by cycle and walking facilities. In zones A and B it is recognised, that in exceptional circumstances, there may be occasions when it could be appropriate to have a lower or higher level of parking depending on the specific details of the application. In terms of parking provision associated with cinemas, the SPD indicates a maximum requirement of 1 space per 10 seats. It is therefore considered that the proposed parking to be retained for the use of the cinema is acceptable, on the grounds that there is a large residential population located in walking / cycling distance and there are good public transport links, with the cinema located within the town centre boundary. It is also understood that the proposed refurbishment of the cinema, which sits outside the application proposals, would seek to reduce the total capacity of the cinema by removing theatre seating and replacing this with sofa seating, thereby reducing the car parking requirement further.
- 7.27. Whilst it is acknowledged that in the past visitors to the cinema have used the car park, it is not considered that the removal of this car parking facility would render the operation of the cinema unviable, given the amount of potential visitors within walking distance, and the good public transport links. The Local Engineer has expressed concern that parking demand for the cinema would move into nearby surrounding residential roads and recommends that the applicant should be obligated to fund a potential TRO to cover displaced car parking on the surrounding roads. I am also aware that many of the representations received raise concerns in terms of the impact on parking and congestion. I am mindful that there are other town centre car parks available for use, and it is noted that the majority of dwellings on Holland Road and Coles Road in the vicinity of the site benefit from off-street parking. On this basis, I do not consider that a TRO is warranted, given the circumstances noted above.
- 7.28. In terms of the proposed parking provision for the residential development, 24no. parking spaces are proposed. Birmingham Parking SPD sets out that for developments of extra care / independent living, to which this proposal could most accurately be correlated, the level of parking provision will vary depending upon a range of factors, including:
- The spectrum of care being provided and the likely mobility and connectivity needs of resident, visitors and staff (including opportunities for social interaction);
 - The availability, distance and ease of access of residents to key services/facilities on site, in the near vicinity and within the extra care facility

itself – taking into account and likely mobility issues;

- The availability and frequency of public transport to key services and facilities;
- Connectivity and standard of routes to local services and facilities; and
- Servicing requirements of the scheme.

- 7.29. For these reasons no specific parking standards are set out within this SPD. Instead, applicants are required to consider and address the above factors as part of a holistic approach towards ensuring the accessibility of schemes in order to maximise accessibility and connectivity, which may include necessary infrastructure upgrades. Given the sustainable location of the development, on the edge of Sutton Coldfield Town Centre, with good walking and public transport access to local amenities and facilities, the proposed level of parking is considered to be adequate and unlikely to have an adverse impact on parking demand and traffic congestion.
- 7.30. Transportation Development have been consulted on the application proposal and recommend amendments to the proposals to secure disabled parking spaces, an increased level of cycle parking and electric vehicle charging points. It is considered that these elements could be secured through appropriately worded conditions, which have been recommended to be attached to any grant of planning permission.
- 7.31. **Landscaping, Trees and Ecology** – The application site comprises existing hardstanding with tree and hedge specimens located on the northern and southern boundaries. Whilst there is a Tree Preservation Order in place on the northern boundary, the Tree Officer has advised that the trees proposed for removal are not influential and adequate protection is offered to the trees located within the tree preservation order. On this basis, no objection is made and conditions to secure tree pruning and requirements within a TPO are recommended to be attached to any grant of planning permission.
- 7.32. The landscape proposals relate predominantly to the communal gardens and roof terrace for the prospective residents. Specimen planting is proposed in pots and in borders to achieve a sufficient level of maintenance whilst contributing aesthetically and to biodiversity. Hard and soft landscaping has been designed with the mobility and wellbeing needs of prospective residents in mind. Accordingly, seating, level access and areas of lawn are proposed. A landscaping buffer is proposed to the Holland Road frontage to soften the relationship of the building with the public realm. It is considered that the proposed landscaping proposals would be acceptable subject to conditions.
- 7.33. The application site is of limited ecological value however a Preliminary Ecological Assessment submitted in support of the planning application sets out that badgers, hedgehogs and nesting birds are notable considerations for the proposed development. The PEA sets out recommendations to minimise the risk of harm during site clearance and construction and to ensure works comply with legal protections. The City Ecologist advises that the recommended mitigation measures reflect good practice approaches and the implementation of these recommended measures should be secured by condition.
- 7.34. The PEA assesses the site as having low potential for foraging/commuting bats due to the limited vegetation and the site's relative isolation from suitable foraging habitat in the wider landscape. The City Ecologist considers the boundary vegetation to have some value in contributing to the local ecological network, for example by providing opportunities for foraging and commuting bats. The scheme should therefore seek to retain boundary vegetation, such as the northern boundary hedgerow, and provide new tree/shrub/hedge planting around site boundaries. By way of mitigation, a condition to secure bird and bat boxes has been recommended alongside a scheme of ecological enhancement.

- 7.35. With regards to biodiversity net gain (BNG), an assessment has been undertaken. The BNGA and the details shown in the Landscape Layout and Planting Plan indicate the proposed scheme would deliver a net gain for biodiversity. On this basis, I consider the scheme is generally acceptable. The City Ecologist recommends that some details of the proposed planting need to be clarified or revised; and conditions are required to agree further details. Suitably worded conditions have been recommended to be attached to any grant of planning permission.
- 7.36. **Flooding and Drainage** – The application site lies in flood zone 1 although it is noted that there is anecdotal evidence of localised surface water flooding during heavy rainfall. The proposals seek to incorporate SuDS features within the development improving the quality of water into the receiving sewer network, as well as providing amenity and habitat within the development site. A discharge rate of 2.5l/s has been accepted by Severn Trent Water. The LLFA accordingly accept the proposals, subject to a condition to secure the operation and management of the SuDS.
- 7.37. **Planning Obligations and CIL** – The application proposals comprise residential development which would require a contribution towards affordable housing, as set out in TP31 of the Birmingham Development Plan, through on-site provision or a commuted sum towards off-site provision. The policy sets out that in addition to general needs housing, development proposals for housing of a specialist nature within the C3 use class, such as age restricted housing, will be expected to deliver affordable housing in accordance with this policy in order to assist in meeting the affordable housing needs of all members of the community. Where the applicant considers that a development proposal cannot provide affordable housing in accordance with the percentages set out above, for example due to abnormal costs or changing economic conditions, the viability of the proposal will be assessed using a viability assessment tool as specified by the City Council.
- 7.38. There is requirement for on-site First Homes has come in. This requires 25% of any on site affordable housing to be delivered as First Homes as set out in national guidance. First Homes need to be offered at 30% discount. This has been taken into account in the submitted viability assessment.
- 7.39. 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 financial contribution of circa £260,000 (10.67% equivalent on site affordable housing). It is proposed to use this money as a commuted sum for off- site affordable housing. On-site affordable housing would not be appropriate given the context of the proposed development and the housing needs throughout the locality and wider Birmingham area.
- 7.40. With regards to Policy TP9 and the requirement for public open space or a financial contribution towards such, Leisure Services have advised that off-site contributions for public open space and play provision are not relevant for this type of retirement development.
- 7.41. Located within a high value residential area, a CIL contribution of £309,378 would be payable on the floorspace proposed.
- 7.42. In order to provide assurances that the proposed development would not impede the reopening and refurbishment of the adjacent cinema, the applicant has offered to enter into a legal agreement with the cinema to commit £200,000 of the sale of the car park to fund the refurbishment of the cinema. This will form part of a Section 106 Agreement.
- 7.43. **Planning Balance** – The principle of housing development is acceptable but there are

other factors which are material and must be balanced against the lack of 5 year supply, including the concerns raised by Regulatory Services regarding noise and the relationship between the application site and the adjacent grade II listed building. Any adverse impacts must be clearly identified significantly and demonstrably outweigh the benefits of boosting housing supply. Considerable weight is required to be given to the lack of supply in the titled balance, as set out by the NPPF.

- 7.44. In this instance, it is considered that the proposals would comprise the sustainable development of a vacant site and make more efficient use of land. The development would result in the net gain of a 43no. residential units for over 60s, potentially freeing up existing family housing in Sutton Coldfield and the wider Birmingham area. It is considered that the proposals are acceptable in respect of the benefits that the development could achieve, and the noise concerns can be suitably mitigated through an enhanced noise mitigation scheme.
- 7.45. **Other Matters** – An energy and sustainable construction statement has been submitted with the application which sets out measures which demonstrate compliance with Part L1A as well as achieving a 19% reduction in emissions from renewables utilising fabric performance and a photovoltaic scheme. This approach is considered acceptable in respect of meeting the objectives set out within Birmingham Development Plan. A suitably worded condition to ensure that the findings of the statement are met has been recommended to be attached to any grant of planning permission.
- 7.46. It is noted that some concerns are raised by members of the public with regards to the over-saturation of such retirement development concentrated in Sutton Coldfield. This is noted however the proposals are considered to be consistent with policy TP30 of the BDP which sets out the need for a variety of homes to meet different needs. I am also mindful that age-restricted residential developments typically free up family homes elsewhere in the area. Accordingly, I am satisfied that the development would be acceptable and would be unlikely to adversely impact the demographics of Sutton Coldfield.
- 7.47. Conditions are recommended to secure contaminated land remediation and verification. Given the former use of the site as a car park, I consider that such conditions are necessary and suitably worded conditions have been recommended to be attached to any grant of planning permission.

8. **Conclusion**

- 8.1. This planning application seeks to secure consent for the redevelopment of an existing car park associated with the adjacent grade II listed Empire Cinema to deliver 43no. apartments for over 60s, with associated amenities. The site is a sustainable location and makes a contribution towards housing supply. Whilst there are concerns in respect of noise disturbance from external sources, it is considered that this can be suitably mitigated. The development would have a low level of less than substantial harm on the listed cinema to the west. For the reasons set out above, the application is recommended to be approved subject to a Section 106 agreement to secure a commuted sum towards affordable housing, funding towards the refurbishment of the cinema and planning conditions.

9. **Recommendation:**

- 9.1. That consideration of planning application 2021/10265/PA be approved subject to the completion of a planning obligation agreement to secure the following:

- A financial contribution of £260,000 (index linked) as a commuted sum toward off site affordable housing
 - A commitment from the sale of the car park to fund the refurbishment of the cinema to the amount of £200,000.
 - Payment of a monitoring and administration fee associated with the legal agreement of 3.5% up to a maximum of £10,000.
- 9.2. In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 7th October 2022 the planning permission be refused for the following reason:
- In the absence of any suitable legal agreement to secure a financial contribution related to a commuted sum for affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 9.3. That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 9.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 7th October 2022, or a later date as agreed between the Local Planning Authority and the applicant, favourable consideration be given to this application subject to the conditions listed below.

1	Implement within 3 years (Full)
2	Requires the scheme to be in accordance with the listed approved plans
3	Sets a minimum age of residents
4	Requires the prior submission of details of bird/bat boxes
5	Requires the submission of hard and/or soft landscape details
6	Requires the submission of boundary treatment details
7	Requires the prior submission of level details
8	Requires the submission of sample materials
9	Requirements within pre-defined tree protection areas
10	Requires tree pruning protection
11	Requires the provision of a vehicle charging point
12	Requires the submission of cycle storage details
13	Requires pedestrian visibility splays to be provided
14	Requires the submission of an amended car park layout
15	Requires the implementation of the submitted mitigation/enhancement plan
16	Requires the submission of architectural details

-
- | | |
|----|--|
| 17 | Requires the submission of drainage plans |
| 18 | Requires the submission of landscape and environmental management plan |
| 19 | Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 20 | Requires the prior submission of a contamination remediation scheme |
| 21 | Requires the submission of a contaminated land verification report |
| 22 | Requires the submission of extraction and odour control details |
| 23 | Energy and Sustainability in accordance with Sustainability statement |
| 24 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
-

Case Officer: Claudia Clemente

Photo(s)



Image 1: Access off Holland Road and rear of the cinema

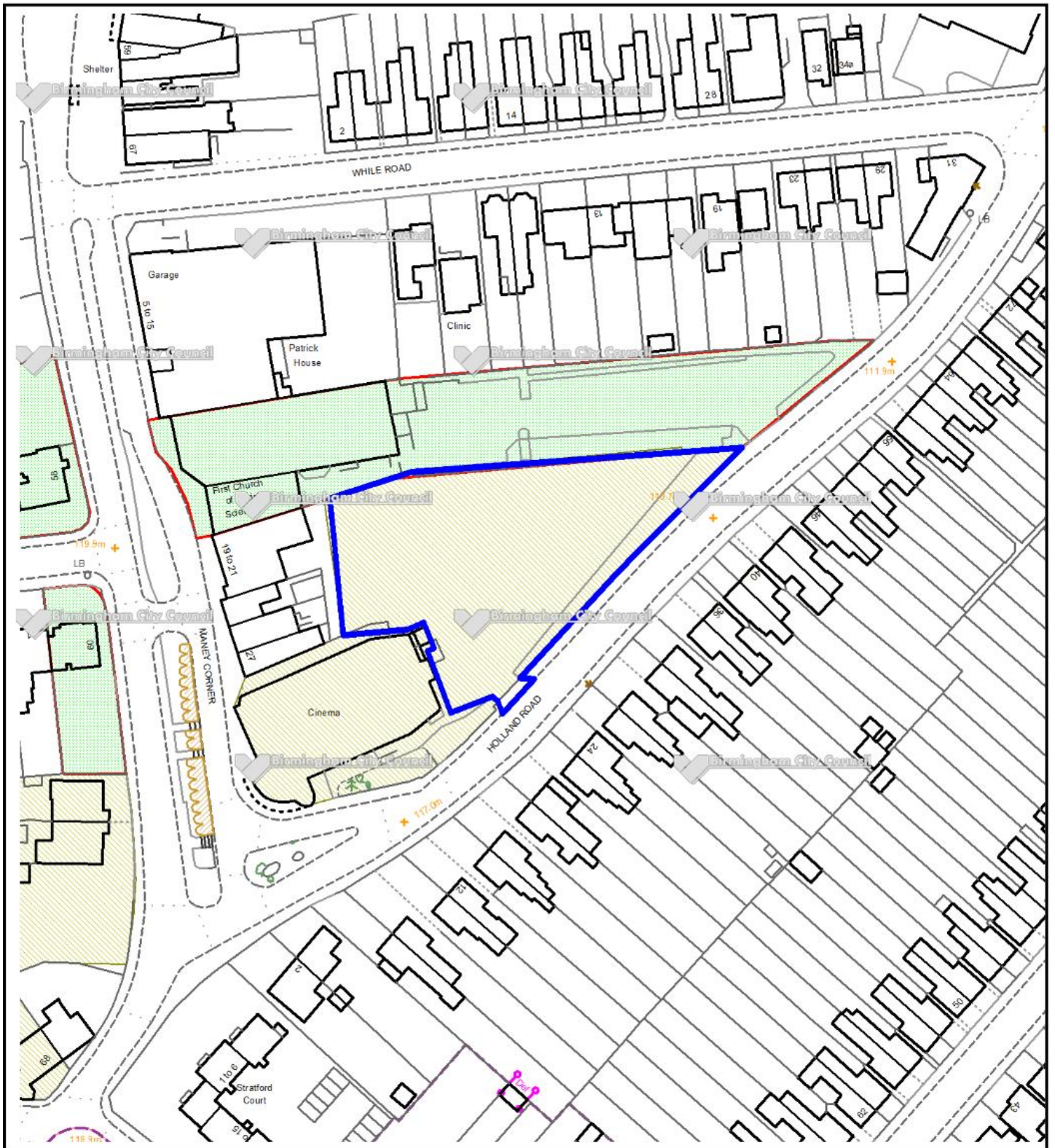


Image 2 – View across the car park and towards the rear of the cinema and commercial premises on Birmingham Road



Image 3 – Northern boundary

Location Plan



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

Committee Date:	29/09/2022	Application Number:	2022/00122/PA
Accepted:	10/01/2022	Application Type:	Listed Building
Target Date:	30/06/2022		
Ward:	Sutton Trinity		

Odeon Cinema, Maney Corner, Sutton Coldfield, B72 1QL

Listed Building Consent for the internal modernisation of existing standard tiered seating in all four Auditoria to accommodate upgraded sofa seats, installation of flex step lift to foyer, existing female WC entrance and wall layout altered to accommodate a new accessible WC and creation of external ramped access to front doors.

Applicant: Empire Cinemas
63-65 Haymarket, London, SW1Y 4RL

Agent: Unick Consulting
McCafferty House, 3/2 99 Firhill Road, Glasgow, G20 7BE

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 This application seeks Listed Building Consent for the internal modernisation of the Empire Cinema (former Odeon Cinema) at Maney Corner. The proposals include the modification of existing standard tiered seating in all four Auditoria to accommodate upgraded sofa seats, installation of flex step lift to foyer, existing female WC entrance and wall layout altered to accommodate a new accessible WC and creation of external ramped access to front doors.

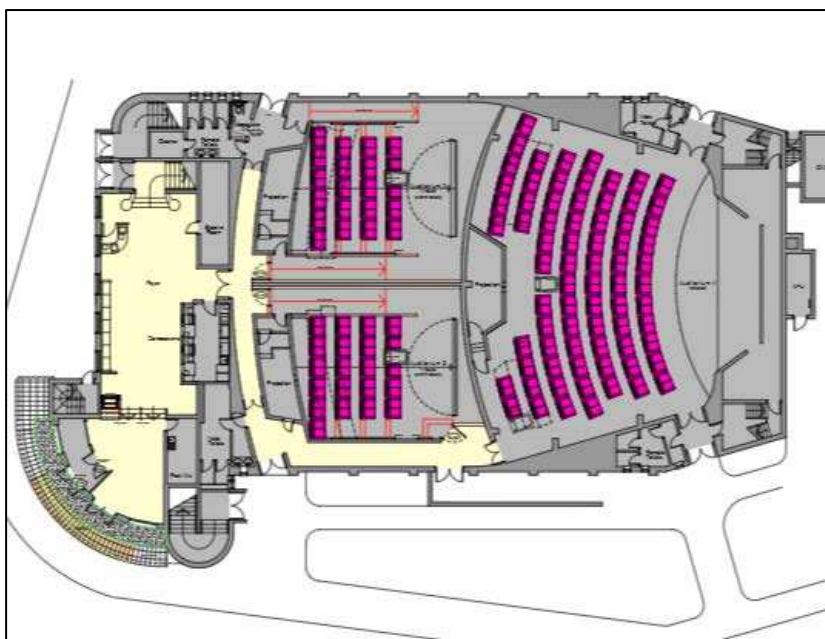


Figure 1: Proposed Ground Floor Plan

- 1.2 The application is supported by a Design and Access Statement, a Heritage Statement, proposed drawings, and photographs.

1.3 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The application site comprises an existing grade II listed cinema, operated by Empire Cinemas (formerly Odeon Cinema) on Maney Corner, located within Sutton Coldfield Town Centre. The cinema was built in 1936 in an art deco style by the Harry Weedon architectural practice. It is understood to be one of the most significant interwar cinemas in England

- 2.2 To the rear of the cinema is an existing car park which is understood to be owned by the applicant, however is subject to a separate planning application for residential development to be delivered on the site.

- 2.3 The wider surroundings comprise a mix of commercial and residential uses, consistent with the site's location within the Town Centre.

2.4 [Site Location](#)

3. **Planning History:**

- 3.1 14.03.2001 - 2000/04664/PA - Removal/installation of signs and adverts, alterations to entrance doors – Withdrawn.

- 3.2 06.09.2001 - 2001/03540/PA - Replacement of existing signs, minor internal alterations, and addition of signs to canopy – Approved subject to conditions.

- 3.3 06.08.2007 – 2007/01809/PA - External alterations to grade II listed cinema to incorporate new signage – Approved subject to conditions.

- 3.4 Pending – 2021/10265/PA - Erection of 43no. retirement apartments for the elderly, associated access, landscaping and ancillary development.

4. **Consultation Responses:**

- 4.1 Conservation – recommend conditions to secure the implementation of the works whilst preserving the listed building. Raise concerns regarding the impact that the accessible entrance will have on the symmetry of the façade but note the benefits that the alterations will achieve.

- 4.2 Historic England – do not offer advice.

- 4.3 West Midlands Fire Service – no adverse comments.

- 4.4 Royal Sutton Coldfield Town Council – welcomes the proposed investment in the cinema furnishings and fittings together with improved accessibility arrangements. A full condition survey of the cinema should be undertaken to inform a full programme of repair works at the listed building.

5. **Third Party Responses:**

- 5.1 The application has been publicised by site notice and neighbours and Ward

Members notified. Nine letters of representation have been received making the following comments:

- Support for improved accessible entrance to the cinema;
- Concerns regarding loss of car parking;
- Support for the refurbishment and reopening of the cinema;
- Support for the sale of the cinema car park;
- Improvements needed to sound insulation of the building for deaf and hard of hearing customers;
- Support for improvements to inclusive access (accessible WC);
- Support retention of architectural detail of listed building; and
- Support retention of building's use as a cinema.

- 5.2 Cinema Theatre Association – comment that whilst the proposed investment in new seating is welcome, the application has no assessment of its impact on the listed cinema, nor of the general condition of the building. Any investment proposal must be under-pinned by a legal agreement regarding enabling development on the car park. Any investment in the cinema building must re-instate the original fin at the top of the tower, with the word 'Cinema' on it. This would restore the balanced composition that J. Cecil Clavering planned so carefully.

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

- 6.1 National Planning Policy Framework: Chapter 16 Preserving and Enhancing the Historic Environment
- 6.2 Birmingham Development Plan 2017: TP12 Historic Environment
- 6.3 Supplementary Planning Documents & Guidance: Birmingham Design Guide (2022); Birmingham Parking SPD (2021)

7. **Planning Considerations:**

- 7.1 **Background** – The application site currently comprises the cinema and an adjacent pay and display car park in the ownership of the applicant. The car park has been shut and not available for use since early 2020 and is currently subject to a separate planning application for its development as residential use (2021/10265/PA). It is noted that comments have been made which refer to the need for the proceeds of the sale of the car park to be committed to the refurbishment. The applicant and the developer of the car park site have agreed to be party to a legal agreement to ensure that a proportion of the sale receipt of the car park is committed to the refurbishment of the cinema. Further information is contained within the Committee Report for application 2021/10265/PA.
- 7.2 This application relates only to the proposed alterations to the listed building to refurbish the existing cinema for its prospective reopening.
- 7.3 **Impact on Heritage Asset** – The proposals have been made with the intention to modernise the cinema and improve the experience of cinemagoers by introducing sofa seating and improvements to accessibility within the cinema. Whilst the seating alterations would reduce the cinema capacity, this would be more likely to improve the success and viability of the cinema.
- 7.4 The proposed internal alterations to the building are acceptable on the grounds that the general arrangement of the building was altered substantially in the 1970s, dividing the single auditorium with stalls and circle seating into four smaller auditoriums to increase the number of films that could be screened at any one time.

The seating alterations would be a sensitive solution to improving the auditoriums that would likely enhance the long-term sustainability of the building and viable operation as a cinema. The internal alterations to create an accessible WC are supported in respect of ensuring the long-term future of the cinema and the comfort to visitors.

- 7.5 The Conservation Officer has advised that their view is that the proposed ramp and altered entrance will slightly spoil the symmetry of the entrance and partially obscure the green banding on the step however they conclude that this would not be sufficiently harmful to warrant recommending refusal. The ramp proposals would represent less than substantial harm at a low level. When balanced against the benefits of the refurbishment which will hopefully see the cinema re-opened, it is considered that the benefits would significantly outweigh the harm.
- 7.6 It is recommended that the proposals be supported subject to relevant conditions to preserve and enhance the listed building.
- 7.7 **Other Matters** – it is noted that concerns are raised with the loss of car parking. Whilst this does not form part of this listed building application, the parking situation has been appropriately considered within the Committee Report for application 2021/10265/PA.
- 7.8 With regards to the comments made about the reinstatement of the fin on the principal façade of the building, this does not form part of this application for listed building consent.

8. **Conclusion**

- 8.1 This application for listed building consent relates to internal alterations and accessibility improvements to the grade II listed cinema at Maney Corner. The internal alterations are acceptable, subject to additional details being secured through conditions. The proposed external alterations to install a ramped access would cause less than substantial harm to the building at a low level. When balanced against the benefits that the refurbishment would bring in fulfilling the optimum use of the building and ensuring the long-term sustainability of the cinema, it is considered that the benefits would outweigh the harm. For the reasons set out above, the application is recommended to be approved subject to conditions.

9. **Recommendation:**

- 9.1 Approve subject to conditions.

-
- | | |
|---|--|
| 1 | Implement within 3 years (conservation/listed buildings consent) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires any damage to the listed building to be made good |
| 4 | Requires details of protection works to Listed Building features |
| 5 | Requires the prior submission of details for the protection of architectural details |
| 6 | Requires the submission of Ramps and Step details |
| 7 | Requires the submission of fixtures and fittings details |
-

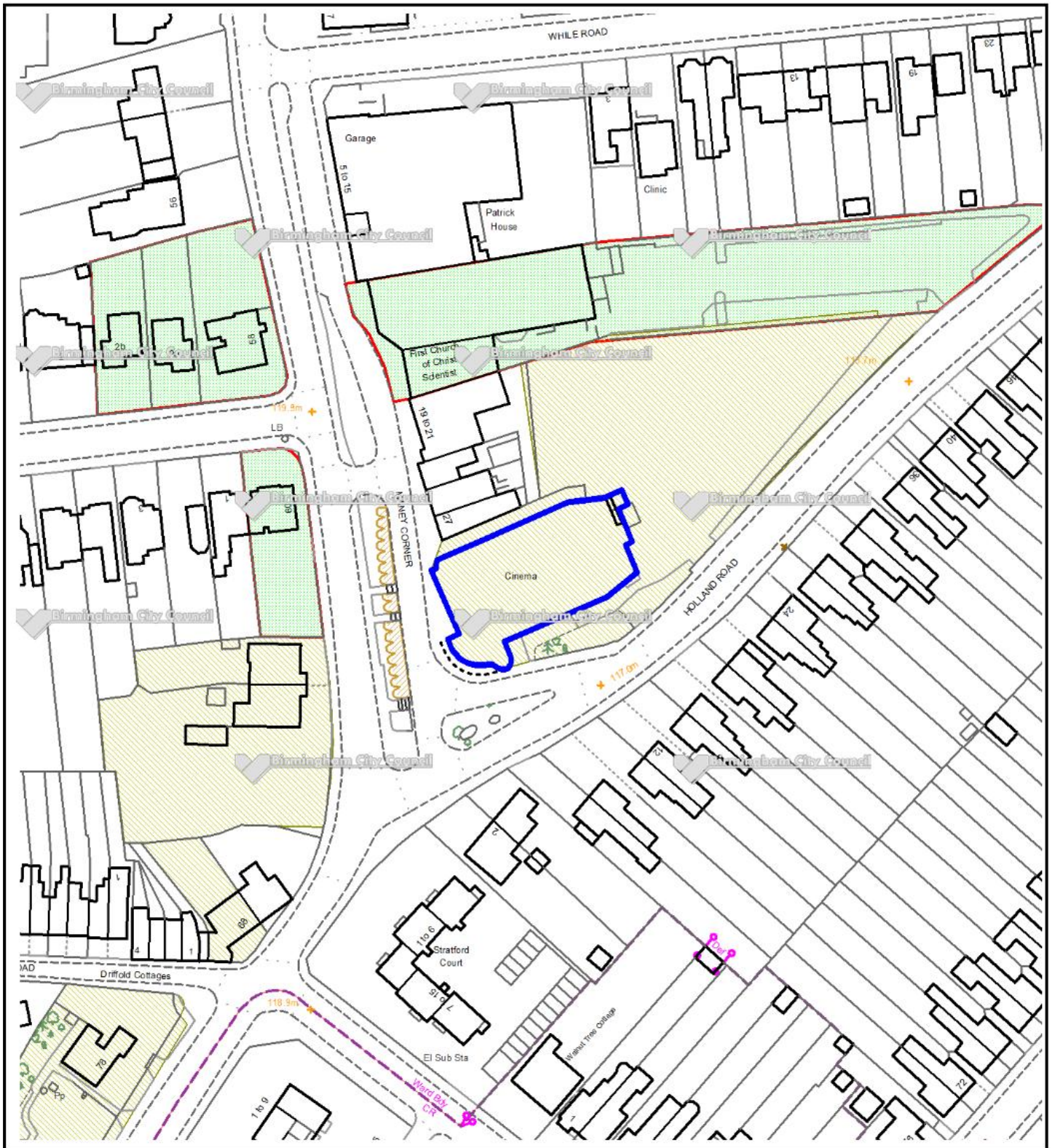
Case Officer: Claudia Clemente

Photo(s)



Image 1: Application Site frontage

Location Plan



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

Committee Date:	29/09/2022	Application Number:	2022/06492/PA
Accepted:	19/08/2022	Application Type:	Hazardous Substances
Target Date:	14/10/2022		
Ward:	Nechells		

Windsor Street, Nechells - Windsor Street Holder Station, B7 4DN

Revocation of Hazardous Substances Consent under Section 14 of the Planning (Hazardous Substances) Act 1990.

Applicant: BG Transco plc
100 Thames Valley Park Drive, Reading, Berkshire, RG6 1PT
Agent: BG Transco
Brockham House, Dorking Business Park, Dorking, Surrey, RH4 1HJ

Recommendation
Consent Revoked

1. Proposal

1.1. This report advises on the provision contained within the Planning (Hazardous Substances) Act 1990 to enable the making of an order revoking the Hazardous Substance Consent reference 2001/06074/PA. The hazardous substance consent on this site relates to the storage of 370 tonnes of natural gas at Windsor Street Gas Holders, Nechells, Birmingham, B7 4NJ.

1.2. Link to Documents

2. Site & Surroundings

2.1. The gas holders are located on Windsor Street and currently comprise three below ground gasholders and associated gas holder frames and buildings above ground. The gas holders are currently in the process of being dismantled.

2.2. Site Location

3. Planning History

- 3.1. 2019/01777/PA – Application for Prior Notification for demolition of 3 no. gasholders and associated redundant infrastructure and buildings – prior approval required and approved with conditions 29/03/2019
- 3.2. 2001/06074/PA – Continuation of Deemed Hazardous Substances consent for the storage of 370 tonnes of natural gas – approved 18/01/2002
- 3.3. 2000/01661/PA – Continuation of Deemed Hazardous Substances consent for storage of natural gas – approved 03/05/2000
- 3.4. 1992/04868/PA – Application for deemed hazardous substances consent for the storage of natural gas – approved 11/12/1992

4. Legislation Background

- 4.1. The Planning (Hazardous Substances) Act 1990 requires consent to be obtained for the presence on, over or under land of a hazardous substance in an amount at or above a specified controlled quantity. The controls give Hazardous Substance Authorities the opportunity to consider whether the proposed storage of the proposed quantity of a hazardous substance is appropriate in a particular location, having regard to the risk arising to persons in the surrounding area and to the environment.
- 4.2. Section 14 of the 1990 Act gives hazardous substances authorities the power to make an order revoking or modifying a hazardous substances consent where they consider it expedient to do so. As with planning permission, a hazardous substances consent provides an entitlement that runs with the land. As a general principle, it is considered that compensation should normally be payable when loss or damage results from a revocation or modification. However, Section 4 (2) allows for revocation of the hazardous substances consent in circumstances where the use of the land has changed materially since the consent was granted.
- 4.3. The 1990 Act requires the hazardous substances authority to serve notice of an order on any person who is an owner; or is otherwise in control of the land or any other person who it considers will be affected. Those served with the notice must be given at least 28 days to comment. The Secretary of State must confirm the order before it can take effect.

5. Planning Considerations

- 5.1. Deemed hazardous substances consent, under Section 11 of the 1990 Act, was approved on 11th December 1992 for the storage of 370 tonnes of natural gas. Consent has also since been granted for continuation of the consent in 2000 and 2001.
- 5.2. Section 11 of the 1990 Act enables operators to claim a deemed consent in respect of hazardous substances which have been present on, over or under a site during the period of 12 months immediately preceding the date on which the Planning (Control of Major Accidents Hazards) Regulations 1999 came into force. The purpose of the provisions was to avoid undue disruption by enabling operators to continue with previous lawful hazardous substance operations.
- 5.3. As detailed above in the planning history section prior approval for the demolition of the gas holders was approved in 2019. The officer report for approval advised that the gas holders, and associated buildings, were redundant and the applicant confirmed that they no longer have an operational purpose in the storage and movement of gas. The structures have been cleared of gas. The gas holder frames represented a significant safety risk on the site and their removal would also enable redevelopment of the site.
- 5.4. The consideration of revoking the hazardous substance consent is also required to enable redevelopment of the site as, with the hazardous substance consent in place any development would consider the risk of the hazardous substance. Although permission has been granted to demolish the gas holders and buildings the site would still have consent for storage of gas under the hazardous substance consent. The revocation of the hazardous substances consent is required to remove that risk and constraint to the redevelopment of the site.

6. Conclusion

- 6.1. In light of the constraints the deemed hazardous substances consent has on the potential redevelopment opportunities on this site, and other sites in the surrounding area, and the prior approval for demolition of the gas holders and buildings it is considered expedient to revoke the hazardous substances consent. It should be noted that if the current landowner, or another operator, required a hazardous substances consent for the site they would need to reapply and such an application would be considered in consultation with the Health and Safety Executive.

7. Recommendation

- 7.1. That the contents of the report are noted and authorisation given to the Director of Legal and Democratic Services to make an order revoking Hazardous Substances Consent 2001/06074/PA.

8. Financial Implications

- 8.1. The revocation of a hazardous substances consent can place the hazardous substances authority at risk of having to pay compensation. Where a consent has not been relied on for 5 years, or the use of the land has changed materially since the consent was granted, it may be revoked without compensation being payable.
- 8.2. The gas holders may have been operational within the last 5 years and although the site has approval for demolition of the gas holders and buildings the land has not materially changed. As such there is a financial implication of accepting the recommendation.
- 8.3. However, the applicant has confirmed within the submission that National Grid will not be seeking compensation from Birmingham City Council for the revocation of this consent and as such I consider that the risk of financial implications is low.

9. Implications for Policy

- 9.1. The revocation of the hazardous substance consent and the previously approved demolition consent will allow for the redevelopment of this site. The revocation of the hazardous substance consent removes what would otherwise be a constraint on the redevelopment as such its revocation would have a positive impact on achieving the objectives of the Council Plan.

10. Implications for Equality

No direct impacts have been identified.

Case Officer: Karen Townend

Photo(s)

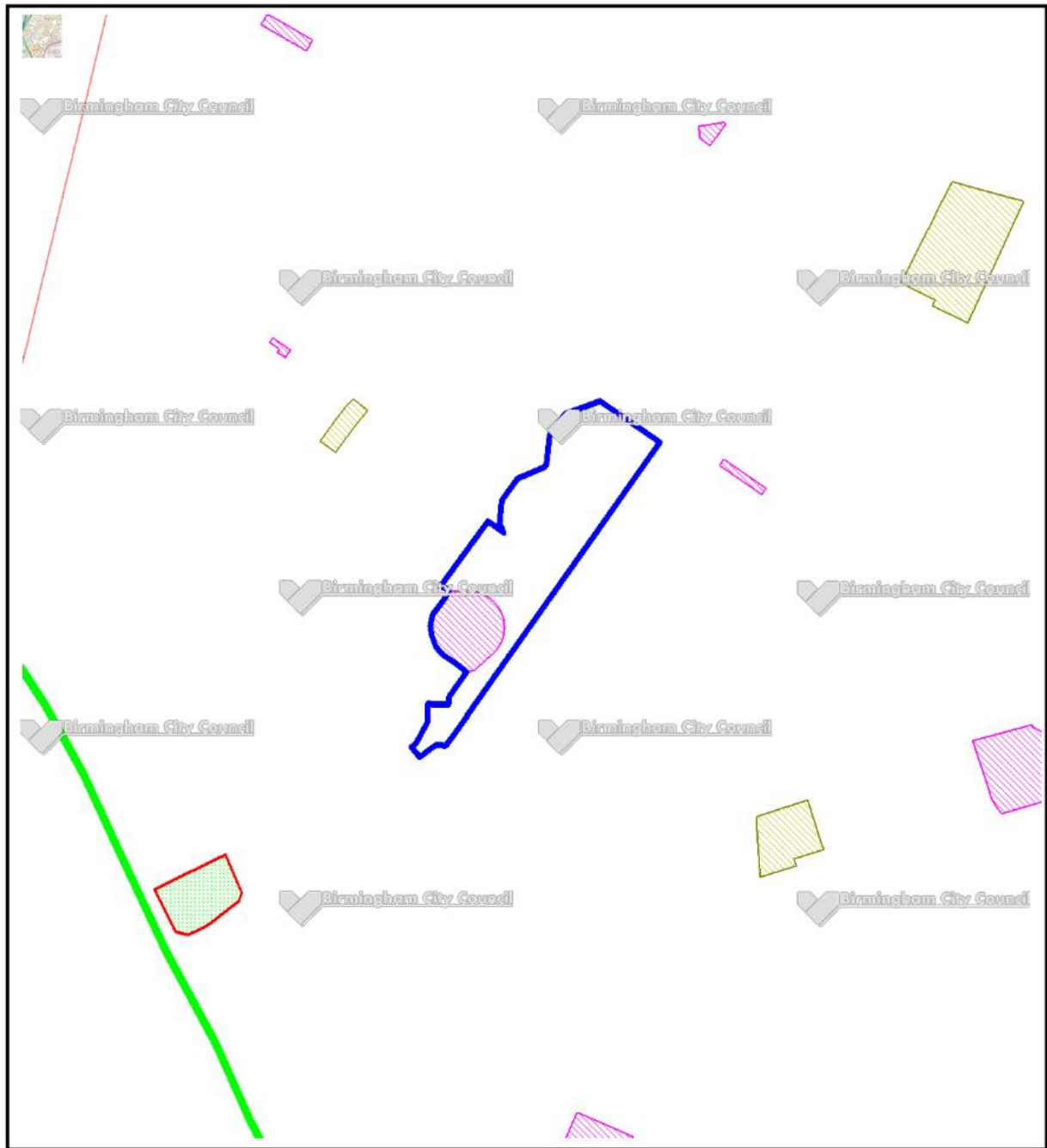


Aerial view



View from Avenue Road

Location Plan



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

Committee Date:	29/09/2022	Application Number:	2022/04596/PA
Accepted:	01/07/2022	Application Type:	Full Planning
Target Date:	30/09/2022		
Ward:	Kingstanding		

Land adjacent to Carey Academy, 67 Warren Road, Kingstanding, Birmingham, B44 8QH

Erection of a single storey building for the manufacture of Irish Dance costumes (a tailoring unit) associated with Carey Dance Academy and associated parking.

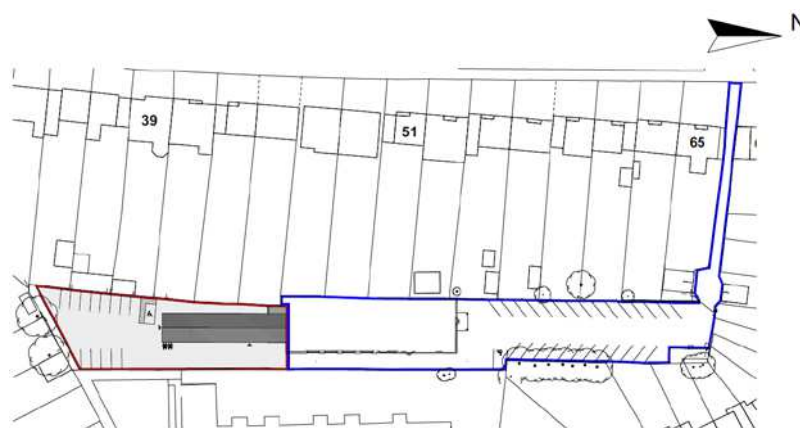
Applicant:	John Carey 67 Warren Road, Kingstanding, Birmingham, B44 8QH
Agent:	IDP Group 27 Spon Street, Coventry, CV1 3BA

Recommendation

Approve subject to Conditions

1. **Proposal:**

- 1.1 The planning application seeks to erect a single storey building to be used as a tailoring unit to make Irish dancing costumes. The proposed building would be an extension to the existing Irish dancing school, Carey Academy and would provide a provision for the patrons of the dance school for their bespoke dance outfits. This is a revised submission following refusal of the last application. In the current submission, the mass and scale of the building has been reduced from two-storey to single storey and excluded general sales area.



Proposed site plan

- 1.2 A planning statement has been submitted with the amended plans which indicates that the proposed tailoring unit would have 3 members of staff and manufacture 1-2 dresses per day. The hours of operation proposed is Monday to Friday from 08:00 to 18:00 and on Saturday 08:00 to 15:00.

1.3 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The application site is an overflow car park of Carey Academy, a dance school located behind the rear garden of the houses on the east side of Warren Road. The Carey Academy is a two-storey flat roof building with a single-track private access off Warren Road between 65 and 69 Warren Road and has a main car park to the north of the site.
- 2.2 The whole site is surrounded by residential properties and their gardens. St Anne's Court, a three-storey modern apartment building for the elderly shares a boundary with the site to the east. The surrounding area is predominantly residential in character, although there are commercial uses nearby within the College Road Local Centre which is located to the southeast and within close proximity to the site.



2.3 [Site Location Plan](#)

3. **Planning History:**

- 3.1 2022/00644/PA - Erection of two storey building for the manufacture of clothing with associated parking, refused 27/4/2022

4. **Consultation Responses:**

- 4.1 Transportation Development – No objection, subject to conditions requiring installation of electric vehicle charging points and cycle storage.
- 4.2 Regulatory Services – No objection subject to condition to restrict the use of the proposed building only related to Carey Academy, land contamination conditions and hours of operation as proposed.
- 4.3 Severn Trent Water – No objection subject to satisfactory drainage plans for the disposal of foul and surface water flows.
- 4.4 West Midlands Police – No objection, suggested some security measures to be incorporated within the development.

- 4.5 West Midlands Fire Services – The Fire Services object to the proposal. They consider that the proposed site is not suitable for fire services. The access road is not wide enough, and it has a dead end over 20m with no turning facilities.
- 4.6 Local Lead Flood Authority (LLFA) – The area is at a low risk of surface water flooding and not subject to fluvial flood risk. The LLFA raised no concerns.
- 4.7 Ecology – raised no concerns
- 4.8 City Design Team – No objection, subject to condition requiring submission of hard and soft landscape and architectural details.

5. **Third Party Responses:**

- 5.1 The application has been publicised by displaying a site notice. Notification letters were sent out to adjoining neighbouring occupiers, Ward Councillors and Local MP.
- 5.2 16 objections in addition to a petition containing 32 signatures from the occupiers of St Anne's Court have been received making the following comments:
 - Loss of privacy
 - Will result in loss of light to some flats at St Anne's Court
 - A factory within a residential is not appropriate
 - Out of character
 - Increased noise and air pollution
 - Impact on the residential amenities through noise and disturbance
 - Additional traffic and subsequent inconvenience to road users from parking, manoeuvring, loading/unloading etc.
 - Spoiling the enjoyment of the residential gardens
 - Potential security risk to the rear of the surrounding neighbouring residential properties.
 - There are plenty of purpose built empty commercial units within the local area which should be used
 - The access road is very restricted with poor visibility splay not suitable to serve an industrial unit and intense use
 - The access road is not suitable for fire engine or emergency vehicles therefore potential risk to both the people inside the building and adjoining properties in case a fire breaks out.
 - Affecting wildlife and habitat

Following receipt of the amended plans and clarification of the proposal, the neighbouring residents were re-notified. On this occasion, 11 representations have been received, where residents reiterated their objections on the grounds above and re-submit the petition.

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

- a. National Planning Policy Framework
 - Part 2 (Achieving sustainable development)
 - Part 8 (Promoting healthy and safe communities)
 - Part 11 (Making effective use of land)
 - Part 12 (Achieving well-designed places)
- b. Birmingham Development Plan 2017:

The site has no specific designation or allocation shown on the Birmingham Development Plan (BDP) 2017 Policies Map, however the Policies below are relevant in this case

TP17 – Portfolio of employment land and premises
PG3 – Place making
TP44 – Traffic and congestion management
TP39 – Walking
TP40 – Cycling

c. Development Management DPD:

DM1 – Air quality
DM2 – Amenity
DM3 – Land affected by contaminations, instability and hazardous substance
DM6 – Noise and vibration

d. Supplementary Planning Documents & Guidance:

Birmingham Parking SPD November 2021
Birmingham Design Guide September 2022

7. **Planning Considerations:**

- 7.1 The main considerations in this case are the principle of development, the impact upon residential amenity and impact on highway safety.

Principle

- 7.2 The application site has no specific designation or allocation in the Birmingham Development Plan (BDP) 2017 Policies map. The small site is an overspill car park for the adjacent dance school. The vehicular access is through a private single-track access from Warren Road. The site is surrounded by residential properties and a large care home and within close proximity to College Road Local Centre. It is recognised that some light industrial use can be carried out in residential areas without detriment to the amenity of neighbouring residents. However, such cases are required to demonstrate that the neighbouring residential amenities as well as highway safety would not be affected. In addition, an appropriate planning condition can be used to control a specific use which is considered acceptable in a residential area and not to allow any other uses which may fall under the same use class but may have an adverse impact on neighbour amenity. In this instance, a supporting statement has been submitted which states that the proposal is very small scale with three members of staff working most days and will manufacture 1-2 dance costumes per day. The statement indicates that the potential activities in association with the proposed tailoring unit would be negligible compared to the existing use of the site which is a dance school. The statement also confirms that the proposal is directly related to the dance school and its patrons who require bespoke dance costumes. Considering the proposal is a low-key development on a brownfield site and directly related to the host site, it is considered that the proposal would be acceptable in principle subject to no unacceptable adverse impacts arising from the proposed development, in particular on the adjoining residential amenities and highway safety.

Impact on residential amenity

- 7.3 The proposed building for a tailoring unit would be in a secluded location away from the public realm. The single storey building would be sited along the rear gardens of houses fronting Warren Road and the distance between the rear elevation of the proposed building and rear elevation of houses on Warren Road is around 35m. Therefore, it is considered that the built form of the building, in particular a single storey building would not result in an adverse impact.

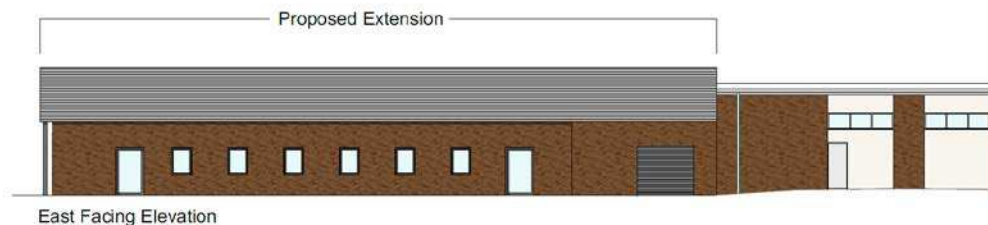
- 7.4 Unlike in the last refused application, the proposed building in the current submission is a single storey building with no roof lights and windows and doors are only on the east and south elevation. Therefore, the proposal would not result in overlooking to the surrounding residential properties including St. Anne's Court. There are shrubs and vegetation along the rear boundary of houses on Warren Road in addition to outbuildings. Therefore, it is not considered that the proposed building would appear overly dominant in the view of the occupiers of houses which the rear gardens back onto application site.
- 7.5 The proposed building would be around 17m from the rear elevation of St Anne's Court and around 6m from its communal garden area. The Design Guide recognises that the single storey developments are not so critical in terms of overlooking from upper storeys. The proposed building is single storey and not for a residential and therefore would not result in any harmful overlooking towards the rear amenity of St Anne's Court. The proposal would not infringe 45-degree rule in relation to any habitable windows of St Anne's Court and considering the separation distance and its single-storey mass, it is not considered that the proposal would result in loss of light nor would impair outlook.
- 7.6 The amended plans and supporting statement demonstrate that the proposal would have negligible impact on the adjoining neighbouring occupiers in terms of noise and disturbance. The proposal is to create a small tailoring unit to manufacture bespoke Irish dancing costumes and will have direct link to the adjacent Irish Dancing School, Carey Academy. The machineries which will be involved in manufacturing dance costumes are mainly sewing and overlocking machines in addition to heat pressing and embroidery machine. The supporting statement claims that the noise level for typical sewing machines is around 60 dBA to 80 dBA. This noise level is comparable with the household appliances, and it is unlikely that the activities inside the building would generate significant noise to harm the neighbouring residential occupiers. It is acknowledged that the access to the site is a single-track narrow lane and not suitable for both way traffic at the same time nor can be used by HGVs. However, it is an established access for the dance school and used by around 80-100 dancers. The proposal would require 3 members of staff and deliveries are mainly involved with cloth and rhinestones which would not require HGVs. Therefore, it is reasonable to presume that the intensity of the use of the site would be negligible compared to the use of the existing site and would not result in any demonstrable adverse impact on the adjoining neighbouring occupiers in terms of noise and disturbance and from additional comings and goings. Regulatory Services raise no objection subject to condition to restrict the use of the proposed building only related to Carey Academy and hours of operation as proposed.



- 7.7. It is acknowledged that construction works and associated activities has the potential to generate some short-term disruption and inconvenience to the neighbouring occupiers. However, an appropriate Construction Management Plan can address this issue to minimise disruption and inconvenience to the neighbouring occupiers. Generally, a Construction Management Plan is considered not necessary for small-scale development. However, given the application site is in an area which is surrounded by residential properties with a narrow vehicular access, it is considered a pre-commencement condition requiring submission of a Construction Management Plan would be necessary and reasonable.

Design

- 7.8. The proposed building would be a rectangular form with a gable ended pitched roof of ridge height around 5.7m and the eaves height 3.2m above ground level. Due to its secluded location and single storey mass, the building would not be readily visible from surrounding public areas. Therefore, it is considered that the proposal would not have any demonstrable impact in terms of visual amenity and the street scene. In general, the mass, scale and design of the building as an extension to the existing building is satisfactory from a design point of view. A condition has been imposed requiring submission of architectural details to ensure the design and quality of the development.



Proposed east elevation

Impact on highway safety

- 7.9. The proposal would result in a loss number of overspill car parking spaces of the adjacent dance school. However, the site would retain more than required parking space in Zone C as per the adopted Birmingham Parking SPD. Transportation Development considers that the development is set well back from the public highway and holds no highway safety issues. They have suggested conditions requiring installation of electric vehicle charging points and cycle parking provision as per recommendation in the Birmingham Parking SPD. I consider such conditions would help to minimise impact on air quality. It is acknowledged that the vehicular access to the site is not ideal, however the proposal is a low-key development and intensity of comings and goings on the narrow access would not result in any significant increase than that currently exists due to the use of the site as a dance school. West Midlands Fire Services considered that the proposal is not suitable on this site as it has a dead end over 20 metres with no turning facilities and therefore recommended refusal of this application. This is a matter to be considered under the Building Regulations Act 2010 (Fire Safety Approved Document B). In light of the existing arrangement and the scale and nature of the proposal, it is not considered that a reason for refusal on this ground could be defended. The applicant confirms that the proposed building would have all of the required fire detection and fighting equipment installed as it has on the existing building. They also confirm that any other fire safety measures would be incorporated to the site as per Building Regulations requirement.

Other issues

- 7.10. The application site is a tarmac car park and does not involve any direct loss of trees or shrubberies. There are trees and shrubberies along the perimeter of the site but

outside the application site boundary, and it is considered that the proposal is unlikely to harm the hedge and trees which are on the adjoining land. In addition, a condition would be imposed to incorporate soft landscaping features along the boundary of the site. These measures would be reasonable to promote biodiversity and address climate change.

- 7.11 The Local Lead Flood Authority raised no concerns as this is a minor development. They considered that the application site and surrounded area is at a low risk of surface water flooding and not subject to fluvial flood risk. Severn Trent Water also raised no objection, however suggested condition to ensure satisfactory means of drainage of the site.
- 7.12 The historic use of the site is unknown and there is potential of land contamination. On this basis Regulatory Services suggested imposing conditions for the land contamination remediation scheme and subsequent contaminated land verification report (if any contamination is found). This is to ensure health and safety of the construction workers and future users of the building from any harmful land contamination

8. **Conclusion**

- 8.1 It is recognised that the proposed industrial/commercial type development is within a residential area. However, the proposal is a low key development associated to the main existing use of the site which is an established dance school. The proposed building would be an extension to the existing building and its design, mass and scale would be appropriate on this location. The proposed development is considered to be acceptable and will not result in any significant impact upon neighbour amenity and highway safety, subject to relevant conditions. The proposed development has potential to bring benefits to the local economy and local work force without affecting neighbouring residential amenities and is in line with the objectives of BDP Policies TP17 and TP26. The proposal would constitute sustainable development and therefore, I recommend that planning permission is granted subject to conditions.

9. **Recommendation:**

- 9.1 That planning permission is granted subject to the conditions listed below

-
- | | |
|---|--|
| 1 | Implement within 3 years (Full) |
| 2 | Requires the scheme to be in accordance with the listed approved plans |
| 3 | Requires the prior submission of a construction method statement/management plan |
| 4 | Requires the prior submission of a contamination remediation scheme |
| 5 | Requires the submission of a contaminated land verification report |
| 6 | Requires the submission of Architectural Details |
| 7 | Requires the submission of hard and/or soft landscape details |
| 8 | Limits the hours of operation |
-

-
- 9 Limits the noise levels for Plant and Machinery
 - 10 Prevents the use from changing within the use class
 - 11 Use associated with existing premises
 - 12 Requires the provision of cycle parking prior to occupation
 - 13 Requires the provision of a vehicle charging point
 - 14 Details of a drainage scheme
-

Case Officer: Shamim Chowdhury

Photo(s)

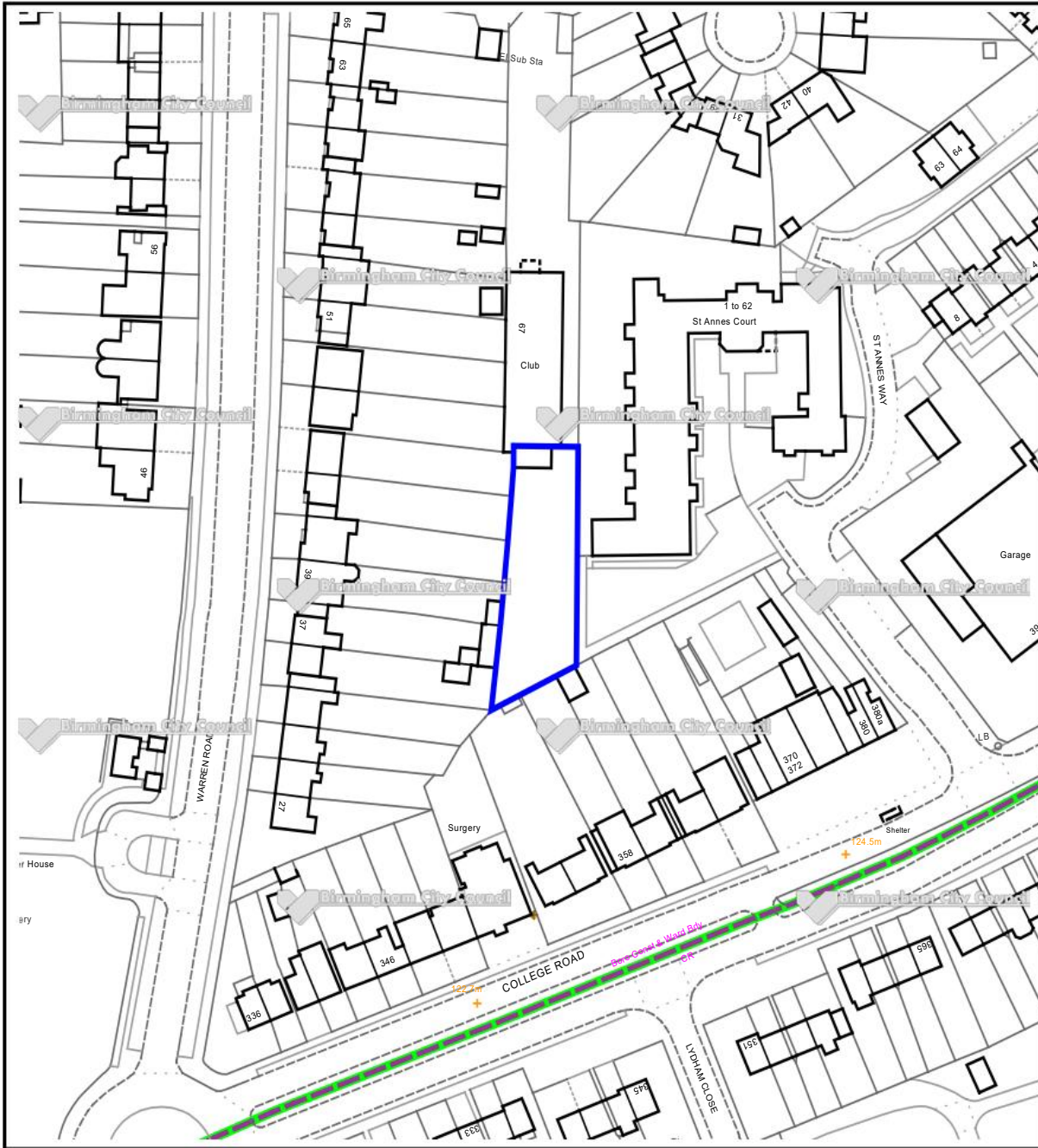


Carey Academy, Dance School



Site access from Warren Road

Location Plan



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

Birmingham City Council

Planning Committee

29 September 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>
Determine	12	2021/05033/PA Land at Lower Essex Street, Hurst Street and Sherlock Street Birmingham Demolition of existing buildings and erection of 3 residential blocks to provide 628 apartments together with associated amenity/commercial (Use Class E) floorspace, parking and landscaping. Block A - 27 storey tower with 9 storey shoulder, Block B - 12 storey taller element and 8 storey shoulders, Block C - 8 storeys.

Committee Date:	29/09/2022	Application Number:	2021/05033/PA
Accepted:	16/06/2021	Application Type:	Full Planning
Target Date:	20/10/2022		
Ward:	Bordesley & Highgate		

Land at Lower Essex Street, Hurst Street and Sherlock Street, Birmingham

Demolition of existing buildings and erection of 3 residential blocks to provide 628 apartments together with associated amenity/commercial (Use Class E) floorspace, parking and landscaping. Block A - 27 storey tower with 9 storey shoulder, Block B -12 storey taller element and 8 storey shoulders, Block C - 8 storeys.

Applicant:	Lower Essex Street Limited C/o Agent
Agent:	Lambert Smith Hampton Interchange Place, Edmund Street, Birmingham, B3 2TA

Recommendation

Determine

Report Back:

- 1.1 This application was reported to Planning Committee 16th June 2022 where it was resolved to approve the application subject to the signing of a Section 106 legal agreement. The agreement secured the provision of 5% (36) affordable units provided as a mix of 1,2-and 3-bedroom apartments at a discount on market value of 30%; discounted Market rental commercial space, at 50% discount on market rates, for a period of 10 years to be occupied by a charity (most likely the LGBT) and payment of a monitoring and administration fee associated with the legal agreement, the subject to a maximum of £10,000.
- 1.2 Following the resolution to approve drafting of the Section 106 Legal agreement has progressed and subsequently changes to the Heads of Terms are now sought that require a revision to the resolution for approval. These changes are as discussed below.

Housing mix and tenure
- 1.3 The developer would like the Section 106 Agreement to include the flexibility of offering the apartments for private rent and/or sale. The original planning committee report made no reference to rent therefore approval is now sought for this change. The option to let the apartments for rent has been discussed with the BCC Housing Officer who raises no objections, providing a commuted sum is sought for the First Homes proportion (in the rented scenario) and that the affordable units are let (at the same 30% discount) as low cost/ affordable private rent. If the development proceeds as an affordable private rent scheme, then the First Homes component of affordable housing provision could not be secured on site and would then be delivered off site by way of a commuted sum of the equivalent value.

Block C – Discounted Commercial Workspace Unit

- 1.4 As previously agreed it is proposed to let out the ground floor of Block C to the LGBT Charity (or should that not occur another charity – although LGBT are the intended tenants) at a 50% discounted market rental rate for 10 years. It was agreed to build and complete the commercial workspace unit up to shell and core with all necessary utilities for its intended purpose.
- 1.5 However, since the scheme was resolved to approve at Planning Committee the LGBT Charity have requested that the unit be taken from shell and core to a good fit out finish at the cost of the developer.
- 1.6 Discussions have therefore been had and whilst the exact cost of such a fit-out is unknown at this point in time an initial costing exercise with an example specification estimates a fit-out cost of £367,483. This costing exercise accounted for:
- Internal partition walls in painted finish
 - Suspended ceilings
 - Finished floors in office, WC, entrance areas
 - Internal doors
 - Tiled and fitted out WCs
 - Internal lighting scheme
 - Mechanical ventilation
- 1.7 The delivery of the fit-out however is in addition to securing the delivery of onsite affordable housing and discounted rental commercial space, therefore it has an impact upon the financial viability of the proposal. Therefore, to deliver the fit-out it is proposed to reduce the secured number of affordable housing units from 36 to 31. A loss of 5 units would allow for the fit out of the commercial space.
- 1.8 The number of units and type have been checked against the fit-out figure by an Independent Viability Assessor who confirmed the result in the overall affordable housing offer being 31 as opposed to 36.
- 1.9 Although the loss of 5 affordable housing units is regrettable the LGBT Charity require financial help to assist with a fit-out finish, without this help a subsequent delay in the occupation and operation of this key community commercial space would occur. The relocation to this premises is a fundamental one that would improve access to the LGBT community and wider public, as well as create a wealth of opportunities to offer new and expanded services. The same fit out cost challenges are likely to apply to any charitable organisation wishing to occupy this unit. Should the intended occupants (LGBT) or another charitable organisation not end up taking a lease on this unit, then the financial contribution associated with the fit out would be paid and put towards off-site affordable housing.
- 1.10 For these reasons the case officer considers the loss of 5 affordable housing units to provide a fit out finish acceptable in this case and therefore seeks approval from members to amend the recommendation.
- 1.11 With regards to the scheme in general no further changes are sought. However, since the application was reported to Planning Committee discussions around conditions have been had. Subsequently the following conditions have been deleted and the list of conditions towards the bottom of the next report updated:

28 Delivery and service area
35 Sealed Windows

- 1.12 Since the application was last presented to Members the Birmingham Design Guide SPD has been adopted. This supersedes much of the previous design guidance and presents a comprehensive approach to securing design quality in the city. The scheme has been re-considered in light of this guidance and the conclusion that the proposal would deliver a high-quality series of buildings and spaces that would make a significant positive contribution to the overall character and appearance of the area remains. Therefore, no design changes have been sought in light of the status of the SPD changing from draft to adopted guidance and the scheme remains as previously presented to Planning Committee.

2.0 Conclusion

- 2.1 The amendments proposed would continue to make an efficient use of this largely vacant brownfield site and contribute to the City's need for residential accommodation. The scale and massing would remain appropriate, and the scheme would continue to provide discounted commercial space for the LGBT charity and some affordable units as well as a large number of much needed housing. Whilst the overall level of affordable housing secured is disappointingly low when considered against policy, officers remain satisfied that the recommendation below is the maximum the development can sustain and remain viable. It is considered that the application is therefore acceptable subject to conditions and the updated resolution below.

3.0 Recommendation

- 3.1 That application 2021/05033/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- 3.2 a) 31 apartments at a mix of 1,2 and 3 bedroom units for sale at 30% discount, 75% to be delivered as low cost housing and 25% to be delivered as first homes OR 23 apartments at a mix of 1, 2 and 3 bedrooms to be delivered as low cost affordable units for private rent at 30% discount and an off-site affordable housing financial contribution equivalent to the 25% first homes component of the affordable housing provision.
- b) A fully fitted out discounted rental commercial space, at 50% discount on market rates, for a period of 10 years to be occupied by LGBT or alternative charity/community organisation. In the event that no suitable organisation wishes to occupy the discounted commercial space this obligation will be substituted by a financial contribution of £367,483 (index linked) towards off-site affordable housing.
- c) Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.
- 3.3 In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 20th October 2022, planning permission be refused for the following reason:
- 3.4 In the absence of a financial contribution towards affordable housing and the discounted commercial unit, the proposal conflicts with Policy TP31 Affordable Housing and TP17 Portfolio of Employment Land and Premises of the Birmingham Development Plan 2017, the Affordable Housing SPG and the NPPF.
- 3.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 20th October 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).

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

[End of Report Back]

1. **Proposal:**

- 1.1 This full application seeks consent for 628 residential apartments with associated amenity/commercial space at ground floor along with parking and landscaping.
- 1.2 The proposed development comprises of 3 roughly shaped L- shaped blocks that incorporate a new public square and pedestrian route linking Essex Street to Hurst Street as well as two private courtyards for residents. Block A is a 27-storey tower with a 9-storey shoulder (including an extensive roof terrace at level 9). Block B a 12-storey building with an 8-storey shoulder extending south and eastwards. Block C, an 8-storey building.
- 1.3 Commercial floorspace amounting to 1,873sqm (use class E) will be provided at ground floor. The ground level commercial floorspace in Block C (approx. 495sqm) will be made available on a discounted market rental basis to Birmingham LGBT - the city's leading charity for raising awareness of the needs of lesbian, gay, bisexual and trans (LGBT) people within in and outside Birmingham. Correspondence has been received from the LGBT charity explaining the reasons for the relocating to the proposed site and confirming their interest.
- 1.4 Block A occupies the full extent of Sherlock Street frontage, it is set back to into the application site to allow for the intended tram and green route. Block B is positioned in the centre of the application site, extending north-south along the Lower Essex Street Frontage and east-west between Lower Essex Street and Hurst Street. Together with Block A it encloses a landscaped private courtyard to the south and forms the southern edge to the proposed public square and pedestrian route to the north. Block C is in the north of the site where it forms the northern edged to the proposed public square and pedestrian route lining Lower Essex Street to Hurst Street, enclosing a second landscaped private courtyard to the north.



Image 1: CGI view of the site from Hurst Street (The Village Inn in the centre foreground).

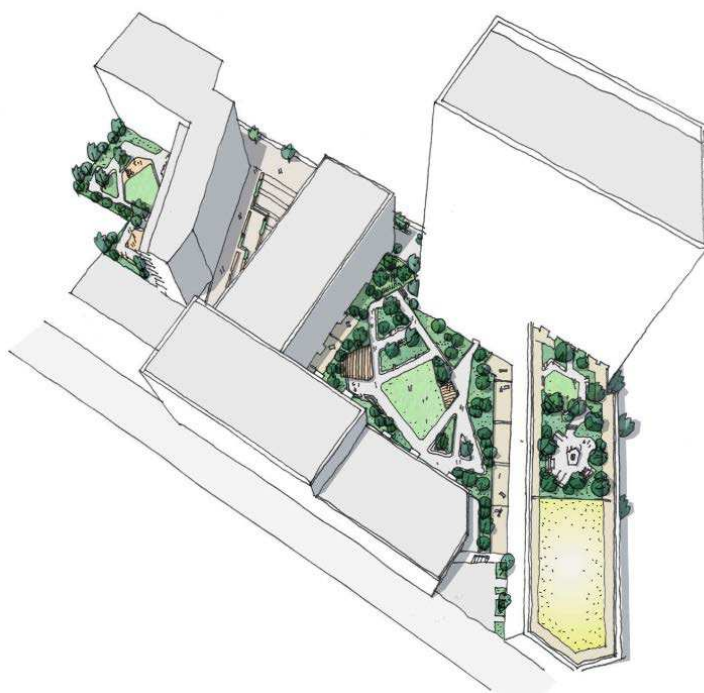


Image 2: Artists impression of an aerial layout. (Sherlock St to right)

- 1.5 The primary materials proposed are soft red/orange bricks with a contemporary darker brick for the tower.

- 1.6 The development includes a new public square and pedestrian route linking Lower Essex Street to Hurst Street and Skinner Lane beyond. A large podium garden between Blocks A and B will serve as the main amenity space for the residents of the development. Block A will also have a roof terrace at level 9. The second private courtyard to the north of Block C will also serve as amenity space for residents.



Image 3: CGI view of the public square

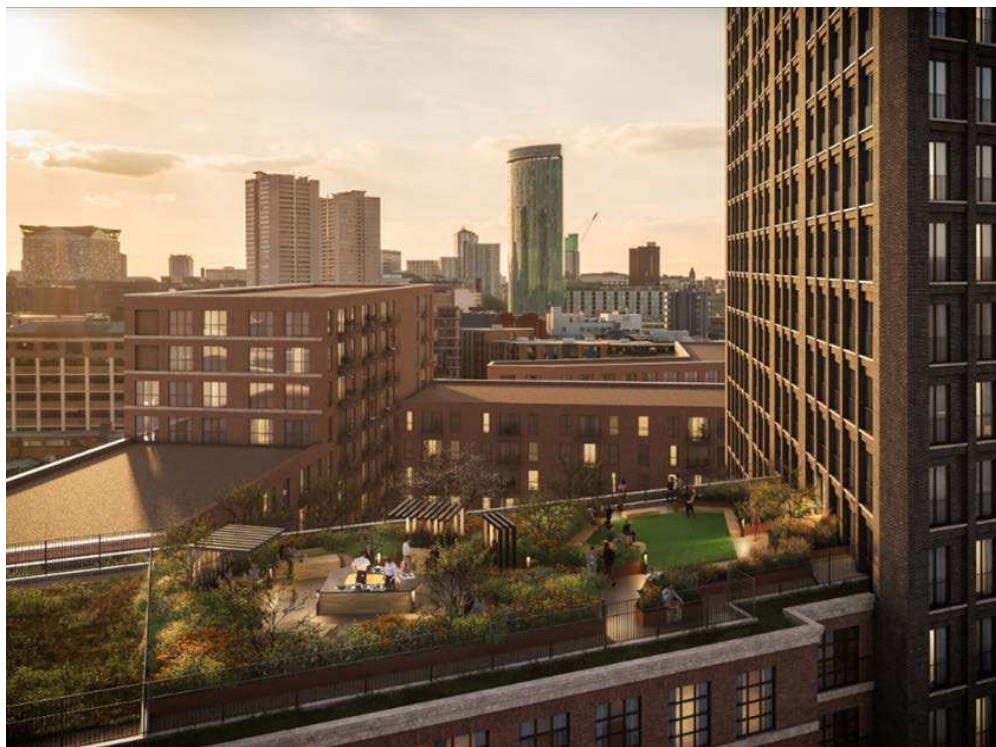


Image 4: CGI view of the proposed roof terrace Block A.

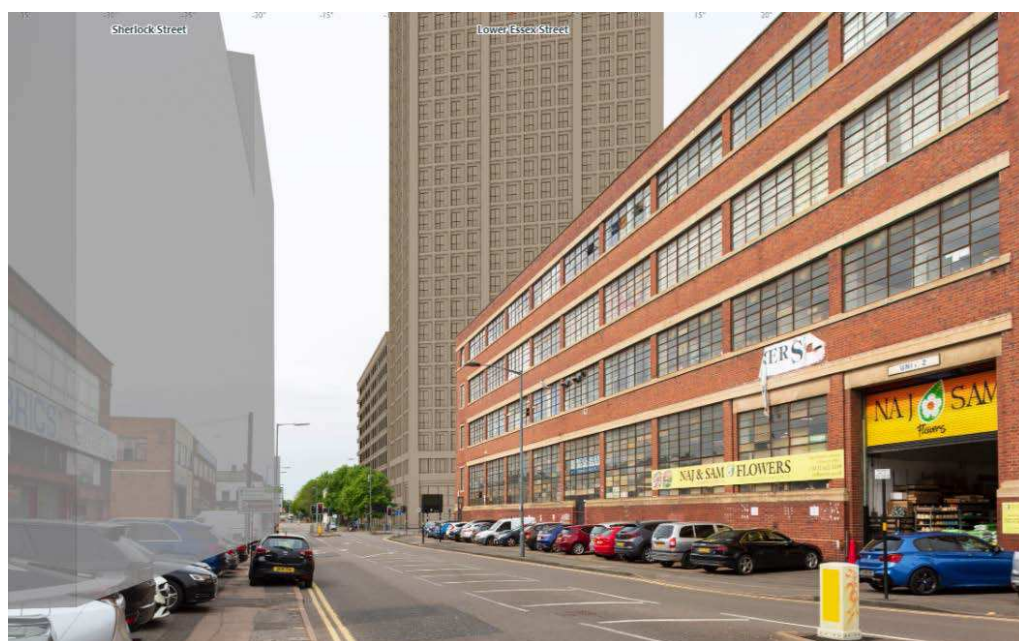
- 1.9 At lower ground floor level, parking for 24 vehicles (via an undercroft) is to be provided, (18 spaces and 6 accessible spaces) and blocks of secure cycle spaces. A total of 644 cycle spaces are to be provided for residents along with an additional 16 cycle spaces for visitors to commercial areas. Residential cycle spaces are located within the ground floor of Block C and lower ground floor areas of Blocks A and B. The 16 visitor cycle

spaces are to be positioned within the public space area. Plant room and refuse storage is also provided.

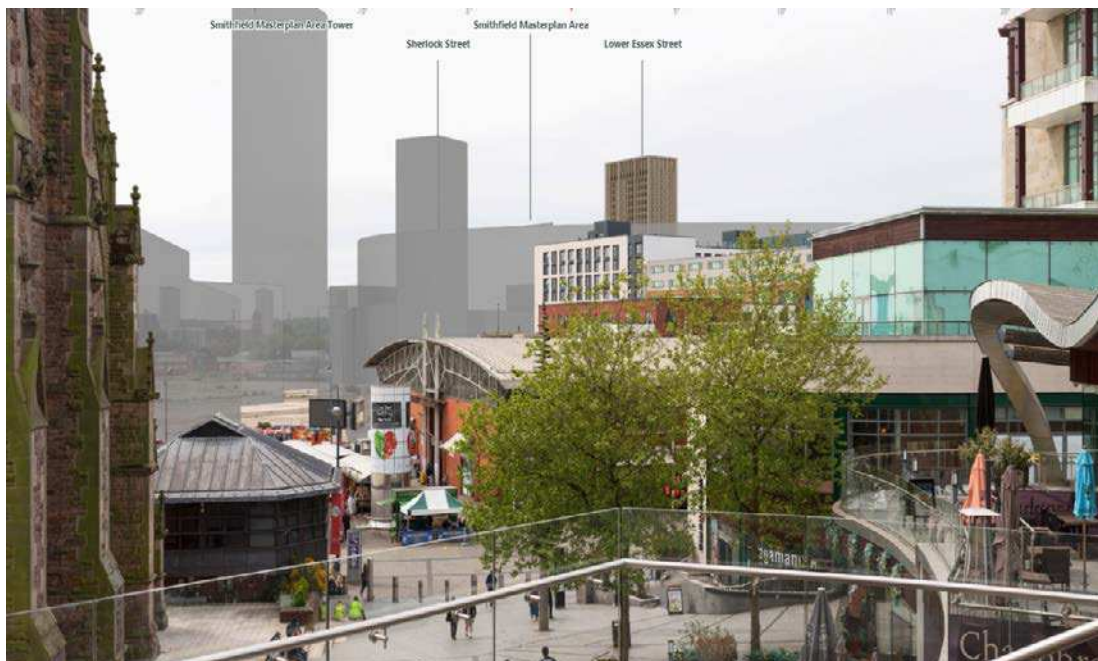
- 1.10 Vehicle access into the car park is proposed from Lower Essex Street. Of the 24 car parking spaces 5 spaces (1 standard and 4 accessible) will have Electric Vehicle charging points installed and refuse stores will also be accessed via 3 collection points. Bins will be stored in dedicated, secure and ventilated refuse storerooms at lower ground floor level. Refuse collection for the development is to be carried out from the public highway where on site staff will be responsible for moving the bins to and from the kerbside collection points presented in the Transport Statement.



1.11 Image 5: CGI view of Hurst Street from Bromsgrove Street.



1.12 Image 6: CGI corner view of Sherlock Street and Hurst Street.



1.13

Image 7: View from the podium by St Martin's in the Bullring – note the Sherlock Street and Smithfield developments are shown in grey

1.14 The 628 residential apartments comprise as a mix of unit types, these are as follows:

Type	No. of Units	% of Total	
1 Bed (45 sqm)	156	24%	46%
1 Bed (50 sqm)	143	22%	
2 Bed (65 sqm)	302	50%	54%
3 Bed (86 sqm)	27	4%	
Total	628	100%	100%

Table 1: Residential mix

1.15 The application has been supported by a revised design and access statement, built heritage statement, revised planning statement, aerodrome safeguarding assessment, air quality assessment, archaeological desk-based assessment, daylight and sunlight assessment, daylight within proposed dwellings report, energy and construction statement, external lighting assessment, flood risk assessment (including sustainable construction statement), geotechnical desk study appraisal, revised landscape report, market report (appended to viability assessment), revised noise assessment, planning obligations draft heads of terms, preliminary ecological appraisal, preliminary bat roost assessment, sustainable drainage strategy, tall building assessment, telecommunications impact assessment, townscape and visual impact assessment, transport assessment and framework travel plan and microclimate assessment.

1.16 A Viability Statement has been submitted with the application which has been appraised by an independent financial assessor.

1.17 This application was received and registered June 2021. The Town and Country Planning (Development Management Procedure Order and Section 62A Applications) (England) Amendment) Order 2021 requires applications for planning made on or after 1st August 2021 to contain a fire statement whereby HSE are consulted. By reason of timing no fire statement has been submitted, neither have HSE/Gateway One been consulted, although West Midlands Fire Service have been consulted.

1.18 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The site of 0.95ha is a rectangular plot located east of the City Centre Core within the cultural area of the Gay Village. The site is bound by Kent Street to the north, Sherlock Street to the south, Hurst Street to the east and Lower Essex Street to the west and occupies most, but not all of this city block. To the south of the site along Sherlock Street there are several under-utilised 20th Century low-rise, low quality commercial buildings. The remainder of the site has been cleared of former industrial building and is vacant, currently used for car parking.
- 2.2 Surrounding the site are largely commercial uses comprising of restaurants, bars, nightclubs and entertainment venues. There are some residential blocks of apartments located north eastwards known as Latitude and Timber Yard. Latitude is an 8-storey apartment building and the Timber Yard is a 6-14 storey development of 379 residential units on Hurst Street. The site to the east bounded by Sherlock Street, Hurst St and Bishop Street also benefits from a city-scale residential consent that includes a 30 storey tower. Near the application site are the following late-night entertainment venues, these are The Village Inn, The Nightingales and The Fox.
- 2.3 In terms of site levels, the topography falls approximately 5m across the site from a higher point to the north west to a lower to the south east.

2.4 [Site Location Map](#)

3. **Planning History:**

- 3.1 15/10/18 - 2018/07011/PA - Application for Prior Notification for demolition of former warehouse/industrial units. Prior Approval required.
- 3.2. 19/09/19 - 2019/06936/PA - Application for Prior Notification for the proposed demolition of existing buildings. No Prior Approval needed.
- 3.3. Surrounding site history:
- 3.4. 03/01/18 - The Timber Yard - 2017/09461/PA - Erection of 6-14 storey building comprising 379 residential apartments (Use Class C3), ground floor commercial units (use Classes A1-A5 and B1a), associated car parking and amenity space. Approved.
- 3.5. 29/05/18 – Former Kent Street Baths - 2017/09434/PA - Clearance of site and erection of a residential mixed use development comprising of 504 dwellings (Use Class C3), 955 sq.m. (Gross Internal Area) of flexible retail, restaurant, leisure and office uses (Use Class A1/ A2/A3/D1/D2/B1(a)), car parking and associated developments. Approved.
- 3.6. 04/03/21 - 16 Kent Street – 2018/03004/PA - Demolition of existing buildings and residential-led redevelopment to provide 116 apartments and 2no. commercial units (Use Classes A1-A4, B1(a) and D1) in a 9-12 storey building. Refused and appeal lodged.
- 3.7. 18/12/20 - Priory House – 2020/04784/PA - Conversion and refurbishment of Priory House, including change of use from Use Class B1(b) to include 79 residential apartments (Use Class C3), ancillary internal and external resident's amenity areas, secure car and cycle parking and other associated works. Approved.

- 3.8. 15/10/21 – Land bounded by Sherlock Street, Bishop Street and Hurst Street– 2020/09624/PA - Demolition of all existing buildings and erection of a residential-led mixed-use development comprising part 30, part 13, part 12, part 10, part 9 and part 5 storey blocks providing 551 residential apartments (Use Class C3), ancillary internal residential amenity space, flexible ground floor space to be used as commercial, business and service uses (Use Class E), drinking establishments, and/or hot food take-away (Sui Generis), access, car and cycle parking, landscaping, public realm and all other associated works. Approved.
- 3.9 03/02/22 - site bordered by Gooch Street North, Kent Street and Lower Essex Street 'the Oasis' – 2021/05399/PA - Demolition of all buildings and construction of 7 to 12 storey buildings (excluding basement) comprising 456 apartments (1&2 bed) (Use Class C3); 517sqm commercial floorspace (Flexible Use Classes E (a)/E (b)/E(c)/E(f)/E (g) (i); landscaped private courtyard and private garden terrace; new public thoroughfare. Approved subject to conditions – pending Section 106 signing.
- 3.10 Current application - Land at Kent Street – 2021/00081/PA - Erection of 8-12 storey building providing 133 no. residential apartments (Use Class C3) together with ancillary ground floor amenity and commercial space (Use Class E).

4. **Consultation Responses:**

Very recently 3 sets of documents were updated and the conservation officer reconsulted, revised comments are provided below.

4.1 Regulatory Services

There are no objections from Regulatory Services concerning air quality or contamination issues subject to conditions listed below.

In relation to noise they recommend refusal. Their objection related to the fact that mitigation only works for some of the apartments if the windows are closed (sealed) and use mechanical ventilation. Windows that are openable are not acceptable and would not avoid future residents being exposed to a statutory noise nuisance when windows are open. Windows being sealed is detrimental to residential amenity and not supported by Regulatory services. However, understanding the wider planning balance, Regulatory Services recommend the following conditions should be the application be recommended approval:

- Contamination and Remediation Scheme
- Contaminated Land Verification Report
- Extraction and Odour Control details
- Restrict Noise Levels for Plant and Machinery
- Noise Insulation between Commercial and Residential
- Hours of Operation and site delivery hours
- Demolition Management Plan
- Construction Management Plan
- Noise Mitigation Scheme
- Sealed Windows where necessary
- Noise Commissioning Testing

- 4.2 City Design - 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. Proposed landscaping could be improved.

- 4.3 Archaeology – no objections.
- 4.4 Planning and Growth Strategy:
 Supports the location of residential development and proposed Class E use and does not raise an objection to the principle of the proposed development.
 The sustainability and energy statements propose measures that I consider would meet the requirements of policies TP3 and TP4. Please can the Energy and Sustainable Construction Report (Meinhardt Issue P04 07 May 2021) be conditioned under the list of approved plans. Additionally, please can the below planning condition be included:
- "Energy and Sustainability in accordance with statement
 The development hereby approved shall incorporate the energy efficiency measures, renewable energy, sustainable design principles and climate change adaptation measures into the design and construction of the development in full accordance with the Energy and Sustainable Construction Report (Meinhardt Issue P04 07 May 2021) prior to occupation or use commenced. A total 19% reduction in carbon dioxide emissions against Part L 2013 Building Regulations shall be achieved.
- Reason: To ensure compliance with Policy TP4 Low and zero carbon energy generation and TP3 sustainable construction of the adopted Birmingham Development Plan (2017).
- 4.5 Transportation Development – no objections subject to the following conditions:
 -A Grampian Style condition so that the development is not occupied until reinstatement of the redundant footway crossings and provision of new, along with any TRO changes and footway surface improvements.
 -Cycle Parking is provided before the development is occupied
 -Pedestrian visibility splay 3.3m by 3.3m provided at the car park access.
 -Construction Management Plan provided before any works including site clearance are carried out to define any impacts on the highway and local network.
 -Landscaping on forecourt is provided before the development is occupied
- Additionally, an informative is requested for these works to be done with a section s278 highway agreement at the applicant's expense.
- 4.6 Tree Officer – no objections subject to a Arboricultural Method Statement condition.
- 4.7 Ecology – no objections subject to Bat, Bird boxes, landscaping, CEcMP and green/brown roof conditions.
- 4.8 Conservation – no objections subject to conditions
- 4.9 Cadent Gas – no objections but recommends informative
- 4.10 Local Lead Flood Authority – no objections subject to a condition to secure the submission of a sustainable drainage scheme and drainage operation and maintenance plan
- 4.11 Severn Trent – no objections subject to a condition to secure drainage plans for the disposal of foul and surface water flows before the development is first brought into use.
- 4.12 Environment Agency -no objections subject to a condition for a remediation strategy to deal with risks and associated with contamination.

- 4.13 Leisure Services – in accordance with the BDP policy this development should be liable for an offsite POS and play area contribution of £1,309,575
- 4.14 Education – seeks a total contribution of £1,446,833.
- 4.15 Sport England – object. In the absence of an agreed package of S106 contributions to meet the needs for sport that arise from this development. The additional population estimated to be 1092 will generate additional demand for sports facilities. Sports England Sports Facilities Calculator (SFC) indicate that the following contributions be sought:
- Sports Hall Sum £189,661
Swimming Pool Sum £195,058
Playing Pitches Sum £254,712
Total sum £639,431.
- 4.16 West Midlands Police – no objections subject to a condition requiring CCTV and a lighting plan.
- 4.17 West Midlands Fire Service – no objection
- 4.18 Birmingham Civic Society object to the application, they describe the application and make the following comments:
- The Civic Society have strong concerns regarding the erasure of gay venues and the future of the provision for the community as a whole due to the current scale of development in this area. That said BS note the ground floor commercial space in Block C will be made available on a discounted market rent basis to Birmingham LGBT the city's leading charity for raising awareness of the needs of lesbian, gay, bisexual and trans (LGBT) people within in and outside Birmingham. However, there are concerns that agreement with Birmingham LGBT has not yet been reached yet so there is no guarantee it will happen.
- Disappointing that there is no affordable housing provision due to viability and therefore cannot support the application for this reason.
- Consider the blue brick proposed for the tallest element will be very harsh and oppressive on the skyline, blue brick is not objected to within the development, but this was not felt appropriate for the tower.
- Height of the tower not considered appropriate and the viewpoint analysis tends to indicate a moderately to minor adverse impact by the height of the tower on the majority of important views.
- The documents show potential improvements to Hurst Street and its transformation into a pedestrian boulevard – whether contributions to such improvements will be sought through S106 needs to be made clear.
- Too many central area apartment developments have ground floor commercial space which remains unlet after a number of years. The City Council and developers need to consider more realistic and imaginative proposals and uses for active ground floor space, this may involve discounted market rent premises to this sector and community organisation.
- Birmingham International Airport Ltd, Civil Aviation Authority, Birmingham LGB Forum, and Centro were notified however made no comments.

5. Third Party Responses:

- 5.1 The application has been advertised in the press, publicised by 3 site notices and neighbours notified. In addition, the Local MP, local residents' groups and forums and Southside BID have been consulted. Associations and Ward Councillors consulted. No third-party comments have been received.

6. Relevant National & Local Policy Context:

6.1 National Planning Policy Framework

Section 2: Sustainable Development

Section 7: Ensuring the vitality of town centres

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 12: Achieving well-designed places

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

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

6.2 Birmingham Development Plan 2017

The application site falls within the City Centre Growth Area 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.

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

6.3 Development Management DPD:

DM1 Air quality

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

6.4 Supplementary Planning Documents & Guidance:

Loss of Industrial Land to Alternative Uses SPD (2006)
Places for All SPG (2001)
Places for Living SPG (2001)
Lighting Places SPG
Birmingham Parking SPD (2021)
Public Open Space in New Residential Development SPD (2007)
Affordable Housing SPG (2001)
High Places SPG

7.0 Planning Considerations:

- 7.1 The main material considerations are the principle of development, noise, design and affordable housing.

Principle of Development

- 7.2 The application site falls within the City Centre Growth Area identified by Policy GA1 however Policy TP20 seeks to protect employment land and resources where it contributes to the portfolio of land needed to meet longer term requirements.
- 7.3 According to Policy TP20 there is a general presumption against the loss of employment premises unless it is a non-conforming use, has actively been marketed or it can be demonstrated that continuing an industrial development is not viable.
- 7.4 The current employment floorspace does not comprise of non-conforming uses and the applicants have not demonstrated that there is marketing or viability justification to support the proposed loss of existing premises. Therefore, the proposed loss of employment premises south of the site is contrary to this BDP Policy TP20 and any material considerations should be assessed to ascertain whether they should be given greater weight to outweigh this Policy conflict.
- 7.5 There is a requirement for future growth and change in and around the City Centre as identified within the BDP. Strategic Policy PG1 identifies a need for significant levels of housing, employment, office and retail development along with supporting infrastructure in Birmingham over the plan period. The Policy refers to a target of 51,100 additional homes although this falls short of Birmingham's objectively assessed need which is stated to be 89,000 homes.
- 7.6 Policy GA1 establishes the City Centre as the focus for a mix of uses including residential, retail, employment and leisure to improve the overall mix of uses and the vitality of the City Centre. Cultural, entertainment and residential activities are supported in Southside by Policy GA1.3, complemented by high quality public spaces and pedestrian routes. The site is not within the Rea Valley SPD area but close to its boundary where largescale residential-led mixed use development will create a new quarter in the city centre.

- 7.7 Paragraph 119 of the NPPF also states that authorities should take a positive approach to applications for the alternative use of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided that this would not undermine key economic sectors or sites, or the vitality and viability of town centres.
- 7.8 The application seeks permission for Class E commercial use at ground floor level. It is noted that the site lies approximately 400m outside of the City Centre retail core however Policy GA1 supports appropriate scale retail development where it complements the existing retail core as part of mixed-use redevelopments. Whilst the proposed commercial units total to 1,873sq.m this floor space would be subdivided into 3 units and is deemed as ancillary to the main residential development.
- 7.9 Whilst the loss of the onsite commercial units is regrettable, they are not intensive employers and it is considered that the employment created by the construction of the proposed development and the expenditure created by the occupiers of the proposed 628 apartments should outweigh compliance with Policy TP20, particularly at a site where there is policy support for growth in this part of the City under Policies GA1.1 and GA1.3 and the location of the proposed housing complies with Policy TP28. It is therefore considered that the proposed uses would, in principle be acceptable at this location. Furthermore, with a mix of mostly one and two bed units with some 3 bed units whilst not fully in accordance with Policy TP30 that requires a bigger range of dwellings, the proposed mix is considered satisfactory for this City Centre site.

Impact of Noise

- 7.10 A key consideration is the impact upon the night-time economy. As mentioned the site lies within a part of the City Centre that is known for its vibrant late-night entertainment venues with the Nightingale on Kent Street, The Fox Public house adjacent on Lower Essex Street and the Village Inn on Hurst Street. These venues are open seven days a week into the early hours. The Village Inn is open Fridays 5pm-6am, Saturdays 5pm-8am and Sundays – Thursdays 5pm-2am. The Nightingale is open Fridays 10pm-4am, Saturday 10pm-6am and Thursday 10pm-4am. The Fox is open Fridays 3pm-3am, Saturday 3pm-3am and Thursday 5pm-12pm. The application site sits within the centre of these entertainment venues, with the Nightingale to the north, the Fox Public House to the west and The Village Inn to the east.
- 7.11 The NPPF advises that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Policy DM6 of the adopted Development Management DPD states that where potential adverse impact is identified the development should include details on how the adverse impact will be reduced and/or mitigated.
- 7.12 As part of the application a noise assessment was submitted that contained inaccurate/extrapolated sets of data and statements regarding existing noise levels and impact. Regulatory Services highlighted problems with the report and subsequently discussions (between the applicant and Regulatory Services) took place, resulting in many meetings and several revisions to the noise assessment. As a result, further noise monitoring exercises were undertaken by acoustic consultants with an officer from Regulatory Services also present.
- 7.13 The most recent noise report (Revision 6, May 2022) presents a number of updated noise models which reflect the revised noise results. The diagrams show a variation of noise frequency levels across the site. The difference in level variation is a result of

factors such as the positioning of an apartment block, storey height, distance from entertainment venues and existing obstructions such as existing/proposed buildings. The noise assessment seeks to determine whether prospective residents would have a suitable level of amenity within their apartments without being subject to adverse noise conditions. It is accepted that out of the 628, many units proposed would enjoy a suitable noise environment however others would result in a nuisance which would create a harmful living environment and endanger the future operation of these nearby venues, should no mitigation be put in place.

- 7.14 In terms of mitigation Regulatory Services recommend that at source mitigation measures should be explored in accordance with the Noise Hierarchy as defined by NPPG and BCC's Planning Consultation Guidance Note 6 – see table below.

In assessing mitigation schemes the following hierarchy of measures should be considered in descending order of preference:

1. Engineering – reduction of the noise generated at source by redesign, relocation or containment
2. Design and layout – maximise the distance between noise source and receptor, using existing topography or existing structures or purpose-built barriers to screen the proposed development site from significant sources of noise.
3. Using the layout of the scheme or orientation of buildings to avoid location of noise sensitive rooms on adversely impacted facades
4. Using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels (differentiating as appropriate between different times of day, such as evenings and late at night),
5. Using the building envelope to mitigate the impact of noise to acceptable levels through noise insulation.

- 7.15 Figure 1 – Noise Hierarchy as defined by PCGN6

- 7.16 It should be noted that PCGN6 is a practice note used by Regulatory Services when assessing noise impact and does not form formal planning policy

- 7.17 The first preference for mitigating noise is to address it at the noise source via an agent of change agreement whereby the works to the noise venue would result in future occupiers being able to open windows without a significant adverse impact on their amenity. However, the applicants have stated that whilst it may be possible to achieve noise control measures at the entertainment premises in the vicinity of the site, it is considered that implementing these measures can be technically challenging and be unviable.

- 7.18 The applicant has been in contact with the management of The Village, located directly east of the proposed development. However, as their lease runs for a relatively limited period, there is little appetite from management to engage in the costly and time-consuming process of an agent of change agreement when the build program is in excess of 36 months, taking the timing of practical completion close to the end of their lease. Furthermore, it is known from previous applications that the only method to effectively control noise from the Fox would be to enclose its beer garden, which is not realistically possible without substantial works that would alter the character of the venue. Therefore, it can be said the option for an agent of change agreement has been explored to some extent.

- 7.19 Consequently, a layout has been developed to reduce entertainment noise impact upon habitable rooms by small layout changes, provision of winter gardens and the sealing of windows to 59 apartments.

- 7.20 Regulatory Services recently reviewed the location of sealed windows together with the submitted noise models and found there to be other facades to be similarly

impacted whereby no mitigation proposed. It was unclear as to the reason some windows shown to receive high levels of noise were sealed and others not so. Officers and Regulatory Services have therefore reviewed the modelling data as presented further and presented a 'worst case' assumption. This worst-case assumption would require 150 units out of 628 to feature sealed windows serving habitable rooms (living room and/or bedroom), equating to a proportion 24% of units.

- 7.21 Conditions recommended will ensure suitable mitigation is provided prior to occupation, thus ensuring no unreasonable restrictions would be placed on the surrounding entertainment venues. The conditions recommended would ensure the effected units cannot be occupied unless suitable living conditions are provided.
- 7.22 Whilst Regulatory Services object to the use of sealed windows they consider the proposed level of mitigation technically adequate in the instance. Paragraph 55 of the NPPF states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Subsequently there are no grounds to refuse the application on the basis of adverse noise impact or unreasonable restrictions being placed on surrounding venues as the conditions make provision to ensure neither would occur and would have to be discharged to the satisfaction of the LPA in consultation with Regulatory Services, prior to the commencement of development.
- 7.23 Implementation of the aforementioned conditions would result (in worst case scenario) in a maximum of 150 residential units being fitted with sealed glazing. When weighing the provision of sealed units in the planning balance, officers are of the opinion that they are acceptable in the context of the wider benefits of the scheme, which include much needed housing in the context of the tilted balance and a lack of a 5 year housing land supply, high quality design, a new public square, pedestrian route through the site, discounted commercial space for a local charity as well as affordable housing of 5% (36 units).
- 7.24 Whilst there may be concern with the principle of sealed windows it is worthy to note that recommending refusal would conflict with a number of other decisions made by the LPA. The City Council has previously granted consent for a number of residential scheme in close proximity to entertainment uses with suitable mitigation measures ranging from high specification acoustic glazing and mechanical ventilation to sealed units
- 7.25 2020/07829/PA – Land Bounded by Moseley Street, Moseley Road and Cheapside 46 out 366 units sealed by condition. Approved 05.10.21.
- 7.26 2020/01796/PA – Digbeth Bus Garage: Noise levels of nearby entertainment venue 39 out of 213 units sealed by condition. Approved 24.03.21
- 7.27 2020/02766/PA – Essex Street: Noise level of nightclub opposite. No sealed units, acoustic glazing and mechanical ventilation conditioned. Approved 18/12/20.
- 7.28 2017/09461/PA – Timber Yard: Noise level of nightclub. 91 units (Bedrooms only) sealed by condition. Approved 03/10/18.
- 7.29 2014/09348/PA Bank I Tower: Noise level at entertainment venue not specified. 189 units (all proposed) sealed by condition. Approved 27/11/15
- 7.30 2018/01177/PA 122 Moseley Street: Noise level from Cleary's at development façade. Acoustic glazing and mechanical ventilation provided as mitigation. Approved 19/10/20

- 7.31 It is also worthy to note that planning application ref: 2006/03254/PA (Unity House & Armouries Site) was initially refused planning permission by the LPA on the basis of the amenity of future occupiers of the proposed development being adversely affected by late night entertainment noise. However, consent was later granted at appeal with conditions requiring acoustic glazing and mechanical ventilation.
- 7.32 While sealed apartments are not preferable, and not supported as a matter of principle by Regulatory Services, provided suitable mitigation is installed, the apartments would constitute a satisfactory residential environment free from adverse noise. Given the proportion of sealed units (as a maximum) is small (23%) in the context of the development as a whole, their possible inclusion is considered acceptable when weighed in the planning balance against the other aspects of the scheme. Moreover, I should note that no objections from neighbours or surrounding venues to the application have been received.
- 7.33 Subject to conditions therefore I consider the proposed development can be made suitable for residential use providing the appropriate mitigation is incorporated as recommended. It is considered that the provision of sealed units would provide sufficient mitigation in accordance with DM2 and DM6 of the Development Management DPD.

Proposed Design

- 7.34 Originally the application proposed 642 apartments however subsequent to design advice plans were revised reducing the shoulder height of Block A by one storey. Minor internal reconfigurations of unit layout also took place to maintain over 50% of 2 bed units and as a result of the reduced shoulder height and adjusted floor plans the unit mix moved in favour of 2 and 3 beds.
- 7.35 The approach is simple and robust with brick buildings proposed with floor plates expressed through concrete banding. The bays and grid are simple, and the grouping and form of fenestrations is good and set out in elevations with well-considered masonry detailing. There is a quality concern with the 'light grey cil' annotation and therefore careful selection of materials, design of the windows, masonry and building form will be critical whereby details are conditioned.
- 7.36 The proposed layout is simple providing a perimeter of connecting blocks around an internal courtyard space and pedestrian route through generating a defined urban edge and safe external amenity space for residents. The pedestrian route would increase connectivity in and around the site by means of providing a tertiary route through the site and beyond.
- 7.37 Landscaping and public realm proposals would include a new public square and pedestrian route linking Lower Essex Street to Hurst Street and Skinner Lane and beyond. Large podium gardens between Block A and B will serve as main amenity space for residents to include a central lawn, seating areas, play opportunities by utilising planter edges as elongated steps and platforms and providing steppingstone routes through larger areas of planting.
- 7.38 Block A will incorporate an extensive roof terrace, private terraces at ground and level 9 as well as extension of Lime trees along Sherlock Street to enhance this frontage and street trees along Hurst Street to define the boundary between the back of the footpath and the new public square. Trees to the south of the site, off Sherlock Street are to be retained.
- 7.39 With regards to the possible extension of the tram to the south of the city, and future consideration of a metro stop the layout plan shows an acceptable amount of space to

accommodate this. The commercial units would present an active frontage to Hurst Street, the public square and pedestrian route. In accordance with Policy PG3 of the BDP it is considered that the layout would provide a high-quality place with good connectivity.

Scale and Mass

- 7.40 The proposed layout and massing of the site creates high design quality in accordance with Policy PG3 of the BDP. Furthermore, the City Design officer considers the scale to be acceptable and in keeping with nearby developments i.e., the Timber Yard. The scheme introduces links through the site via a proposed pedestrian route that allows the site open up and play an active and inviting frontage within this community. It is considered this route would allow for good connectivity through the site and to the wider area.
- 7.41 The second PG3 key objective in terms of layout is the provision of key public spaces that promote positive social interactions and natural surveillance as well as reinforce a positive sense of place and local distinctiveness in accordance with Policy PG3.

High Places SPD

- 7.42 Although the application site lies outside of the 'central ridge zone' exceptional reasons provided justify the location of this tall building. The development, and in particular the tall building, has been extensively tested in the Townscape and Visual Impact Assessment which considers existing and future contexts and provides visualisations of the development from various locations.
- 7.43 Not too far from the site other tall buildings have been permitted, these namely being Sherlock Street – 30 storeys, Monaco House – 29 storeys and Kent Street Baths - 19 storeys which are also outside of the central ridge zone. Block A would provide a transitional element in the cityscape between the neighbourhood scale of development to the south and the 40-storey tower envisaged at the heart of Smithfield masterplan area to the north. The building will, in particular, have a close visual relationship with the Sherlock Street tower, emphasising the southern entrance into the Smithfield masterplan.
- 7.44 Furthermore, the application site leads into the Rea Valley Urban Quarter and therefore, this site can be said to form a gateway into the Gay Village providing a pedestrian way-finding marker and drawing people up Hurst Street and into other quarters and beyond, thereby aiding pedestrian legibility and connectivity.
- 7.45 And in terms of design and conforming to the other SPG considerations the building is high quality and responds well to local context, and with regards to technical matters (microclimate/aerodrome and telecommunications) the assessments submitted demonstrate there will not be any significant impacts.
- 7.46 Based on the above a tall building is deemed appropriate and justified in this location. I consider the building to be of good quality design that responds well to its context, largely in accordance with PG3 and paragraphs 126 – 130 of the NPPF. To maintain the quality of the façade conditions are attached to secure architectural, lighting and landscaping details. Any of the signage shown would need to be secured via an advert application. City Design supports the application subject to conditions.

Impact on residential amenity

- 7.47 The proposed apartments meet the Nationally Described Space Standards and are well laid out. The provision of outdoors space is satisfactory for the location and the

layout of the site accounts for existing and approved developments either side of the site and an adequate level of privacy and outlook would be achieved for all existing and future residents. Whilst the distance separation between the facades of the existing building and new development across Hurst Street would be less than the Places for Living guidelines, I consider that the design of the scheme satisfactory minimises harm to amenity and achieves a reasonable level of privacy and outlook would remain.

Microclimate

- 7.48 In support of the application the agent has provided a Wind Microclimate study, daylight and sunlight assessment, visuals and a shadow study showing the existing and proposed site in the am, noon, and pm in the various seasons and a model of the proposed building.
- 7.49 The latest Wind Microclimate Study remains of the view that no dangerous conditions would exist, and pedestrian wind comfort would largely be satisfactory. The report establishes that all areas within the site and its surroundings are expected to be safe for all users for a variety of pedestrian and occupant activities.
- 7.50 Where there are examples of localised exceedances these are minimal. Specific trees and plant species can be selected as part of a conditioned landscape plan/mitigation measures to mitigate stronger wind conditions in certain areas of the development. Moreover, it is not anticipated that there will be a need to introduce any notable structures to further mitigate wind conditions. A condition is recommended to require details of this mitigation which should not dilute the overall character/design quality of the development.

Daylight/Sunlight

- 7.51 A Daylight and Sunlight study has been undertaken to assess the impact of the development at neighbouring properties. The report concludes that overall the layout of the proposed development will not have an adverse effect on surrounding properties and amenity spaces. Sun tracking has been provided for Spring/Autumn and Summer and whilst there is impact, the layout will not reduce sunlight or daylight to an extent that it would adversely affect the occupation of these buildings.
- 7.52 Assessment of daylight levels in the proposed habitable rooms indicate that the vast majority tested in the proposed scheme will meet the BRE daylight standards with many received light levels exceeding these. Given the density of development present in City Centre urban locations standards cannot be compared with suburban and rural developments and so there is inevitable a lower level of adherence across the entirety of the scheme. The proposed is therefore compliant with Policies PG3 and TP27 of the BDP.

Impact on drainage/flood risk

- 7.53 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. The LLFA and Severn Trent support the application subject to conditions. The drainage proposals therefore accord with Policy TP6 of the BDP and flood requirements of the NPPF.

Impact Upon Heritage Assets

- 7.54 There are a number of designated heritage assets in the wider area such as the GR11 Back to Backs, GR11 42 Upper Dean Street, GR11 Wellington Hotel Bristol Street and

the GRII Anchor public house Bradford Street. In addition, the Digbeth, Deritend and Bordesley High Street Conservation Area is situated to the north of the aforementioned high streets. However, all of these are some distance from the site with much intervening built form. The closest local listed (non-designated) asset is Unity House, Bromsgrove Street. The Heritage Statement concludes that there will be no impact upon their significance and the Conservation Officer concurs.

- 7.55 The Heritage Statement identifies the adjacent Jubilee Works as a non-designated heritage asset, which is accepted by the Conservation Officer. The Statement goes on to conclude that although the 27-storey tower would change the setting of the Jubilee Works but considers that the design and materials would complement the design of Jubilee Works and 'frame' the existing horizontal emphasis of its elevation to Sherlock Street with no harm to significance.
- 7.56 Our Conservation Officer however considers a tower rising up behind the Jubilee Works to have impact on an appreciation the architectural form, challenge the buildings visual prominence and would cause some minor harm to the setting of the heritage assets whereby paragraphs 203 of the NPPF should be applied.
- 7.57 The Heritage Statement refers to a scheme (Sherlock Street - opposite the Jubilee Works) consented in October 2021 whereby no heritage harm was concluded. The Conservation Officer states the consented development, by reason of position in comparison would not diminish an appreciation or understanding of the architectural form and prominence of the Jubilee Works and therefore the impact would be considered negligible. In this instance and in accordance with paragraph 203 of the NPPF the minor level of harm identified is clearly outweighed by the significant public benefits associated with the development, these being making the best and most effective use of a largely vacant and brownfield city centre site, the delivery of much needed housing, affordable homes, local employment opportunities and provision of commercial uses.
- 7.58 Furthermore, the Council's Archaeological Officer agrees that no further investigative works are necessary.
- 7.59 Overall it is considered that the public benefits outweigh the minor level of harm and the proposed scheme complies with policies PG3 and TP12 of the BDP and meets the tests set out in the NPPF.

Sustainability and Energy

- 7.60 The site is located within the urban area in close proximity to jobs, shops and services and with good public transport links. It would also see the re-use of a largely vacant brownfield site. An Energy Statement has been submitted as required by Policies TP3 and TP4. The Energy and Sustainability Report proposes measures which equate to a 19% reduction in carbon dioxide emissions against Part L 2013 Building Regulations. These achievements would meet the requirements of policies TP3 and TP4 and a condition is recommended to secure these.

Impact on Parking and Highway Safety

- 7.61 The scheme proposes a car park with 24 spaces and 572 cycle stores within the lower ground floor of Blocks A-B. Some of the cycle and refuse stores would be located at the back of the block, behind proposed commercial space and residential reception area. Although the remaining would be located street side of Lower Essex Street. Access into the car park would be via a gated access set in off the highway (Lower Essex Street).

7.62 The Parking SPD seeks a cycle space per unit and consider 572 alongside the timing of this application prior to the adoption of the SPD to be reasonable provision. Whilst it does not wholly conform paragraph 5,7 of the SPD allows flexibility for applications submitted before the adoption of this document. The site is close to the City Centre, a short walk to local train stations and facilities. Transportation welcomes the proposed link as a beneficial connection for pedestrians and support the application subject to conditions. Transportation have received the application and raise no objection subject to conditions. The transport details presented are acceptable and accord with Policies TP38, TP39, TP40 and TP44 of the BDP and Policies DM14 and DM15 of the DMB.

7.63 **Biodiversity and Landscape**

7.64 The DMB DPD justifies the need for planting and biodiversity enhancements. The proposed site plan indicates tree planting along the pedestrian route and within the courtyard area. Biodiversity roofs are also indicated on the roof plan. Whilst landscaping is to be provided, revisions to the landscaping scheme are sought, therefore, to order to secure better quality design and to ensure proposed planting is sustainable for the long-term conditions are recommended.

7.65 The application is supported by a preliminary ecological appraisal (PEA) and a specific preliminary (bat) roost assessment. The PEA finds that most of the ecological issues are either negligible for this currently developed site or are able to be mitigated for through appropriate timing or working practices. Although the PRA notes a number of locations that offered relatively high potential for bat roosting surveys were carried out between May and June of 2021 confirming none were utilising the buildings as places of refuge.

7.66 Generally, surveys of this type with high potential features are valid for a period of 12 months before a new survey is required; however, the ecologist recommends that the request for a CEcMP for implementation throughout the demolition and construction phases would be suitable to cover all of the above aspects.

7.67 The ecologist states the roof top terrace will have limited value for biodiversity as it is likely to be quite disturbed. There are a number of flat roof sections that could have extensive green roofing installed (not sedum matting). If these areas were also to be utilised for solar PV panels then biodiversity benefit could still be delivered through a Bio solar roofing composition. Extensive and /or Bio solar roofing would improve the overall sustainability of the building and where combined with solar PV extends their operational period in times of hot weather.

7.68 The principal ecologist has reviewed the submitted PEA and agrees with the conclusion that the site is currently has very low ecological value. The proposed planting and biodiverse roof would increase the value and conditions are therefore recommended to secure these.

7.69 It can be said the redevelopment of the site would not give rise to any net adverse ecological impacts. The council's ecologist has reviewed the application and raises no objections subject to conditions. The proposal accords with Policies TP6, TP7 and TP8 of the BDP and the NPPF

Public Sector Equality Duty

7.70 The Equality Act 2010 introduced a new public sector equality duty (the PSED), which cover nine protected characteristics including sexual orientation. This is relevant to the current proposals that could potentially have an impact upon the key venues for the LGBTQ community.

7.71 The development, subject to its proposed mitigation including the conditions set out below, would avoid adverse effects from the nearby noise venues. Furthermore, proposed community space (BLOCK C) would be offered at a discount and occupied by Birmingham LGBT also at a discount for 10 years. As an additional benefit the scheme would provide more activity and natural surveillance to increase safety in this part of the city centre. As such it is considered that there would be no significant adverse impact upon the current operation of nearby venues and therefore, no significant risk to the demise of the LGBT quarter by this development.

Planning Obligations

- 7.72 Policy TP31 of the BDP requires 35% of the total number of dwellings to be affordable on sites of 15 dwellings or more and TP9 seeks either on site public open space at 2ha per 1000 population or a contribution towards off site provision for developments of 20 or more dwellings. In addition, obligations have also been requested from the following consultees: Education – £1,219,111.29; and Sport England - £453,814.
- 7.73 The applicants contend that the development would be unable to meet the Policy requirements outlined above and still deliver a sufficient developer's return. Therefore, a Financial Viability Appraisal (FVA) has been submitted and independently assessed.
- 7.74 Independent review of the submitted Financial Viability Appraisal indicates that the proposal could support the provision of 56 affordable units, equating to 8%, as a proportionate mix for low-cost home ownership at 20% discount on market value. This is in addition to the public square and pedestrian route through the site.
- 7.75 This provision, while not meeting the 35% set out in policy TP31, is welcomed 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 36 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 8%) but more genuinely affordable accommodation as shown in the table below.

Affordable Unit	No	Size sq ft	Market Value	Discount	Affordable Price
Block A 1 Bed	1	489	£200,000	30%	£140,000
Block A 1 Bed	5	583	£227,000	30%	£158,900
Block A 2 Bed	7	734	£280,000	30%	£196,000
Block A 3 Bed	5	910	£340,000	30%	£238,000
Block B 1 Bed	1	489	£200,000	30%	£140,000
Block B 1 Bed	4	583	£227,000	30%	£158,900
Block A 2 Bed	9	734	£280,000	30%	£196,000
Block C 1 Bed	1	489	£200,000	30%	£140,000
Block C 1 Bed	3	583	£227,000	30%	£158,900

- 7.76 The Financial Viability appraisal also confirms that the proposal will support a 50% less than rental market discount (for a period of 10 years) for the commercial space within block C that will be offered to the LGBT charity or other charity, or community organisation should that charity no longer be able to occupy the unit. The 50% reduction in market rent reflects a rate of £40,763 per year; over a 10-year period this

discount equates to a reduction in the gross development value of £231,346. These benefits will be included within the Section 106 legal agreement, as agreed with the applicant.

- 7.77 Other requests for contributions have been received with respect to education and from Sport England. However, it is not likely that the proposed development would deliver a significant proportion of family housing, that said it would provide ample space for outdoor physical activity. In addition, achieving an element of affordable housing and the discount retail units are considered a priority in this instance. Therefore, the preference is to comply as far as possible with Policy TP31 by providing on site affordable housing.

8 Conclusion

- 8.1 The site is located within the City Centre Growth Area under Policy GA1.1. The scheme would make an efficient use of this largely vacant brownfield site and contribute to the City's need for residential accommodation. It is considered that the scale and massing would be appropriate for the emerging context with the provision of a pedestrian link to improve connectivity and create a good place in accordance with Policy PG3. 7.2 There are however noise impacts from the surrounding late-night premises and Policy DM6 of the Development Management DPD and the NPPF seek to ensure that new development is integrated effectively with existing businesses. In this instance mitigation via sealed windows units has been agreed to adequately mitigate against noise in this locality subject to conditions. Furthermore, the scheme would provide discounted commercial space for the LGBT charity, some affordable units as well as a large number of much needed housing, particularly given the city's inability to demonstrate a 5-year housing land supply. There would be a net positive impact upon biodiversity subject to the recommended conditions and notwithstanding the small amount of employment land the scheme would, on balance make a positive contribution towards the regeneration of this part of the city centre. The minor heritage harm identified is outweighed by the overall benefits of the proposal.
- 8.2 I consider that the proposed scheme is acceptable subject to the completion of a legal agreement to secure the delivery of onsite affordable housing, discounted rental commercial space and safeguarding conditions.

9 Recommendation:

- 9.1 That application 2021/05033/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
- 9.2 a) 5% (36) affordable units at a mix of 1,2 and 3 bedroom apartments provided at a discount on market value of 30%.
- b) Discounted Market rental commercial space, at 50% discount on market rates, for a period of 10 years to be occupied by a charity (LGBT).
- c) Payment of a monitoring and administration fee associated with the legal agreement, subject to a maximum of £10,000.
- 9.3 In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 29th July 2022, or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the following reason:

In the absence of any suitable legal agreement to secure the provision of onsite affordable

housing and a discount market rent commercial space the proposal conflicts with Policies TP31 and PG3 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.

- 9.4 That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 29th July 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 Time Limit Implement within 3 years (Full)
 - 2 In accordance with approved Plans
 - 3 Requires demolition phasing plan, method statement and management plan
 - 4 Requires a Construction Ecological Management Plan
 - 5 Requires a Scheme of Noise Insulation between commercial and residential premises
 - 6 Requires the submission of wind mitigation measures
 - 7 Requires a construction statement/management plan
 - 8 Requires submission of a Contamination Remediation Scheme
 - 9 Requires submission of a Construction Employment Plan
 - 10 Requires the submission of sustainable drainage scheme.
 - 11 Requires a Sustainable Drainage Assessment
 - 12 Details of foul and surface water details
 - 13 Requires submission of an Arboricultural Method Statement
 - 14 Requires submission of a Noise Mitigation Scheme
 - 15 Details of bird/bat boxes
 - 16 Requires the submission of hard and soft landscape details.
 - 17 Requires the submission of hard surfacing materials
 - 18 Requires the submission of photovoltaics details.
 - 19 Details of green roofs
 - 20 Requires material samples
 - 21 Architectural and specification details
-

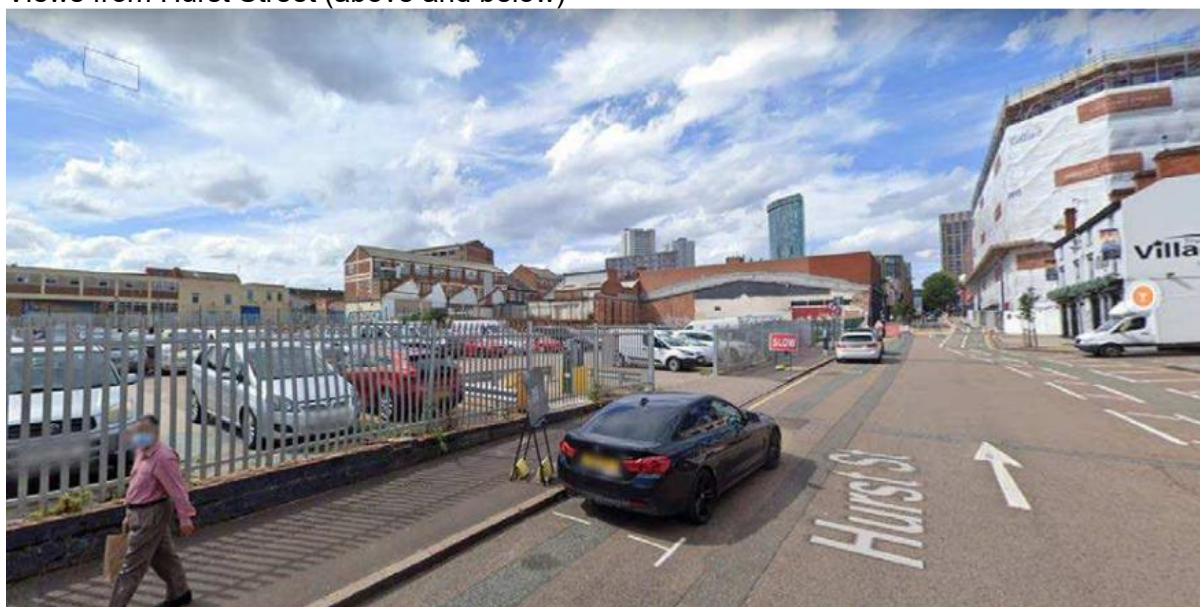
22	Requires submission of noise commissioning testing
23	Requires scheme for ecological/biodiversity/enhancement measures
24	Requires submission of a sustainable drainage operation and maintenance plan.
25	Requires the parking (to include electric vehicle charging points) and cycling area to be laid out.
26	Requires the submission of a parking management strategy
27	Requires the submission of boundary treatment details required
28	Requires details of CCTV
29	Requires submission of a Waste Management Plan
30	Requires redundant footpath to be reinstated
31	Requires pedestrian visibility splay to be provided
32	Requires a Lightning Scheme to be submitted
33	Requires a Landscape Management Plan to be submitted
34	Hours of Operation
35	Site Delivery Hours
36	Noise Levels for Plant and Machinery
37	Commercial Uses
38	No obstruction, displays or signage fitted to commercial premises
39	Energy and Sustainability in accordance with statement
40	Remove PD rights for telecommunications equipment

Case Officer: Sarah Plant

Photo(s)



Views from Hurst Street (above and below)



View includes the Timber Yard when it was under construction and the Village Inn.



View from Sherlock Street

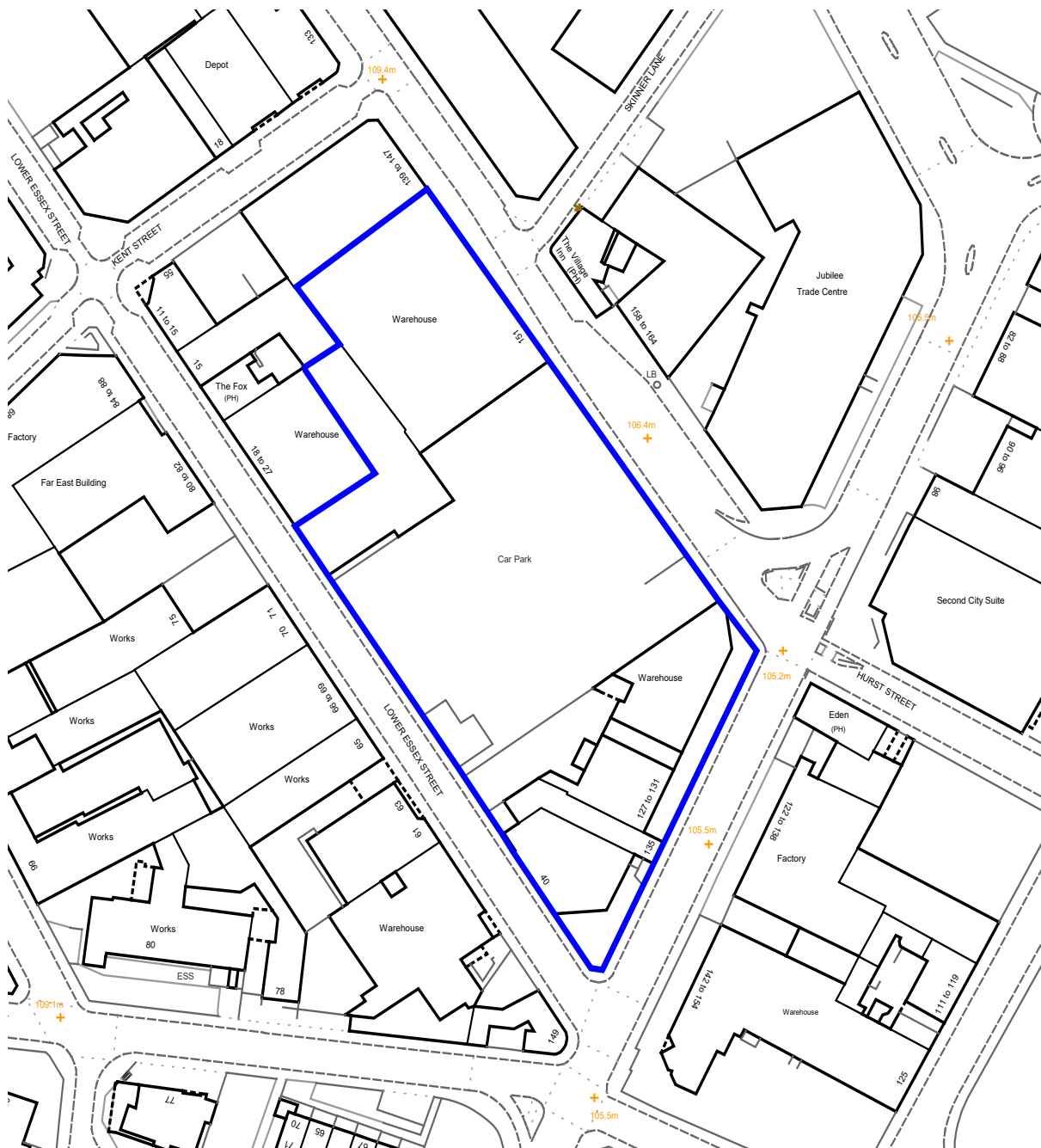


View from Lower Essex Street



View opposite the Nightingale

Location Plan



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

Birmingham City Council

Planning Committee

29 September 2022

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

Approve - Conditions

13

2022/05712/PA

Vacant land adjacent 48 Vann Close
Small Heath
Birmingham
B10 0DE

Outline planning application with all matters
reserved for the construction of a self/custom build
dwellinghouse

Committee Date:	29/09/2022	Application Number:	2022/05712/PA
Accepted:	19/07/2022	Application Type:	Outline
Target Date:	13/09/2022		
Ward:	Bordesley Green		

Vacant land adjacent 48 Vann Close, Small Heath, Birmingham, B10 0DE

Outline planning application with all matters reserved for the construction of a self/custom build dwellinghouse

Applicant: Birmingham City Council
PO Box 16579, Birmingham, B2 2GQ
Agent:

Recommendation

Approve subject to Conditions

1. **Proposal:**

1.1 Outline planning consent is sought for the erection of a self-build/custom-build dwellinghouse, with all matters reserved, at land adjacent to 48 Vann Close, Small Heath.

1.2 [Link to Documents](#)

2. **Site & Surroundings:**

2.1. The application site is a small area of incidental open space located on the corner of Vann Close, which is formed of post war, terraced, red and pale buff brick, two storey dwellings. The site is currently landscaped with lawn, laurel shrubs and two mature sycamore trees to the rear. The site is open and benefits from dual street frontage.

2.2. The other houses within the vicinity have open front gardens some with low boundary treatments. Many of these gardens have been converted into driveways with parking. To the site's east/southeast boundaries lies the Holy Trinity School, which has a recently constructed large gym building adjacent to its Vann Close boundary.

2.3. [Link to Site](#)

3. **Planning History:**

3.1. 2020/04217/PA 'Demolition of existing buildings and erection of single-storey detached SEN teaching block and double-storey detached sports hall with associated works.' Granted 30.09.2020

3.2. 2020/08554/PA 'Pre-application advice for erection of 1 dwelling house'.



Figure 1: Aerial View of Application Site (Note: Recently built gymnasium is not shown)



Figure 2: Location Plan

4. **Consultation Responses:**

- 4.1. Severn Trent Water – No objection.
- 4.2. West Midlands Police – No objection.
- 4.3. BCC City Design Team – Separation distance to newly constructed gymnasium should meet Council's guidelines. Proposed dwelling should align to surrounding character in terms of established building lines, scale and materials.
- 4.4. BCC Transportation – No objection. Depending on the location, the access may require the removal/resiting of the street lighting.

- 4.5. BCC Environmental Pollution – No objection subject to conditions for a Contamination Remediation Scheme, a Contaminated Land Verification Report, and a Construction Method Statement.

5. **Third Party Responses:**

- 5.1. The application has been publicised by the placing of a site notice and the posting of neighbour letters.
- 5.2. A petition signed by 23 local residents was received raising the following planning matter(s):
- Loss of green space and wildlife area.

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

National Planning Policy Framework

- 6.1. Chapter 2: Achieving Sustainable Development – paras. 7, 8, 10, 11
Chapter 4: Decision-making – paras. 38, 55, 56, 57
Chapter 5: Delivering a sufficient supply of homes – paras. 63, 65
Chapter 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, 131
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

Birmingham Development Plan 2017

- 6.2. 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
TP28 The location of new housing
TP29 The housing trajectory
TP30 The type, size and density of new housing
TP31 Affordable housing
TP39 Walking
TP40 Cycling
TP44 Traffic and congestion management
TP45 Accessibility standards for new development

Development Management in Birmingham DPD

- 6.3. DM2 Amenity
DM3 Land affected by contamination, instability and hazardous substances
DM4 Landscaping and trees
DM6 Noise and vibration
DM10 Standards for residential development

DM14 Transport access and safety
DM15 Parking and servicing

Supplementary Planning Documents & Guidance

- 6.4. Design Guide (2022)
Birmingham Parking SPD (2021)

7. Planning Considerations:

- 7.1. The main planning consideration for this outline application is the principle of the development. Other material considerations of layout, scale, appearance, landscaping, access, biodiversity, residential amenity, highway safety, parking, drainage/flood risk are only assessed at this stage to determine whether an acceptable scheme can be developed on the site at reserved matters stage.

Five Year Housing Land Supply

- 7.2. NPPF paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, paragraph 11 d) states that where the policies which are the most important for determining the planning application are considered out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Footnote 8 of the NPPF confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.3. The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.

Principle of Development

- 7.4. The application site is within an established residential area with good links to public transport and services and, therefore, the principle of a new dwelling in this location is acceptable subject to an assessment of all other material planning considerations at the outline stage.

Self and Custom Build Housing

- 7.5. Notwithstanding the acceptance of the principle of general residential development in this location, this application is for a particular type of housing, namely self and custom build housing (SCBH). Within the Birmingham Development Plan (BDP) there are no policies for this particular type of housing, however, the Development Management DPD at Policy DM13 (Self and custom build housing) states that the *'Council will actively support the development of self and custom-build homes in suitable locations where they support the delivery of the Birmingham Development Plan and do not conflict with other policies in the Local Plan'*.
- 7.6. As well as Policy DM13, it is also necessary to take into account the provisions of the Self-Build and Custom Housebuilding Act 2015. The accompanying Self-Build and Custom Housebuilding (Register) Regulations 2016 oblige all councils in England to

keep a register of individuals (and associations of individuals) who are seeking to acquire serviced plots of land in their area for this purpose. Each authority that is required to hold a register has a 'Duty to grant planning permission' to enough suitable serviced plots of land in order to meet the demand for self-build and custom house building in their area. This level of demand is based on the number of entries added to an authority's register during a base period. The base period runs from 31 October to the 30 October each year.

- 7.7. As of November 2021, the current position within BCC was that there were 252 individuals and 5 group entries on the Register. The Council does not currently monitor whether planning applications are specifically for self or custom build dwellings. On this basis, at the present time, it must be concluded that there is a need for making further provision for SCBH plots in the city.
- 7.8. Given national policy enshrined in the Self-Build and Custom Housebuilding Act 2015 and accompanying Regulations, as well as paragraph 62 of the NPPF and Policy DM13 of the Development Management DPD, the provision of SCBH is a material consideration weighing heavily in favour of the granting of planning permission for such schemes in appropriate locations.

Loss of Green Space

- 7.9. The application site measures approximately 350sq.m in a rectangular shape (35m x 10m). The site is currently landscaped with lawn, laurel shrubs and two mature sycamore trees to the rear and, therefore, its amenity value is derived more from its visual presence than its practical use. To ensure that a similar incidental green area is maintained in the streetscene, any future dwelling at reserved matters stage should align with the building line to the north-west and pullback any boundary treatments from its northern boundary by around 3m.
- 7.10. Concerns have been received by some local residents with regards the loss of the area; however, given its relatively poor surveillance, physical quality, limited size and the proximity of more established and practical open spaces at Farm Park, Small Heath Park and Sara Park, on balance, I consider some loss of the area to be acceptable in this case.

Other Matters

Access

- 7.11. Whilst the proposed access is not currently for determination, the submitted indicative layout shows it to be from north-western boundary, which I consider to be the most likely in the circumstances. Although, it should be noted that the current street lighting column would need to be relocated in this scenario.
- 7.12. On the basis of the information submitted, I consider that a suitable and safe access from the highway is possible to the site. Conditions for EVCP and storage for bicycles are necessary to encourage sustainable travel and would be imposed on any grant of outline permission.

Appearance, Landscape, Layout and Scale

- 7.13. The area surrounding the application site is strongly characterised by uniform, terraced, post war housing with a well-defined building line. In this setting, it is not instantly apparent how a SCBH scheme which, by its very nature is of individually designed and constructed properties, would fit into this homogeneous setting.

Ultimately, any future scheme would be considerably constrained by the existing build pattern, scale and architecture in the vicinity.

- 7.14. Whilst the indicative site plan shows a generously wide plot in comparison to the neighbouring dwellings, I do not consider that this would be appropriate in this case and, at reserved matters stage, I would encourage the detached dwelling to be positioned closer to the adjacent dwelling, with an area of public green space to be maintained to the side.
- 7.15. Nevertheless, whilst the application is in outline and that matters of appearance, landscaping, layout and scale are reserved for later consideration, there is considered to be sufficient scope for the proposals to be acceptable in relation to the Council's policies and guidance, which require proposals to be appropriate to their immediate surroundings and to the overall size and character of the area and adopt high levels of design quality.

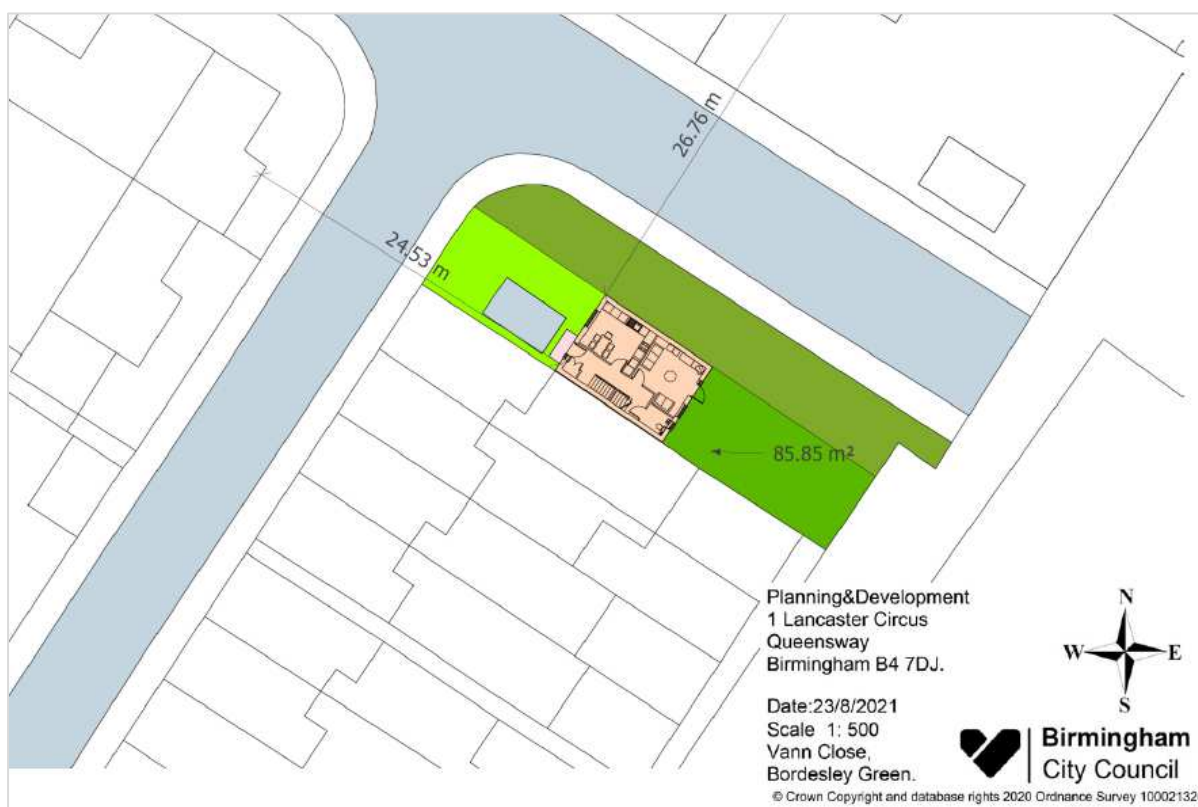


Figure 3: Indicative Site Plan

Flood Risk and Drainage

- 7.16. The site is located within Flood Zone 1 (lowest risk of flooding) where development is considered acceptable in principle. Severn Trent Water has assessed the proposed development in relation to drainage and flood risk and has raised no objection, as they consider that the development would have minimal impact on the public sewerage system. Given this, I do not consider that the proposals would result in an unacceptable increase in surface water run-off from the site.

Residential Amenity

- 7.17. Given the location of the site and the probable position of the proposed dwelling, there is clearly scope to ensure that the finished dwelling does not unacceptably intrude on neighbouring amenity by way of overlooking, overshadowing and overbearing impact.

- 7.18. In relation to future residents of the proposed dwellings, I consider that space would be available to ensure that the requirements of the DCLG's (now DLUHC) 'Technical housing standards – nationally described space standard' are met and that sufficient rear garden space is made available in accordance with standard within the Design Guide SPD.
- 7.19. To the rear of the site, the recently constructed gymnasium to the school would be near to the rear boundary of the site. If, as shown on the indicative site plan, the proposed property would have a rear wall aligned to the adjacent dwellings, then the 9.9m high gymnasium would be approximately 22.5m away. The Design Guide SPD details a required separation distance of 21m between building faces. Given this, I consider that a suitably sized property which maintains the required separation distances could be developed on the site.

Anti-social Behaviour and Crime

- 7.20. West Midlands Police have raised no objection to the proposals but have recommended that any future reserved matters submission is designed and implemented in accordance with the guidance contained within 'Secured by Design'.

Community Infrastructure Levy (CIL)

- 7.21. The proposal is liable for CIL; however, as the proposed development is for self-build/custom-build, if the dwelling came forward in this manner and met the relevant criteria, then it would be exempt from paying CIL.

Planning Balance

- 7.22. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking. In this case, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.23. The NPPF gives three dimensions to sustainable development: social, economic and environmental. These should not be assessed in isolation because they are mutually dependant. Assessing the planning balance against these three strands, I consider that the likely **benefits** from the proposals would be:

Economic

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

Social

- Supply of an affordable dwelling for younger families

Environmental

- Potential ecological enhancements through new planting

- 7.24. With regards to the potential **harm** arising from the development these are considered to be:
- Environmental effects of noise, disturbance, dust etc. during construction phase (this would be controlled through a condition for a CMP)
 - Loss of a small green area.
- 7.25. As well as the above considerations, considerable weight is given to the Council's lack of a 5YHLS.

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

8. **Conclusion**

- 8.1. The proposed development lies in a sustainable location near to facilities, services and public transport and would boost the Council's supply of housing and, in particular, self-build/custom-build dwellinghouses.
- 8.2. On the basis of the above considerations, I have concluded that the proposal is sustainable development. I therefore consider that the presumption in favour does apply in this case and that outline planning permission should be granted.

9. **Recommendation:**

- 9.1. Officers have made a recommendation on the basis of the Development Plan and other material considerations. It is for the Committee to weigh and balance these in coming to a decision, based on their judgement of the available evidence.
- 9.2. It is therefore recommended that the outline application be GRANTED subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

-
- | | |
|----|--|
| 1 | Implement within 3 years (outline) |
| 2 | Requires the submission of reserved matter details following an outline approval |
| 3 | Requires the scheme to be in accordance with the listed approved plans |
| 4 | Requires the submission of materials details |
| 5 | Requires the submission of details of refuse storage |
| 6 | Requires the submission of cycle storage details |
| 7 | Requires the provision of a vehicle charging point |
| 8 | Requires the implementation of tree protection |
| 9 | Requires the submission of hard and/or soft landscape details |
| 10 | Requires the prior submission of a contamination remediation scheme |
| 11 | Requires the submission of a contaminated land verification report |
-

12 Requires the prior submission of a construction method statement/management plan

Case Officer: Eddie Wrench

Photo(s)

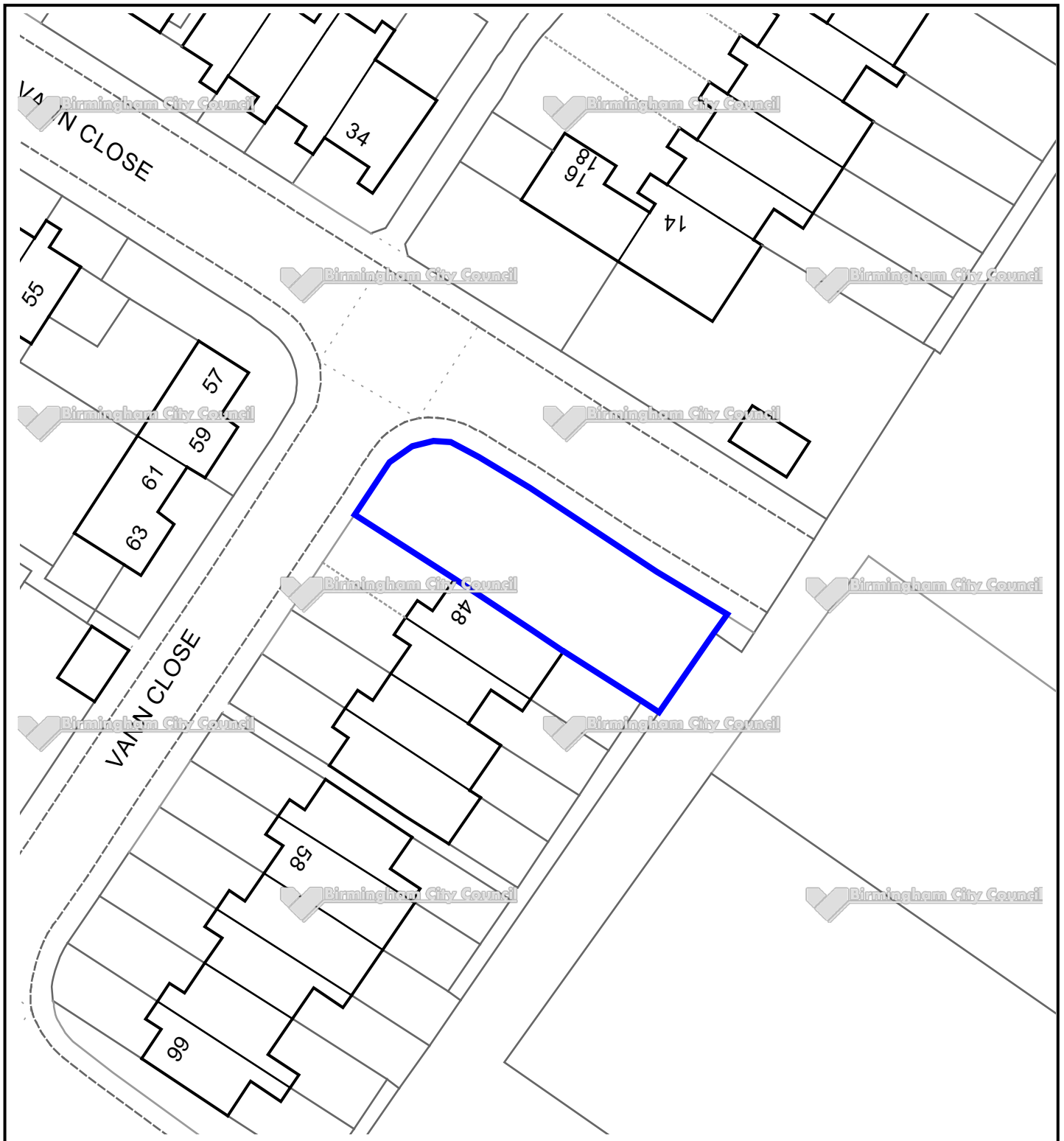


Photo 1: South-east view of site from Vann Close



Photo 2: West view of site from Vann Close

Location Plan



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