

# **Birmingham City Council**

## **Planning Committee**

**10 November 2022**

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	6	2022/04246/PA  Land at Gough Street/Suffolk Street Queensway Birmingham B1 1LT  Full planning application for the erection of a purpose-built student accommodation (PBSA) scheme (Sui Generis) including amenity space and landscaping

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Committee Date:	10/11/2022	Application Number:	2022/04246/PA
Accepted:	25/05/2022	Application Type:	Full Planning
Target Date:	14/11/2022		
Ward:	Ladywood		

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

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

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

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Recommendation

**Approve subject to Conditions**

1. **Proposal:**

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



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

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

1.3 In terms of room schedule the following is proposed:

1.4

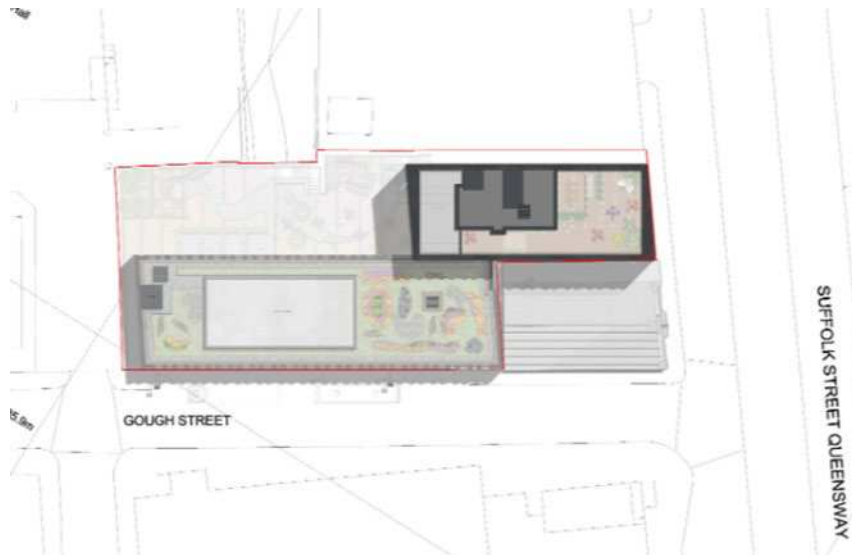
- 170 standard studios (16m<sup>2</sup>),
- 104 standard+ studios (17m<sup>2</sup>),
- 140 enlarged studios (20m<sup>2</sup>),
- 118 premium/UA Studios (24 -26m<sup>2</sup>)
- 8 Vita Ultimate studios (31m<sup>2</sup>).

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



1.6 Image 2: Floor plan of level 2

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



- 1.8 Image 3: Site arrangement plan – view from roof level
- 1.9 The site will be operated by Vita Group who run a similar establishment at the former Pebble Mill Site, Edgbaston. The residence will have a single point of entry for pedestrians which will be through the main entrance located off Gough Street and through a management office which will be manned 24-hours a day, giving the team visibility of everyone entering and leaving the site. Entry will be through a computer-based access control system and every student will be issued with an electronic fob which will give them access to the communal hub space as well as their specific studio.
- 1.10 Non-residents who visit will be required to sign-in and will wait in the reception area for the resident to come and collect them. The site will benefit from CCTV and a bespoke internal and external lighting scheme to ensure that both within the property and outside, a safe and secure environment is created.
- 1.11 There is to be external amenity space on the ground floor, a garden on the 11th floor and a terrace on the 28<sup>th</sup> floor.
- 1.12 As for internal amenity space I note there is to be a café/cycle store/gym/games room and bookable private dining area will be provided at level 28.
- 1.13 Level 01 Terrace: 243m<sup>2</sup>  
 Level 02 Terrace: 200m<sup>2</sup>  
 Level 28 Roof Terrace: 176m<sup>2</sup>  
 Total External Amenity Space: 619m<sup>2</sup>
- 1.14 Level 0 Amenity: 342.87m<sup>2</sup>  
 Level 01 Amenity: 654.22m<sup>2</sup>  
 Level 28 Amenity: 60.73m<sup>2</sup>  
 Total Internal Amenity Space: 1057.82m<sup>2</sup>



Image 4: Illustration of outdoor amenity area at levels 02 and level 03

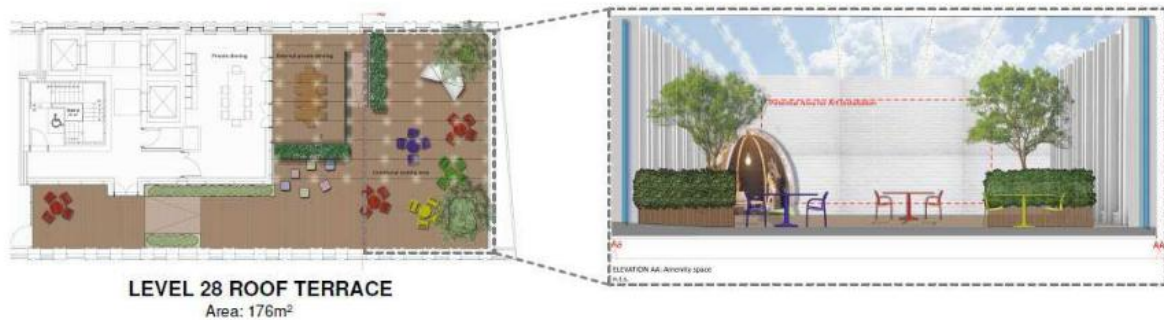


Image 5: Illustration of outdoor amenity at level 28/roof terrace

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



1.16 Image 6: Elevational detailing

## 1.17 Additional/Amended Plans



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

1.19 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1. The application site is approximately 0.18ha and is located in the city centre on the west side of Suffolk Street Queensway, which is a major highway artery into Birmingham from the south. The site reflects the shape of an 'L' in plan, wrapping around an existing late 19th/early 20th century brick and terracotta Locally listed Christadelphian Hall (which sits on the northern corner of Gough Street and Suffolk Street Queensway). As such the site fronts Suffolk Street Queensway to the west and Gough Street to the south.
- 2.2. The application site comprises cleared brownfield land previously occupied by a print works and cultural centre. The site is cleared of buildings and bounded by hoarding. It features steep topography that runs westerly from the Suffolk Street Queensway frontage up to the western (top) end and beyond and comprises a strong topographical feature that it shares with the surrounding blocks.
- 2.3. The east of the site and beyond lies the underpass of the Suffolk Street Queensway and on the opposite side of the Queensway is a townscape of median and tall scale buildings, forming a 'wall' of development characterising the area around New Street Station.
- 2.4. To the south of the site is a seven-storey 1970's concrete clad commercial building now used residentially with a multi-storey behind it. Directly north is an area of back-land surface level parking which separates the site from another seven-storey 1970's 7 storey concrete clad commercial building (recently) in residential use. Beyond this is other new mid-scale residential development as well as the Mailbox retail and leisure complex.
- 2.5. The site is not within or adjacent to a Conservation Area but there are some nearby Heritage assets notably the Grade II\* listed Singers Hill Synagogue and on nearby Severn Street some Grade II listed buildings, the former British School, Caretaker's House for the Birmingham Athletics Institute and the Athol Masonic Institute.
- 2.6. [Google site map](#)

3. **Planning History:**

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

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

01/03/2019 – Land at Gough Street/Suffolk Street Queensway – 2019/01740/PA – Application to determine the details for condition numbers 7 (arboricultural method

statement) and 8 (requires tree pruning protection) attached to planning approval 2018/09086/PA). Approved

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

### 3.2 Adjacent the application site (northwards)

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

13/01/2022 – Queensgate House, 121 Suffolk Street Queensway – 2021/10075/PA – External alterations to facades of the building to include installation of render, fibre cement rainscreen cladding system and framing to top floor, replacement of existing commercial frontages and replacement windows and doors. Approved subject to conditions.

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

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

04/04/2014 – Land at 121 Suffolk Street Queensway - 2013/05474/PA - Application to extend the time of extant planning application 2010/02930/PA for the erection of a 25 storey building fronting Suffolk Street Queensway comprising 259 bedroom hotel and 9 storey building fronting Severn Street comprising 144 apartment/hotel rooms, ancillary parking and landscaping. Approved subject to conditions.

19/08/2010 – Land at 121 Suffolk Street Queensway – 2010/02930/PA - Erection of a 25 storey building fronting Suffolk Street Queensway comprising 259 bedroom hotel and 9 storey building fronting Severn Street comprising 144 apartment/hotel rooms, ancillary parking and landscaping. Approved subject to conditions.

## 4. **Consultation Responses:**

- 4.1 City Design – no objections subject to conditions around final architectural, material and landscaping details.
- 4.2 Conservation – no objections, comments are provided within the report.
- 4.3 Historic England: raises concerns regarding the impact of the tower and the resulting harm that this would cause to the significance of the Grade II\* listed Singers Hill Synagogue and the locally listed Christadelphian Hall, through this scale of development within their immediate setting. Further comments are provided and considered in the report.
- 4.4 Victorian Society - object to these proposals as are currently presented and urge the City Council to refuse consent. VS considers the application unacceptable and that

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

- 4.5 Archaeology – no objections, the development is unlikely to affect significant archaeological remains. The site sits beyond the core of the historic town and was not developed until the early 19<sup>th</sup> century, the previous development of the site will also have impacted upon any buried remains that did survive. No conditions are recommended or any further archaeological investigation.
- 4.6 BCC Transportation Development – no objections subject to conditions requiring the development not to be occupied until highway works under a highway's agreement are provided, cycle parking to be provided and an updated construction management plan.
- 4.7 Tree Officer – no objections subject to tree protection and tree pruning conditions.
- 4.8 Ecology – do not object however seek revisions to the biodiversity offer, tree planting/landscaping. The landscape management plan needs amending (with regards to the volume water required per tree) prior to agreeing to condition the management plan for implementation.
- 4.9 Regulatory Services – no objections subject to conditions requesting a noise insulation scheme, noise levels for plant and machinery, contamination remediation scheme and contamination verification report. No concerns regarding air quality.
- 4.10 Local Lead Flood Authority – objected to the scheme 14.07.22 and sought for further information. Amended plans and reports were submitted and the LLFA reconsulted. The LLFA responded 20.10.22, removed their objection and stated 'As the proposal has now supplied the STW Developer Enquiry details, we recommend the following conditions to ensure the proposed development complies with the minimum requirements of the NPPF and Policy TP6 of the adopted Birmingham Development Plan: 1. Requires the prior submission of a sustainable drainage scheme and 2. Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
- 4.11 Severn Trent Water – made no comments.
- 4.12 Employment Access Team – no objections subject to employment condition
- 4.13 West Midlands Police - no objections subject to lighting and CCTV conditions.
- 4.14 West Midlands Fire Service – no objections and recommend a design informative
- 4.15 Health and Safety Executive – requires further information to comment including the provision of a Qualitative Design Review. As of 29.09.22 HSE confirm they are satisfied with the additional information provided.



4.16 Planning and Growth Strategy – no objections subject to conditions regarding energy statement and BREEAM Certificate and concurs there is student need.

4.17 Birmingham Civic Society:

Considers the scheme to accord with GA1., to be sustainably located and situated within a cluster of tall buildings. BCS have reviewed the Heritage Statement and agree with this assessment. They state the scheme would substantially overshadow the locally listed Christadelphian Hall which sits adjacent, but most development here would, unless only of 1-2 storeys, and its principal façade would still be seen and appreciated. BSC acknowledge the positive aspects of the proposal. In terms of design BCS state there are large expanses of curtain wall with little consideration of detail to entrance doors, security, signage, lighting. The facade drawing in Part 14 of the DAS shows 'potential and aspirations' without any commitment to quality of materials, construction and detailing. The façade facing the A38 was considered to present a hostile appearance to the city.

In summary, BCS support the scheme on many levels, yet encourage the above points regarding design and treatment to be addressed, and object to the scheme in its current form.

4.18 Birmingham International Airport – no objections subject to conditions

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

5.1. The application has been advertised in the press, publicised by 3 site notices and neighbours notified. In addition, the Local MP, local residents' groups and forums have been consulted. Associations and Ward Councillors consulted. 25 neighbouring objectors have submitted 26 letters of objection.

5.2 Neighbours raise the following comments/concerns

- the 28 storeys will block most of the sunlight and overshadow around 200 households and 800 residents living in the apartment block Westside One and Westside Two.
- the 28-storey high rise section is on the North-eastern side which is closest to the Westside One and Westside Two residents.
- the new build is 4 times more in height than the 7 storey which will cause a big impact by blocking most of the sun light and overshadowing the surrounding area.
- scale, height and massing and materiality of this tall proposal appears oppressive and overbearing and moreover is unrelieved by lightness of touch and elevational relief.
- is a dated eyesore that would appear to apply in this case
- very tall buildings require exemplarily design in mitigation of their impact. By no means can this be classed as an exemplarily designed tall building.
- this is fundamentally unacceptable by any reasonable design standard (as well as Birmingham Design Guide) to have such a monolithic windowless faced on such a prominent building.
- it antisocially turns its back on the city and would be very difficult to correct in the future if approved. This cannot be approved in its current design.
- loss of daylight will have an effect on mental health and healthy way of living
- site would be better as a green area
- this will cause noise pollution during and after construction
- loss of privacy
- will destroy the Birmingham Skyline
- will destroy a piece of heritage
- number of student residents will put a strain on local medical services and facilities
- building teams are currently digging up foundations on site already

- site includes no parking and is assumed the car parks around the area will be used, when the road is already blocked with cars
- will destroy local heritage for commercial gain
- will ruin the Birmingham skyline

#### Objection from adjoining landowner (Queensgate House)

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

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

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

Section 2: Sustainable Development

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 12: Achieving well-designed places

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

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

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

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

- PG1 Overall levels of growth
- PG3 Place making
- TP1 Reducing the City's carbon footprint
- TP2 Adapting to climate change
- TP3 Sustainable construction
- TP4 Low and zero carbon energy generation
- TP6 Management of flood risk and water resources
- TP7 Green infrastructure network
- TP8 Biodiversity and Geodiversity
- TP9 Open space, playing fields and allotments
- TP12 Historic environment
- TP24 Promotion of diversity of uses within centres
- TP26 Local employment
- TP27 Sustainable neighbourhoods
- TP28 The location of new housing
- TP29 The housing trajectory
- TP30 The type, size and density of new housing
- TP33 Student accommodation
- TP37 Heath
- TP38 A sustainable transport network
- TP39 Walking
- TP40 Cycling
- TP44 Traffic and congestion management
- TP45 Accessibility standards for new development
- TP46 Digital communications

### 6.3 Development Management DPD

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

### 6.4 Supplementary Planning Documents & Guidance

- Student Accommodation Supply and Demand (January 2021)
- Birmingham Parking SPD (2021)
- Public Open Space in New Residential Development SPD (2007)
- Affordable Housing SPG (2001)
- Birmingham Design Guide SPD 2022

## 7. Planning Considerations:

### 7.1. The main material considerations are:

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

## Principle of Development

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

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

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

Aston University  
University College Birmingham  
Newman University

- 7.4 The applicants CBRE report estimates the existing demand at **16,800** bedspaces based on HESA data 2020/21. However, BCC's latest assessment of demand arising from the main city centres universities shows a current figure of **15,880** bedspaces. This difference was highlighted to the applicant, and they stated the reason for the reports arriving at different figures was because they have included different universities in the demand pool (when calculating the estimated demand). Discussions between the agent and the Planning and Growth Policy office were therefore had around which universities, accommodation needs and demand calculations.

- 7.5 It was agreed that despite arriving at the different figures above, the Student Needs Assessment estimated an unmet demand (including pipeline supply) of 3,224 bedspaces: arising from the 3 main city centre universities. BCC'S latest assessment (at Feb 2022) confirmed a figure of 2,060 bedspaces. Therefore, notwithstanding any corrections that need to be made to the submitted Student Needs Assessment, BCCs assessment confirms there is a level of unmet demand within the City Centre (2,060 bedspaces) which is in excess of current supply when comparing existing demand to existing available and consented supply.

- 7.6 It is considered the data provided shows that there is a demonstrated need for additional PBSA.

### Location

- 7.7 There is no formal definition of 'very well located' in the context of policy TP33 however the Guidance Note on Student Accommodation Statements refer to a 15—20minute walk as a guide and is based on BDP policy TP45 Accessibility Standards for new development. This equates to approximately 1.5km.

- 7.8 The proposed development is a five-minute walk from New Street Station. The supporting Student Needs Assessment also states the site is located a short walk (within 0.5miles) of four universities and easy walking distances to other university campuses:

- 11 minute walk/5 minute cycle ride to Birmingham School of Art (3 Margaret Street)
- 13 minute walk/6 minute cycle to University College Birmingham (Summer Row)
- 17 minute walk/8 minute cycle to Aston University (Building 5 Aston Business School)
- 22 minute walk / 8 minute cycle to Birmingham City University (City Centre Campus)
- 24 minute walk/ 10 minute cycle to School of Jewellery (82-86 Vittoria Street)
- 26 minute walk/10 minute cycle to the University of Law Birmingham

Image 7: A list of the walking and cycling travel times from the application site to nearby Universities

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

#### **Site security and management**

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

#### **Design**

- 7.11 Layout

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

- 7.12 With regards to amenity provision, Design Principle LW-13 of the Design SPD states all residents should be able to access private outdoor amenity space of sufficient size and quality to service intended occupants; and as a minimum requires 10sq.m per resident for sui-generis shared residential use. Although the space provided falls short of the standards the proposed level of amenity would create several smaller spaces of variety that would enable different residents to have private space. Additionally, 1057.82m<sup>2</sup> of internal amenity space is being provided and there are several areas of green space in walking distance of the application site. Therefore, I considered the level of amenity proposed acceptable in this case.

#### **Architecture and materiality**

- 7.13 The proposed red/orange brick is very positive and a colour which falls in keeps with and respects the base material of City and surrounding heritage assets (including the synagogue and British School). The elements of stack bonding are also very welcomed. The verticality of the long elevations has been organised in way that reflects the linear windows of the adjoining Christadelphian Hall. The scheme also proposes linear modelling of the brick piers.
- 7.14 The design of the windows is generous and the contrast between the rhythm of the north and south elevations of the tower gables is positively interesting. The narrow profile of the tower includes a single thin slot window frame with alternating chamfered blocks of masonry, stepped out within the frame.

- 7.15 A double-height ground floor to Suffolk Street Queensway has been amended to be fully glazed, creating more visual interest at street level, natural surveillance and active frontage to Suffolk Street Queensway. Additionally, the east and west gable ends have been updated so that the projecting brickwork areas are not uniform, to provide further interest to the elevation. The soffits are presented in a matching brick so they read as a whole when one observes the building upwards and the ground floor is opened up with glazing and the internal pilasters are now external and a strong feature of cylindrical concrete. The amendments are welcomed and secure a scheme of bespoke and exciting design.
- 7.16 To the top of the tower the crown/parapet is deep and appears to screen planting from view however there appears to be a space left vacant for future signing. Signing and lighting in this location would not be welcomed and should be resisted. As a result, suitable conditions are proposed to control this.

#### **Scale, height and massing**

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

#### **Impact on the Townscape**

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





Image 8: CGI view of the proposed tower from the west (from Severn Street)

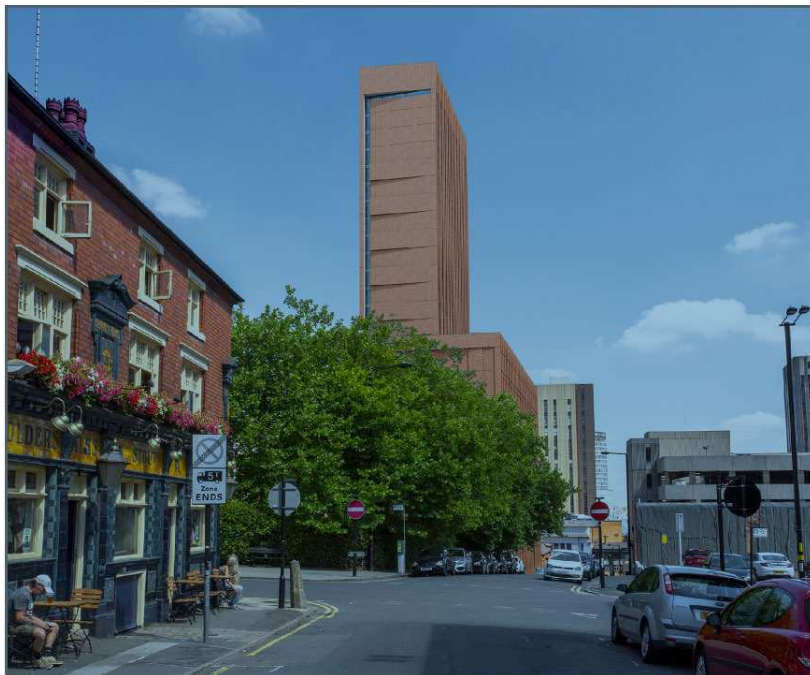


Image 9: CGI view from the south west (Gough Street/Blucher Street)

#### Design Principle 19 – Tall Buildings

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



Westside One and Westside Two are located to the northeast of the site and are separated by the main public highway at approximately 35-57m. Whilst both of these premises feature front facing windows across their entire frontage, I consider the significant separation distance between the existing and proposed would offset any detrimental harm to outlook and loss of privacy.

- 7.28 The numerical standards in the Design Guide SPD give a separation distance guide of 27.5m and 21m and further states that the separation distance should be increased by 2m for every 1m rise in ground level between the new and existing dwellings. On that basis the separation distance would not meet the numerical standards for Queensgate House and Kensington House. However, the guidance is simply that, and should not be applied as a blanket threshold, a point which reflects national policy in NPPF para 125(c); furthermore, the site's context should be considered. In this instance the site is located within the City Centre where the urban grain is tight and the density of development much higher (as encouraged by the BDP and Design Guide) to make the most efficient use of land in sustainable locations. Therefore, in this context the separation distances are considered acceptable with respect to maintaining the privacy of the existing adjacent occupiers, whilst making efficient use of this brownfield land in a sustainable location.
- 7.29 Matters of noise during construction have been raised, whilst this is noted, construction is a day-to-day occurrence across the City and beyond whereby it would be for a temporary period, that said an updated construction management statement will be required by condition to cover working practices and hours of construction/deliveries. Furthermore, the regulatory team have been consulted who confirm no objections subject to noise and amenity mitigating conditions during construction.
- 7.30 With regards to the increase in density in this location I consider the relationship between the building and street environment has been appropriately balanced. Therefore, notwithstanding the concerns raised it is viewed that the proposed, on balance, would provide an acceptable level of residential amenity for neighbouring residents in accordance with policy and guidance. In relation of daylight and sunlight impacts on the possible future development of adjacent sites, this is discussed in the paragraph 7.54.

#### **Impacts on Queensgate House and car park**

- 7.31 An objection has been made by the owner of the adjacent land. This presently comprises a vacant car park and Queensgate House both of which are to the immediate north of the site. Queensgate House has a prior approval consent for its residential conversion (2021/05487/PA) and the objection letter highlights concern with daylight/sunlight impacts and contends that the proposed PBSA scheme will prejudice future development at the Queensgate House (121 Suffolk Street) and its car park.
- 7.32 The effect of a proposed development upon an adjacent site which could otherwise be developed in a different way is capable of being a material consideration for members to consider. If such an effect is considered to be material, then as with all material considerations the weight to be afforded such a concern is for the decision maker.
- 7.33 In this case, members should note that not only have the owners of the adjacent objected on the basis that this proposal will restrict the prospects of developing the adjacent site, but very recently they have submitted a full planning application seeking residential development within a tall building upon the adjacent site. The scheme seeks planning approval for residential development in the form of a 11 and 15 storey block, a close distance (shortest being approximately 3-4metres) from the site boundary. By means of impact on one another the effect of the grant of Planning Permission for either scheme (the proposed scheme on the application site under consideration and the recently submitted scheme) would mean that the other would not be acceptable

(see images 11 - 14 and paragraphs 7.41 – 7.46); to that extent the two schemes are direct alternatives to each other. It is therefore considered that the comparative land use implications of the recently submitted scheme are material considerations to the scheme under consideration in this report. That said, the two schemes are obviously at a very different stage in the planning process, and consultation responses have not been received in respect of the very recent application – so the following assessment is based upon the information available to officers at the time of writing.

7.34 Members should also bear in mind therefore that the comparative benefits/impacts of one scheme become relevant to the determination and are presented in paragraph 7.47 - 7.50 of the report. However, with regards to the letter of objection, the points raised are addressed below.

**7.35 Impact on amenity of the existing Queensgate House Prior Approval Scheme**

In response to the daylight/sunlight concern the applicant recently updated its Daylight and Sunlight assessment to include consideration for the prior approval consent. The report found there to be no unacceptable adverse impacts on daylight/sunlight and stated the below:

7.36 'in respect of the committed scheme at 121 Suffolk Street Queensway, Queensgate Business Centre (planning ref: 2021/05487/PA), the results of both daylight assessments and the sunlight assessment record full BRE compliance (100%), commensurate with the BRE's permissible 20% change from former value.'

7.37 Additionally, the building consented for residential conversion (Queensgate House), positions (at its closest point) 10m away whereby its flank elevation being the nearest. There are windows to the rear of the QH building, yet views between it and the proposed PBSA scheme would be indirect and at a greater distance. At its southern side the QH building features several windows however these are secondary and set back a further distance therefore harm by means of impact on views, loss of light and privacy would not be at an unacceptable level.

**7.38 Prejudicing future development of adjacent land**

In response to an objection from the owners of the neighbouring site alleging that this proposal may have the effect of prejudicing future development at Queensgate House and its car park, the applicant of the PBSA scheme explored the potential for development at Queensgate House car park with the proposed development in situ. That massing exercise presented indicative drawings that show what could potentially be delivered (on site) using a separation distance of 12metres between the building frontages. The indicative drawings showed there is opportunity to create an extended frontage to Queensgate House, along with a rear wing. They show a continuation of the scale at Queensgate House and state there is potential for an additional quantum of development comprising of a new building extending to 14,736m<sup>2</sup>; arranged over ground floor plus mezzanine and 7 upper floors, tying into the height of the existing residential planning approval for Queensgate House (2021/05487/PA). This demonstrates that the effect of the grant of permission would not be to sterilise the development of the adjacent site, even if it were to put limits upon its potential development.

7.39 The exercise also stated further developmental floor space could be secured should the site be redeveloped to include the demolition of the existing Queensgate House.

7.40 In July (this year) a pre-application (from the adjoining landowner) was submitted seeking planning advice for development at Queensgate House car park - development closer in position and significantly taller in height than that of the massing exercise. The LPA considered the proposal and by means of design, townscape massing and proximity to the PBSA site the LPA did not look upon the scheme



favourably. This has now been followed by the submission of a planning application (discussed below).

Although the recently submitted planning application is at an early stage and consultees' responses are unavailable (by reason of timing) this report will nonetheless seeks to assess the effects of the proposed PBSA scheme upon the ability of the adjacent site (Queensgate car park) to be developed for a 15 storey and 11 storey block without a significant standoff as presented in the application plans (2022/07620/PA). Below are three images taken from the planning application pack.

Image 11: Queensgate House Car Park – application red line site boundary

Image 12: Site layout of adjacent Queensgate House application showing the 11-storey block to the left (west) and the 15-storey to the right (east) and north of the PBSA site.



Image 13: Isometric views/images of the Queensgate House application site in isolation (top left) and its proximity to the PBSA boundary (right and bottom).



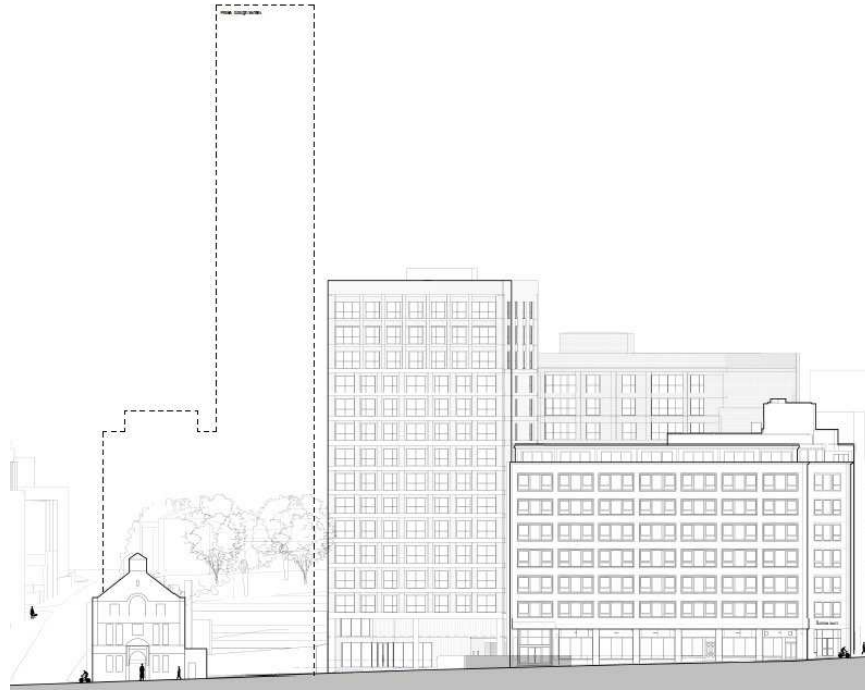


Image 14: PBSA tower in dash lines, residential 15 storey block and 11 storey block (left to right).

#### 7.42 Impact on amenity

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

#### 7.43 Impact on townscape

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

#### 7.44 Impact on heritage

These buildings in such proximity would bring an even larger scale of development into the wider settings of the close by heritage buildings. It is likely to visually intrude further on a number of views and potentially increase the extent of harm identified when compared to the PBSA in isolation. As a result of this application harm to the Grade II\* Singers Hill Synagogue is at the low to moderate end of less than substantial, however given the Queensgate Car Park sits to the rear of this building (albeit lower in storey height), an increase of development could be considered to be at the moderate to severe end of less than substantial whereby an even higher bar of public benefits would need to be weighed against the harm. That said it should be noted that the 11storey block (whilst directly to the rear) would be lower in height and further from the two heritage assets; and the effect of it alone would be less than the effect of the Application scheme's solus impacts.

#### 7.45 Overall

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

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

#### **Comparative exercise: PBSA vs Queensgate Car Park residential proposal**

- 7.47 Given that the application site and the land adjacent to it comprise two possible locations for a tall tower and two buildings of several storeys, albeit at different stages in the planning process, it is considered useful to consider at a high level the comparative position between the two locations; mindful that one involves a fully worked up scheme and the other is at a much earlier stage in the planning process. In the planning balance the merits for the proposal can nonetheless be usefully compared. Below presents the merits and demerits of each scheme. Please note the assessment is necessarily limited in detail, without the availability of consultee responses, further reports, or amendments therefore the comparison is somewhat high level.

#### **7.48 PBSA**

##### **Merits**

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

##### **Demerits**

##### **Heritage Harm**

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

## 7.49 Queensgate House Car Park

### Merits

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

### Demerits

### Daylight and Sunlight Impacts

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

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

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

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

The City Design Officer is in the process of drafting the planning application consultation response and states the following:

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

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

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

## Heritage Harm

The submitted Heritage Impact Assessment concludes no harm to any of the assets assessed. BCC's Conservation Officer is in the process of drafting a response to the planning application consultation and states the application is not supported by a TVIA or any visual analysis therefore it is difficult (at this point in time) to appraise the level of harmful impacts and would recommend the case officer seeks further assessments to assist. Without such and for the purposes of this high-level comparison exercise the Conservation officer has used the visuals provided within the PBSA application to provide the below comments. Please note to accurately understand whether or not the development would be visible and potentially harmful it may be necessary for the scheme to be incorporated into the City Centres 3D Virtual Model View and tested to confirm whether or not it does intrude into any views.

### -Grade II\* Singers Hall Synagogue

It is unlikely that the development would be visible in any significant views and if this is the case then no harm would be concluded. However, if it is shown (via further assessment documentation) that the development is in any significant views then potentially there could be some low level harm to the grade II\* Singers Hall Synagogue

### -Grade II Former British School

The development would introduce a large-scale building into the immediate visual setting of the building but would be read in the context of the existing setting of an adopted large scale. Taking account of the low harm concluded to this asset by the Vita tower the harm here is likely to be less and at the very lowest end of less than substantial.

### -Grade II listed Caretaker's House for Birmingham Athletic Institute and the grade II listed Athol Masonic Building

The level of the development would not be visible in any views of these buildings and therefore no harm is concluded.

### Locally listed Christadelphian Hall

Some minor harm would be caused to its setting.

## 7.50 Conclusion

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

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

## Microclimate

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

### Wind

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

### Daylight, Sunlight and Overshadowing

- 7.54 A Daylight and Sunlight study has been undertaken to assess the impact of the development at neighbouring properties and concludes that the proposed development complies with the 2022 Building Research Establishment (BRE) numerical guidelines. An updated Daylight/Sunlight and Overshadowing Assessment was further submitted in August 2022 following a letter of objection concerning the impact of the proposed on the forthcoming residential conversion of Queensgate House (as approved under ref: 2021/05487/PA). The updated Daylight/Sunlight and Overshadowing Assessment considered the approval at Queensgate House (ref: 2021/05487/PA).
- 7.55 The extent of the scope of the review was determined by considering which neighbouring properties were likely to experience a change in light because of the implementation of the proposed development. The scope zone (sites within the pink line) is presented below. The orange infill indicates the application site.



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

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

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

- 7.57 Nevertheless the true existing baseline measured against the proposed development demonstrated a good level of retained daylight and sunlight values. The proposed development related well with neighbouring residential buildings, with transgressions nonetheless recording good, retained daylight and sunlight values.
- 7.58 The Vertical Sky Component (VSC) results show that 201 out of 251 windows (of the above addresses) (80%) will meet the strict application of the BRE Guidelines. The No Skyline (NSL) results recorded full BRE compliance (100%), commensurate with the BRE's permissible 20% from former value. In terms of sunlight, the technical results show that 185 out of 193 rooms (96%) will meet the strict application of the BRE Guidelines. The majority of transgressions record low existing levels of sunlight and thus a slight change in outlook is likely to trigger a disproportionate change in light. As a result, neighbouring amenity will not be unacceptably impacted because of the scheme in terms of daylight and sunlight.
- 7.59 It is noted several objections have been received from residents at Westside One. Having forwarded these objections on the consultant confirms the technical assessment did not include Westside One as the building faces away (at some distance) from the site and would be unaffected by the proposed scheme.
- 7.60 With regards to Westside Two the Vertical Sky Component (VSC) shows that 130 out of 135 windows (96%) will continue to meet BRE guidelines. In the image below the green windows shows BRE compliance.

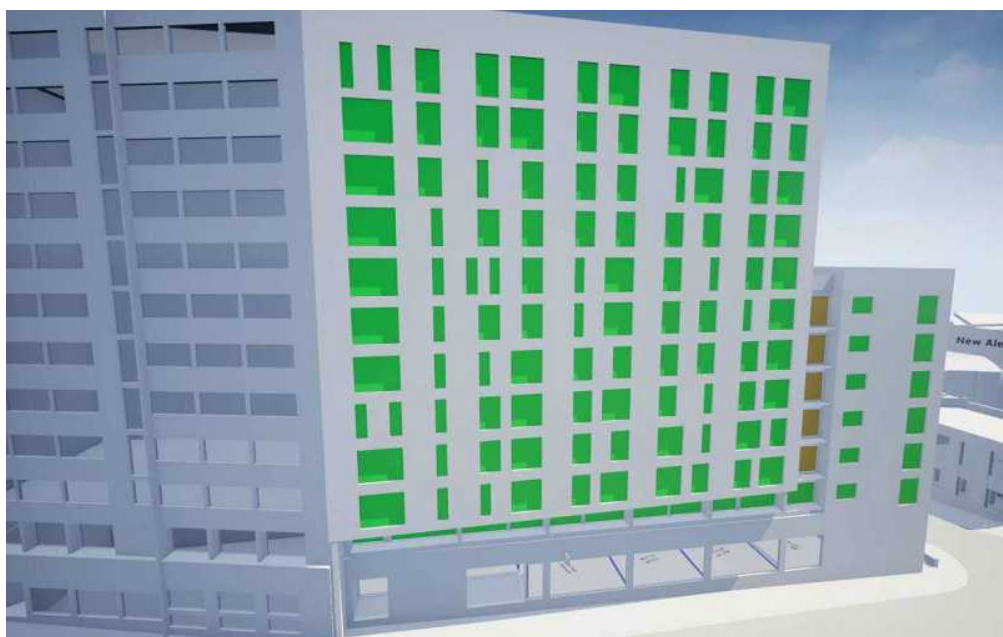


Image 15: Daylight and sunlight results at Westside Two

- 7.61 The few windows that do not meet BRE are shown in amber in the above image. The reason for not meeting BRE is due to the overhang and set back nature of the windows serving these rooms and due to blinkering restricts the existing flow of light. Therefore, any changes trigger a disproportionate percentage change.



- 7.62 With regards to No-Sky Line (NSL) at Westside Two the results show full BRE compliance, commensurate with the BRE's permissible 20% from former value.
- 7.63 And in terms of sunlight the technical results show that 130 out of 131 rooms (99%) will meet the BRE Guidelines – as indicated below.

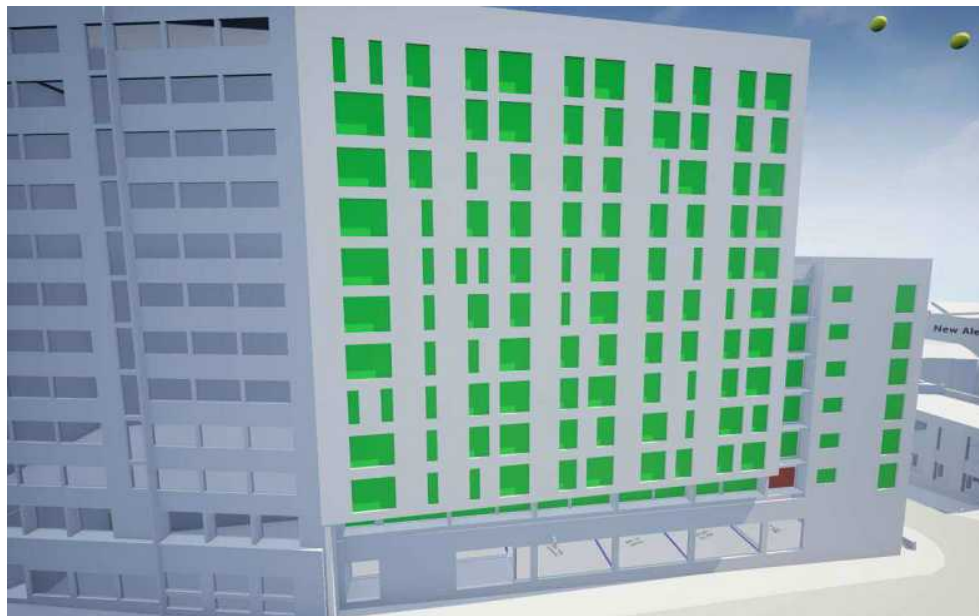


Image 16: Daylight and Sunlight results at Westside Two

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

### **Conservation**

- 7.67 There are no designated or non-designated heritage assets within the application site. However, a number of designated heritage assets sit close by and in the wider site area and under the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA in considering applications for planning permission has a statutory duty to pay special regard to the desirability of preserving listed buildings, their setting or any features of special architectural or historical interest which they may possess (section 66 (1)).

- 7.68 NPPF paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset the greater the weight should be). Caselaw additionally establishes that very considerable weight should be attached to any effect upon the significance of a designated heritage asset and that there should be a presumption against any such adverse effects. Where any such effect arises and is unavoidable then it must be weighed against the public benefits of such a proposal with considerable weight being given to such adverse effects in such balance.
- 7.69 Paragraph 200 of the NPPF states that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification' and 'where a proposal will lead to less than substantial harm to the significance of a heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Great weight should be afforded to the conservation of designated assets.
- 7.70 In paragraph 203, NPPF states that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.
- 7.71 Paragraph 206 of the NPPF further states 'local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably'.
- 7.72 Policy TP12 requires proposals for new development affecting a designated or non-designated heritage asset to be determined in accordance with national policy.
- 7.73 The application is accompanied by a Heritage Statement (Adapt Heritage, May 2022) which assesses the significance and setting of the five identified heritage assets closest to the development and the impact of this proposal on this significance.
- Singers Hill Synagogue- grade II\*  
Former British School- grade II listed  
Caretakers House for Birmingham Athletic Institute at No. 82 Severn Street- grade II listed  
Athol Masonic Hall- grade II listed  
Christadelphian Hall- locally listed
- 7.74 Historic England (HE) have been consulted on the application and have reviewed the submitted Heritage Statement and confirm they have concerns regarding the application on heritage grounds. Historic England state the Heritage Statement and visual impact assessment of the proposals indicate that the development will be particularly prominent in selected views from John Bright Street and Holloway Circus and will be a dominant feature within kinetic views along Commercial Street, Severn Street and Blucher Street. Historic England also state that due to its height, the proposed development will also appear as an incongruous and intrusive element within the central view of the principal elevation and entrance of the Singers Hill Synagogue, as seen from Blucher Street (Appendix 6, Fig A6.6) (see image 17).

- 7.75 Comments from Historic England further state that although there are other tall buildings in the vicinity of the site, as demonstrated by the visual modelling provided by the applicant, at the present time none of these appear in this key view of the synagogue, which is presently undisturbed by modern development. HE state Paragraph 5.24 of the submitted Heritage Statement confirms that the proposed development will be visible above the roofline of the synagogue, disrupting the silhouette of the building and competing with its 'prominence and overall architectural composition'.
- 7.76 HE considers the proposed development will appear in key views that are fundamental to the appreciation of the architectural form and symmetry of the principal elevation of the Grade II\* Singers Hill Synagogue and will cause harm to the significance of this important heritage asset. It is also their view that the new development is likely to dominate and over-shadow the adjacent Locally listed Christadelphian Hall, resulting in a less than substantial level of harm to this heritage asset.
- 7.77 In addition, the Victorian Society has reviewed the application and consider it unacceptable. They state the tower will completely overpower the adjacent historic buildings dating from our period of interest, and particularly the locally listed former Christadelphian Hall as its immediate neighbour, as well as the grade II\* listed Singers Hill Synagogue. The Victorian Society considers the scheme will have a negative impact on the character and appearance of the adjacent grade II\* listed, grade II listed and locally listed buildings, with significant harm to their settings. The Victorian Society consider this to be unacceptable, and particularly if this application is considered alongside other proposals for tall buildings nearby in the Suffolk Street and Bristol Street area of the city. In their view a scheme of more modest scale should be considered for this site in Gough Street and Suffolk Street, and one which remains within the parameters of the scale of the previously consented hotel development at 11 storeys.
- 7.78 The submitted Heritage Statement assessed the significance and setting of the five identified heritage assets listed above and the impact of this proposal on their significance. The BCC conservation officer has considered this assessment and provides views on each of the assets below.
- Singers Hill Synagogue- grade II\*
- 7.79 The effect on the relatively undisturbed roofline and silhouette on this view is considered to cause a degree of harm to its significance. Taking into consideration the significance of the building as a whole and those positive aspects of setting which will remain, it is concluded that the level of harm would be 'less than substantial harm' and Paragraph 202 of the NPPF is therefore engaged.
- 7.80 There will be no impacts on the high quality and elaborate interior of the listed building, nor will it affect the group value with other listed buildings in the area. Furthermore, the mass of the proposals closest to the listed building has been reduced when compared to previously approved scheme.
- 7.81 The BCC Conservation officer agrees with the position reached in the Heritage Statement that some harm will be caused to the significance of the Synagogue through development in its setting. It is said the harm arises from the proposed tower which would loom large above the Synagogue, breaking the roof form and impeding on the overall appreciation of the architectural form of this grade II\* listed building (see image below).



Image 17: View from Blucher Street

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

Former British School- grade II listed

- 7.83 The Former British Schools complex is located along Severn Street to its northwest and sits within a relatively well enclosed and defined setting which is characterised by both modern and traditional buildings. The complex includes buildings fronting the pavement line of Severn Street and also an earlier block setback behind the site of the original playground. It is enclosed to the west by modern development and a mix of traditional development (Mid-20th century garage and Atholic Masonic Building) with taller modern development beyond. To the south is the Singers Hill Synagogue.
- 7.84 The building complex is largely experienced from Severn Street where its original use and function as a school remains appreciable, with its former playground and later additions. The original building and its later extensions are principally experienced from the east of the street, facing west due to their position and phasing. In these views along Severn Street, the complex sits in the foreground to the wider cityscape of Birmingham with various tall buildings visible above and alongside the listed building. Due to the tight urban grain and topography of the area, there are no other areas in which to experience the listed building.
- 7.85 Caretakers House for Birmingham Athletic Institute at No. 82 Severn Street- grade II listed  
The building is located along Severn Street to its north west and sits within a relatively well enclosed and defined setting which is characterised by both modern and traditional buildings. It is flanked by a 19th century extension to the Former British Schools complex (to the east and rear) and a modern residential development to the west and south. To the north is the Mailbox development. The building is primarily experienced from various points along Severn Street where its original use and function as a residential terraced house remains legible, alongside its later role as part of the Former British Schools complex. Due to the tight urban grain and topography of the area, there are no other areas in which to experience the listed building.
- 7.86 Former British School -grade II listed and Caretakers House for Birmingham Athletic Institute at No. 82 Severn Street- grade II listed - impact

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



Image 18: View from Severn Street (to the west)

- 7.87 The Statement references the PPG and the guidance which states that it is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed, but guidance cannot outweigh the requirements of primary legislation which seeks to preserve the setting of listed buildings. The site as exists is not considered to contribute to the significance of the buildings but nor does it harm, therefore being neutral. To introduce a building of this scale into this location is not considered to preserve the setting to a degree that the tower would not challenge and compete with these more modest historic buildings and diminish an appreciation and understanding of their importance therefore causing harm.
- 7.88 The application site is in direct views of the buildings and the proposed development will be a direct new visual element within the visual setting. The tower will become a visually dominant element although will not interrupt direct views currently had of the listed buildings. Taking account of the fact that the buildings are within the context of both existing and emerging modern and tall buildings and that throughout the late 20th century new buildings have substantially altered their setting, the impact upon significance is concluded by the conservation officer to be minor and at the lower end of 'less than substantial' in Framework terms.

#### Athol Masonic Hall- grade II listed

- 7.89 At the other end of Severn Street is the Athol Masonic Building which is an early example of a synagogue in Birmingham, dating from 1827. The significance of the building is largely attributed to its surviving interior. Its setting is predominantly characterised by a large modern building to its east and lower scale buildings (associated with the British Schools) to the west. As with other listed buildings on the street, the setting of the Athol Masonic Building is characterised by tall buildings.
- 7.90 BCC's conservation officer does not fully agree with the position of the Heritage Statement in relation to this listed building. The Statement itself notes that the setting

of the building is characterised by a mix of large modern buildings, lower-scale traditional buildings and tall buildings. Whilst it is acknowledged that a number of larger, modern buildings, including some towers, exist in the wider city centre setting of this building, and are visible in its context from various vantage points along Severn Street, none of these buildings are readily visible in views of the principal elevation of the building. Although not evidenced by any viewpoint in the TVIA, the officer is not convinced that a tower of this scale would not appear dominant in the backdrop of this building, visually competing with its architectural form. The site as exists is not considered to contribute to the significance of the buildings but nor does it harm, therefore being neutral. To introduce a building of this scale into this location is not considered to preserve the setting to a degree that the tower would not challenge and compete with this more modest historic buildings and diminish an appreciation and understanding of its importance.

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

Christadelphian Hall- locally listed

- 7.93 The Christadelphian Hall which is a small place of worship from the early 20th century on a relatively prominent position between Suffolk Street Queensway and Gough Street. The proposed development involves introducing a 28-storey building adjacent to the locally listed building which will help reinstate part of the former tight urban grain of the area. As previously stated, PPG is clear that it is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed.
- 7.94 Our Conservation officer does not fully agree with the concluding position of the Heritage Statement in relation to the impact on this locally listed building. The Statement itself notes that the proposed development involves introducing a 29 storey tower building adjacent to the locally listed building which is significantly taller. The document considers that whilst visible the new tower is not considered to diminish the significance of the locally listed building which will continue to comprise a prominent building within this part of Birmingham.
- 7.95 The site as exists is not considered to contribute to the significance of the buildings but nor does it harm, therefore being neutral. Whilst it is acknowledged that a number of larger, modern buildings, including some towers, exist in the wider city centre setting of this building, and are visible in its context from various vantage points, none of these buildings sit adjacent to or are as dominant in principal views of the building as this tower would be. The building has an altered setting but is well represented in views along Suffolk Street Queensway, although in the medium and longer distance views these tend to be screened off by intervening built form. Viewpoints 8 and 12 of the TVIA (below) demonstrates the impact of such a large building next to the locally listed building where it brings the larger scale much closer, appears dominant and visually competes for prominence with this modest heritage asset.





Image 19: View from Suffolk Place (from the north)



Image 20: View from Bristol Street (from the southeast)

- 7.96 The officer agrees with the Heritage Statement that some aspects of significance will be sustained, but to introduce a building of this scale into this location is considered to challenge and compete with the asset's current prominence. This would, in the officer's opinion, diminish an appreciation and understanding of its heritage importance causing a degree of harm.
- 7.97 The application site is in direct views of the building and the proposed development will be a direct new visual element within the visual setting. The tower will become a visually dominant element and will interrupt some direct views currently had of the building. Taking account of the fact that the building is within the context of both existing and emerging modern and tall buildings and that throughout the late 20th century new buildings have substantially altered its setting, the impact upon significance is concluded to be minor harm to a non-designated heritage asset in Framework terms.

#### Other Heritage Assets

- 7.98 The Heritage Statement identifies from a study area of 500m based on a ZTV that there are 55 further heritage assets which could potentially be impacted by the proposed development. Following subsequent field-based exercise a number of these heritage assets were scoped out for further assessment due to:
- the nature and extent of their significance (including visual, functional or historic connections);

- the orientation of view and the way in which a heritage asset is experienced, and the contribution made by setting; and/or
- the current city centre context that characterises their setting and in which the proposed development would also be experienced.

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

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

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

#### Summary

7.102 The Heritage Statement concludes that the development will cause harm to the grade II\* Singers Hill Synagogue. The harm arises due to the visual impact of the proposed development and is 'less than substantial' under the terms of the NPPF and Paragraph 202 of the NPPF is engaged. The Statement concludes no harm to all other designated and non-designated heritage assets assessed.

7.103 The Conservation officer generally agrees with the conclusions of the Heritage Statement apart from in relation to the grade II listed Former British School, Caretaker's House for Birmingham Athletic Club, the Athol Masonic Building and the locally listed Christadelphian Hall. In relation to these assets, the officer considers there will be minor harm caused through development in their settings and I concur with this view. As noted above great weight must be given to any impact upon designated heritage assets.

7.104 The principal impacts are said to arise from bringing the larger scale of development which exists in the wider setting into the much closer proximity of the immediate setting of these buildings. The effect of this is that the tower will visually intrude on a number of views of each heritage asset, competing and challenging for prominence and diminishing the appreciation, experience and understanding of their significance. The development is moderated by established and emerging development at scale and within this context the extent of harm identified is considered to be minor in extent and less than substantial in terms of Framework policy.

The Conservation officer concludes:

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

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

7.105 Concerns of Historic England and the Victorian Society are noted, and it is agreed the proposed will harm the settings of listed buildings however the harm to the Grade II\* Singers Hill Synagogue is considered to be at the low to moderate end of less than substantial. Whereas the harm to the grade II listed Former British School, Caretaker's House for Birmingham Athletic Club, the Athol Masonic Building and the locally listed Christadelphian Hall to be minor. Therefore, in accordance with paragraph 202 of the NPPF the harm should be weighed against the public benefits of the scheme.

7.106 The proposed will deliver a number of key benefits to the local area and the wider City including, these being:

- Providing new employment opportunities and supporting the local supply and service chain and positively contributing to tourism spend in Birmingham

- Provision of approximately 466 full-time equivalent jobs on site during demolition and construction.

- Provision of 15 full-time equivalent jobs on site through building/site management and other secondary employment by utilising support goods and services in the City and investment during the construction period.

- Improving footfall and vitality during the day and supporting a thriving evening economy in this part of the City.

- Regeneration of a large vacant brownfield site on the edge of the city centre

- Delivering a high-quality designed scheme to integrate the site into its surrounding context;

- Provision of purpose-built student accommodation in an appropriate location to meet identified need for additional bed spaces;

- A Community Infrastructure Levy (CIL) Contribution of circa £1.4 million which can be spent on local infrastructure projects

- A BREEAM Very Good and EPC A rated development.

- Landscaped roof terraces with green infrastructure.

- Zero on site car parking promoting active and green travel

- A carbon reduction of 8% will be achieved when compared to the baseline building

7.107 Overall, whilst there is harm (to which great weight attaches), the local significance of the buildings would be preserved by the proposals and these public benefits outweigh the levels of less than substantial harm based on the above. It is therefore considered;

the proposed scheme complies with policies PG3 and TP12 of the BDP and meets the tests set out in the paragraphs of the NPPF.

### **Archaeology**

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

### **Sustainability**

- 7.109 The site is located within the urban area in close proximity to jobs, shops and services and with good public transport links. It would also see the re-use of a largely vacant brownfield site.
- 7.110 Policy TP3 'Sustainable construction' of the BDP requires development to maximise energy efficiency, minimisation of waste and the maximisation of recycling during the construction and operation of the development, conserve water, consider the use sustainable materials and the flexibility and adaptability of the development to future occupier's requirements. It also requires non-domestic development (including multi-residential accommodation) over a certain threshold to aim to meet BREEAM 'Excellent'. The proposal would therefore be required to aim to meet the BREEAM requirement in TP3.
- 7.111 A BREEAM Pre-Assessment has been undertaken. The identified credits indicate that the proposed development could achieve a targeted credit score of Very Good. The Council's Guidance note on Sustainable Construction and Energy Statements advises that if a 'Very Good' rating is proposed instead of an 'Excellent' rating, a statement setting out a reasoned justification for the lower standard should be provided. Subject to this, the achievement of BREEAM Very Good would be acceptable. To secure the BREEAM standard a planning condition is recommended and has been agreed with the agent.
- 7.112 TP4 'Low and zero carbon energy generation' requires development to incorporate low and zero carbon energy generation where viable, and specifically the inclusion of a Combined Heat and Power unit or connection to a district heat network to be given first consideration to non-residential developments over 1,000 m<sup>2</sup>. However, the policy says use of other technologies - for example solar photovoltaics or thermal systems, will also be accepted where they will have the same or similar benefits, and there is no adverse impact on amenity.
- 7.113 An Energy and Sustainability Statement has been submitted which sets out the fabric first and energy efficiency measures that will be deployed. A comparison has been made with CHP which shows that air source heat pumps will provide a greater reduction of carbon.
- 7.114 The energy statement shows that a fabric first approach combined with the inclusion of air source heat pumps will result in a 47% carbon reduced when compared to Part L Building Regulations Baseline. The statement also highlights that when analysed through SAP10, the carbon reduction would be 65% (as the new SAP favour electric). A planning condition will be attached to secure the commitments set out in the Energy Statement. Overall, the proposed energy strategy is acceptable and complies with TP4.

### **Biodiversity and landscaping**

- 7.115 An Ecological Impact Assessment was undertaken which comprises an Extended Phase 1 Habitat Survey being conducted at the site. The report concludes that there

should be measures for species-specific enhancement including for bats and birds. These are all included as part of the submitted landscaping drawings and management plan. The development of the landscaping proposals have included specific inputs from the project team Ecologist to ensure ecological enhancements are delivered. The Ecologist has received the application and confirms no objections.

- 7.116 With regards to biodiversity Japanese Knotweed is currently being removed from the site and for a while the site has been clear of vegetation. That said the site has some intrinsic value for biodiversity by way of pollinator species and birds. The ecologist has reviewed biodiversity impact assessment and rates the onsite habitat as being of poor quality and a resultant habitat unit score of 0.36 units. The report also considers the site against the proposed development and landscape.
- 7.117 A green roof and lower-level landscaping of trees and non-native species were proposed that would result in the re-provision of 0.25 habitat units and a resultant (give or take) 30% net loss. Based on this net loss the ecologist asked if we could seek landscape revisions resulting in biodiversity net gain as opposed to net loss.
- 7.118 Whilst it is noted the Environment Act 2021 recently brought in a mandate for a minimum 10% biodiversity net gain the implementation of this requirement is currently delayed until approx. Nov 2023 therefore it is not reasonable to insist developers comply. That said the NPPF paragraph 180 states new developments should pursue opportunities for securing measurable net gains for biodiversity; therefore, amended plans were sought to swap non-native species to native species to provide some biodiversity enhancement. The Ecologist has been re-consulted and an update to members will be presented at planning committee.
- 7.119 An Arboricultural Impact Assessment (AIA) has been undertaken and reviewed by the tree officer who confirms no objections subject to conditions. Overall, the proposal accords with Policy TP6, TP7 and TP8 of the BDP and the NPPF.

#### **Drainage**

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

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

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

#### **Impact on highways**

- 7.122 A Transport statement and Travel Plan accompanies the planning application and has been reviewed by BCC Transport Development Officer.
- 7.123 The proposed development provides no car parking which is in accordance with the Birmingham Parking Supplementary Planning Document (2021) which sets out that development within Zone A (City Centre) should not be provided except for some visitor and drop off/pick up spaces. A new lay-by is proposed on Gough Street to facilitate

deliveries/taxi pick-up and as set out in Vita's Operational Management Plan, a coordinated timetable with time slots will be delivered to facilitate moving in of students at the start of each intake.

- 7.124 The BCC Transport Development Officer supports the application subject to a number of conditions requiring the development not to be occupied until highway works under a highway's agreement are provided, cycle parking to be provided and an updated construction management plan.

- 7.125 Subject to conditions therefore I consider the proposed development is suitable for residential development and accords with the BDP, DPD and Design Guide SPD.

**7.126 Fire Safety**

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

**Other Matters**

**Employment**

- 7.127 The developers have submitted an employment method statement and table of local employment delivery in relation to the proposals at Gough Street. This has been provided by the Applicant's construction team following recent discussions with Employment and Access Team. The Applicant is happy to accept a condition regarding any construction phase of the development being linked to the submitted documents so that local employment and training opportunities on site will be in accordance with the details provided.

- 7.128 In addition, the developer has spoken to Vita, the proposed operator, and they are happy to accept a condition they will look to make local employment and training opportunities available as part of the operation of the PBSA development. The Employment and Access team have reviewed these submitted details and confirm no objections subject to conditions.

**Neighbour consultation**

- 7.129 Following a second round of consultation neighbours who have written into object have also stated they did not receive the original application consultation letter. I have checked the planning records and I can confirm that those addresses were written to.

**Existing site works**

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

**7.131 28 storeys reference**

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

**Community Infrastructure Levy**

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

## 8. **Conclusion**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that if regard is to be had to the development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 8.2 The proposed development would see the delivery of a high-quality designed student accommodation in a vacant sustainable location, the scheme complies with Policies GA1, TP24 and TP33, which are those relating to the promotion of mixed-use development and student accommodation within the City Centre. There are no technical objections to the proposal in relation to ecology, drainage, amenity, or transportation, subject to conditions.
- 8.4 The proposal would cause minor and low to moderate levels of less than substantial harm to the significance of the adjacent listed buildings through development in their setting, however, the setting of the listed buildings in the wider area would be preserved.
- 8.5 Policy TP12 requires proposals for new development affecting designated or non-designated heritage assets to be determined in accordance with national policy. Paragraph 202 states that where a proposal will lead to less than substantial harm to the significance of a heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Great weight should be afforded to the conservation of designated assets (and the more important the asset the greater the weight should be). The benefits of the scheme are:
- 8.6
- Providing new employment opportunities and supporting the local supply and service chain and positively contributing to tourism spend in Birmingham
  - Provision of approximately 466 full-time equivalent jobs on site during demolition and construction.
  - Provision of 15 full-time equivalent jobs on site through building/site management and other secondary employment by utilising support goods and services in the City and investment during the construction period.
  - Improving footfall and vitality during the day and supporting a thriving evening economy in this part of the City.
  - Regeneration of a vacant brownfield site on the edge of the city centre
  - Delivering a high-quality designed scheme to integrate the site into its surrounding context;
  - Provision of purpose-built student accommodation in an appropriate location to meet identified need for additional bed spaces;
  - A Community Infrastructure Levy (CIL) Contribution of circa £1.4 million which can be spent on local infrastructure projects



- A BREEAM Very Good and EPC A rated development
- Landscaped roof terraces with green infrastructure.
- Zero on site car parking promoting active and green travel
- A carbon reduction of 8% will be achieved when compared to the baseline building

- 8.7 These benefits taken together are afforded significant weight and are found to outweigh the less than substantial harm identified. The scheme would provide economic and environmental benefits by means of employment, visitor spend during the construction phase and over the long-term supporting a significant number of jobs as well as providing an identified unmet demand of student accommodation.
- 8.8 The development would effectively re-use this brownfield site and provide needed student accommodation the in accordance with TP33. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the application would accord with the development plan taken as a whole and is therefore acceptable subject to completion of a legal agreement and safeguarding conditions

## 9. **Recommendation:**

9.1 Approval subject to conditions.

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1	Time Limit
2	Approved Plans
3	Materials
4	Architectural details
5	Landscaping Plan which details ecological/biodiversity enhancements
6	Green/Brown Roof
7	Sustainable Drainage Scheme
8	Cycle Parking
9	Updated CMP
10	Pruning
11	Tree protection
12	Noise Insulation scheme
13	Noise levels for plant and machinery
14	CCTV
15	Lighting

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16	Employment
17	Energy and sustainable measures delivered in accordance
18	Boundary Treatments
19	Hard and Soft Landscape Details
20	Hard Surfacing Details
21	Landscape Management Plan
22	Foul and Surface Drainage
23	No signage
24	Bird Bat Boxes
25	Development not to be occupied until highway works under a highway's agreement are provided
26	Contaminated Remediation Scheme
27	Contaminated Land Verification Report
28	BREEAM Certificate
29	Removal PD for telecommunications equipment
30	Sustainable Drainage Operation and Maintenance Plan

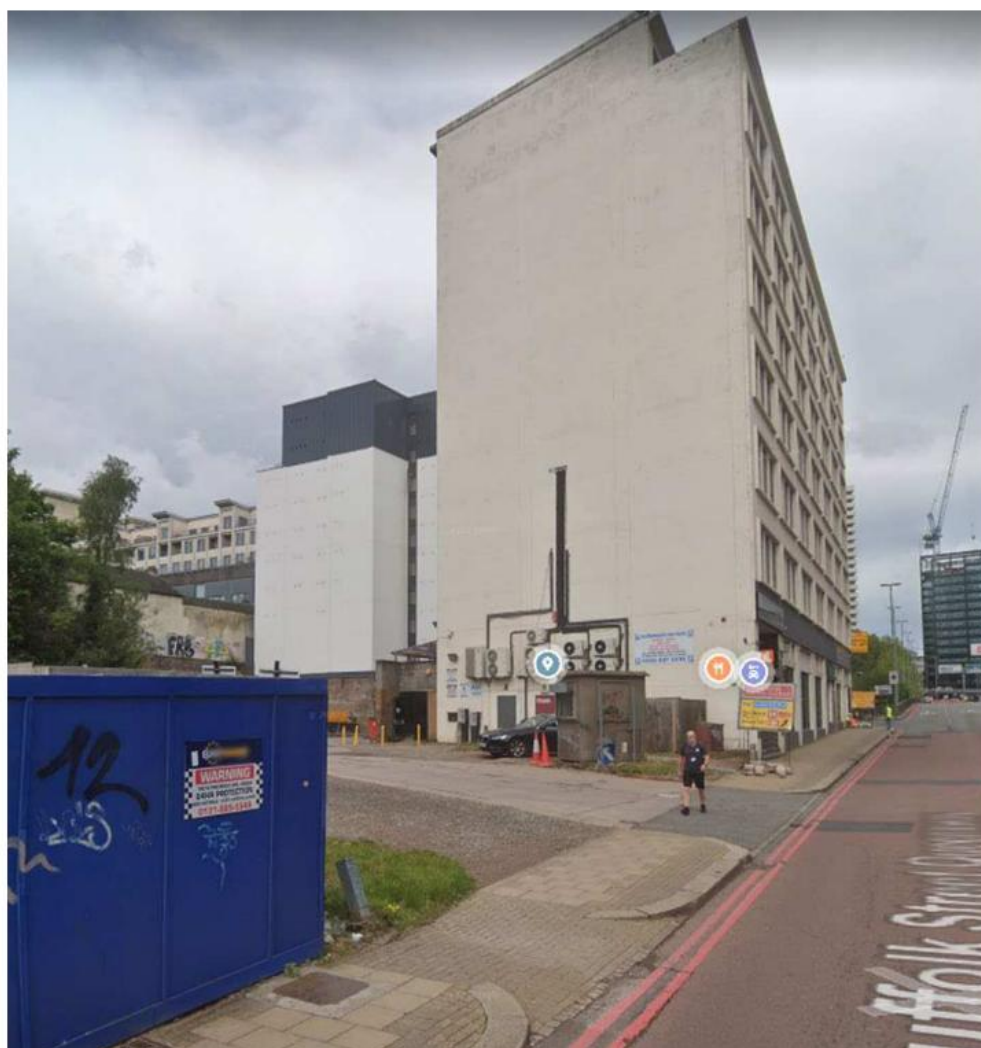
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Case Officer: Sarah Plant

## Photo(s)



View of site from Suffolk Street, the Queensway



View to side of Queensgate Tower 121 Suffolk Street





View from Blucher Street of Westside One and Westside Two



View of Kensington House – gable end

## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**10 November 2022**

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Subject to 106 Legal Agreement	7	2022/04397/PA  Land at Watery Lane Middleway/Bolton Street Bordesley Green Birmingham B9 4HH  Erection of building comprising 85no. apartments (Use Class C3) with three blocks between 4 and 8 storeys including internal and external amenity space, landscaping, parking and associated works.
Approve – Subject to 106 Legal Agreement	8	2021/08923/PA  Bagot Arms Eachelhurst Road Pype Hayes Birmingham B24 0QL  Demolition of existing building and erection of new building for 52 apartments (36 x 1 bed, 13 x 2 bed and 3 x 3 bed) with basement parking



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Committee Date:	10/11/2022	Application Number:	2022/04397/PA
Accepted:	17/06/2022	Application Type:	Full Planning
Target Date:	11/11/2022		
Ward:	Bordesley & Highgate		

Land at Watery Lane Middleway/Bolton Street, Bordesley Green, Birmingham, B9 4HH

Erection of building comprising 85no. apartments (Use Class C3) with three blocks between 4 and 8 storeys including internal and external amenity space, landscaping, parking and associated works

Applicant:	Highgate Developers (Birmingham) Ltd C/o Agent
Agent:	Carter Jonas 2 Snowhill, Birmingham, B4 6GA

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Recommendation

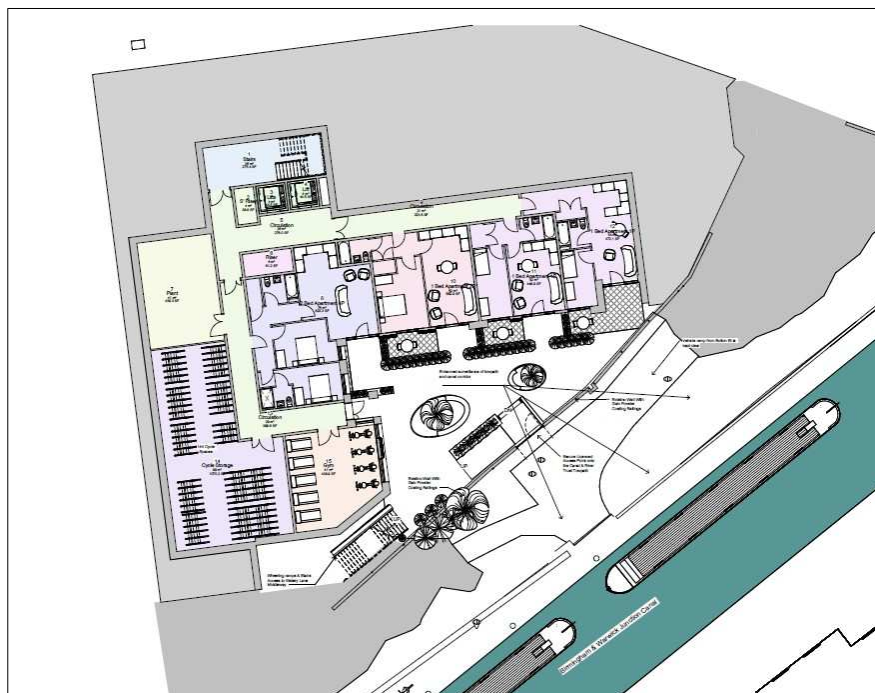
**Approve Subject to a Section 106 Legal Agreement**

**1. Proposal**

- 1.1. The application seeks planning permission for the erection of a building comprising 85no. apartments (Use Class C3) with three blocks between 4 and 8 storeys, including internal and external amenity space, landscaping, parking and associated works on land at Watery Lane Middleway and Bolton Street.
- 1.2. The scheme would provide 85no. apartments with a mix of 45no. one-beds, 33no. two-beds and 7no. three-beds. All apartments would have a kitchen/dining/lounge area, bathroom, storage space and bedrooms and would have a size of between 41sqm (for a one-bed/one-person unit) and 92sqm (for a three-bed/ six-person unit). On the ground floor, the building would provide a reception and lobby including communal lounge areas (191sqm) and hot desk area (38sqm) as well as a laundry room (32sqm). Whilst on the lower ground floor, the scheme would provide cycle storage for 144 bicycles (99sqm), a communal gym (41sqm) and plant room (41sqm).



**Figure 1: Proposed Ground Floor Plan**



**Figure 2: Proposed Lower Ground Floor Plan**

- 1.3. The building would comprise of three blocks with a largely T-shaped form, taking account of the triangular shaped site. The main block along the Watery Lane Middleway frontage would be 8 storeys in height and would step down to 5 storeys along the southern Middleway and towards the canal. The central (eastern) wing would step down to 4 storeys towards the adjoining commercial buildings. The building would be constructed of a single red brick with a dark grey metal cladded ground floor along the Middleway and dark grey metal cladded crown which is set back from the main façade by 0.39m and has been extended upwards to also screen the roof plant. The ground floor is set back from the upper floors by approximately 1m.

- 1.4. The southern elevation would be covered by a green wall which would be visible to highway users along the Middleway towards the city centre. In addition, the front parking yard, rear yard area and boundary would be provided with soft landscaping provision and new boundary treatment.



**Figure 3: Proposed North Elevation**



**Figure 4: Proposed East Elevation**





**Figure 5: Proposed South Elevation**



**Figure 6: Proposed West Elevation**

- 1.5. The main vehicular access into the site would be from the existing access point at Bolton Street in the north-east, providing 10no. vehicle parking spaces of which 7 would be provided as under-croft parking below the central wing of the proposed building. The provision includes 5no. disabled spaces and 2no. EV charging point and pedestrian access from the Bolton Street entrance would be for residents only. The main pedestrian access into the site would be from the north on the corner of Watery Lane Middleway and Bolton Street with a secondary access from the southern end to the Middleway which would also connect to the internal cycle store and lower ground floor communal yard area. The scheme would also provide a new connection to the canal with a secured licenced access to the adjoining towpath. A secure bin store would be provided centrally on the ground floor within the main building, whilst a sub-station would be situated at the eastern corner of the site within the ground floor of the main building.
- 1.6. In terms of the amenity space provision, the lower ground floor apartments would have their own terrace space (approximately 8sqm each), whilst the remaining lower ground floor yard area would provide external amenity space for residents and with

access and views towards the canal (150sqm). In addition, the scheme would provide an external terrace (232sqm) and internal roof garden room (79sqm) on the 4<sup>th</sup> floor of the centrally located eastern wing, as well as a second external terrace (132sqm) on the 5<sup>th</sup> floor of the south-facing block.



**Figure 7: 3D Visual showing the proposed roof terraces and rear yard area**

- 1.7. The scheme was amended during the progress of the application, which included the reduction of units from 89 to 85, alterations to the design to provide three distinctive blocks with a stepped down approach towards adjoining buildings to the south and east, including an additional set back towards nearest residential dwellings, as well as amendments to the external appearance of the building.
- 1.8. The application is supported by the following documents:
- Preliminary Ecological Appraisal
  - Energy and Sustainability Statement
  - Transport Statement
  - Residential Standards Statement
  - Planning Statement
  - Loss of Industrial Land Statement
  - Noise Impact Assessment
  - Fire Statement and Fire Safety Plan
  - Affordable Housing Statement
  - Phase I Desk Study Report
  - Foul and Surface Water Drainage Strategy/ Drainage Strategy Plan
  - Daylight and Sunlight Report
  - Air Quality Assessment
  - Landscape Strategy and Planting Schedule
  - Design and Access Statement
  - Viability Appraisal

[Link to Documents](#)

## **2. Site & Surroundings**

- 2.1. The application site comprises a roughly triangular shaped parcel of land to the east of the city centre, bounded by Watery Lane Middleway (A4540) to the west, Bolton Street to the north/north-east and the Birmingham and Warwick Junction Canal to the south.
- 2.2. The site has a size of approximately 0.16ha and is currently cleared of development, but was most recently used for the open storage and parking of vehicles.
- 2.3. A plateau has been created from the levels at Bolton Street, enabling at-grade access from the frontage, with a retaining wall along the site's boundary with the canal towpath. The canal towpath links the site to the Middleway and Bolton Street. The site is sloping from the north towards the south.
- 2.4. The surrounding area is largely dominated by the Watery Lane Middleway, with primary adjoining uses largely comprising industrial and commercial, with a small cluster of out-of-centre retail units west of the site. To the south and south-east are established residential communities comprising a mix of small-scale housing and apartments. The units directly opposite the site, beyond the canal, comprise of small apartment blocks which utilises the level change down to the canal side via a split level form. The height and scale of surrounding buildings is largely 2 and 3 storeys.
- 2.5. The adjoining canal network forms part of the Grand Union Canal Wildlife corridor and SLINC area. The nearest Local Centre (Small Heath / Coventry Road) is located approximately 700m walking distance to the south-east.

#### [Site Location](#)

### **3. Planning History**

- 3.1. 10.07.2022: 2017/04280/PA - Display of 1no. internally illuminated hoarding sign. Approve temporary.
- 3.2. 03.03.2014: 2013/09280/PA – Erection of new industrial / warehouse unit, creation of car parking, associated landscaping and erection of vertical bar fencing. Approve, subject to conditions. Scheme not implemented.
- 3.3. 03.06.2013: 2013/01557/PA – Use of land for open air car sales, erection of temporary portacabin and vertical bar boundary fencing. Approved temporary until 30/01/2017.
- 3.4. 29.01.2013: 2012/08135/PA – Use of land for open air car sales, erection of temporary portacabin and vertical bar boundary fencing. Approved temporary until 30/01/2015.
- 3.5. 15.01.2009: 2008/06091/PA – Display of 2 internally illuminated freestanding display panels and erection of 2m high fencing. Approved temporary.
- 3.6. 19.06.2008: 2005/07489/PA - Erection of two storey motor vehicle showroom and workshop with ancillary storage area. Installation of two vehicular accesses off Bolton Street and provision of car parking facilities. Disposed of under article 25/36.

### **4. Consultation Responses**

- 4.1. Transportation – No objections subject to conditions for a construction method statement/ management plan, measures to prevent mud on the highway, means of



access for construction, no occupation until turning and parking area has been constructed, details of pavement boundary, parking management strategy, cycle parking prior to occupation (internal provision), delivery and service area completion, residential travel plan, cycle storage details (external provision), car park management plan for disabled spaces, Electric Vehicle charging point, as well as a S278 Highway Informative and request for contributions towards providing a funding mechanism for on-street parking control along Bolton Street.

- 4.2. Regulatory Services – No objections subject to conditions for noise insulation scheme, contamination remediation scheme and contaminated land verification report.
- 4.3. City Design – No objections subject to conditions for sample façade panels, hard and/or soft landscape details, hard surfacing materials, earthwork details, boundary treatment details, sample materials, levels and architectural details.
- 4.4. Ecology – No objections subject to conditions for a construction ecological management plan, scheme for ecological/biodiversity/enhancement measures and provision of hard and/or soft landscape details (to include details of the green wall).
- 4.5. Severn Trent – No objections subject to condition for drainage plans for disposal of foul and surface water flows.
- 4.6. Lead Local Flood Authority – No objections subject to conditions for a sustainable drainage scheme and sustainable drainage operation and maintenance plan including relevant informatives.
- 4.7. Employment Access Team – No objections.
- 4.8. Environment Agency – No objections, subject to a condition for a contamination remediation strategy and unidentified contamination remediation strategy. Recommendations and suggestions in terms of risk management and principles of land contamination which have been relayed to the applicant.
- 4.9. Leisure Services – No objections subject to a Public Open Space contribution of £225,375.00 to be spent on adjacent Garrison Lane and Kingston Hill Parks.
- 4.10. West Midlands Fire Service – No objections, recommend conditions for lighting scheme, boundary treatment and CCTV coverage of all entrances. Additional comments in relation to building control matters which have been relayed to the applicant.
- 4.11. West Midlands Police – No objections subject to conditions for security measures/CCTV and lighting scheme. Additional comments in relation to secured by design which have been relayed to the applicant.
- 4.12. Canal and River Trust – No objection subject to conditions for boundary treatment, levels and lighting scheme.
- 4.13. Housing – No objections.

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

- 5.1. MP, Ward Councillors, Residents Associations and local residents were consulted on the original scheme. The application was also publicised for 21 days by way of a Site Notice and Press Notice.

5.2. 3 representations have been received making the following comments on the original scheme:

- Building is very large and densely populated for the plot. Scheme seems over ambitious.
- The multi-storey proposal is out of place in the area as all buildings in the area are two and three stories only.
- Introducing a building of this height will not be in keeping with the area.
- The additional height will block the light in the afternoon which is already limited due to north-facing aspect of adjoining properties. These properties do not have windows to the rear to provide day time light. Proposal will reduce sun and light to the adjoining properties.
- The adjoining north and north-west facing flats face issues with over-heating which needs to be considered.
- There would be 89 apartments but only 10 parking spaces which will cause problems with parking in the area and potentially obstruct emergency services.
- Only two spaces would have electric chargers. Government policy is to stop selling petrol and diesel cars by 2030 and all parking spaces should have access to electric charging.
- Bolton Street is essentially a cul-de-sac and because of its secluded position attracts certain types of people who are intent on either being a nuisance or engaging in criminal activity.
- There is a need for the ring road to be lined with development of this type, a mid rise transitional zone between the high density city centre and the suburbs with replacing the acres of farms to create a walkable 'Ringstrasse' or 'peripherique' in the style of Vienna or Paris.
- The scheme could be improved as it turns its back onto the attractive factory buildings and does not interact with canal. Rejigging the build to be an L shape with a single storey podium and residents garden would address this. The L would front the Middleway and the canalside with the interior of the L facing the factory and providing a secluded garden atop the podium. The single storey frontage would be sensitive to the factory's scale while the L would provide the necessary height and density needed along the Middleway. In the future commercial units on the single storey podium could front a pedestrianised Bolton Street and support further regeneration.

5.3. An additional 14-day re-consultation with local residents was undertaken on the amended/finalised design and a new site notice was displayed. No further comments received.

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

### **6.1. National Planning Policy Framework (2021)**

Chapter 2: Achieving sustainable development  
Chapter 5: Delivering a sufficient supply of homes  
Chapter 8: Promoting sustainable transport  
Chapter 11: Making effective use of land  
Chapter 12: Achieving well-designed places

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

PG 3 Place Making  
GA7 Bordesley Park  
TP3 Sustainable Construction

TP4 Low and zero carbon energy  
TP9 Open space, playing fields and allotments  
TP27 Sustainable Neighbourhoods  
TP28 The location of new housing  
TP30 The type, size and density of new housing  
TP31 Affordable Housing  
TP44 Traffic and Congestion Management

6.3. Development Management in Birmingham DPD 2021

DM1 Air Quality  
DM2 Amenity  
DM4 Landscaping and Trees  
DM6 Noise and Vibration  
DM10 Standards for Residential Development  
DM14 Highways safety and access  
DM15 Parking and servicing

6.4. Bordesley Park Area Action Plan

The site is situated within the Bordesley Village neighbourhood, however, there are no specific policies for the area outlined within the document.

Principle 1: Growth  
Principle 2: Connectivity  
Principle 3: Local Character  
Principle 4: Connectivity

6.5. Supplementary Planning Documents & Guidance:

Birmingham Design Guide 2022  
Birmingham Car Parking Standards SPD 2021  
National Design Guide  
Technical Housing Standards – nationally described space standards (2015)

**7. Planning Considerations**

- 7.1. The application has been assessed against the objectives of the policies as set out above. The main matters for consideration are as follows:

**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 site is currently largely cleared of development, but was intermittently used for car parking and car storage. The most recent use of the site is not considered to fall within an employment use in line with policy TP20 (Protection of Employment Land) and therefore, there would be no objections to the principle of re-using the site for alternative uses.
- 7.5. The site is located in the Bordesley Park Growth Area (GA7) and the Bordesley Park Area Action Plan, both of which have similar goals for the area around surrounding the site, including promoting growth, a revitalised neighbourhood and delivering high-quality housing suitable for the needs of existing and new communities. These documents suggest that the area has the potential to accommodate in the region of 750 new dwellings and the 2021 authority monitoring report shows that 373 dwellings have been built or have consent. The proposal would help reduce this unmet need and would contribute to the wider 51,000 additional homes that are required to be built in Birmingham by the end of the plan period.
- 7.6. It is therefore considered that the principle of providing residential development on this site, also considered in the context of policy TP27 and TP28 of the BDP 2017 and policy DM10 of the DMB DPD 2021, would be acceptable, subject to consideration of detailed technical matters as discussed below.

### **Design and Impact on Visual Amenity**

- 7.7. In terms of the proposed layout, the block arrangement on the site has effectively responded to the plot's prominent location at Watery Lane Middleway, whilst balancing the need to engage with the canal-side and its secondary road frontage at Bolton Street.



**Figure 8: Proposed aerial view along canal and towards site with city centre in background**



**Figure 9: Proposed view towards site with Watery Lane Middleway to front**

- 7.8. The primary block at the Middleway would have a height of 8 storeys and its siting would provide appropriate and needed enclosure to the street which is largely lacking from the existing use. The primary entrance will be sited to the north and from the junction of Bolton Street/ Watery Lane Middleway and together with the proposed ancillary uses on the ground floor would activate and overlook the surrounding street environment.
- 7.9. The only vehicular access to the parking and servicing area would be from Bolton Street. The provision, noting the adjoining street environment, would be acceptable, making use of under-croft parking surrounded by soft landscaping and a residential unit overlooking the area at ground floor. Further surveillance of the street is also provided by the single aspect flats within the upper floors.
- 7.10. The scheme has taken account of the level change down towards the canal in order to create a lower ground residential courtyard area that is overlooked by adjacent flats which have their own private terraces and communal gym. Whilst the private space would be fenced off, it would be ensured that this would be open to views and provide overlooking and surveillance with the adjoining canal and footpath. A suitable boundary treatment condition would be imposed.
- 7.11. In terms of the scale, height and massing, the site's surrounding context is largely defined by three different character areas, including the residential community to the south, the commercial/industrial environment to the north/north-east and the dominating road environment to the west. The site lies largely within the commercial/industrial area but with an obvious relationship with the Middleway environment at its western boundary. The proposal provides the opportunity to reinstate the built form along this route and whilst the road would remain dominant, the Middleway main block with the 8 storey element would provide a scale and mass which would be appropriate in this environment. As the site transitions into the adjacent commercial and residential areas, the design has acknowledged the change, with the eastern (central) wing reducing in height to 4 storeys and the southern Middleway block stepping down to 5 storeys as it meets the canal and opposing



residential units. On that basis, the massing and scale of the proposal is considered acceptable.

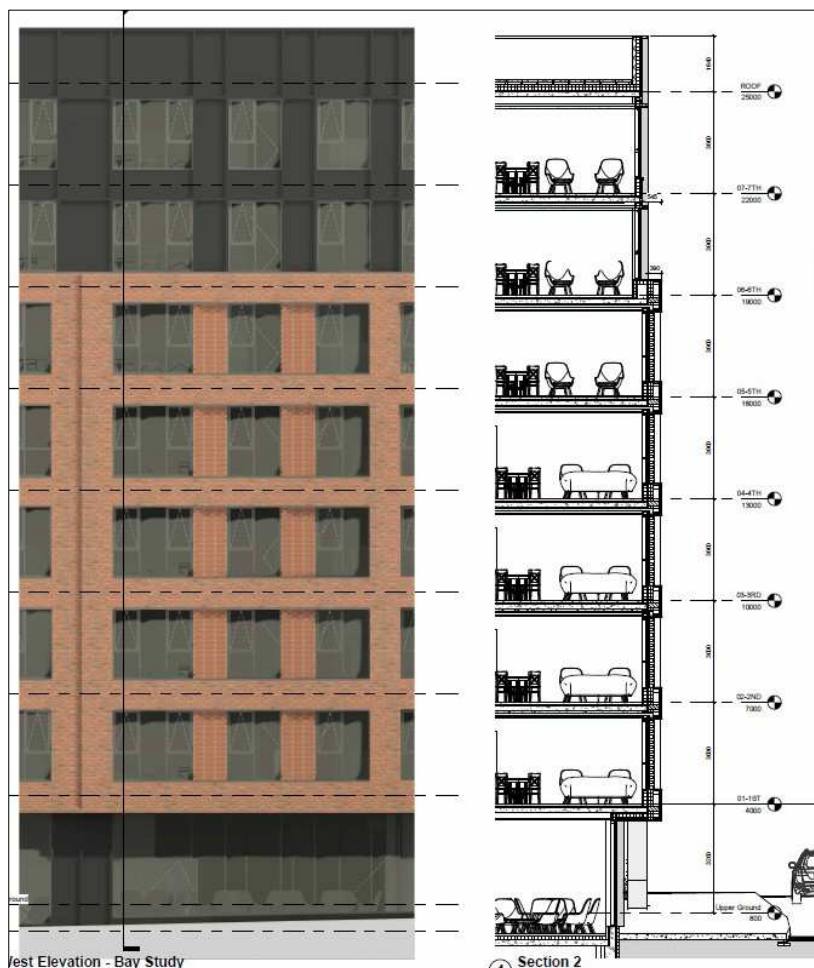
- 7.12. In terms of the architecture, the proposal seeks to provide a simple flat roof form, acknowledging the materiality and character of the surrounding context to create a contemporary design that would enhance its surroundings. The use of a single red brick across the block as well as the subtle and consistent brick detailing across the facades, including a mix of protruding and facing brickwork, would reflect the historic character of the adjacent commercial building. The bays in which this detailing would be placed as well as the generous reveals would provide balance and articulation to these large facades, including the use of Juliet balconies to the southern elevation of the central wing, which is supported.



**Figure 10: Façade examples: north elevation of central wing and Juliet balustrade in south elevation of central wing**

- 7.13. The crown (which would also act as the plant enclosure situated on the roof) and the ground floor towards the Middleway would be covered with metal cladding, providing a complementary contrast to the main brick body of the building, which would assist in visually lighten and punctuating the upper floors and effectively grounding the building. The crown is set back from the main façade by 0.39m which would further help to reduce the overall impact, whilst the ground floor is set back by approximately 1m.





**Figure 11: West Elevation – Bay Study**

- 7.14. Overall, it is therefore considered that the design, scale and massing of the proposed scheme, as well as the proposed materiality would be acceptable and would not negatively impact on the visual amenity of the local area.

### **Density and Proposed Dwelling Mix**

- 7.15. New housing should be provided at target density responding to the site, its context and housing needs with densities of at least 50 dwellings per hectares in areas well served by public transport and 100 dwellings per hectare within the city centre. It is further considered that higher densities would be accepted in sustainable locations with good public transport links and access to local amenities. The development would result in a density of approximately 530 dwellings per hectare which is significantly above the minimum requirements, however, it is considered that the scheme would make efficient use of the land on this main arterial route within close distance of the city centre and short walking distance to public transport and is therefore acceptable.
- 7.16. Regarding the mix of the proposed apartments, the recently published Housing and Economic Development Needs Assessment (HEDNA) provides guidance on the mix of dwelling sizes, required in different parts of the city and replaces the existing SHMA referred to in the policy. This requirement has been acknowledged by the proposed 33no. two-beds (39%) and 7no. three-beds (8%). In addition, in order to assist with viability, a further 45no. one-beds (53%) are proposed. This is considered to be acceptable, highlighting the location of the site in close distance to the city centre and shortfall of housing supply within the city.

## **Impact on residential amenity**

- 7.17. The scheme has been designed to make best use of the land available. The nearest residential dwellings are situated towards the south, on the opposite side of the canal along Keeley Street, Farmacre and Quigley Avenue. Towards the north and opposite Bolton Street, the site is adjoined by two-storey commercial buildings whilst the dual carriage way of Watery Lane Middleway adjoins the site to the west.
- 7.18. In terms of future occupiers of the scheme, all residential apartments would comply with the minimum national described spacing standards (2015) and would all have appropriate outlook and day light provision with their main views either towards the street frontage along Watery Lane Middleway and Bolton Street or towards the canal.
- 7.19. The scheme seeks to provide areas of external amenity space within the site. This includes a new external yard area adjoining the canal frontage, with access from the lower ground floor. This would cover an area of approximately 150sqm as well as individual terraces (8sqm each) for the lower ground floor apartments which will allow for appropriate separation to the communal area, surveillance and will improve privacy levels and potential overlooking concerns. In addition, there would be two roof terraces: One of the fourth floor, covering an area of 232 sqm including a separate internal, fully glazed garden room (79sqm) which would provide internal communal space within the site. The second terrace would be situated on the fifth floor and would provide an additional 132sqm. In addition, internally the scheme would provide a communal gym (41sqm) on the lower ground floor and a hot desk area (39sqm), break out and café area (97sqm) and entrance lounge area (48 sqm) on the ground floor which can be used by residents. The scheme (total of 514sqm of external amenity space and 255sqm of internal communal space) would comply with the minimum requirements as set out in the recently adopted Birmingham Design Guide.
- 7.20. The application is supported by detailed air quality, noise and ground investigation reports. In terms of traffic noise, the report has confirmed that satisfactory internal levels for residents can be achieved using appropriate glazing and ventilation. Regulatory Services raised no objections with regard to those matters, however, acknowledges that a detailed noise insulation scheme would need to be agreed prior to occupation of the dwellings. In addition, they did not raise concerns with regard to noise from surrounding commercial units, which would be unlikely to have an adverse impact on the residents of the proposed development. Whilst there are other industrial uses within the vicinity, these are considered to be a sufficient distance from the development and would have no impact on residents in terms of noise or odour.
- 7.21. In terms of existing residents, adjoining the site to the south, these dwellings comprise of three-storey maisonette units with a predominantly single-aspect over the canal. The scheme has been designed to take account of these units and, as demonstrated by the submitted sections, complies with adopted separation distance guidelines to adjoining dwellings as set out in the Birmingham Design Guide and would therefore not result in overlooking, loss of privacy or outlook, ensuring a high level of amenity for the existing residents is retained. In addition, the proposal has largely orientated windows from the nearest block (apart from one bedroom on floors 1-4) to not directly overlook the existing properties. Further, the application is supported by detailed sun/day light studies for all seasons, which acknowledges the position of the application site and shows that the scheme would have no impact on their day light/ sun light provision throughout the year, considering the new building would be situated to the north of adjoining residential units as well as its stepped height of the block reduces the building's mass towards adjoining dwellings.
- 7.22. The scheme is therefore considered to be acceptable in terms of its impact on existing and future residents of the scheme complying with relevant policies in this regard.

### **Impact on highway safety**

- 7.23. The application site is situated on the eastern side of the Watery Lane Middleway and within walking distance to public transport facilities (approximately 250m to the north) and the City Centre and Digbeth to the west on the opposite side of the road. The nearest Local Centre, Small Heath (Coventry Road), is situated 700m walking distance to the south-east.
- 7.24. The scheme would provide vehicular access from Bolton Street and would provide 10no. vehicle parking spaces within the site of which 5no. would be disabled spaces and 2no. spaces with EV charging points. The remaining parking spaces would be provided with passive electric vehicle charging provision. In addition, cycle storage on the lower ground floor would provide space for 144 bicycles with access from the courtyard area onto the Middleway at the southern end. The applicant is also in contact with Canal and River Trust to increase the use of the canal and connection to surrounding neighbourhoods which is supported.
- 7.25. The submitted Transport Statement outlines the proposed adoption of a site Travel Plan and detailed Management Plan to minimise car trips associated with the proposal. In the first instance, the development would be promoted as a car free development. The Outline Management Plan, for example, highlights that anyone who wishes to park on site would be required to register their details with the concierge in order to ensure appropriate availability prior to arrival. Blue badge holders and owners of electric vehicles would be prioritised. The principle of this is accepted and the detailed Management Plan would be conditioned.
- 7.26. The site is situated on the boundary with the city centre and Transportation raise no objections to the scheme subject to conditions which have been attached accordingly. Consequently, it is considered that the scheme would be acceptable on highway grounds and would not negatively impact on highway or pedestrian safety subject to relevant conditions.

### **Affordable Housing**

- 7.27. The Council seeks 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more. The application is accompanied by a Financial Viability Appraisal which was independently reviewed by the Council's Viability Assessor. Following discussions, it was confirmed that a 10.58% affordable housing provision could be delivered without impacting on the viability of the scheme. The 9no. units would be provided with a mix of 5no. one-bedroom units and 4no. two-bedroom units. The new government policy on First Homes requires 25% of the affordable housing provision to be provided at 30% discount. Therefore, the scheme would provide 3no. one-bed units at 30% discount to market value and 2no. one-beds and 4no. two-beds at 20% discount to market value. Housing has confirmed they raise no objections to the proposed provision.

### **Ecology, Landscaping and Public Open Space**

- 7.28. The proposed site plan indicates the provision of new planting and soft landscaping along the boundaries of the site and within the front and rear courtyard areas. The Council's Ecologist has reviewed the scheme and acknowledges the low biodiversity value of the existing site, however, highlights that the site is adjoined by the canal which forms part of the Grand Union Canal SLINC area. Conditions have been requested for a construction ecological management plan to secure appropriate protection of the land and canal during construction works as well as details of hard and soft landscaping, including details of the proposed green wall and roof and

external amenity areas. In addition, a scheme for biodiversity enhancement measures would ensure suitable future mitigation.

- 7.29. In terms of open space, the Council seeks a public open space and play area contribution as a developer contribution on residential developments of 20 dwellings or more. This would need to be provided off site as no accessible public open space is provided within the development site. The applicant has submitted a viability assessment and following independent assessment, it was confirmed that except for the 10.58% affordable housing contribution, as stated above, no further contribution could be sought from the development without impacting on viability and deliverability. Therefore, I consider it would not be appropriate to seek the public open space contribution in this instance.

### **Other matters**

- 7.30. Location adjacent to canal – The site is adjoined by the Birmingham and Warwick Junction canal. The Canal and River Trust have raised no objections, stating that the scheme has suitably addressed the Canal location. They have suggested conditions in relation to boundary treatment, lighting and levels details which are considered to be appropriate and have been imposed accordingly.
- 7.31. Flood Risk and Drainage - The application site is located within Flood Zone 1 and the applicant has submitted a detailed Drainage Strategy Plan. The LLFA and Severn Trent have no objections and requests conditions which have been imposed accordingly.
- 7.32. Energy and Sustainability – The applicant is supported by an Energy and Sustainability Statement which confirms that the scheme has been designed to meet high standards of sustainable design throughout all stages of development and complies with the policy requirements. The scheme proposes the use of air source heat pumps and a condition would be imposed to ensure the energy efficiency measures highlighted in the statement will be included and adhered to.
- 7.33. CIL - The proposal would not attract a Community Infrastructure Levy (CIL) contribution.
- 7.34. Safety/Security - West Midlands Police has confirmed that the site is situated within an area where calls to service are relatively high. The proposal provides the opportunity for regeneration of the area and to provide surveillance with the adjoining roads and canal side. They have consequently confirmed that they raise no objections but suggested conditions for a lighting scheme and security measures/CCTV to the main entrances. I consider this would be appropriate and have imposed the conditions accordingly.

## **8. Conclusion**

- 8.1. The application seeks planning permission for the erection of a building comprising 85no. apartments (Use Class C3) with three blocks between 4 and 8 storeys, including internal and external amenity space, landscaping, parking and associated works on land at Watery Lane Middleway and Bolton Street. The proposal is considered to be acceptable in principle. It would assist with the regeneration of a previously developed site in line with the suggestions of the Bordesley Park AAP. In addition, following detailed discussions, the scheme would also be acceptable in terms of its design and impact on the visual amenity of the local area. Further, it would be appropriate in terms of its impact on existing and future residents of the scheme and would not negatively impact on highway or pedestrian safety. It would also appropriately take into account

the adjoining canal and seeks the provision of 10.58% on-site affordable housing. The scheme is therefore recommended for approval subject to conditions and completion of a S106 Legal Agreement.

## **9. Recommendation**

- 9.1. That application 2022/04397/PA be APPROVED subject to the prior completion of a Section106 Legal Agreement to secure the following:
- a) On-site provision of 9no. affordable dwellings (10.58%) including 5no. one-beds and 4no. two-beds. In line with the Government First Homes policy, 3no. one-beds would be provided at 30% discount market value and the remaining 2no. one-beds and 4no. two-beds would be provided at 20% discount market sale.
  - b) Payment of a monitoring and administration fee associated with the legal agreement of £1,500.00
- 9.2. In the absence of a suitable legal agreement not being completed to the satisfaction of the Local Planning Authority on or before 16.12.2022, 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 a suitable legal agreement to secure the provision of on-site affordable housing, the proposal conflicts with policy TP31 of the Birmingham Development Plan, the Affordable Housing SPG and the NPPF.
- 9.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 9.4. That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 16.12.2022, or such later date as may be authorised by officers under delegated powers, favourably consideration be given to this application, subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission).

- 
- |   |   |
|---|---|
| 1 | Requires the scheme to be in accordance with the listed approved plans                            |
| 2 | Implement within 3 years (Full)   |
| 3 | Requires the submission of a Noise Insulation Scheme to establish residential acoustic protection |
| 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 a contamination scheme in the event of unidentified contamination      |
| 7 | Requires the prior submission of a construction ecological mitigation plan                        |
| 8 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures              |
-

- 
- 9 Requires the prior submission of hard and/or soft landscape details
  - 10 Requires the implementation of the proposed energy efficiency measures
  - 11 Requires the prior submission of sample facade panels
  - 12 Requires the submission of hard surfacing materials
  - 13 Requires the prior submission of earthworks details
  - 14 Requires the submission of boundary treatment details
  - 15 Requires the submission of sample materials
  - 16 Requires the prior submission of level details
  - 17 Requires the prior submission of architectural details
  - 18 Requires the submission of a lighting scheme
  - 19 Requires the prior submission of drainage plans for disposal of foul and surface water flows
  - 20 Requires the prior submission of a sustainable drainage scheme
  - 21 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
  - 22 Requires the submission of a site security scheme
  - 23 Requires the prior submission of a construction method statement/management plan
  - 24 Requires the submission of details to prevent mud on the highway
  - 25 Requires the prior installation of means of access
  - 26 Prevents occupation until the turning and parking area has been constructed
  - 27 Requires the submission of details of pavement boundary
  - 28 Requires the submission of a parking management strategy
  - 29 Requires the provision of cycle parking prior to occupation
  - 30 Requires the submission of a residential travel plan
  - 31 Requires the submission of cycle storage details (external provision)
  - 32 Requires the provision of a vehicle charging point
- 

Case Officer: Laura Shorney



## Photo(s)



Photograph 1: Aerial view onto site with Watery Lane Middleway to the west (© Google Streetview)



Photograph 2: View onto site from Bolton Street



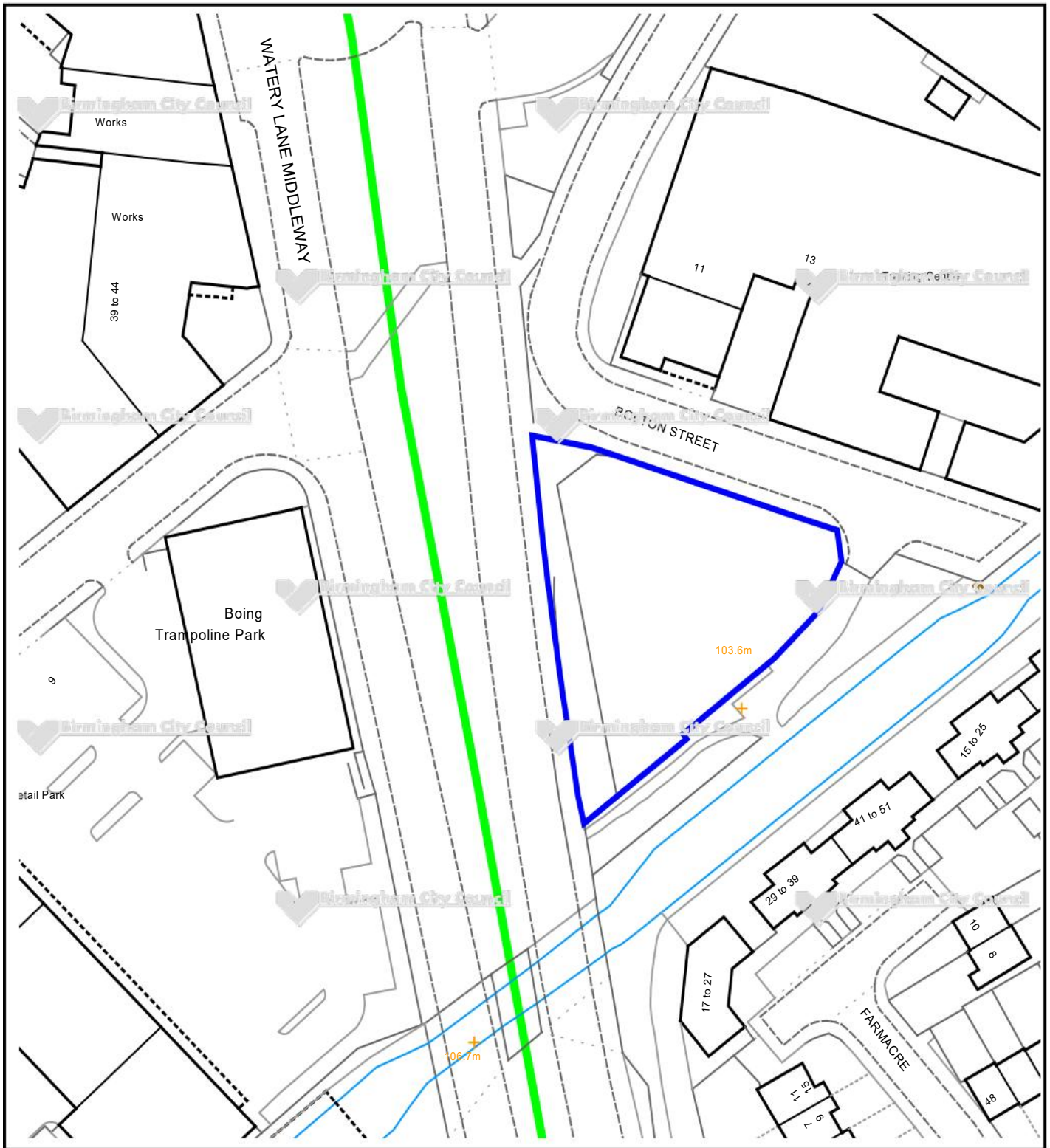


**Photograph 3: View along canal with site to the right**



**Photograph 4: View along Watery Lane Middleway with site to right (© Google Streetview)**

## Location Plan



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Committee Date:	10/11/2022	Application Number:	2021/08923/PA
Accepted:	22/11/2021	Application Type:	Full Planning
Target Date:	10/02/2023		
Ward:	Pype Hayes		

**Bagot Arms, Eachelhurst Road, Pype Hayes, Birmingham, B24 0QL**

**Demolition of existing building and erection of new building for 52 apartments (36 x 1 bed, 13 x 2 bed and 3 x 3 bed) with basement parking**

Applicant:	Blackstone Catpital (Intl) Ltd Latimer House, 6 Edward Street, Birmingham, B1 2RX
Agent:	PJ Planning Cradley Enterprise Centre, Box no 15, Maypole Fields, Cradley, B63 2QB

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Recommendation

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

**1. Proposal:**

- 1.1 This is an application for the demolition of the remains of the former Bagot Arms public house and the erection of a three and four storey building (with rooms in the roof space) comprising 52 apartments.
- 1.2 The following accommodation is proposed:
- 11no. 1bed 1 person apartments – 39.5-44 sq.m. floor area;
  - 25no. 1bed 2 person apartments – 50-55.8 sq.m. floor area;
  - 10no. 2bed 3 person apartments – 62-66 sq.m. floor area;
  - 3no. 2bed 4 person apartment – 75-76 sq.m floor space;
  - 1no. 3bed 5 person apartment – 88 sq.m. floor space
  - 2no.3 bed 6 person apartments – 98 sq.m. floor space
- 1.3 The density of the proposed development would be 222 dwellings per hectare. 35 parking spaces (0.67% per unit) are to be provided – 4 at surface level and 31 within a basement parking area. The proposed building will incorporate an undercroft to provide access to the rear parking area and access ramp to the basement. The basement also provides cycle storage facilities for one space per apartment.
- 1.4 Amenity space provision is as follows:
- private amenity areas to the front of each of the 8 ground floor apartments facing Eachelhurst Road and Chester Road;
  - small terraced areas for the 5 ground floor apartments facing the internal courtyard/parking area;
  - balconies for 6 of the first floor apartments and 3 of the second floor apartments (overall, private amenity space would be provided for 22 units).



SITE LAYOUT PLAN



CHESTER ROAD ELEVATION



EACHELHURST ROAD ELEVATION

1.5 The applicant has submitted a financial appraisal to demonstrate that reuse of the property as a public house or conversion to residential accommodation would not be viable. The following reports/surveys have also been submitted:

- Travel Plan
- Transport Statement
- Air Quality Assessment
- Heritage Statement;
- Sustainability and Energy Report
- Preliminary Ecological Appraisal
- Noise Survey
- Sustainable Drainage Assessment



1.6 [Link to Documents](#)

2. **Site & Surroundings:**

- 2.1 The site lies at the corner of Eachelhurst Road and A452 Chester Road. The public house ceased trading in 2018 and in 2021 a fire at the site led to the loss of the roof and many of the internal fixtures and fittings.
- 2.2. Immediately adjacent to the site is a parade of commercial units on Chester Road and a row of two storey dwellings on Eachelhurst Road. To the east (rear) is the large rear garden of 11 Ellerby Grove. Directly opposite the site on Chester Road is housing and to the north, on the opposite side of Eachelhurst Road, is Pype Hayes Park. The site is within the setting of the Grade II listed Church of St Mary (275m to the south west on Tyburn Road) and the Grade II listed Pype Hayes Hall (300m to the north in Pype Hayes Park).
- 2.3 The public house is included on the Birmingham Historic Environment Record (HER) and is therefore a non-designated heritage asset. The submitted Heritage Statement (written before the fire damage) advises that the public house was built in 1931 in a Neo-Georgian style common to the period. At the time the building had retained much of its architectural detailing, however the Statement concludes that it is of 'low' heritage importance. The building had generous floor to ceiling heights and a large hipped roofscape with small dormers and prominent chimneys, and was symmetrical in form with a central pitched roof element bookended by projecting gable blocks.



IMAGE OF THE BUILDING FROM 2018 PRIOR TO CLOSURE



IMAGE OF BUILDING FOLLOWING THE FIRE DAMAGE

2.4 [Site Location](#)

3. **Planning History:**

3.1 None relevant to the assessment of the application.

4. **Consultation Responses:**

4.1 Transportation Development – No objection.

Ecology Officer – Recommends a condition to ensure that the development incorporates habitat features for bats and birds.

Conservation Officer – Comments set out in paragraph 7.6 below.

City Design Officer – Comments set out in paragraph 7.9 below.

Environmental Pollution Control – No objection subject to conditions requiring a noise insulation scheme, contamination remediation scheme and verification report, and provision of electric vehicle charging points.

Leisure Services – Request a contribution of £150,125 towards the provision/improvement of public open space and play areas at Pype Hayes Park within the Pype Hayes Ward.

Lead Local Flood Authority - Further information required to demonstrate that appropriate drainage systems will be implemented within the development.

Severn Trent Water Ltd – Request a condition requiring the submission of foul and surface water drainage details.

West Midlands Police – No objection.

Twentieth Century Society – Object on the basis that the public house is a building of considerable historic interest and architectural merit, the demolition of which would cause substantial heritage harm.

5. **Third Party Responses:**

5.1 The application has been publicised by site notice and letter. 30 letters of objection and a 31-signature petition have been received, raising the following concerns:

- Loss of a local landmark building which should instead be restored and reused /converted;
- A development of flats does not address the local need for more family housing;
- The proposal constitutes overdevelopment of the site;
- The scale, siting and design of the proposed building are inappropriate;
- Lack of amenity space provision within the development;
- The development will increase the volume of traffic at an already busy junction;
- Lack of parking provision within the development would exacerbate existing parking problems in the area;
- Overlooking of neighbouring properties;
- Loss of light to, and outlook from, neighbouring properties;

5.2 Five letters of support have been received.

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

- a. National Planning Policy Framework  
Paragraphs 11, 69, 120, 130, 197, 199 and 203
- b. Birmingham Development Plan 2017  
Policy PG3 (Place making);  
Policy TP4 (Low and zero carbon energy generation);  
Policy TP6 (Management of flood risk and water resources);  
Policy TP8 (Biodiversity and geodiversity);  
Policy TP9 (Open space, playing fields and allotments);  
Policy TP12 (Historic environment);  
Policy TP27 (Sustainable neighbourhoods);  
Policy TP28 (The location of new housing);  
Policy TP30 (The type, size and density of new housing);  
Policy TP31 (Affordable housing)
- c. Development Management DPD  
Policy DM2 (Amenity);  
Policy DM10 (Standards for residential development);  
Policy DM14 (Transport access and safety);  
Policy DM15 (Parking and servicing)
- d. Supplementary Planning Documents & Guidance:  
Affordable Housing SPG;  
Birmingham Parking SPD;  
Public Open Space in New Residential Development SPD;  
Birmingham Design Guide SPD

7. **Planning Considerations:**

7.1 The main material considerations are:

- Principle;
- Impact on the character of the area;

- Impact on heritage assets;
- Residential amenity;
- Highway safety;
- Sustainability;
- Ecology;
- Drainage;
- Planning obligations.

### Principle

- 7.2 The 'Planning Guidelines for Development Involving Public Houses' SPG requires that consideration is given to the impact which loss of a public house use would have upon the amenities available to the local population. Given that the Bagot Arms has not been in use for several years, there is another public house close to the site (the Tyburn House, approximately 600 to the south east on Chester Road) and that information has been provided to demonstrate that a public house use would no longer be viable in this location, it is considered that loss of the public house has effectively already occurred and is acceptable.
- 7.3 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.
- 7.4 The Birmingham Development Plan became 5 years old on 10th January 2022. In accordance with NPPF paragraph 74, BDP policies PG1 and TP29 are considered out of date, and the Council's five-year housing land supply must now be calculated against the Local Housing Need figure for Birmingham. As of 10th January 2022, the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11d) of the NPPF is engaged and the tilted balance applies for decision taking.
- 7.5 The proposal constitutes the re-use of previously developed land, in accordance with the NPPF and BDP Policy TP28. The NPPF (paragraphs 69 and 120) supports the development of 'windfall' sites and under-utilised land in making a contribution to meeting housing requirements. The site lies in a sustainable location well served by public transport and in this respect the proposed density of the development accords with BDP Policy TP30. Residential development in this location is therefore considered acceptable in principle. The proposal would also provide a range of dwelling types (from 1 bed, 1 person to 3 bed, 6 person accommodation), thereby ensuring further compliance with Policy TP30. Officers consider that the housing mix is acceptable, with approximately two thirds of the flats being one-bed for reasons of viability (as demonstrated by the submitted financial appraisal) and the remainder being two and three bed units which will help meet an identified demand for this type of accommodation within the City.
- 7.6 The Conservation Officer considers the existing building to be of medium /high heritage importance and that the loss of the non-designated heritage asset would represent a very high level of harm. Whilst the applicant's reason set out in paragraph 1.5 for discounting the retention and reuse of the building are accepted,

this is not sufficient reason alone to accept its demolition. As such, in addition to the 'tilted balance' towards the provision of housing referred to above, it is also necessary to consider other potential benefits of the development in order to balance this loss – such benefits are considered below.

Impact on the character of the area



CGI of the Eachelhurst Road elevation



CGI of the Chester Road elevation





CGI of the 'main entrance' elevation of the development

- 7.7 The Birmingham Design Guide requires that the design of proposals must be informed by a clear understanding of existing character of the area and result in its enhancement. Where the site contains heritage assets, these must be key considerations in the design response. The existing building had a distinct architectural style and form which acknowledged the surrounding area's character, whilst reflecting the historic stature as a community resource. The main consideration here is whether the proposed development would be a similarly positive feature in the street scene.
- 7.8 The proposal sites the building closer to the junction than the existing, aligning with the established building line at Chester Road and influenced by the building line at Eachelhurst Road, with a step forward marking the change in height and scale. In terms of the details of the scheme, the chimneys and dormers within the roofscape are a nod to the design of the Bagot Arms, as is the symmetrical fenestration from the primary entrance. The expressed concrete window reveals aid articulation and provide a complementary contrast to the brick facades; in combination with the generous floor to ceiling heights this helps to visually reduce the 'mass' of the building.
- 7.9 The City Design Officer is of the opinion that proposal acknowledges the important role and architectural value of the Bagot Arms, using it to inspire a successful design response which introduces a high density residential scheme of contemporary form into a mature suburb. In this respect the proposal aligns with the Birmingham Design Guide, BDP policies PG3 and TP27 which seek high design quality in new developments, and paragraph 130 of the NPPF advises that developments should be visually attractive as a result of good architecture and layout.

#### Impact on heritage assets

- 7.10 The NPPF sets out the following advice in relation to the conservation and enhancement of the historic environment:
- *'...decisions should ensure that developments...are sympathetic to local character and history...'*(para.130);
  - *'In determining applications, local planning authorities should take account of... the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their*



*conservation...(and)the desirability of new development making a positive contribution to local character and distinctiveness’ (para.197);*

- *‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’ (para.199);*
- *‘In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset’ (para.203)*

- 7.11 Policy TP12 of the BDP advises that the Council will seek to manage new development in ways that protect, enhance and make a positive contribution to the character of the historic environment. Historic building recording will be required where consent is granted for proposals involving the loss of non-designated heritage assets.
- 7.12 With regard to the comments of the Conservation Officer it is considered that, as set out in paragraphs 7.8 and 7.9, the proposed development as a ‘replacement’ of the existing building would be of sufficiently high design quality to mitigate the loss of the non-designated heritage asset from the existing street scene. Specifically, with regard to the advice set out in paragraph 197 of the NPPF the development would make a positive contribution to character of the area, and as such the loss of the building is acceptable.
- 7.13 Given the distance separation between the site and the Church of St.Mary and Pype Hayes Hall, and the acceptable scale, form and design of the proposed development, it is not considered that any harmful impacts would arise to the setting of those buildings.
- 7.14 For the reasons set out above it considered that the proposal would not contravene the NPPF and BDP advice referred to above. Condition 3 requires recording of the building prior to demolition in accordance with the requirements of Policy TP12.

#### Residential Amenity

- 7.15 In terms of the living environment to be provided for the residents of the development all of the proposed flats would comply with the floor space guidelines set out in the National Technical Housing Standards document, in accordance with the requirements of Policy DM10 of the DMB DPD. In order to comply with the standards set out in the Birmingham Design Guide SPD, the development should provide 298sq.m of amenity space. As referred to in paragraph 1.4, 13 of the flats would have access to private amenity areas and 9 would be provided with balconies - the site is relatively constrained and cannot provide any communal amenity areas for use by occupants of the other flats, however Pype Hayes Park on the opposite side of Eachelhurst Road is within short walking distance and would adequately meet their open space needs.
- 7.16 The air quality assessment advises that occupants would not be exposed to unacceptable levels of pollution. Condition 4 requires the submission of a noise insulation scheme as recommended by Environmental Pollution Control to mitigate any potentially adverse impacts arising from road traffic noise.
- 7.17 The siting of the proposed building would not breach the 45 degree code in relation to outlook from the adjacent existing house (1 Eachelhurst Road). Distance

separations from windows and balconies on the rear elevation of the building facing the garden of that property are approximately 20m, exceeding the 5m per storey guideline set out in the Birmingham Design Guide SPD, and as such the privacy of the occupants would be safeguarded. The building would be sited at sufficient distance from the garden to ensure that the additional storey height of the development in comparison to the existing would not result in any significant increase in overshadowing.

- 7.18 The building would also be sited approximately 15m from the rear garden of 11 Ellerby Grove and 50m to the house itself; given this distance separation, and the position of the building relative to the property, no loss of privacy would occur.
- 7.19 In view of the above, it is considered that the development would provide a satisfactory level of amenity for future occupants and existing residents and as such complies with the requirements of paragraph 130 of the NPPF and Policies DM2 and DM10 of the DMB DPD.

#### Access/Parking

- 7.20 To accord with the guideline standards set out in the Birmingham Parking SPD (1 space for 1 and 2 bed flats, 2 spaces for 3 bed flats, plus 1 unallocated space per 10 dwellings) the development should provide 61 car parking spaces. Given that the site is in a highly accessible location well-served by public transport it is considered that parking provision below this level is acceptable in principle. In addition there are parking restrictions in place along the immediate local highway network, and therefore it is unlikely that the proposed level of parking provision will result in on-street parking in the immediate vicinity of the site. Cycle parking accords with the SPD guideline of 1 space per unit.
- 7.21 Given the number of parking spaces proposed, and accessibility of the site by non-car methods of travel, vehicle trip generation would be relatively low. Furthermore, the Travel Statement identifies that the number of vehicle trips generated would be lower across the weekday period than those for the previous pub/restaurant use.
- 7.22 In view of the above the proposal accords with Policy DM15 of the Development Management in Birmingham DPD in that it would promote sustainable methods of travel rather than car use and would reduce congestion.
- 7.23 No concerns have been raised by Transportation Development relating to the proposed siting of the vehicular access within the development. The proposal would therefore comply in this respect with Policy DM14 of the Development Management in Birmingham DPD which requires that developments provide safe, convenient and appropriate access arrangements.

#### Sustainability

- 7.24 BDP Policy TP4 advises that, in the interests of providing sustainable forms of development, schemes will be expected to incorporate the provision of low and zero carbon forms of energy generation. The Sustainability and Energy Report advises that, through the implementation of passive design and efficient building measures (including thermal insulation, solar control glazing, mechanical ventilation, energy efficient lighting and modern heating systems), the development will achieve a 19% improvement over and above building regulations target emissions rates. Condition 5 requires development to take place in accordance with the measures set out in the report.

#### Ecology

- 7.25 The conditions recommended by the Ecology Officer have been attached in order to ensure that the proposal complies with BDP Policy TP8 which requires that developments support the enhancement of the natural environment.

#### Drainage

- 7.26 The site lies within Flood Zone 1. The Sustainable Drainage Assessment has been assessed by the Lead Local Flood Authority, however further information is needed to ensure that the proposed drainage measures are appropriate. This is secured by condition 8 in accordance with the requirements of BDP Policy TP6.

#### Affordable housing/financial contributions

- 7.27 Policy TP9 of the BDP and the Public Open Space in New Residential Development SPD require the provision of developer contributions towards improvements /provision of public open space in schemes of 20 or more dwellings. In this case a contribution of £150,125 has been requested by Leisure Services for improvements to the open space and play area at Pype Hayes Park. BDP Policy TP31 and the Affordable Housing SPG seek the provision of 35% affordable dwellings in developments of 15 units or more, equating to the need for 18 such units for this proposal.
- 7.28 The NPPF advises Local Planning Authorities to assume that proposed developments are viable unless the applicant can demonstrate circumstances proving otherwise, in which case the required contributions should be adjusted accordingly. Policy TP31 also allows for this approach to be taken, whilst the Public Open Space in New Residential Development SPD advises that the 'financial constraints' on a development should be taken into account when seeking contributions.
- 7.29 The submitted financial appraisal concludes that, due to the costs associated with the development (in particular the cost of constructing the basement parking area), the scheme is 'financially challenged' and cannot viably accommodate provision of affordable housing and open space improvements. The appraisal has been assessed by independent surveyors who have concurred with its findings. Notwithstanding this the applicant has offered to provide five affordable units within the development – Officers consider this to be an acceptable compromise which can be secured via a s106 Agreement. The application is subject to the government policy of a minimum of 25% of affordable housing units being First Homes, and therefore the Agreement will also require that at least two of the five affordable units be provided as First Homes.

### 8. **Conclusion**

- 8.1 The removal from the site of the non-designated heritage asset is balanced by replacement with a sustainable form of development which would make a positive impact on the character of the area, have no adverse effect on the setting of nearby listed buildings, provide adequate levels of amenity and not result in any harm to highway safety. As such the proposal complies with the relevant policies referred to in section 6 above.

### 9. **Recommendation:**

- 9.1 That application 2021/08923/PA be APPROVED subject to the conditions listed below (that may be amended, deleted or added to providing that the amendments do not materially alter the permission) and the completion of a Section 106 legal agreement to secure:

- a) the provision of 5no. affordable housing units; comprising 3no. 20% discount affordable rent or sale and 2no. 30% discount market sale.
- 9.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 10<sup>th</sup> February 2023 the planning permission be refused for the following reason:
- a) 'In the absence of a Section106 legal agreement to secure the delivery of affordable homes the proposed development conflicts with Policy TP31 of the BDP and the NPPF'.
- 9.3 That the City Solicitor be authorised to prepare, seal and complete an appropriate agreement under Section 106 of the Town and Country Planning Act.

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1	Implement within 3 years (Full)
2	Requires the scheme to be in accordance with the listed approved plans
3	Requires the prior submission of Structural Recording
4	Requires the submission a Noise Insulation Scheme to establish residential acoustic protection
5	Sustainability measures
6	Requires the submission of a scheme for ecological/biodiversity/enhancement measures
7	Requires the prior submission of a sustainable drainage scheme
8	Requires the prior submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan
9	Requires the prior submission of a contamination remediation scheme
10	Requires the submission of a contaminated land verification report
11	Charging points provision
12	Requires the submission of hard and/or soft landscape details
13	Requires the submission of hard surfacing materials
14	Requires the submission of boundary treatment details
15	Requires the prior submission of a demolition method statement/management plan
16	Requires the submission of sample materials
17	Prevents occupation until the turning and parking area has been constructed
18	Requires the submission of cycle storage details
19	Requires the prior submission of a construction method statement/management plan

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20	Requires the submission of details to prevent mud on the highway
21	Requires the prior installation of means of access
22	Requires the submission of a residential travel plan

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Case Officer:        Faisal Agha



## Photo(s)



View of site travelling northwards along Chester Road



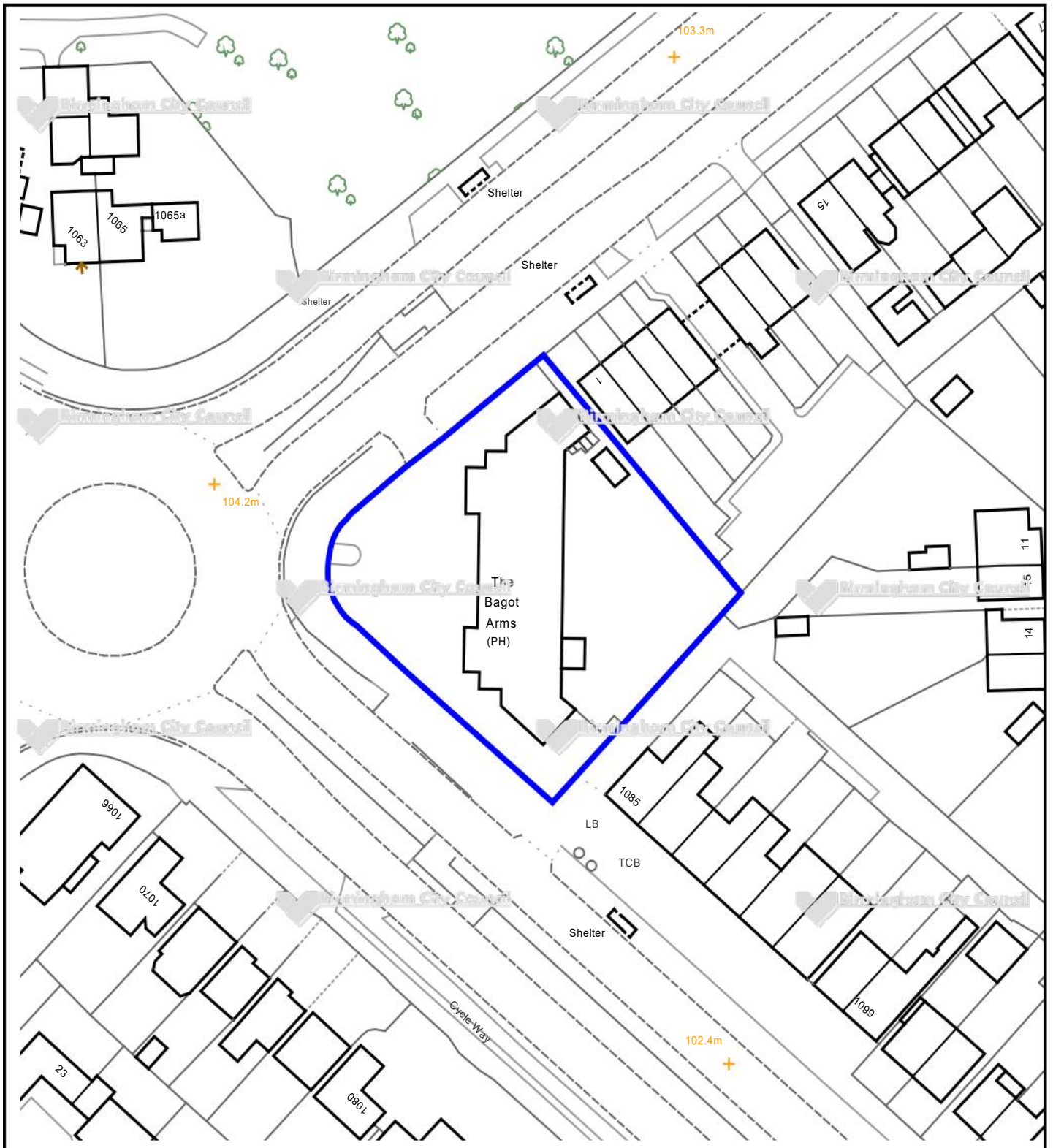
view of site from the opposite side of Chester Road



View of site from the opposite side of Eichelhurst Road



## Location Plan



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# Birmingham City Council

## Report to Planning Committee

10 November 2022

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### Subject: Enforcement Performance

**Report of Ian MacLeod** - Director of Planning Transport and Sustainability, Place, Prosperity & Sustainability Directorate. Email Address: [Ian.MacLeod@birmingham.gov.uk](mailto:Ian.MacLeod@birmingham.gov.uk)

**Report author: Mark Franklin** - Principal Enforcement Officer, Planning & Development.  
Email Address: [mark.franklin@birmingham.gov.uk](mailto:mark.franklin@birmingham.gov.uk)

Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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If relevant, provide exempt information paragraph number or reason if confidential:
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### 1. Executive Summary

It was agreed at Planning Committee on 29 April 2021 that bi-annual reports would be provided to committee as stated in the Birmingham Local Enforcement Plan. It was also agreed at Economy & Skills Overview & Scrutiny Committee on 2 March 2022 that the report would be sent to all Councillors. This report shows performance/data for the financial year half, 1 April 2022 to 30 September 2022.

### 2. Recommendations:

- 2.1. The report is for information only and recommended that Planning Committee note the continued high volume of live case work within the Enforcement team and the positive actions in terms of cases closed; notices served and negotiated solutions.

### 3. Background:

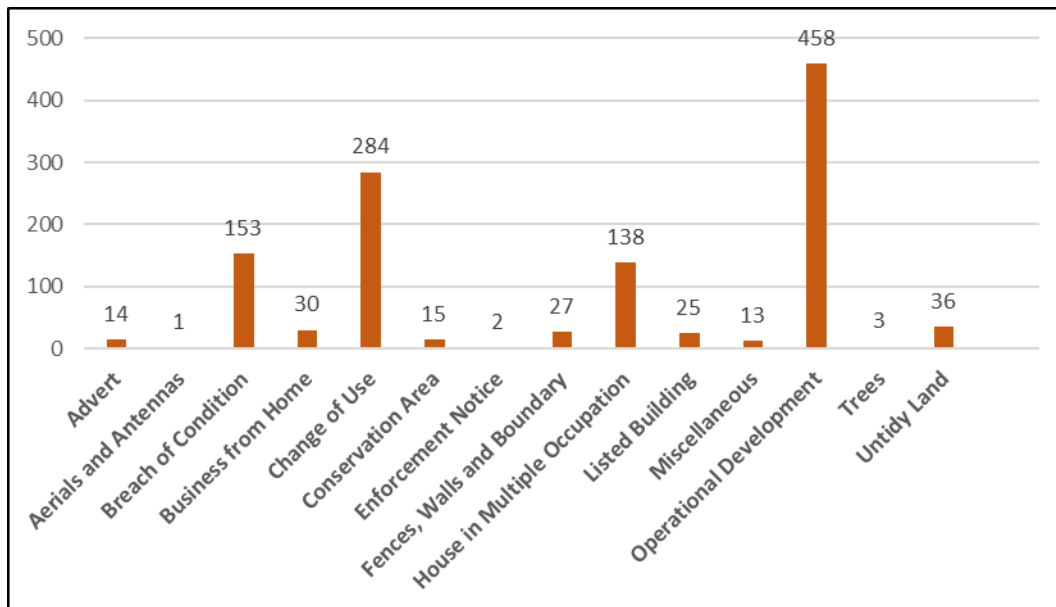
- 3.1 A review into the operation of the team was undertaken in November 2020 and it was concluded that the enforcement team would be divided into North and South teams. The North team managed by James Fox, Acting Principal Enforcement Officer and the South team managed by Mark Franklin, Principal Enforcement Officer.
- 3.2 Head of Enforcement, Householder and Technical Services is James Wagstaff. There are eight senior enforcement officers (SEO) (two are part time) who investigate complaints received and one enforcement officer (EO) who registers the complaints and has a small caseload.
- 3.3 It is considered the above management structure of the team is more efficient and effective way of managing the workload.
- 3.4 Staffing levels have slightly changed since the last report. Our agency member of staff left the Council at the end of June 2022. The loss of our second graduate has not been replaced. The senior officer who returned from long term sick leave has returned to the substantive role of SEO on 1<sup>st</sup> November instead of managing the breaches inbox and registering new cases. This is due to the senior officer returning from his development opportunity as part of the Commonwealth Games and the EO who was covering

this officer, returning to his substantive role managing the breaches inbox and registering the new cases. James Wagstaff, Head of Enforcement and Planning Technicians left the Council at the end of July 2022 but has now returned back into the same role.

- 3.5 The Birmingham Local Enforcement Plan (BLEP) was reported to Cabinet in May 2021 and subsequently adopted. It is a live document on the Council's webpages and in particular, is highlighted to be read, by those wishing to make complaints as part of the complaint form.

#### 4. Performance/Data:

- 4.1 The chart below outlines the total number of live cases as at 30 September (1199). This has remained steady since the end of the last half year. These can be categorised as the following:



- 4.2 The table below illustrates the number of live cases per ward:

WARD	Count
Acocks Green	36
Allens Cross	5
Alum Rock	48
Aston	21
Balsall Heath West	12
Bartley Green	12
Billesley	17
Birchfield	27
Bordesley & Highgate	33
Bordesley Green	25
Bournbrook & Selly Park	42
Bournville & Cotteridge	10
Brandwood & King's Heath	18
Bromford & Hodge Hill	21
Castle Vale	3
Druids Heath & Monyhull	3
Edgbaston	19
Erdington	33
Frankley Great Park	4

Garretts Green	7
Glebe Farm & Tile Cross	23
Gravelly Hill	24
Hall Green North	23
Hall Green South	12
Handsworth	23
Handsworth Wood	25
Harborne	27
Heartlands	23
Highter's Heath	5
Holyhead	12
King's Norton North	5
King's Norton South	2
Kingstanding	11
Ladywood	16
Longbridge & West Heath	10
Lozells	20
Moseley	41
Nechells	8
Newtown	12
North Edgbaston	40
Northfield	2
Oscott	18
Perry Barr	21
Perry Common	6
Pype Hayes	15
Quinton	15
Rubery & Rednal	3
Shard End	8
Sheldon	13
Small Heath	18
Soho & Jewellery Quarter	42
South Yardley	13
Sparkbrook & Balsall Heath East	57
Sparkhill	36
Stirchley	10
Stockland Green	36
Sutton Four Oaks	7
Sutton Mere Green	1
Sutton Reddicap	7
Sutton Roughley	2
Sutton Trinity	9
Sutton Vesey	19
Sutton Walmley & Minworth	10
Sutton Wylde Green	6
Tyseley & Hay Mills	8
Ward End	24
Weoley & Selly Oak	14
Yardley East	11
Yardley West & Stechford	10
<b>Total</b>	<b>1199</b>

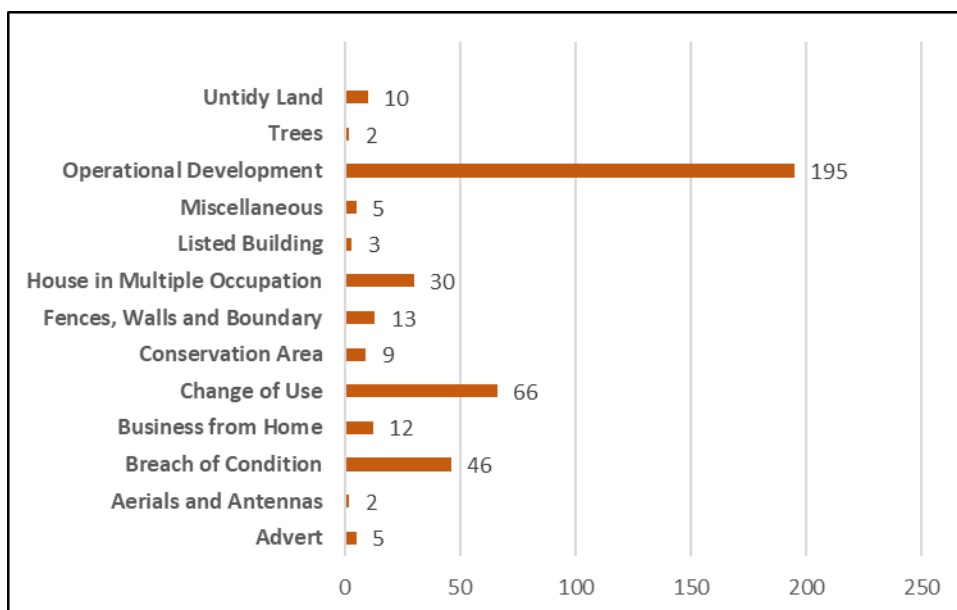
4.3 There has been a total of 398 cases closed during the opening six months of the financial year. The table below shows the number of closed cases per ward:

WARD	Count
Acocks Green	13
Allens Cross	5
Alum Rock	11
Aston	4
Balsall Heath West	1
Bartley Green	4
Billesley	4
Birchfield	2
Bordesley & Highgate	4
Bordesley Green	12
Bournbrook & Selly Park	16
Bournville & Cotteridge	7
Brandwood & King's Heath	16
Bromford & Hodge Hill	7
Castle Vale	2
Druids Heath & Monyhull	2
Edgbaston	12
Erdington	19
Frankley Great Park	2
Glebe Farm & Tile Cross	5
Gravelly Hill	10
Hall Green North	15
Hall Green South	8
Handsworth	5
Handsworth Wood	10
Harborne	13
Heartlands	1
Highter's Heath	2
Holyhead	1
King's Norton North	1
King's Norton South	2
Kingstanding	3
Ladywood	4
Longbridge & West Heath	3
Moseley	17
Nechells	1
North Edgbaston	14
Northfield	2
Oscott	2
Perry Barr	2
Perry Common	2
Pype Hayes	5
Quinton	11
Rubery & Rednal	1
Sheldon	5
Small Heath	8
Soho & Jewellery Quarter	6

South Yardley	7
Sparkbrook & Balsall Heath East	9
Sparkhill	4
Stirchley	4
Stockland Green	8
Sutton Four Oaks	11
Sutton Mere Green	5
Sutton Reddicap	4
Sutton Roughley	1
Sutton Vesey	12
Sutton Walmley & Minworth	9
Sutton Wylde Green	3
Tyseley & Hay Mills	4
Ward End	4
Weoley & Selly Oak	6
Yardley East	3
Yardley West & Stechford	2

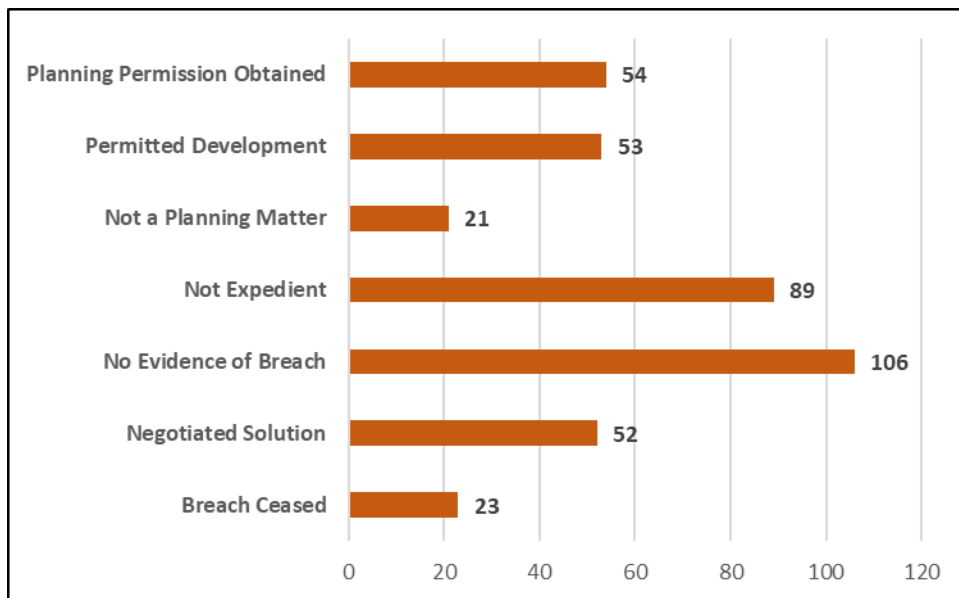
398

4.4 The chart below shows the categories of those cases closed. Operation development is by far the main source of complaint, followed by a change of use.

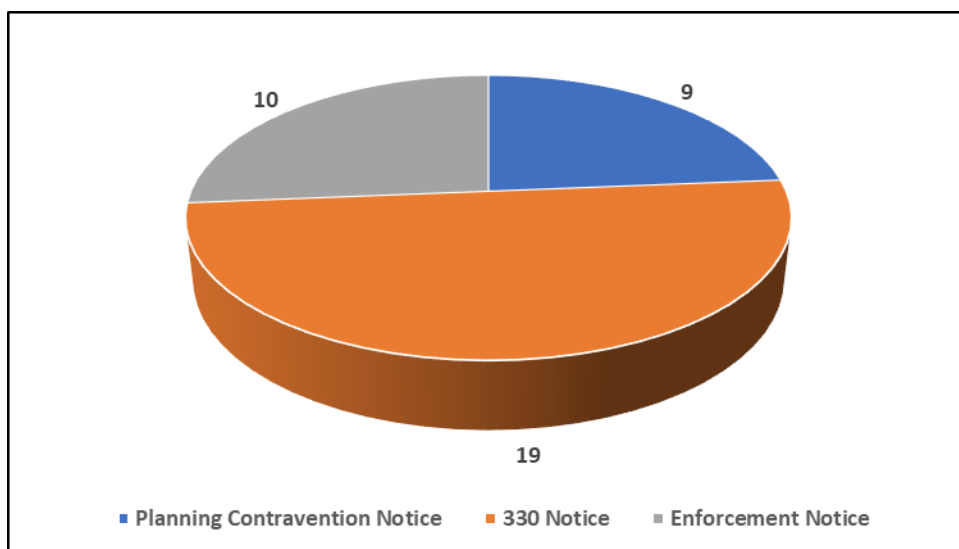


4.4.1 The chart below shows the categories why those cases were closed. It is pertinent to note over 50 cases were resolved by officer negotiation, without the need for formal action. Also to note, the high number of cases closed that were either no breach identified or permitted development. This enforces the need for the online complaint form to be completed fully when either members of the public or councillors want to allege a breach. A significant proportion of officer time is wasted in registering cases, conducting history checks and site visits only to identify no breach. This of course has an impact on team resource and financial resource.





4.5 The chart below displays the number of notices and type of notice issued during the period.



4.6 Since 2018 the local planning authority has referred several cases, where appropriate, to Crown Court to obtain a confiscation order under the Proceeds of Crime Act. The table below shows our success to date. A total of £310,981.89 has been awarded to the Council. The Planning Enforcement Team receive roughly 1/6<sup>th</sup> of that figure, so approximately £60,000 which must be reinvested into prevention/detection of crime and separating offenders from the proceeds of their crimes.

<u>Date</u>	<u>Payment</u>	<u>Breach</u>
02/01/2018	£5,004.38	Unauthorised erection of a first-floor extension
04/01/2019	£114,000.00	Unauthorised change of use to a hot food takeaway
27/03/2019	£50,000.00	Unauthorised change of use to a hot food takeaway
02/04/2019	£5,896.00	Unauthorised change of use to a hot food takeaway
10/03/2020	£25,000.00	Unauthorised change of use to shisha cafe

11/03/2020	£25,000.00	Unauthorised change of use to shisha cafe
12/03/2020	£19,000.00	Unauthorised change of use to shisha cafe
14/04/2020	£28,000.00	Unauthorised rear extension
15/04/2020	£9,433.39	Unauthorised rear extension
05/03/2021	£15,000.00	Unauthorised first floor extension
10/03/2021	£14,648.12	Unauthorised first floor extension
01/10/2021	£50,000.00	Unauthorised change of use to a HMO
	<b>£360,981.89</b>	

4.7 There is one live case being considered at Crown Court and several cases being considered by our Legal team as to whether or not the Council is in a position to issue summons.

4.8 There have been 5 appeals dismissed by the Planning Inspectorate relating to enforcement notices issued. This continues the Team's success at the appeal stage. The matters won were:

- Change of use from storage to residential
- Single storey rear extension
- Erection of a detached structure
- Erection of boundary wall, piers, railings, installation of windows, and paved garden
- Change of use to homelessness hostel

4.9 As the Committee are aware from 4.4.1 above the Team resolve many cases through negotiation - "Negotiated Solution". This work generally goes unnoticed. Therefore, I am introducing a few examples, of this work for your information and to demonstrate what can be achieved through the perseverance of our officers.



Here is an example of an unauthorised use ceasing and an entire shopfront being removed and replaced with what was there before the breach of planning control took place.



Here is an example of a substantial deviation from an approved planning application. Remedial works were undertaken including part demolition, to bring the development back into accordance with the approved plans.





Finally, an example of a more suitable design for boundary fencing being agreed and implemented.



## **5.0 Recommendation**

- 5.1 That the report be noted, and bi-annual reports continue to be presented to Planning Committee in accordance with the Birmingham Local Enforcement Plan.

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