

# **Birmingham City Council**

## **Planning Committee**

**14 February 2019**

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	9	2018/00484/PA  Old Union Mill 17-23 Grosvenor Street West Ladywood Birmingham B16 8HW  Proposed two storey extension to rear of original building to facilitate refurbishment to provide office floorspace (Use Class B1a), two new residential blocks within rear courtyard rising to 3 and 4 storeys to provide 13 apartments (5 x 1-bed, 7 x 2-bed, 1 x 3-bed), re-levelling and landscaping to form parking courtyard and communal gardens
Approve - Conditions	10	2018/00505/PA  Old Union Mill 17-23 Grosvenor Street West Ladywood Birmingham B16 8HW  Listed Building Consent for demolition of 20th century extension to rear, internal and external alterations to existing building including two storey extension to provide additional access to the rear; replacement archway at front elevation (works associated with refurbishment to provide office floorspace)

Committee Date:	14/02/2019	Application Number:	2018/00484/PA
Accepted:	22/01/2018	Application Type:	Full Planning
Target Date:	04/02/2019		
Ward:	Ladywood		

Old Union Mill, 17-23 Grosvenor Street West, Ladywood, Birmingham, B16 8HW

Proposed two storey extension to rear of original building to facilitate refurbishment to provide office floorspace (Use Class B1a), two new residential blocks within rear courtyard rising to 3 and 4 storeys to provide 13 apartments (5 x 1-bed, 7 x 2-bed, 1 x 3-bed), re-levelling and landscaping to form parking courtyard and communal gardens

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1 The application seeks consent to carry out alterations to convert the existing listed building and construct two new blocks of residential apartments within the rear courtyard.
- 1.2 In more detail the first part of the proposals seek consent to part demolish part extend the existing frontage building facing Grosvenor Street West. This listed building would then be converted to offer five office units (Use Class B1a) ranging from 65sqm to 161sqm net indoor area (NIA). The proposed extension comprises a two storey addition to the rear measuring approximately 10.1m by 6.0m that would provide an external core and access to two of the five office units. The courtyard elevation would be constructed in a light weight contemporary modern glazed structure to contrast with the original red brick listed building. Access to the remaining three office units would be via existing doorways to the rear of the building. The renovation of the building would also include the demolition of an early 20th century extension to the original building together with repairs to the fabric, including the entrance archway and internal alterations to bring the building back into use. A separate listed building application for internal and external works has also been submitted and is reported on this agenda (2018/00505/PA).
- 1.3 Secondly it is proposed to demolish the existing modern two storey 'L' shaped building within the rear courtyard to provide two residential blocks that would align the west and east boundaries of the site. The blocks would fill the depth of the courtyard to provide 13 apartments; 1 x 3 bed, 7 x 2 bed and 5 x 1 bed ranging in area from 70sqm to 237 sqm NIA.
- 1.4 The proposed west block sited closest to the Dakota Apartments and Sherborne Lofts would reach a total of 3 storeys. The proposed east block close to the common boundary with an existing electricity substation would reach four storeys in height. The facades of the two new residential blocks would primarily have a brick finish combined with metal cladding and brick detailing to the front elevations to provide some discrete interest. Elements of the materials to the apartments are echoed in

the proposed extension to the listed building to create a visual link between the two parts of the scheme.

- 1.5 Pedestrian and vehicular access would be obtained via the arched opening within the listed building from Grosvenor Street West to the re-levelled and re-designed courtyard a new courtyard providing 16 parking spaces.
- 1.6 The proposed layout would also present an area of private amenity space at the end of the courtyard measuring approximately 11.4m by 7.6m where residents would be able to access views across the canal.

1.7 [Link to Documents](#)

## 2. Site & Surroundings

- 2.1 The layout of the existing site presents a two storey listed building to the front facing Grosvenor Street West and a two storey L shaped modern workshop building within the rear courtyard that was constructed in the 1990's. The Grade II listed building, formerly known as the New Union Mill was constructed in 1813 with buildings arranged around three side of the rear courtyard; only the south east range, or frontage building facing Grosvenor Street West that accommodates a gated central archway providing access to the courtyard remains. It is proposed to demolish the modern two storey workshop block and it is understood that both of these buildings have been vacant for in excess of 15 years.
- 2.2 The application site lies within a largely residential part of the City Centre. The Dakota apartments, which also front onto Grosvenor Street West, adjoin the site to the south west. Part of the rear boundary has a common boundary to Sherborne Lofts, a four storey apartment block and part to the Birmingham Canal and towpath which lies at more than 2.5m lower than the application site. To the north east of the site is a substation that is located at the corner of Grosvenor Street West and Sheepcote Street and reaches a height of approximately 4 storeys..

## 3. Planning History

- 3.1 2018/00505/PA Listed Building Consent for demolition of 20th century extension to rear, internal and external alterations to existing building including two storey extension to provide additional access to the rear; replacement archway at front elevation (all works associated with refurbishment to provide office floorspace) (Awaiting determination)
- 3.2 2017/03387/PA - Proposed two storey extension to rear of original building to facilitate refurbishment to provide office floorspace; two new residential blocks within rear courtyard rising to 3 and 4 storeys to accommodate 13 apartments (6 x 1 bed, 6 x 2 bed and 1 x 3 bed); re-levelling and landscaping to form parking courtyard and communal gardens. Withdrawn
- 3.3 2017/03515/PA - Listed Building Consent for demolition of 20th century extension to rear, internal and external alterations to existing building and proposed two storey extension to provide additional access to the building to the rear (all works associated with refurbishment to provide office floorspace). Withdrawn
- 3.4 2017/02644/PA - Listed Building Consent for replacement archway at front elevation. Approved 18/05/2017 12 month consent for implementation. (Expired)

- 3.5 2017/00632/PA - Application for Prior Notification of proposed demolition of rear workshops. Accepted as needing prior approval from the Council and that permission be granted. 06/03/2017
- 3.6 2006/06914/PA - Demolition of workshops, conversion of existing buildings into apartments and offices, construction of town houses (of 1, 2, 3 and 4 storeys) with associated parking & external works. Approved 19/02/2007
- 3.7 2006/06918/PA - Listed building consent application for demolition of workshops, conversion of existing buildings into apartments and offices, construction of new town houses with associated parking and external works. Approved 19/02/2007
- 3.8 2002/05934/PA and 2002/05934/PA. - Planning and listed building consent for demolition of workshops, conversion of existing building into apartments and offices. Approved 11/03/2004
- 3.9 1992/03666/PA and 1992/04402/PA - Planning and listed building consent granted for demolition of existing sheds and provision of landscaped and car parking areas. Approved 29/04/93

### 3. Consultation/PP Responses

- 4.1 Transportation - No objection subject to the following conditions:
- All works to remain within the private landownership; no works to infringe out onto the highway;
  - All vehicle parking to be designed in accordance with Manual for Streets and to be formally marked out on the ground; and
  - Secure cycle storage to be provided
- 4.2 Local Lead Flood Authority (LLFA) - Given the information provided the LLFA are content with the proposals and recommend standard conditions to require the submission and implementation of a sustainable drainage scheme.
- 4.3 Canal & River Trust (CRT) – The existing and proposed buildings are located close to the offside retaining wall of the canal basin. The proposed development is likely to include demolition operations, foundation removal/construction, earthmoving, excavations or other construction works which could, through increasing load and/or vibration, adversely affect the stability of the retaining wall and therefore the structural integrity of the adjacent canal. The responsibility for securing a safe development rests with the developer and the planning system is the appropriate method for dealing with this matter, because Building Regulations do not cover structural issues beyond the site area.
- 4.4 We appreciate that the issue of land stability can be complex and often also involves other regimes such as Building Regulations and legislation such as the Party Wall Act 1996. However, the NPPF is clear that planning decisions should ensure that new development is appropriate for its location in the context of avoiding unacceptable risks from land instability and being satisfied that a site is suitable for its new use, taking account of ground conditions and land instability. We therefore consider that the potential effect of this application proposal on the structural integrity of the canal should be considered as part of the decision-making process. We therefore consider that the submission of a Method Statement for all demolition and construction operations should be secured either prior to the approval of planning permission, or by pre-commencement condition.

- 4.5 Furthermore, a condition is required to ensure appropriate “clear stem” tree species are chosen adjacent to the retaining wall. The incorrect species choice could have structural implications for the retaining wall arising from root growth etc.
- 4.6 The Oozells Street Loop is a basin with various mooring sites, many of which are residential. To heat and power the narrow boats engines may be run or wood burning stoves used. The relationship between these moorings and future occupiers of the apartments should be taken into account, particularly those apartments with balconies overlooking the canal.
- 4.7 Although it is positive that the proposal provides views to the basin from the amenity space, the drawing details are unclear on the exact form of the proposed boundary treatment. The Design and Access Statement suggests that there would be views from the amenity space down to the canal via a lowered boundary wall with railings. This would promote visual surveillance and encourage use of the waterways as a public amenity, place of wellbeing within the urban environment and a sustainable safe vehicle free route through the City. The quality of the detailing of the northern boundary is important to the character and amenity of the locality. The proposal involves works to the existing wall, but no assessment of this wall is provided within the application. Further detail is required upon the existing wall, along with a schedule of the works proposed so that the impact upon the character of the area can be assessed. The wall may have historic value, connected to the Listed Old Union Mill, in which case a repairs schedule and plan for the extent of the alterations proposed to this wall should be resolved prior to development taking place.
- 4.8 For this reason, the Trust requests the consideration of the detail and long-term maintenance of the canal boundary wall and railings. Such details should be secured either prior to the approval of planning permission, or by pre-commencement condition. We note that the revised documentation upon which re-consultation has occurred does not include information to deal with this matter.
- 4.9 Regulatory Services - No objections subject to conditions to
- Restrict cumulative noise from all plant and machinery;
  - Require until a scheme of noise insulation between the commercial and residential premises;
  - Require a scheme of noise insulation for all windows, any other glazed areas and external doors to habitable rooms on the North West Façade (overlooking the canal) of the residential part of the development;
  - Provide no fewer than one charging point for electric vehicles at each residential unit with dedicated parking; and
  - Require a site assessment to determine if any land contamination remedial measures are necessary.
- 4.10 Education School Places – No comments or objections
- 4.11 West Midlands Fire Service - No objections, subject to access for a pump appliance to within 45m of all points within each dwelling. Water supplies for firefighting should be in accordance with National Guidance Document on the Provision for Fire Fighting published by Local Government Association and WaterUK. The approval of Building Control will be required with regard to Part B of the Building Regulations 2010.
- 4.12 Severn Trent Water - No objections to the proposals subject to the inclusion of a condition to require submission and agreement of drainage plans for the disposal of foul and surface water flows.

- 4.13 Heart of England Foundation Trust (HEFT) - Based on HEFT 2016/17 National Reference Cost Submission formula a contribution of is £378.00 is requested to be used directly to provide additional services and capacity to meet patient demand.
- 4.14 Historic England – We do not wish to offer any comments and suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.
- 4.15 Civic Society – The following comments were received in respect of the previous application that was withdrawn but of a similar scale and design.
- The general principle of the development are acceptable in terms of use, amount, scale and massing;
  - It was felt that the poor quality of the visuals do not do the overall designs justice;
  - The appearance of the proposed buildings are too elaborate/over-worked and dominate the existing buildings. The elevational treatment to the proposed buildings should be more subservient;
  - The proposed materials are out of character and detracts from the well-articulated facades of the original buildings;
  - The level of detail shown in the landscape proposals is very good and would create a positive space for residents that is not dominated by cars; and
  - The opening up of views to the canal is welcomed.
  - Due to the concerns raised regarding the appearance of the proposed buildings, the current proposals cannot be supported. However we feel these concerns could be resolved with some minor revisions to the materials.
- 4.16 No comments have been received from Birmingham Public Health, local residents groups, local councillors, the MP, National Grid and Western Power.
- 4.17 A site notice and press notice have been posted and neighbours notified. Twenty six letters have been received from 12 neighbours raising the following concerns:
- Some changes have finally been made to take away the most egregious element of the design - roof terraces adjacent to existing residents, but there are still major issues regarding the proximity and height of the new development. Four storeys so close to Sherbourne Lofts will have a huge impact in terms of privacy, noise and light issues.
  - The 4 storey building which face Sherborne Lofts is too close and too high. It is 13-14m away corner to corner of the terraces of both buildings against a planning guideline of 27m. This is unacceptably close.
  - The 4 storey building will mean a loss of amenity for all of the Lofts (16 in number) facing the canal (north facing), in terms of noise pollution, loss of light, loss of privacy and will curtail the use of balconies.
  - All proposed windows and balconies of the 4th floor of the east block will look directly into our living areas. We are being given a fait accompli as existing residents. Both parties will be able to hear each other's conversations.
  - The impact on the Lofts below the top floor is devastating as the new development blocks out their natural light completely, and in one case this is the only window for that apartment.
  - There is nowhere else in Birmingham where a new building has been put so close to an existing residential building or where the amenities of the inhabitants of the

existing building have been so grossly affected.

- Sherborne Lofts is a feature building in the area and is in real danger of being overwhelmed and hemmed in by the height and the extending footprint of this modern development. We feel the height and footprint should be restricted to preserve the balance and look of the area.
- We can see that a light report was produced, but this was merely a desktop survey, which does not take into account the unique layout of the Lofts and didn't recognise that it was impacting living areas as well as bedrooms. We have not seen any evidence of a noise pollution report being carried out. We believe that a full professional onsite review should be carried out, and this should be a planning condition.
- The sunlight report concluding that only one bedroom window to Loft 210 would be adversely affected by the building of Old Union One and Two is incorrect, and the report identifies rooms to this existing apartment incorrectly. To have a building so close will cause this apartment to lose any sunlight from noon onwards which, particularly in the winter months, will be devastating to the general amenity of the loft and the owner's living conditions.
- Obvious noise pollution, loss of privacy and loss of amenity that will come simply with a large building positioned 22cm away from another. Any external conversations in either building will be heard by all and sundry.
- The mass and design of the proposed development is not in keeping with that found on the entrance from Sheepcote Street onto Grosvenor Street West either. Directly opposite the existing façade of the Old Union Mill are rows of two storey terrace houses with small front gardens to the front. A modern four storey extension to the rear of Old Union Mill does bear any resemblance to what is already in place.
- The modern design and palette of building materials proposed in the Old Union Mill development does not in any way tie in or complement Sherborne Lofts and the historical nature of the warehouse buildings. We would ask that it is a planning condition that the developer also uses a brickwork matching that of the Old Union Mill façade and Sherborne Lofts to make a seamless palette of materials across all sites.
- Sherborne Lofts is an iconic building which was at the forefront of the modern Birmingham revolution that seeks to preserve and renew existing historical buildings. At the very least the building deserves respect.
- It is a shame that the proposed developments are not more in keeping with the look of the Old Mill
- It is important to get some assurances as to the quality and style of the materials to be used in the development.
- The look and feel of the overall development is strange. The council is rightly at pains to preserve the façade of the Old Union Mill, yet the two new buildings are in complete contrast both in size and style to the protected building.
- When the proposals were initially discussed it was agreed that the proposed buildings would be no higher than 3 stories on both the new blocks. This was the basis of previous planning approvals and I made it very clear that we would work with

the developer on the understanding the new buildings were 3 stories or lower.

- The 3 storey building which abuts Sherborne Lofts is too close, and possibly too high. It is 225mm away at one end, and 560mm at the other end. is the potential for serious structural damage to Sherborne Lofts - the developers will be digging deep foundations right next to an established building which was built 80 years ago in 1938 - it is likely they will be drilling through the foundations of the Sherborne Lofts building itself. If there is any damage caused, there will be no way of fixing it as the new building is so close, and there will be no room in which to work. We must have evidence that no damage will be caused before this development can be sanctioned, and we would want that to be a planning condition.
- Maintenance of the Sherborne Lofts building will be impossible due to the proximity of the new building. It is not possible for a human to get into the gap between the buildings, which means all of the brickwork, pipe work, rendering and signage on one side of the building will be inaccessible. The same will of course be true for the side of the new building. We must introduce a working gap of at least 3 metres to allow for ongoing maintenance of both Sherborne Lofts and Old Union Mill along with a working agreement for either side to have access to the gap for ongoing maintenance. Again, this must be set as a condition in the planning application.
- Amongst local city centre residents and workers Sherborne Lofts has become a feature building and one that is regularly used on marketing photographs promoting Birmingham's historical and cultural heritage; to then compromise the building by allowing a new build to abut the eastern boundary wall of Sherborne Lofts is not sympathetic and certainly not forward thinking.
- As the gap is so minimal between the end facades and Sherborne Lofts and the canal towpath wall it may mean that scaffold would over sail and scaffold footings would need to be dropped onto the below towpath. This towpath is owned by the Canal and River Trust (CRT) and is open to the public so it could be a considerable issue getting permissions from the CRT to access the end facades from the towpath.
- It is a condition of the lease to Sherborne Lofts that a complete exterior refurbishment must be undertaken every five years and I fail to see how we can honour this if the new blocks come close to our Sherborne Lofts or even abut our building
- Due to piling close to our wall associated with the ongoing Crest Nicholson development at Sherborne Street we have had to ask for 24-hour monitoring of the wall with high tech sensors fitted to the wall, we have had to have the wall braced by scaffold and weighted down and all vehicles and pedestrians moved from the area. This has been a significant upheaval for Sherborne Lofts residents but talking to the developer it will have cost them a significant amount of money in the region of £7000 per day for the duration of the piling expected to take five weeks. I fail to see how the owner of Old Union Mill will be able to offer the same protection to our wall and the canal wall.
- This building looks from the drawing as if it will come up to a level 1.45m below the parapet of the Sherborne Lofts terrace parapet, though I am not yet convinced as the architects are being very coy about providing the levels. The height of this building verses Sherborne Lofts is critical, and must be confirmed as part of the planning submission. It would be helpful if the fixed floor levels and parapet wall heights could



be defined by the developers and become 'planning conditions' to give some teeth in terms of policing the build, and ensuring the height is as presented in the drawings.

- The security of Sherborne Lofts is seriously compromised by anyone who gains access to the new building roof. At only 4ft higher and a 1ft gap, it is a simple step over to the terraces of the Lofts and easy entry to all other Lofts as a result.
- We have suffered a breach of security in the past when scaffold was erected around the building during a refurbishment where the height and proximity of the scaffold to Sherborne Lofts allowed someone to climb up the scaffold and gain entry to balconies.
- The entrance archway height is a concern for not only emergency vehicles being able to get in and out of the site quickly and easily but also for vehicles such as dry riser testing vehicles who will need access into the site for six monthly testing.
- Birmingham City Centre is becoming saturated with new builds of 1-2 bedroom modern apartments, notably just around this area, with the buyers seemingly private investors
- There is a good opportunity to develop something different such as mews houses, town houses or live work units which would be in keeping with and enhance the listed facade.
- The proposals will devalue all of our properties.
- The drawings submitted contain a number of inaccuracies and omissions. There are errors in the scales provided which are misleading
- There is no analysis of the way in which the west block will abut Sherborne Lofts; one drawing even shows it overlapping the building; others show it adjacent or connecting
- No noise study has been carried out by the developers to address noise of occupiers living in the existing and proposed apartments.
- We have concerns over the noise that will be created in the short term from construction and in the long term from new residents and office workers coming and going from Old Union Mill development
- Nearby dentists and GP practises are working at capacity and so where are the additional resources coming from to accommodate additional residents?
- Together with other developments in the immediate area there will be great strain placed on the general infrastructure. Traffic flow along Grosvenor Street West, Sherborne Street, Ryland Street is already difficult particularly Morville Street which is sometimes gridlocked
- Concern by elderly resident and disabled badge holder that the road will be very busy and family members will be unable to park.
- Request a CAD to see a 3D version of what the development may look like if approved? Have commissioned a 3D scan of the exterior of Sherborne Lofts and some of the interiors as well which could be shared with the developer to produce a

scheme both parties are happy with.

- The titles and drawing scales on some of plans have caused confusion. It would seem to the residents that the information that has been provided is very misleading with some believing that incorrect scales and poor quality information has been deliberately provided to create difficulty and confusion for the lay residents.
- the density of accommodation is now too great and needs to be reduced to avoid the well known problems of over crowding and development.
- A neighbour has written to all members of the planning committee requesting that a site visit is undertaken.

## 5. Policy Context

- 5.1 Birmingham Development Plan 2017, Birmingham Unitary Development Plan (saved policies), Places for Living (SPG), Places for All (SPG), Car Parking Guidelines (SPD), Public Open Space in New Residential Developments (SPD), Regeneration Through Conservation (SPG) and the Revised NPPF.

## 6. Planning Considerations

### *Principle of the proposed residential and office uses*

- 6.1 The application site is located within the Westside and Ladywood Quarter within the City Centre Growth Area as defined by Policy GA1.1 of the BDP. The Policy supports residential development where it provides well designed, high quality living environments. Policy GA1.3 advises that the Westside and Ladywood Quarter should combine a visitor, cultural, commercial and residential offer.
- 6.2 The above policies are against the backdrop of Policy PG1. This strategic policy outlines that over the plan period from 2011 to 2031 there is a need for 51,100 additional homes and a minimum of 745,000sqm of office floorspace. Policy T28 also promotes new residential development at locations that create a sustainable pattern of development, with the reasoned justification explaining that the City Council expects that a minimum of 80% of new homes will be built on previously developed land.
- 6.3 It is therefore considered that the principle of residential development at this location would be acceptable, however more detailed matters of design and impact upon residential amenity are considered later in the report.

### *Proposed Design and Impact upon Heritage Assets*

- 6.4 According to the revised NPPF development should be designed to be visually attractive additions to the overall quality of an area. Saved Policy 3.14 of the BDP (2005) reiterates the need for a high standard of design with regard given to, amongst other matters, the character of the area, scale and massing and views.
- 6.5 The new built development comprises a two storey flat roof extension to the rear of the listed building to provide an access core to two of the five office units. It is proposed to be clad in high quality contemporary material, primarily glass and anodised metallic cladding to give the extension a distinct and separate character to the listed building, and this is considered to be the correct approach.

- 6.6 Two new residential blocks at 4 and 3 storeys are proposed behind the listed building. The siting of the new blocks around a central courtyard is considered to be appropriate, maintaining a sense of space to the rear part of the site and providing natural surveillance of the parking and amenity space. The position of the four storey east block, with balconies to the end gable would result in the development overlooking the canal which is welcomed. The east block would also have balconies facing the central courtyard. The boundary wall to the canal is to be retained with railings atop. The three storey west block would similarly address the courtyard with balconies at all levels. Both new blocks would have a contemporary character with flat roofs and evenly spaced floor to ceiling. Anodised metal cladding is proposed to the top storey of the new blocks, together with the exterior of the stair cores to provide a common element to the new floorspace. The chosen materials are again considered to be appropriate to provide clean, simple elevations that would not significantly detract from the listed building.
- 6.7 Recognising that the proposed new residential and office extension would be either attached to or positioned closed to a listed building, and acknowledging that Oozell Street Loop Canal is on the Historic Environment Record (HER) it is also necessary to consider the impact upon the setting of these historic assets, in accordance with the NPPF and Policy TP12 of the BDP. This Policy gives great weight to heritage assets but encourages innovative designs that retain the significance of a heritage asset and integrates it into new development.
- 6.8 The setting of a heritage asset is described as the surroundings in which it sits. It is not fixed and is often expressed by reference to views of or from an historic asset. Whilst it is acknowledged that the new development would have an impact upon the setting of the listed building and the canal the impact is such that there would be minimal harm to their significance, which would still be able to be appreciated.
- 6.9 A neighbour has commented that the new residential block would be taller than the listed building facing Grosvenor Street West. Whilst this would be true the plans submitted include views from five different positions along the street to demonstrate that, due to the taller buildings to either side, namely the Dakota apartments and electricity substation, the proposed residential blocks would not be visible from the street.
- 6.10 It is considered that whilst the proposed design and materials of the new buildings would contrast with that of the listed building they are appropriate because they would be distinct from the original structure. Furthermore the impact of the proposed development upon the setting of the heritage assets and their significance, taking into account the Heritage England good practice advice would be acceptable. It is also considered that the proposed design and materials would sit well within the context of the design of Sherborne Lofts to the rear. Notwithstanding this comment it is also necessary to consider the impact upon the amenity enjoyed by existing occupiers.
- 6.11 Separately an Archaeological Assessment has been submitted stating that the ground level within the courtyard appears to have been lowered when the modern warehouse block was constructed, and this may have truncated any surviving remains associated with the original use of the site as a mill. However the Assessment also acknowledges that it remains unclear as to whether the warehouse range along the north eastern side of the site was cellared and it may be appropriate to undertake a watching brief. A condition to this effect is attached.

#### *Impact upon the Amenity of Existing Residential Occupiers*

- 6.12 Policy PG3 expects new development to demonstrate high design quality, whilst saved Policy 3.14 states that development should have regard to the development guidelines set out in the Places for Living SPG.
- 6.13 The proposed layout shows a three storey block (the west block) close to existing residential developments. The Dakota Apartments face Grosvenor Street West towards the front of the site whilst Sherborne Lofts are sited to rear. Both share a common boundary to the application site. The latter would also face the front elevation of the proposed four storey block (the east block).
- 6.14 The design and siting of the proposed blocks have gone through various iterations however the most recent amendments show a scheme more closely aligned to the development approved in 2007. Application reference 2006/06914/PA approved a part single, part two and part three storey west block and a four storey east block.
- 6.15 In the current plans the mass of the three storey element of the west block has been cut back at either end closest to the Dakota apartments and Sherborne Lofts and the previously proposed external terraces have been removed. This is in an attempt to increase outlook and sunlight to the existing occupiers and to reduce overlooking between the previously proposed west block terrace and the balcony serving the fourth floor to Sherborne Lofts.
- 6.16 Neighbours have raised concern with respect to the scale of the proposed blocks, first specifically with respect to the impact of the four storey east block upon the privacy of Sherborne Lofts and the windows facing the canal to this development. As highlighted by neighbours the Places for Living SPG guideline for separation distances between facing windows is 27.5m for 3 storeys and above. The drawings submitted indicate that the distance between the windows of the east block and the closest full height windows to the front of Sherborne Lofts is approximately 16.8m on the lower floors and 19.3m on the top or fourth floor where they are recessed behind a balcony. It would also be approximately 16m between the east block window and the edge of the balcony to Sherborne Lofts.
- 6.17 To clarify, this distance has been measured from the closest full height windows to the east block not the closest windows which are high level; designed as such to prevent overlooking.
- 6.18 Meanwhile the distance between the existing fourth floor balcony to Sherborne Lofts and the proposed fourth floor gable end balcony to the east block would be approximately 17m.
- 6.19 It is acknowledged that these distances fall short of the 27.5m standard, however the Places for Living SPG, approved in 2001 is guidance rather than a statutory requirement and should not be applied as a blanket across all development. As in 2007, when the previous application was approved, there should be a consideration of design and context.
- 6.20 In this case the balconies to the gable end of the proposed east block overlooking the canal have been filled with fret brickwork to the lower floors and a frosted glass privacy screen to the fourth floor to significantly reduce overlooking between these apartments and Sherborne Lofts. Next, as referenced above the closest windows to the east block are high level to significantly reduce overlooking, whilst the affected windows to Sherborne Lofts are sited at an angle to the proposed windows rather than directly opposite.

- 6.21 Furthermore the proposed distances between windows would reflect the separation between other buildings in the vicinity and a City Centre context where high density living accommodation continues to replace previous industrial sites and premises. Policy TP30 expects densities of at least 100 dwellings per hectare and in this case, excluding the listed building, the proposals would deliver an estimated 108 dwellings per hectare. It should be acknowledged that the approved scheme in 2007 showed the previous east block was also four storeys in height and closer, at approximately 5.1m to Sherborne Lofts, although it presented a blank gable end rather than habitable windows.
- 6.22 Sherborne Lofts also has windows to habitable rooms on its side elevation facing the west block where the separation distance between the two buildings would be between 225mm and 560mm. The proposed west block would be positioned at a right angle but close to existing habitable windows on the second and third floors. However the scale and design of the west block has been amended so that the siting of the tallest parts of the block align more closely to the scheme approved in 2007 to reduce the impact on Sherborne lofts. A single storey element would be closest the affected windows the height of which would be lower than the existing brick wall that aligns the common boundary. Meanwhile the second and third storey element of the west block have been pushed further away from the affected side facing windows to provide a separation distance between the edge of these windows and the rear elevation of the west block to approximately 6.1m and approximately 7.7m from the midpoint of the windows facing the proposed rear elevation.
- 6.23 The west block would also be positioned close to the rear facing habitable windows of the Dakota apartments. Again the plans have been amended by removing an external terrace overlooking these neighbours and by pushing the highest part of west block further away from the affected windows to give neighbours better outlook.
- 6.24 It is acknowledged that the proposed west block would have an overall height approximately 1.8m taller than the equivalent block approved in 2007, however as a result of the latest amended plans it is considered that the impact upon outlook and loss of sunlight would be acceptable. Notably a Daylight and Sunlight Study has been submitted to accompany the application. It reports the findings of the Study carried out in accordance with the recommendations of the Building Research Establishment (BRE) based on four different tests. The Study concludes that only one bedroom window within Sherborne Lofts would fail to comply with BRE guidelines, and these results refer to the original rather than the latest amended scheme.
- 6.25 The concern with regards to loss of privacy, sunlight and outlook to the existing occupiers has been considered, however further to the amended plans and for the reasons given above it is considered that the losses would not be so significantly adverse to as warrant refusal.

#### *Apartment Size and Mix*

- 6.26 All of the proposed 14 apartments would meet national space standards comfortably, and with a dominance of two bedroom units it is considered that the mix is appropriate to this City Centre location in accordance with Policy TP30 of the BDP.

#### *Transportation*

- 6.27 According to the Car Parking SPD the proposed mixed use development would require a maximum of 32 parking spaces. Only a total of 16 spaces are proposed

however the guidelines provide maximum rather than minimum standards and the site benefits from excellent transport links and would be likely to result in the office workers and potential residential occupiers making trips by alternative sustainable modes of transport. Whilst neighbours have raised concerns at the lacking of parking and traffic congestion Transportation officers advise no objections subject to conditions to require the formal marking out of the parking spaces and to require cycle storage. These conditions are attached. The last condition suggested would require all works to remain within the private landownership with no works to infringe onto the public highway. Such a restriction is governed by other legislation and therefore this condition is considered not to be necessary.

### *Drainage*

- 6.28 The submitted drainage strategy proposes a surface water system based on sustainable drainage principles including the use of permeable paving and below ground geocellular storage, bio-retention tree pits and rain water harvesting. Such a sustainable strategy has raised no objections from the LLFA subject to conditions to require firstly further details to be agreed and secondly to ensure that the agreed details are implemented.
- 6.29 It is proposed to discharge foul water from the new development utilising an existing foul water connection within the site which discharges into Grosvenor Street West. Severn Trent Water have raised no objections subject to a condition to require further details.
- 6.30 The site is located within flood zone 1, and therefore it is considered that there would be no flooding implications.

### *Ecology*

- 6.31 The Birmingham Canal is a wildlife corridor and a designated Site of Local Importance for Nature Conservation (SLINC). An Ecological Impact Assessment including a Phase 1 Habitat Survey and protected species assessment has been submitted. The Assessment reports that habitats noted within the site are areas of hardstanding and scrub, buildings and walls and that all of these have low intrinsic ecological value. All of the existing buildings have also been surveyed for potential roost sites and signs of bats although none have been found. A condition is proposed to require details of enhancements, in accordance with Policy TP8 and a lighting condition to ensure that there would be no harm to a potential foraging area for bats.

### *Noise Impact*

- 6.32 An acoustics report has been submitted to set out the noise emissions that would affect the residential element of the scheme, including noise from the adjacent substation. The report concludes that the noise levels affecting the site are considered not to be high and therefore potentially the proposed apartments would be suitable for natural ventilation. Regulatory Services have raised no objections subject to conditions to restrict cumulative noise from plant and machinery and to require a scheme of noise insulation for windows overlooking the canal. This would mitigate against the concerns raised by the CRT regarding noise from narrowboats on the canal.

- 6.33 Another suggested condition to require a scheme of noise insulation between the commercial and residential premises is not considered to be necessary as the commercial use would be located in a physically separate building.
- 6.34 Neighbours have raised issues of noise pollution during the construction phase and resulting from future occupiers within the apartments. In response the former would last for a temporary period where nuisance is restricted by legislation enforced by Regulatory Services. The latter is considered has been mitigated by the removal of the external terraces to the west block. The noise between existing and proposed private amenity space is considered would not be so significant as to warrant refusal.

#### *Other*

- 6.35 Regulatory Services have suggested conditions to require no fewer than one charging point for electric vehicles at each residential unit with dedicated parking. With no dedicated parking a condition is attached to require a minimum of one vehicle charging point within the scheme. A further condition is suggested to require a land contamination report with remedial measures if required. As no land contamination report has been submitted this is considered to be reasonable.
- 6.36 The CRT have requested a method statement for all demolition and construction operations to protect the integrity of the canal wall and to require a schedule of works and repairs also to the canal wall. Two conditions to this effect have been attached. The CRT also want details of a long term maintenance plan for the canal wall however it is considered that this should be an agreement between the two land owners as monitoring the compliance with such a condition would not be easily achievable. Another suggestion to require clear stem trees is not considered to be necessary as these are already indicated on the proposed landscaping plan.
- 6.37 Neighbours have also raised concern regarding the potential for structural damage to Sherborne Lofts as a result of digging foundations, lack of separation between the proposed west block and Sherborne Lofts providing inadequate access for maintenance purposes, scaffolding oversailing the canal towpath and devaluation of property however these are private matters for the land owner and relevant parties to resolve independently of the planning process.
- 6.38 In respect of other concerns raised by neighbours the agent has advised that there would be no emergency access via the archway from Grosvenor Street West as at present. The strategy that has agreed with Building Control and the local fire service is that a fire tender would be able to pull up at the street frontage and connect onto a dry riser inlet just inside the development, which would feed into each apartment block, ensuring access to a pump appliance with 45m of each dwelling. A drawing has been submitted to illustrate the proposed strategy.
- 6.39 Another neighbour has raised concern at the pressure upon local dentists and GP's whilst the Heart of England Foundation Trust (HEFT) has requested a Section 106 contribution of £378.00 to provide additional services and capacity to meet patient demand. However, it is considered that the request for a contribution would not meet the tests for such Section 106 contributions in particular the necessity test (Regulation 122.(2)(a) necessary to make the development acceptable in planning terms). The interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to plan for population growth. Discussions with the relevant Trust are continuing on this matter in order to understand more fully their planned investments in the City and how best to be able to support that.



6.40 Finally the plans indicate a bin store within the rear listed building. This would serve both the residential apartments and the proposed offices, and the agent has confirmed that, having checked with refuse officers, it is of a sufficient size to meet requirements.

## 7. Conclusion

7.1 The principle of residential development on this previously developed site within the City Centre is acceptable. The proposed layout and design of the development together with the impact upon heritage assets is considered to be appropriate. The concerns of neighbours have been considered however the impact upon their amenity is considered not to be so adverse as to warrant refusal.

## 8. Recommendation

8.1 Recommend approval subject to conditions.

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1	Implement within 3 years (Full)
2	Requires the scheme to be in accordance with the listed approved plans
3	Listed Building to be Restored Prior to Occupation of 7th residential apartment
4	Prior Submission of Method Statement for the demolition of the existing building and the construction of the new development
5	Prior Submission of Method Statement and Repairs Schedule for the canal boundary wall
6	Requires the prior submission of a contamination remediation scheme
7	Requires the prior submission of a sustainable drainage scheme
8	Requires the prior submission of a programme of archaeological work
9	Details of Materials
10	Retention of High Level Windows to East Block Facing Courtyard
11	Implementation and Retention of Privacy screens to balconies overlooking canal on east block
12	Implementation of parking & marking out of parking bays prior to occupation
13	Secure cycle storage to be provided
14	Implementation of Approved Landscaping Scheme
15	Noise Levels for Plant and Machinery
16	Noise Insulation Scheme.
17	Requires the provision of a vehicle charging point.

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- 18 Contaminated land - Verification Report
  - 19 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
  - 20 In accordance with Levels Plan
  - 21 Lighting Strategy
- 

Case Officer: Julia Summerfield

## Photo(s)



Grosvenor Street West



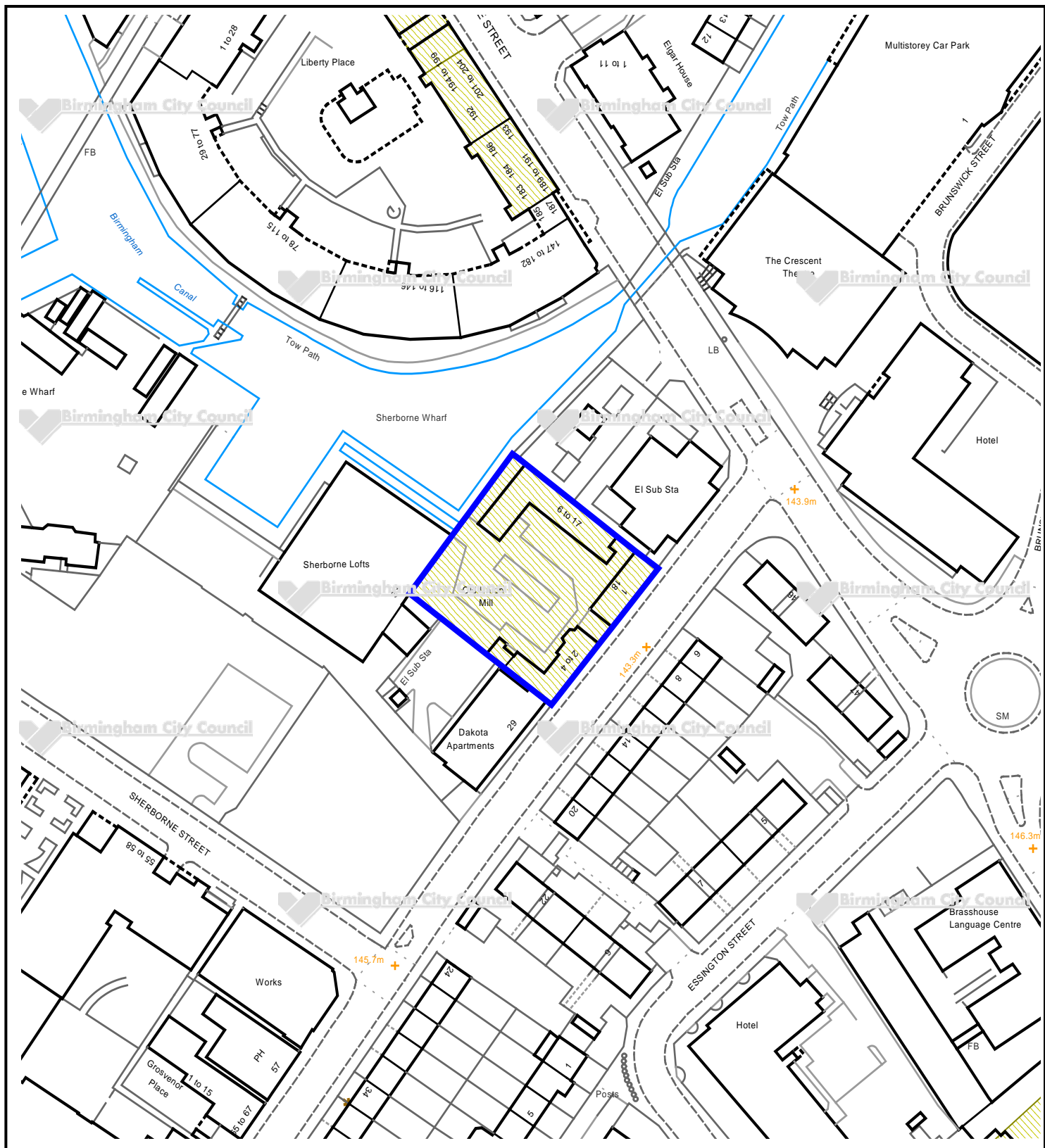
Sherborne Lofts to rear



Taken from Footbridge over Canal to Rear



## Location Plan



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Committee Date:	14/02/2019	Application Number:	2018/00505/PA
Accepted:	22/01/2018	Application Type:	Listed Building
Target Date:	04/02/2019		
Ward:	Ladywood		

Old Union Mill, 17-23 Grosvenor Street West, Ladywood, Birmingham, B16 8HW

Listed Building Consent for demolition of 20th century extension to rear, internal and external alterations to existing building including two storey extension to provide additional access to the rear; replacement archway at front elevation (works associated with refurbishment to provide office floorspace)

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1 The application seeks consent to refurbish the existing listed grade two building facing Grosvenor Street West to provide flexible office space. The external works include the proposed demolition of an existing early 20<sup>th</sup> century single storey extension to the rear aligning the west boundary to the courtyard and the construction of a two storey extension to the rear that would align the north east boundary. Works are also proposed to the archway within the frontage building.
- 1.2 The proposed two storey extension would measure approximately 10.1m by 6.0m and would provide a core floorspace accommodating a lift, staircase, toilets and a shower. It would be constructed in a light weight contemporary glazed structure with a flat roof to contrast with the original red brick listed building.
- 1.3 The proposed refurbishment and extension would provide five offices ranging in floorspace from 65sqm to 161sqm net indoor area (NIA). Two of the offices would be accessed via the proposed extension whilst the remaining three would be accessed via existing entrances at the rear of the original building.
- 1.4 In more detail the other external works to the original building comprise the following:
  - Localised repair and repointing of the existing brickwork;
  - Reinsulating the existing roof replacement existing fascia boards, replacement broken or cracked roof tiles;
  - Replace rainwater goods where required with cast iron painted black;
  - New windows to existing openings;
  - Removal of one window to the rear to provide new entrance to office unit 2 and replace three windows at first floor to the rear elevation to provide access from the new extension;
  - Repaint original signage to front elevation;
  - Restore and repaint existing entrance doors to rear;
  - Repair and repaint the existing double swing gate to the arched access way;

- Repair and replace existing brickwork to arched access way and replace structural beam; and
  - Replace non original rear entrances with contemporary style glazed doors.
- 1.5 The proposed internal works comprise:
- Removal of the existing modern staircase and replacement with new timber staircase;
  - Replace and upgrade non original ceilings and raise first floor/ground floor ceiling to east side of building;
  - Make existing walls below ground water tight to prevent further water ingress; and
  - Internal insulation and ventilated dry lining to external walls.
- 1.6 A separate planning application for the external works is awaiting determination and is reported on this agenda (reference 2018/00484/PA). This application also proposes to demolish an existing modern two storey 'L' shaped building within the rear courtyard and replace them with 13 apartments in two blocks.
- 1.7 [Link to Documents](#)
2. Site & Surroundings
- 2.1 The building now known as Old Union Mill was originally known as the New Union Mill that was established in 1813 by the Birmingham Flour and Bread Company a charitable venture intended to supply cheap good quality bread to the working classes. The mill remained in operation until 1927; subsequently the mill itself, the north east range and the greater part of the south west range were demolished. More recently the Old Union Mill has been used as offices and artists/photographer's studios, however due to the existing building layout it has remained out of use and falling into disrepair for the past decade and a half. The agent has referred to a building recording and fabric analysis undertaken in 2005 which states that there has been a good deal of alteration, including replacement of most of the windows with replicas, the reconstruction of large areas of brick work to the rear of the south east range and the disappearance of many of the internal features such as fireplaces, doors and skirting boards. In addition the original archway to the rear courtyard has been unsympathetically repaired.
- 2.2 The 2005 report does however note that the early 19<sup>th</sup> century character prevails and the building remains a significant piece of early industrial architecture. The two storey listed building gains its character from its evenly spaced small pane sash windows along the 40m frontage to Grosvenor Street West, and its central pedimented bay that protrudes slightly from the front elevation. It is this central bay that accommodates the archway referred to above which leads to the rear courtyard.
- 2.3 It is understood that the remaining building has been vacant for in excess of 15 years.
3. Planning History
- 3.1 2018/00484/PA - Proposed two storey extension to rear of original building to facilitate refurbishment to provide office floorspace (Use Class B1a), two new residential blocks within rear courtyard rising to 3 and 4 storeys to accommodate 13 apartments (5 x 1 bed, 7 x 2 bed and 1 x 3 bed); re-levelling and landscaping to form parking courtyard and communal gardens (resubmission of 2017/03387/PA) (Awaiting determination)

- 3.2 2017/03387/PA - Proposed two storey extension to rear of original building to facilitate refurbishment to provide office floorspace; two new residential blocks within rear courtyard rising to 3 and 4 storeys to accommodate 13 apartments (6 x 1 bed, 6 x 2 bed and 1 x 3 bed); re-levelling and landscaping to form parking courtyard and communal gardens. Withdrawn
- 3.3 2017/03515/PA - Listed Building Consent for demolition of 20th century extension to rear, internal and external alterations to existing building and proposed two storey extension to provide additional access to the building to the rear (all works associated with refurbishment to provide office floorspace). Withdrawn
- 3.4 2017/02644/PA - Listed Building Consent for replacement archway at front elevation. Approved 18/05/2017 12 month consent for implementation. (Expired)
- 3.5 2017/00632/PA - Application for Prior Notification of proposed demolition of rear workshops. Accepted as needing prior approval from the Council and that permission be granted. 06/03/2017
- 3.6 2006/06914/PA - Demolition of workshops, conversion of existing buildings into apartments and offices, construction of town houses with associated parking & external works. Approved 19/02/2007
- 3.7 2006/06918/PA - Listed building consent application for demolition of workshops, conversion of existing buildings into apartments and offices, construction of new town houses with associated parking and external works. Approved 19/02/2007
- 3.8 2002/05934/PA and 2002/05934/PA. - Planning and listed building consent for demolition of workshops, conversion of existing building into apartments and offices. Approved 11/03/2004
- 3.9 1992/03666/PA and 1992/04402/PA - Planning and listed building consent granted for demolition of existing sheds and provision of landscaped and car parking areas. Approved 29/04/93

#### 4. Consultation/PP Responses

- 4.1 Historic England - We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.
- 4.2 Canals & Rivers Trust - Based upon the information available we have no comment to make.
- 4.3 The Civic Society, local neighbourhood groups, local councillors, the Ancient Monuments Society, The Council for British Archaeology, the Georgian Group, The Victorian Society and The Twentieth Century Society have been consulted but no replies have been received.
- 4.4 A site notice and press notice have been posted and neighbours notified. Whilst many replies have been received in respect of the planning application only one neighbour has replied specifically to the current listed building application raising the following concerns:
  - As part of the Old Union Mill development, planning permission is also being sought to take down and rebuild part of the archway in the listed building. I am struggling to understand why such permission should be granted when there is

no maintenance issue to be addressed. This is simply the developer needing to remove an obstacle to allow access for building equipment onto the site. Either the building is listed or it isn't, and that listing shouldn't be temporarily waived to allow developers to maximise their profit.

- This site was acquired in the full knowledge of the existing buildings around it and the listed nature of the Old Mill, and we feel strongly that the developers should be taking into account the look and feel of the area in terms of style and size, and giving full consideration to those who are impacted and minimising that impact, rather than reneging on initial promises, looking to build higher, closer and bigger, and demolishing and rebuilding a listed building because it suits their current plans.

## 5. Policy Context

- 5.1 Birmingham Development Plan 2017, Birmingham Unitary Development Plan (saved policies), Regeneration Through Conservation (SPG) and the Revised NPPF.

## 6. Planning Considerations

- 6.1 The National Planning Policy Framework (NPPF) states at paragraph 189 that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.
- 6.2 Policy TP12 of the BDP states that great weight will be given to the conservation of the City's heritage assets whilst sections 16(2) and 66(1) of the 1990 Planning (Listed Buildings and Conservation Areas) Act requires that special regard be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest.
- 6.3 In terms of the assessment of the current listed building application the proposals can be divided into the following matters:
- a) Works to the exterior of the building (including demolition and extension); and
  - b) Works to the interior of the building.

### *Exterior of building*

- 6.4 The character of the exterior of the building is dominated by the archway and the regimented fenestration of small pane sash windows, although it is reported that only three of the current windows are original. The proposed works would replace the existing sash windows with conservation range timber sash windows to match that would also benefit the acoustic and thermal performance of the building. The replacements would also create uniformity across the front façade that has gradually been diminished as windows have been replaced on a piecemeal basis.
- 6.5 The brick that has previously been reinstated to the archway at the front of Old Union Mill is not original, is modern in style and has been poorly reconstructed and pointed. It is proposed to replace this reinstated modern brickwork with more sympathetic reclaimed brick, combined with the original brick, with mortar joints to match the existing facade. The current structural support concrete beam would also be replaced with a slimmer more discreet beam, sitting within the wall, under the first-floor window. The poor quality of the existing replacement archway detracts from the front elevation and it is considered that the proposed conservation led repair and restoration work would improve its historic character.



- 6.6 A neighbour has raised concern at the proposed works to the archway and queried why the works should be permitted just to enable the redevelopment of the courtyard (including 13 apartments as proposed under planning application reference 2018/00484/PA). Officers have previously been advised that works to the archway are necessary to enable large scale equipment and materials to be brought through the archway and into the rear courtyard. However the removal of the inappropriate red pressed bricks and the proposed replacement with matching softer clay bricks is supported by the Conservation Officer as the works would be more sympathetic to the character and appearance of the building. Conditions are attached to require details of the proposed replacement bricks and mortar and the setting out of the brickwork to ensure that a betterment is secured. A condition is also proposed to ensure that the works to the archway are completed within one year of the commencement of works to preserve the appearance of the listed building. It should also be noted that these works have been approved previously by virtue of application reference 2017/02644/PA, although this consent has not been implemented.
- 6.7 The proposed two storey flat roof extension would provide a new external core to the refurbished office building and access to units 2 and 5. It would also provide a means of accessing the first floor office accommodation by all users under requirements for part M of the building regulations. Internally, access from the proposed extension into the listed building would be via existing openings within the rear elevation.
- 6.8 The proposed extension would be clad in high quality contemporary material, primarily glass and anodised metallic cladding to contrast with the original red brickwork. The existing masonry wall finish of the listed building would be maintained within the extension to enhance the distinction between the contemporary and historic spaces. The chosen materials for the extension would also be used in the detached residential blocks within the courtyard linking the two parts of the development. With regards to the wider works to the listed building further conditions regarding the ground floor security, replacement windows and doors, building recording, materials and to require a schedule of repairs are also proposed to ensure that the detail of the proposal maintains the character of the building.

#### *Interior of building*

- 6.9 The works to note inside the building is the removal of a modern staircase and the raising of parts of the floors and ceilings at ground and first floor to provide level access within the building.
- 6.10 A previous application for works to the listed building was withdrawn following an objection from Historic England. Concern was raised at the choice of windows on the rear elevation facing the courtyard, the loss of a historic staircase and the quantum of demolition of internal features such as walls and floor structure in the southern part of the building, given the demolition of floor structures required to the northern end of the building.
- 6.11 However the current scheme has responded to these concerns by proposing more appropriate timber glazed doors and by reducing the quantum of demolition to the southern end of the building. The original staircase would now be retained and the previous platform lift, tanking, dry lining and wall insulation has been omitted. The current layout also reuses the main entrance to the original house section of the building.

- 6.12 The Conservation Officer has commented that the building does not lend itself to residential conversion and offices would allow the building to retain its original plan form. The physical changes to the building fabric are now less than sought by the previous application, most original internal walls will be retained and the modern staircase will be removed. The general design philosophy would create a series of office spaces with an external modern access, stairs and lift, and whilst this would result in the loss of a small section of the external envelope, it would reduce the impact of internal demolition. The design intervention is considered to be better than the 2017 withdrawal and elements concerning tanking, dry lining, insulation and fabric repair have all been amended so as to better preserve the character and appearance of this fine Georgian building.

#### *Comments from Conservation Heritage Panel (CHP)*

- 6.13 The previous withdrawn application was presented to a meeting of the CHP in February 2017. Members supported access via the extension through into the building via existing window openings, the loss of the modern staircase, alterations to the floor levels and the contemporary design to the proposed extension. Concerns were raised regarding the detailed design of the roof insulation and ventilation, security to the ground floor windows to the front, removal of walls to the southern end of the building, the making good of the building post demolition of the modern extension and advertising. Again it is considered that the current scheme addresses these concerns.

#### *Compliance with Planning Policy*

- 6.14 Planning policy seeks to preserve the listed building, or its setting or its features of historic interest. Neighbours consider that the proposed development would detract from these objectives, however the NPPF advises that local planning authorities should take account of the desirability of sustaining and enhancing the significance of the heritage asset and putting it to a viable use. It is considered that the proposed works preserve the listed building by bringing a vacant heritage asset into use preventing it from falling into further disrepair, acknowledging that the internal condition of the existing building is steadily declining as it has remained unoccupied for 15 years. It is also considered that proposed development would sufficiently preserve its setting and its historic features causing less than substantial harm to its significance. By placing the core externally the proposals have the benefit of requiring fewer alterations to the original building and again the less than substantial harm is outweighed by the development bringing the existing vacant building back into reuse.
- 6.15 Furthermore Policy TP12 of the BDP indicates that innovative design that retains the significance of the heritage asset and is integrated with the historic environment will be encouraged. It is considered that the contemporary extension would achieve this policy guidance.

#### 7. Conclusion

- 7.1 It is considered that the proposals would retain an acceptable amount of the original structure and that the approach taken to restore the building pays due regard to the preservation of the building, its setting and the historic features it possesses.

#### 8. Recommendation

- 8.1 Approve subject to conditions.

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1	Implementation within 3 years
2	Time Limit for Completion of works to Archway
3	Building recording
4	In accordance with approved plans
5	Prior Submission of 'Condition Survey' & 'Schedule of Repair'
6	Prior Submission of 'Method Statement'
7	Prior Submission of Details of Materials
8	Prior Submission of Full Architectural and Specification Details
9	Details of Setting out of Brickwork to the Archway to be Agreed
10	Details of Mortar to be used throughout the building including the archway to be Agreed
11	Mechanical and electrical (M&E) systems strategy and water utilities strategy (including plant)
12	Requires any damage to the listed building to be made good
13	Security Strategy
14	Details of Lighting

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Case Officer:        Julia Summerfield

**Photo(s)**



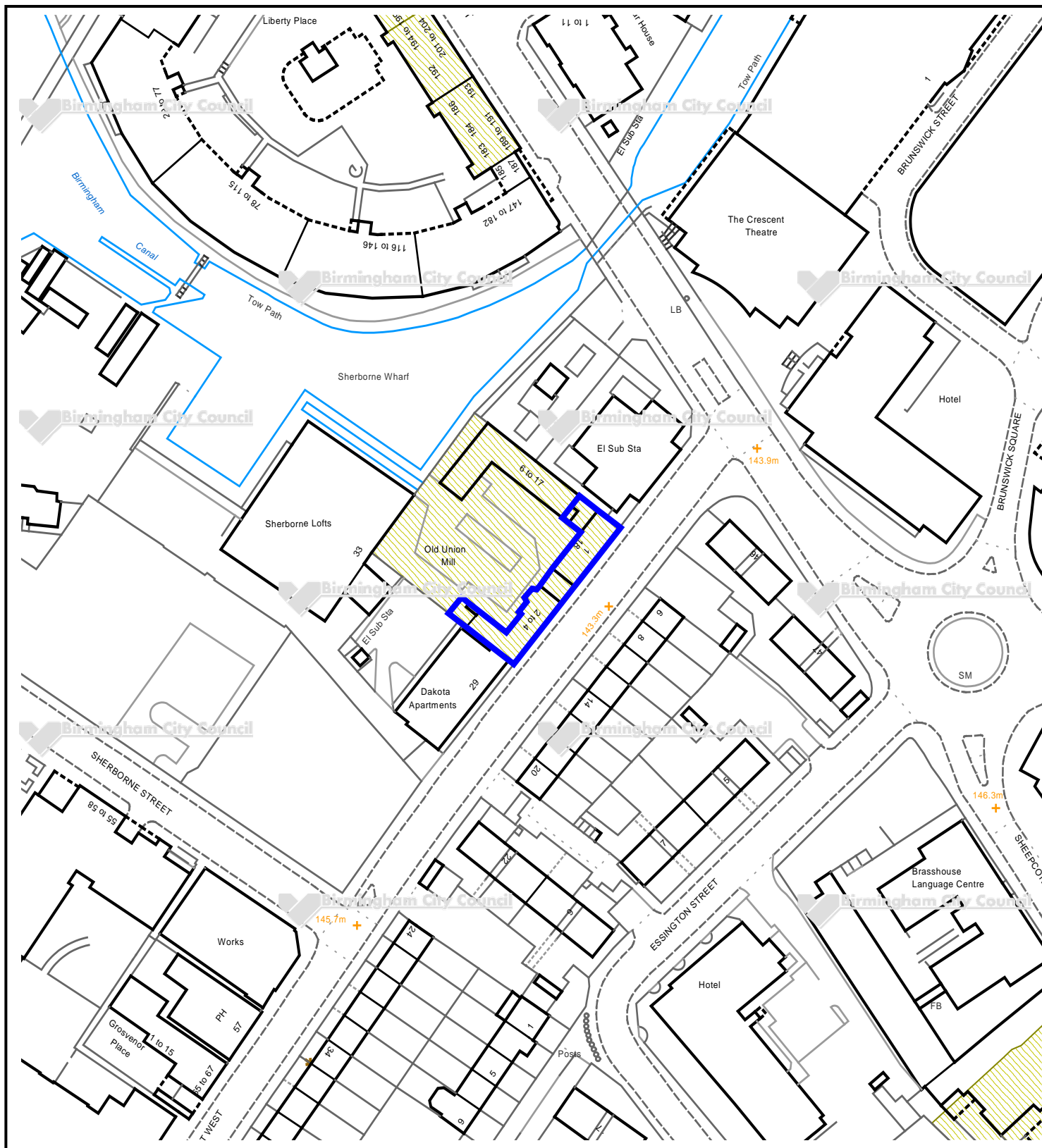
Archway to existing building facing Grosvenor Street West





Rear of Listed Building

## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**14 February 2019**

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve-Conditions	11	2018/06520/PA  Royal Orthopaedic Hospital Bristol Road South Northfield Birmingham B31 2AP  Erection of a two storey extension to create new operating theatres and patient wards comprising 4 theatres and 23 beds, with roof plant rooms and associated external works
Approve-Conditions	12	2018/05254/PA  Former Ravenhurst Playing Fields Knightlow Road Harborne Birmingham B17 8PB  Retention of new sub-station

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Committee Date:	14/02/2019	Application Number:	2018/06520/PA
Accepted:	10/09/2018	Application Type:	Full Planning
Target Date:	14/02/2019		
Ward:	Northfield		

Royal Orthopaedic Hospital, Bristol Road South, Northfield, Birmingham, B31 2AP

Erection of a two storey extension to create new operating theatres and patient wards comprising 4 theatres and 23 beds, with roof plant rooms and associated external works

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. Planning permission is sought for the erection of a two storey extension to the rear of the existing hospital buildings within a semi-enclosed courtyard. The extension would house 4 new operating theatres and 23 new bed spaces.
- 1.2. The extension would be constructed in two phases. Phase 1 would comprise 2 operating theatres with associated prep and scrub rooms, 2 anaesthetic treatment rooms and a 6 bed 1<sup>st</sup> stage recovery ward along with store rooms, bed lift and stairs at ground floor. The first floor at phase 1 would comprise two, 4 bed wards and four 1 bed wards along with associated en-suites/shower rooms, nurse station, offices, store rooms, cleaning rooms and medicine prep room.
- 1.3. In phase 2, a further two operating theatres with associated prep and scrub rooms, anaesthetic rooms and theatre store would be provided at ground floor whilst the first floor would have a further two, 4 bed wards and three, 1 bed wards provided along with associated store areas, en-suites/shower rooms and nurses station.
- 1.4. The building would be of a modular construction and would have two large plant rooms on its roof which would measure 4.3m in height. One of the plant rooms would be located adjacent to the existing hospital on the roof of the extension above where the phase 1 operating theatres would be located internally. The second plant room would be located at the end of the new extension adjacent to where the phase 2 operating theatres would be located. The plant rooms would house all of the required plant and machinery related to the wards and operating theatres.
- 1.5. The building would measure (at the completion of phase 2) approximately 52m in length, 28m in width and would have a general height of between 7.2 and 7.7m due to the change in site ground level. Where the plant rooms are located, the overall height would be approximately 12m. The proposal would provide for a net additional gross internal floor space of 2,151sq.m.



- 1.6. Existing staff numbers are 668 full-time and 341 part-time. A maximum 127 full-time additional staff are proposed as a result of the proposed 4 operating theatres and 23 bed spaces.
- 1.7. 315 car parking spaces are provided on site alongside 10 motorcycle spaces, 21 accessible spaces and 25 cycle spaces. No change to the proposed parking provision is proposed.
- 1.8. Amended plans have been received that have addressed design concerns with regards to window patterns.
- 1.9. The application is accompanied by a Planning Statement; Drainage and Sustainable Drainage Strategy; Drainage Operation and Maintenance Strategy; Design and Access Statement; Transport Statement, Travel Plan, Sustainability Statement; Car Parking Statement and a Travel Plan Review document.
- 1.10. Site area: 4.5Ha (total hospital site)
- 1.11. [Link to Documents](#)

## 2. Site & Surroundings

- 2.1. The application site lies within the grounds of The Royal Orthopaedic Hospital in Northfield. The hospital grounds are bounded by Bristol Road South to the West and residential development to the North, East and South. The hospital site rises from the Bristol Road South level and then slopes away towards the residential development to the east. The application site has a varying site level within the courtyard area.
- 2.2. The site comprises a vacant area which was previously occupied by a section of the hospital which was demolished in 2016. The application site area lies relatively central within the hospital grounds between the wards to the north-west and the theatres to the south east.
- 2.3. The Hospital has 3 gated entrances off Bristol Road South. The visitor parking is accessed from Bristol Road South via 'Gate C' towards the South-Western entrance, 'Gate A' is for Ambulance and Delivery Access only and Day Unit and Inpatient drop off and pick up point only which is the most northerly access. 'Gate B' towards the middle of the hospital's western boundary is for deliveries only.
- 2.4. The surrounding area is predominately residential with Manor Farm Park directly opposite the North-Western boundary. Around 500m to the south of the site boundary, along Bristol Road South, is Northfield shopping centre which has a variety of shops and food outlets. Victoria Common, which has a children's play area among other recreational activity opportunities, lies directly behind the Northfield shopping centre.
- 2.5. Northfield Station lies approximately 1.5 miles to the south of the site. The station is served by West Midlands Trains services to Lichfield, Redditch and Bromsgrove, among others, and the majority of services run through Birmingham New Street Station. The A38, Bristol Road South directly links to the centre of Birmingham to the North of the site and directly to the M5 towards the South.
- 2.6. [Site Location Plan](#)

### 3. Planning History

- 3.1. The site has extensive planning history however, the following are of note:
- 3.2. 22 October 2014. 2014/06088/PA. Planning permission granted for the erection of a two storey side and rear extension to existing estates and facilities building.
- 3.3. 27 July 2009. 2009/02565/PA. Planning permission granted for the erection of part two storey and part single storey extension and additional landscaping works.
- 3.4. 16 March 2009. 2008/06371/PA. Planning permission granted for the erection of 2-storey wing to create new outpatients department, landscaping and associated works.
- 3.5. 23 July 2004. 2004/00984/PA. Planning permission granted for the construction of twin theatres/anaesthetic rooms, a 15-bed recovery ward and a 4-bed extension to the existing HDU ward, all with associated plant facilities.
- 3.6. 23 May 2003. 2002/06458/PA. Listed Building Consent granted for the demolition of ward 5 and construction of 72-bed Diagnostic Treatment Centre (Medical wards).
- 3.7. 23 May 2003. 2002/06457/PA. Planning permission granted for the demolition of wards & construction of 72-bed Diagnostic Treatment Centre, together with ancillary accommodation & associated external works.
- 3.8. 11 April 2003. 2003/00128/PA. Planning permission granted for a single storey extension and associated external works to form day ward.
- 3.9. 27 April 2001. 2001/00050/PA. Planning permission granted for the erection of single storey building to form new high dependency unit support accommodation (HDU), internal alterations to form new HDU area and extension to existing plant room at first floor.
- 3.10. 16 March 2000. 1999/00382/PA. Planning permission granted for the erection of 2-storey building to form new x-ray department including re-routing of existing hospital corridor and replacement parking spaces.
- 3.11. 30 April 1999. 1998/05530/PA. Planning permission granted for the refurbishment to form new 13 bed high dependency unit, with new build to form staff support accommodation.

### 4. Consultation/PP Responses

- 4.1. Local residents (within 50m of the application site), Ward Councillors, MP and resident associations notified. Site and press notice posted. 21 letters of objection received from residents of Wynds Point, St Joseph's Avenue, Sundbury Rise, Belmont Court, Lawrence Court and The Davids. The objections are summarised as follows:
- Proposed expansion will create more parking problems locally, particularly in Wynds Point where upward of 40 staff cars are parked on a daily basis.
  - Further noise pollution.
  - Loss of privacy to communal gardens.

- In favour of application BUT object because the problems of inadequate parking arrangements must be addressed before planning permission granted.
  - Not enough neighbour notification undertaken.
  - Object to staff parking in residential roads.
  - This has not been a fair and democratic process.
  - Hospital continues to cause major parking issues in the local area.
  - Impact of poor parking on highway safety eg opening doors onto dual carriageway.
  - Staff park on local residential roads due to parking charges levied by the hospital.
  - Request a committee site visit to meet with Wynds Point Community and Street Watch.
  - Negligible parking enforcement occurs now.
  - Implication of extension on parking for additional staff, patients and visitors.
  - Potential for noise and/or fumes generated by plant on roof.
  - Noise and inconvenience to local residents both during construction and operation.
  - Design is out of character with existing hospital buildings.
  - The plan of just keep expanding with no regards to the size of site and adjacent occupiers should not be allowed to continue.
  - Obstruction of natural light.
  - The dual carriageway already becomes a single track road during the hours of 8am to 4pm.
  - Request the introduction of traffic regulation orders and controlled parking zones.
  - No further parking is proposed for the development.
- 4.2. Transportation – No objection subject to a S278 condition relating to Traffic Regulation Orders.
- 4.3. Regulatory Services – No objection.
- 4.4. West Midlands Fire Service – No objection.
- 4.5. West Midlands Police – No objection.
- 4.6. Lead Local Flood Authority – Based on the revised drainage information submitted, no objection is raised and no conditions are required.
- 4.7. Severn Trent Water – No objection subject to a drainage condition.
5. Policy Context
- 5.1. BDP, NPPF, NPPG, Saved Policies of the UDP 2005, Car Parking Guidelines SPD, Places for All SPD.
6. Planning Considerations
- Background
- 6.1. The Royal Orthopaedic Hospital has a long history, dating back to circa 1888 through which it has played an important role in the Northfield Community. The

Hospital is the largest local employer, and visitors, staff and patients support the Northfield District Centre local economy.

- 6.2. The Hospital is an NHS Foundation Trust and a specialist teaching hospital which requires constant improvement and upgrading to its facilities for patients, visitors and staff; including recent developments of a new outpatients building, admissions and day-case facilities, improved x-ray department and reorganised car parking on the site.
- 6.3. The hospital services across the City are currently being reviewed to provide a system wide approach to healthcare in Birmingham. This review results in the centralisation of paediatric services at the Women's and Children's NHS Foundation Trust, thereby transferring the Inpatient Paediatric Services from the Royal Orthopaedic Hospital. The Trust therefore considers that a reduction in Paediatric staff numbers, patients and visitors numbers would occur as a result of the transfer of services.
- 6.4. To continue to enhance and deliver the required growth, the Trust is required to upgrade their operating theatre capacity to meet current and future demand for orthopaedic surgery. The additional theatre capacity also creates a demand for more ward beds, which need to be adjacent to the theatres. The proposed site, adjoining the existing 3 storey ward block to the north-west and the existing theatre complex to the south east is proposed to accommodate this requirement.

#### Principle of Development

- 6.5. Policy TP37 of the BDP relates to health and states that *"proposals for the development of new and the improvement of existing health care infrastructure required to support Birmingham's growing population will be permitted provided they meet the requirements of other policies."*
- 6.6. Planning permission is sought for an extension to the existing hospital to provide a further four operating theatres and associated infrastructure along with a further 23 bed spaces. This is required to increase the number of patients that can be treated at the hospital and off-set the loss of income through the transfer of paediatric services to the Children's Hospital.
- 6.7. I consider that the principle of the development is acceptable. The extension would be located within an existing courtyard where development once stood (demolition occurred in 2016) and would not be visible from outside the hospital boundary. The site is also located within 200m of Northfield District Centre, and whilst not in-centre, would still be in accordance with policy.

#### Design

- 6.8. Policy PG3 of the BDP states that Policy PG3 states that *"New development should:*
  - *Reinforce or create a positive sense of place and local distinctiveness with design that responds to site conditions and the local area context;*
  - *Create safe environments that design out crime and make provision for people with disabilities;*
  - *Ensure that private external spaces, streets and public spaces are attractive, functional, inclusive and able to be managed for the long term; and*
  - *Support the creation of sustainable neighbourhoods."*

- 6.9. Saved policy 3.14 of the UDP 2005 relates to the design of new development, the key principles for consideration being:
- impact on local character,
  - scale and design of new buildings and spaces (to respect the surrounding area),
  - the need for free, easy and safe movement, and importance of links,
  - the encouragement of mixed uses in centres and areas where they can contribute towards meeting an identified local need,
  - creation of safe, pleasant and legible places,
  - the requirement for integral landscaping,
  - retention of trees and new tree planting.
- 6.10. 'Places for All' also emphasises the importance of good design, high quality environments, again with an emphasis on context.
- 6.11. The proposed design has been amended since the application was originally submitted following comments from City Design. The building proposed would be constructed in two phases which have previously been outlined. Due to the modular construction, the building would have a modern design and would use modern materials including a combination of white and vertical steel faced panels and dark grey powder coated joinery. I note the objection received in relation to the design however, I consider the revised elevations to be acceptable and would sit comfortably with the new buildings that surround it within the hospital complex. My City Design Officer considers the revised plans acceptable and my Conservation Officer raises no objections. The proposed development would not be located adjacent or attached to the listed building located to the north of the proposal and fronting Bristol Road South.

#### Impact on Neighbouring Residents

- 6.12. I note that a number of objections have raised issues regarding noise pollution and air pollution from the proposed plant areas on the roof of the building, loss of privacy to communal gardens, obstruction to natural light, and noise and inconvenience to local residents both during construction and operation. The application is not accompanied by a noise assessment however Regulatory Services has reviewed the application submission. The proposed extension would sit within a courtyard that is surrounded on three sides by existing hospital buildings and would have a roof line that would sit below that of the existing adjacent hospital buildings. Due to this, any noise generated from the plant or the activities inside the building itself would be contained within the courtyard space. The application site was previously occupied by hospital buildings which have already been demolished. These buildings would have had noise and parking demands associated with them and this application would not impact on noise any further than the existing/previous use of the application site and the site as a whole. Regulatory Services has raised no objections to the proposed development and has not recommended safeguarding conditions. However, to ensure that the plant proposed would have no impact on residents adjoining the site, a condition relating to noise levels from the plant and machinery is recommended below.
- 6.13. In relation to loss of privacy/light from the proposed development to adjacent residential occupiers, the proposed development would be over 150m from properties in St Joseph's Avenue and Welches Close and would be hidden from view on three sides due to existing hospital buildings. Whilst these issues are material planning considerations, in this instance, I do not consider that a loss of

privacy or light would occur and as such, objections on these grounds hold limited weight.

- 6.14. I note the objection relating to noise from construction and operation. Whilst I consider that some noise and disturbance would occur to local residents during construction of the proposed extension, I consider that this impact would be short term and minimal and as such, acceptable. With regards to operational noise, I consider that this has already been addressed above.

#### Transportation Issues

- 6.15. The application is accompanied by a transport statement, a travel plan and more recently a transport note following a meeting between the Hospital Trust and local residents and a travel plan review. This Statement noted that 71% of existing staff travel by car and the proposed development would have a similar modal share. I note the objections received from local residents that primarily relate to staff, patients and visitors parking on residential streets and that this parking has often been inconsiderate and dangerous alongside that this proposed further expansion would increase and impact on this respectively.
- 6.16. The Transport Statement identifies that the current hospital is staffed (in total) by 1,013 staff and there are currently 335 car parking spaces on site. 206 of these spaces are for staff, 129 for patients and a further 21 accessible spaces. There are also 3 spaces reserved for emergency vehicle parking. The development may also create a further 5 spaces once completed although this depends on space available around the proposed development once completed. The hospital also has additional parking for staff at the following locations:
- 620 Bristol Road South – 50 spaces leased from the City Council;
  - Maryland Drive – 16 spaces leased from Bournville Village Trust; and
  - St Josephs' Avenue – 24 spaces leased from Bournville Village Trust.
- 6.17. The Statement explains that the theatres would operate two sessions per day and would have a capacity of two patients per session. This calculates to 16 patients per day including 8 outpatients and 8 inpatients for five days a week. However, given the length of stay is 2 to 3 days, if the theatres proposed provided 16 patients a day, the number of bed spaces would be exceeded. It is therefore expected that the development would have 4 outpatients and 4 inpatients daily. Staff trip generation would (on a worst case scenario) generate 254 two way movements per day for the extra 127 staff. This would reduce by 65% over the weekends. Patient trip generation is predicted to generate 24-32 two way movements per day.
- 6.18. Transportation has reviewed the submitted information and the updated travel plan. They advise that whilst there is no objection in principle to the build itself i.e. no removal of car parking spaces on site, issues remain for on-street parking in the area. The revised travel plan is accepted however, Officers and the local residents can see that the hospital's 'good intentions' are not always reflected on the ground.
- 6.19. Transportation note the submitted Statement on Car Parking where the hospital provided information of a meeting with local residents from Wynds Point (and associated roads) and themselves (22-11-18). Inconsiderate parking over crossings, blocking footways, waste collection vehicles and the emergency services having difficulties gaining access, are significant issues. Along with verbally abusive staff when challenged they consider that the situation is becoming increasingly frustrating for the residents. They also note that the hospital sent a letter to all staff concerning

these issues highlighting Executive Staff Walkabouts which will highlight any vehicles parking inconsiderately through Staff Bulletins. Transportation acknowledge that this has clearly been unsuccessful as a local resident sent an e-mail to the hospital on the 10<sup>th</sup> January 2019 stating that the parking is worse than ever and this has been confirmed through email confirmation with West Midlands Police.

- 6.20. The objections from local residents including email evidence of inconsiderate and dangerous parking leads Transportation to support the request made by the residents, Councillor Grindrod and the Local Engineer Sajid Khan that a Residents Controlled Parking Zone (CPZ) is implemented to reflect and address the additional and existing parking demands, particularly as no further staff parking is proposed. The cost of which will be at the applicants expense. This will be a minimum £12K for a standard TRO, plus the cost of associated civil works. Subject to the imposition of a condition to secure a CPZ through a Section 278 agreement, Transportation raises no objection to the proposal.
- 6.21. Whilst parking issues locally are an existing and ongoing issue and are raised by local residents around all hospitals and that the demolition of part of the hospital previously would have reduced some of the existing demand that this proposal could now assume; I am sympathetic to the potential further impact that this proposal would have on local residents from parking. As the principle of the development is supported and is considered necessary to secure the ongoing provision of orthopaedic treatment in the City, I consider the request from Transportation for a controlled parking zone to be secured through a planning condition to be necessary, relevant to planning and relevant to the development to be permitted.

#### Other Issues

- 6.22. The proposed development does not attract a CIL contribution.
- 6.23. I note the objections received regarding the lack of neighbour notification undertaken and as such, the view that this has not been a fair and democratic process. The neighbour notification undertaken has been undertaken in accordance with the City Council's published guidelines in its Statement of Community Involvement. Whilst I acknowledge that this is considerably less than the adjacent local residents would want, it has been undertaken in accordance with guidelines and 62 neighbours within 50m of the proposed development have been consulted. A site notice and press notice has also been posted and as such, the City Council's statutory duty undertaken. I also do not consider that the number of people consulted has prevented a wider consultation occurring.
- 6.24. A BREEAM pre-assessment of the site has been carried out in accordance with the policy demonstrating that the scheme currently achieves a score of 50.6% translating into an overall BREEAM rating of 'Good'. This would be achieved by the minimisation of the buildings energy demand through an efficient envelope design, effective orientation and proficient use of building services. Furthermore, solar thermal panel and solar photovoltaic panel installations are proposed to provide a proportion of the regulated energy requirements of the building and to help reduce CO2 emissions.

## 7. Conclusion

- 7.1. The application site is previously developed land located in a predominantly residential area, with good links to public transport and local services. The hospital has been on the wider application site for an extensive period of time and is required

to constantly adapt and change. As such, the principle of the proposed development is acceptable and in accordance with policy.

- 7.2. The detailed design has been developed in consultation with City Design and the resulting scheme is considered to be of a high quality design that would sit comfortably within its surroundings. The proposed development would have no impact on adjacent residential properties in terms of residential amenity relating to light and privacy.
- 7.3. Whilst the proposed development would not alter the parking provision on site, evidence provided by local residents in their objections and from site visits undertaken, it is noted that the hospital has a significant impact on residents locally from staff, patient and visitor parking. As such, a controlled parking zone is supported.
- 7.4. The NPPF supports the presumption in favour of sustainable development and this is identified as including the three stems of economic, social and environmental benefits. I consider that the proposal would continue to support the wider site upgrade and enhancement with its associated significant economic and social benefits and would have a positive and significant environmental benefit. The proposal would also support the provision of further local employment in both construction and support employment within the building and would continue to support the provision of medical services within the City. As such, I consider the proposal to be sustainable development and on this basis, should be approved.

8. Recommendation

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

- 
- |   |                                                                            |
|---|----------------------------------------------------------------------------|
| 1 | Requires the scheme to be in accordance with the listed approved plans     |
| 2 | Requires the prior submission of a drainage scheme                         |
| 3 | Limits the noise levels for Plant and Machinery                            |
| 4 | Requires the submission of hard surfacing materials                        |
| 5 | Requires the submission of hard and/or soft landscape details              |
| 6 | Requires the submission of sample materials                                |
| 7 | Requires the submission and completion of works for the S278/TRO Agreement |
| 8 | Implement within 3 years (Full)                                            |
- 

Case Officer: Pam Brennan



## Photo(s)



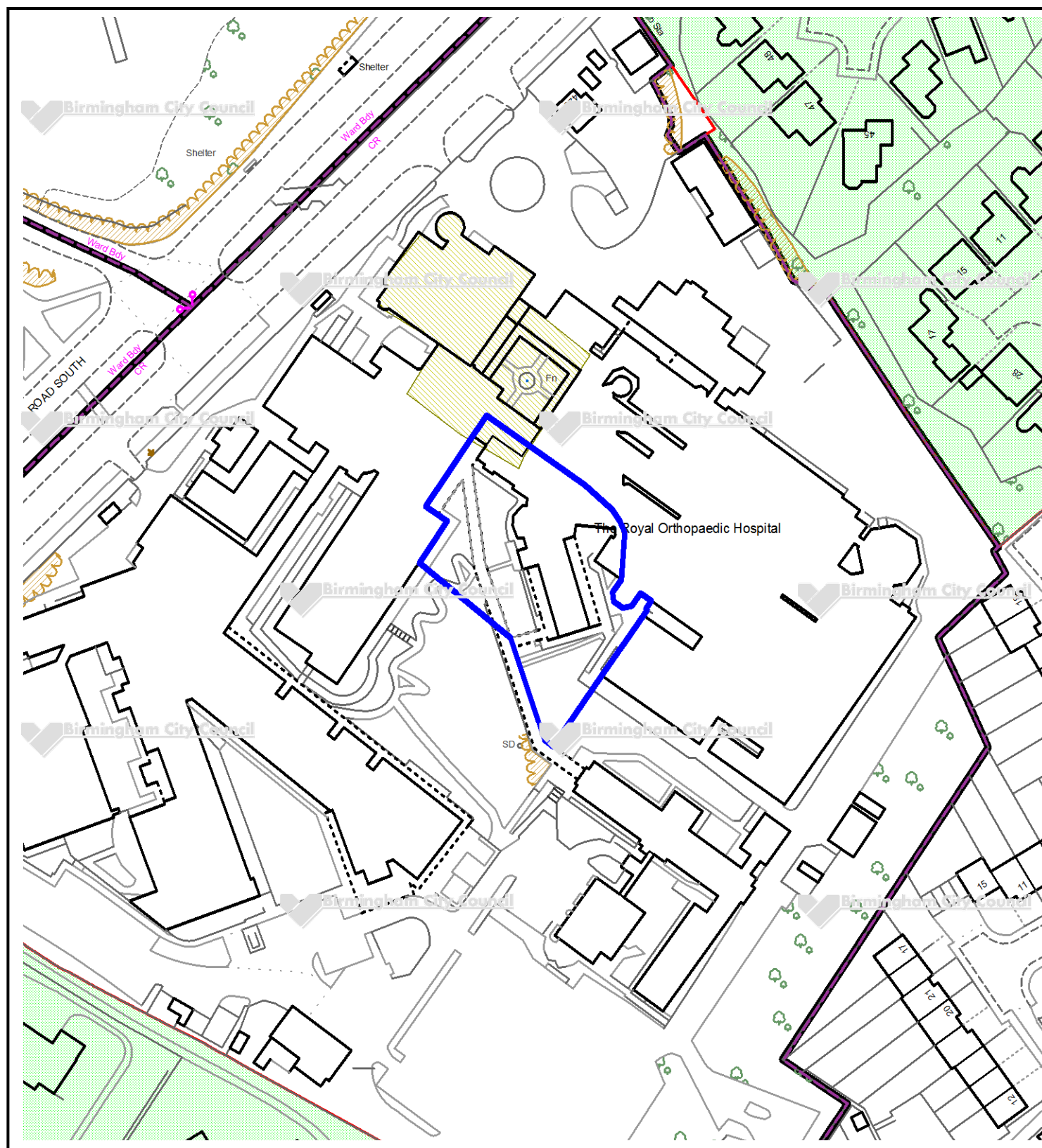
Photograph 1: View looking north-west towards existing hospital building



Photograph 2: View looking north showing application site, existing hospital and difference in site levels.



## Location Plan



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Committee Date:	14/02/2019	Application Number:	2018/05254/PA
Accepted:	10/07/2018	Application Type:	Full Planning
Target Date:	04/09/2018		
Ward:	Harborne		

Former Ravenhurst Playing Fields, Knightlow Road, Harborne,  
Birmingham, B17 8PB

Retention of new sub-station

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. Planning consent is sought for the retention of a new sub-station within the site of the former Ravenhurst Playing Fields located off Knightlow Road.
- 1.2. The sub-station is located in the south eastern corner of the site adjacent to the boundary of rear gardens of properties in Gillhurst Road. The sub-station measures 3.1m (w) x 2.27m (d) x 2.3m (h). The development has been built using a standard GRP Substation housing and is dark green in colour.
- 1.3. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site relates to a new residential development on the site of the former Ravenhurst Playing Fields. Planning consent was granted in 2016 under application reference 2014/06660/PA for the proposed erection of 63 dwellings. A sub-station has been installed in the south eastern corner of the site without prior planning consent and is subject to enforcement case 2018/0526/ENF.
- 2.2. The application site is now fenced off, and ground levels drop towards Gillhurst Road.
- 2.3. [Site Location](#)

3. Planning History

- 3.1. 11/07/2016 – 2014/06660/PA – Permission granted for a residential development of 63 dwellings. Formation of public open space (of 2.2ha), provision of access via Knightlow Road & associated engineering works and demolition of former pavilion.
- Enforcement history:
- 3.2. 2017/0694/ENF – Alleged check works are in accordance with approved plans attached to 2014/06660/PA – Case closed.

- 3.3. 2018/0526/ENF – Alleged check works are in accordance with approval 2014/06660/PA and relevant conditions have been met – Under investigation.

4. Consultation/PP Responses

- 4.1. BCC Transportation Development – no objections raised in relation to the development.
- 4.2. Regulatory Services – no objections subject to a condition regarding noise levels for plant and machinery.
- 4.3. Local Councillors, residents associations and nearby occupiers were notified. A site notice was displayed. Letters of objection have been received from the residents of five properties in relation to the development with objections on the following grounds:
- Loss of light.
  - Loss of privacy.
  - Visual impact of the development.
  - Impact upon the character of the surrounding area.
  - The siting of the sub-station.
  - Land levels have been raised as part of the housing development.
  - Impact upon adjacent trees.
  - Potential drainage issues and increased flood risk.
  - Fire risk.
  - Security issues.
  - Impact upon the safety of new and existing residents.
- 4.4. A letter of objection has been received from Preet Gill MP raising concerns in relation to the privacy and safety of neighbouring occupiers, the impact upon the adjacent sycamore tree, and prior installation without planning consent.

5. Policy Context

- 5.1. Birmingham Development Plan (BDP) 2017; Birmingham Unitary Development Plan 2005 (Saved Policies); Places For All (2001); National Planning Policy Framework (2018).

6. Planning Considerations

- 6.1. This application has been assessed against the objectives of the policies as set out above.
- 6.2. This application has been submitted following enforcement case reference 2018/0526/ENF which is an on-going investigation in relation to the unauthorised installation of a sub-station and raised ground levels. The application site relates to a new housing development which was approved in 2016 (application reference 2014/06660/PA) for 63 new dwellings. The sub-station has been installed on this site without prior planning consent and the ground level of the area surrounding the sub-station has also been raised.

- 6.3. Following the initial submission of this application, fencing has been installed along the boundary of the site with the adjacent properties in Gillhurst Road to provide screening around the sub-station and mitigate the raised ground level of the development site.
- 6.4. The NPPF outlines a presumption in favour of sustainable development and underlines the Government's commitment to securing economic growth. Policy PG3 of the BDP states that new development should make the best use of existing buildings and efficient use of land in support of the overall development strategy.
- 6.5. The sub-station as installed is a small scale development in conjunction with a large housing development. The sub-station is located in a discreet location in relation to the new properties and is set towards the boundary of the site in order to limit its visual impact. The remedial works which have been undertaken include the installation of fencing along the boundary with the rear gardens of properties in Gillhurst Road. This has significantly reduced views of the sub-station from these gardens thereby ensuring that the development does not adversely impact upon the visual amenity of the surrounding area. The development does not have a significantly harmful impact upon the character of the area and therefore there are no grounds to resist the retention of the substation as installed.
- 6.6. My Tree Officer has provided comments stating that they have no objections to the development and there are no tree-related issues arising from the works which have been carried out. It is noted that trees have been removed from the site, which the Tree Officer has stated does not accord with the original approval but is not in itself harmful. I therefore do not consider that there are grounds to recommend refusal in relation to this matter.
- 6.7. Transportation has raised no objections in relation to the proposal. The sub-station would be located some distance from the public highway. Parking provision approved in relation to the housing development is unaffected. There are therefore no highways related implications arising from this development.
- 6.8. Regulatory Services have considered this application and raise no objections subject to a safeguarding condition limiting noise from the sub-station. I therefore do not consider that the development has an adverse impact in relation to noise issues.
- 6.9. Concerns have raised in relation to the development by neighbouring occupiers in relation to a number of issues. Residents have raised concerns regarding potential security issues, however, I consider that the installation of the new boundary fencing along the boundary with the adjacent dwellings in Gillhurst Road mitigates this issue and the development does not compromise the security and safety of local residents. Fire safety matters would not fall within the planning remit but it is anticipated that the housing developers will ensure that the installation operates within other appropriate legislative controls as required by the relevant utility provider.
- 6.10. Objections have also been received in relation to the development with regard to potential drainage issues. However, I do not consider that the sub-station itself would result in any greater potential impact in relation to drainage and flooding issues than would have been looked at and assessed as part of the original consent for the new housing development.

7. Conclusion

7.1. This application is recommended for approval. The sub-station as installed is in a relatively discreet location and with the remedial screening works does not significantly harm the character of the local area. Noise outputs can also be controlled by planning condition in the interests of residential amenity.

8. Recommendation

8.1. Approve subject to conditions.

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1 Requires the scheme to be in accordance with the listed approved plans

2 Limits the noise levels for Plant and Machinery

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Case Officer: George Baker



## Photo(s)



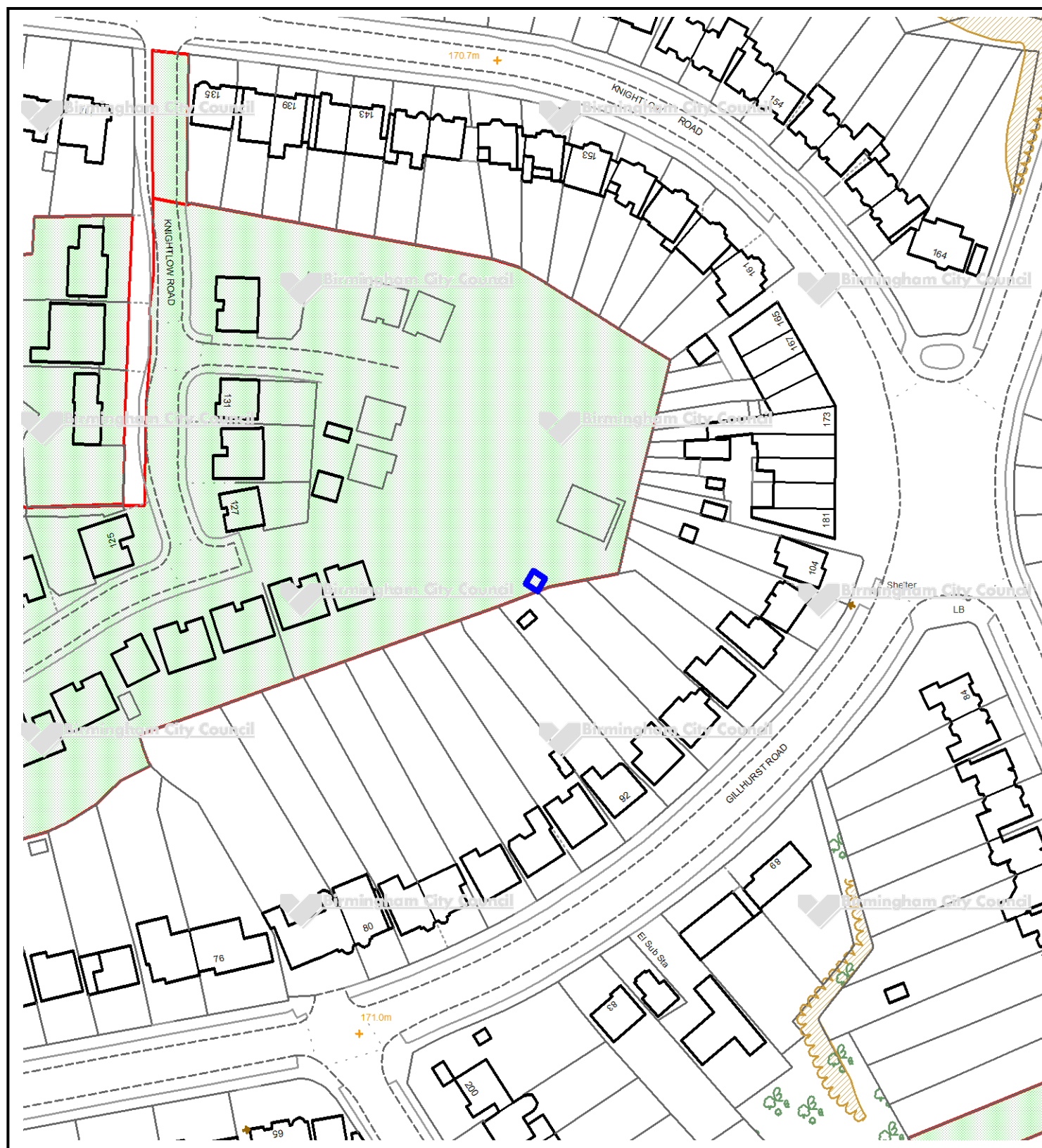
Figure 1 - View of sub-station following installation of fencing surrounding development.



Figure 2 – View towards site from rear garden in Gillhurst Road



## Location Plan



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# Birmingham City Council

## Planning Committee

14 February 2019

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

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Refuse	13	<p>2018/08668/PA</p> <p>Site situated within the existing curtilage of African Village Restaurant and Bar (former Crown &amp; Cushion PH) Birchfield Road/Wellington Road Perry Barr Birmingham B20 3JE</p> <p>Erection of a 5 storey apartment building containing 55 apartments together with associated parking</p>
Refuse	14	<p>2018/06134/PA</p> <p>Western Business Park Great Western Close Winson Green Birmingham B18 4QF</p> <p>Outline application (with appearance and landscaping reserved) for the erection of 6 blocks between 3 and 7 storeys comprising up to 296 residential units (Use Class C3) together with day nursery (use class D1) (88sqm) and gymnasium (use class D2) (88sqm) and associated car parking.</p>
Approve – Subject to 106 Legal Agreement	15	<p>2017/01495/PA</p> <p>Former Express Dairy Site Land adjacent 189 Aldridge Road Perry Barr Birmingham B42 2EY</p> <p>Erection of 147 residential units with associated access, car parking and ancillary works.</p>

Approve – Conditions	16	<p>2018/03818/PA</p> <p>168 Bridge Street West Hockley Birmingham B19 2YX</p> <p>Demolition of existing buildings and erection of 6 storey building containing 62 student studios (Sui Generis) and associated works.</p>
Approve – Conditions	17	<p>2018/08257/PA</p> <p>Land to the rear of 11-13 Redacre Road Sutton Coldfield Birmingham B73 5EA</p> <p>Erection of 1 residential dwelling house</p>

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Committee Date:	14/02/2019	Application Number:	2018/08668/PA
Accepted:	22/10/2018	Application Type:	Full Planning
Target Date:	07/03/2019		
Ward:	Birchfield		

Site situated within the existing curtilage of African Village Restaurant and Bar (former Crown & Cushion PH), Birchfield Road/Wellington Road, Perry Barr, Birmingham, B20 3JE

Erection of a 5 storey apartment building containing 55 apartments together with associated parking

#### Recommendation

#### **Refuse**

#### 1. Proposal

##### 1.1. Background

1.2. This application follows the dismissal of an appeal against refusal of planning permission 2016/08154/PA for the same scheme. In his conclusion of that appeal the Planning Inspector did not uphold the grounds for refusal of the planning application, which were:-

\* the proposed noise mitigation measures, with a reliance on closed windows and mechanical ventilation, during periods of the day would result in unacceptable living conditions of future occupiers of the proposal; and

\* It has not been adequately demonstrated that noise from a compressor plant located to the north west of the site would not have an unacceptable impact on the residential amenity of future occupiers of the proposal.

1.3. He instead dismissed the appeal on the grounds that there was no agreed S106 in place, to cover the offer of the commuted sum the applicant had made under the application to be spent on either affordable housing and/or POS elsewhere. That application was originally submitted in September 2016 with a viability assessment dated the same month of that year.

##### 1.4. Current application

1.5. This new application is a resubmission of the refused scheme which proposed the erection of a 5 storey apartment building which would contain 55 apartments together with associated parking on land that currently forms part of the site curtilage, including a number of parking spaces, of African Village Restaurant and Bar (former Crown and Cushion PH).

1.6. The main part of the building would be situated within the western part of the site and extend almost the full depth of the site with a return at its northern end in the direction of east.

- 1.7. The building would measure 14.5 metres high, 27.5 metres wide by 51 metres long. The exterior façade of the building would be clad in vertically laid multi coloured panels with windows of varying widths incorporated in the external elevation. Other notable material types to be used include a 900 mm base wall with a 2 metre high louvre panel above that would run along the northern façade of the building and also a large extent of the western and eastern facades in order to facilitate fresh air to the undercroft car park that would take up a large area of the ground floor. The main part of the building would appear rectangular in shape and would have a parapet edge roof. The ground floor would have a wider footprint than the upper levels of the building and this would provide the opportunity to provide a green roof over that part of the ground floor that extends beyond the main upper level footprint of the building.
- 1.8. The ground floor layout would provide 3 one bedroom apartments, undercroft parking for 35 cars (with a further 6 spaces within the external area curtilage of the site) and 54 cycle storage spaces, plant rooms, bin storage area, two staircases and a lift.
- 1.9. The upper levels would consist of 16 no. 2 bed and 36 no. 1 bed apartments.
- 1.10. Access to the site for pedestrians would be available from the front of the building through a front door facing Wellington Road whilst vehicular access would be achievable from Wellington Road over land that is shared with the African Village. The external car parking areas and the access to the undercroft parking areas would be secured behind vehicle access gates and fencing to the site perimeter. The development would result in the loss of three existing trees on the site and approximately 45 car parking spaces associated with the African Village Restaurant and Bar.
- 1.11. The application has been submitted with the same supporting information as the previous refused scheme which includes:- Design and Access Statement; Viability Assessment, Desk top report, Air Quality Assessment, Noise Assessment, Drainage Strategy and SUDS Assessment, Transport Statement, Planning Statement and Arboricultural Assessment.
- 1.12. A viability assessment has been submitted with this application that sets out the scheme will not offer any affordable units or any public open space on site. The applicant wishes to continue with the previous agreed offer made of £151,250 to pay for affordable housing and/or Public Open Space off site and the applicant states a draft S106 will be submitted to that effect in order to secure this. No new viability appraisal has been submitted to reflect current market prices and the applicant has not agreed to cover the costs for a fresh independent appraisal of the 2016 Viability Assessment.
- 1.13. The site area measure 0.21 hectares which equates to development density of approximately 275 units per hectare.
- 1.14. [Link to Documents](#)
2. Site & Surroundings
- 2.1. The application site currently forms part of the curtilage of the African Village. The land use is currently set out as a grassed area and part hard surface car parking. To the west and north are garage premises (with a railway line and One Stop Shopping Centre further north) and the African Village Restaurant and Bar. Across Wellington Road to the south of the site is a 3 and 4 storey high block with commercial parade



of premises on the ground floor and residential flats above. The site falls within the boundary of the Perry Barr District Centre and the site has been identified in the SHLAA strategy of capable of providing residential development that may help meet the City's future housing needs. There is one TPO tree that is situated along the northern boundary of the site whilst the canopy of two others extend into the site along that same northern boundary.

2.2. [Site location](#)

3. [Planning History](#)

- 3.1. 26.10.2017- 2016/08154/PA- Erection of 5 storey apartment building containing 55 apartments together with associated parking- Refused and appeal dismissed due to there being no agreed S106 in place.
- 3.2. 23.09.2010- 2010/03124/PA- Application for a new planning permission to replace extant planning permission 2007/03284/PA [Redevelopment of vacant land & car park to provide accommodation for 103 students within a 3 & 4 storey development with concierge & parking. Amendment to N/07712/05/FUL] in order to extend the time limit for implementation- Approved with conditions.

4. [Consultation/PP Responses](#)

- 4.1. Surrounding occupiers, local councillors, local MP and residents action group notified as well as site and press notices displayed- no response received.
- 4.2. Transportation Development- request details of secure and covered cycle parking which can be conditioned and that since comments on the previous refused scheme were provided at this site, information regarding the size of refuse vehicles from BCC Waste Management has been received which the applicant is required to demonstrate the development could accommodate through the provision of tracking plans.
- 4.3. Regulatory Services- awaiting final comments.
- 4.4. Leisure Services- No objections to this application but identify the proposal would be subject to both POS and Play area contributions in accordance with the BDP. Based on the residential mix currently provided this would come to £125,275. This would be spent on the provision, improvement and/or maintenance of POS and Play facilities at Perry Hall Park within the Perry Barr Ward.
- 4.5. Employment Access Team- request a Jobs & Skills Clauses for inclusion within a Section 106 Agreement.
- 4.6. Severn Trent Water - no objections to the proposals subject to the inclusion of a condition to secure satisfactory drainage plans for the disposal of foul and surface water flows.
- 4.7. WM Fire Service- Water supplies for firefighting should be in accordance with guidance.
- 4.8. Environment Agency- no objections to the proposed development and make procedural and best practice comments that the applicant should follow to limit/prevent/protect against land contamination, ensure ground water protection and safe handling of waste on/off site.

- 4.9. West Midlands Police- Question the level of parking and recommend security measures, including Secured by Design, lighting CCTV and the management of refuse collection.
- 4.10. LLFA - Awaiting final comments.
- 5. Policy Context
- 5.1. Birmingham Development Plan (2017); Saved policies UDP (2005), Places for Living SPG, Places for All SPG, Car Parking Guidelines SPD, Aston, Newtown and Lozells Area Action Plan (AAP), Shopping and Local Centres SPD and the NPPF.
- 6. Planning Considerations
- 6.1. Principle
- 6.2. Local Planning Authorities must determine planning applications in accordance with the Statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision. The Development Plan comprises the saved policies of the Birmingham Unitary Development Plan 2005 and the Birmingham Development Plan 2017. The NPPF (2018) and the Aston, Newtown and Lozells Area Action Plan are also material considerations.
- 6.3. The Aston, Newtown and Lozells AAP is identified as a key area for growth in the BDP, including over 700 new homes and Perry Barr is identified as a District Centre growth point. The AAP also highlights that the Crown and Cushion PH is suitable for new development for local centre uses. The NPPF recognises that residential development can play an important role in ensuring the vitality of centres. It is also noted that the site has had planning permission in the past for residential development in the form of student accommodation and is identified in the SHLAA Study as having the capacity for residential development. Taking the above into account, no objection is raised in principle to residential development on the site.
- 6.4. I set out below my consideration of the other matters relevant to the proposal which all together are matters that need to be considered in arriving at a conclusion as to whether or not this proposal represents sustainable development.
- 6.5. Design and layout
- 6.6. This proposal is a duplicate of the previous refused application. When it was submitted under the previous application, the proposal was subject to extensive discussion and negotiation, including pre application discussion, in order to try and arrive at the most appropriate solution for the site. In contextual layout terms, the applicant had submitted an indicative master plan that I consider satisfactorily demonstrates that the development of the scheme could be built without hindering the prospective future redevelopment of neighbouring plots of land.
- 6.7. With respect to the overall mass and scale of the new building, street scene drawings have been provided which confirm that the new building would appear in keeping with the 4 storey block across Wellington Road. Though the building would

be taller than any other buildings along this side of Wellington Road, it is situated where buildings of such a size are deemed acceptable.

- 6.8. Turning to the design of the building, the scheme as presented before members is of a design that meets best principles of good design. The development would have a front facing entrance and a clear definition between pedestrian and vehicular access to and from the site. The use of lightly contrasting external cladding would, coupled with the large number of and varying sizes of windows, break up the large elevations of the building. This would help create a modern signature development for this location which is important given that it is expected to act as a catalyst for the redevelopment of this area. The mass, scale and design (which includes its positioning and general layout) of the new development meets good urban design principle and would fit into the wider vision for the future of this local growth centre. In summary, no adverse visual or urban design impact identified subject to safeguarding conditions. The design of the scheme is the same as agreed by my City Design Officer under the previous refused application.
- 6.9. Residential Amenity
- 6.10. Members are reminded that though the proposal was previously refused under application 2016/08154/PA on the grounds of the proposed noise mitigation measures (with a reliance on closed windows and mechanical ventilation, during periods of the day we considered would result in unacceptable living conditions of future occupiers of the proposal; and that it had not been adequately demonstrated that noise from a compressor plant located to the north west of the site would not have an unacceptable impact on the residential amenity of future occupiers of the proposal) the Planning Inspector did not support these reasons for refusal. I am therefore of the view that given the proposal is a duplicate resubmission of that scheme and given the Planning Inspector's conclusion on this matter, I do not consider that the occupiers of the application property would be, from a planning perspective, adversely affected by noise and disturbance and a reason for refusal could not be sustained.
- 6.11. Internal layout of the proposed development is considered acceptable. The 1 bedroom units would range from a total floorspace of 47 to 54 sq.m whilst the 2 bedroom units would range from 58 to 76 sq.m. Double bedrooms range from 10.3 to 14.1 sq.m and single bedrooms measure 9.7 sq.m. I consider that this demonstrates that the scheme in general aligns with the sizes contained within national standards. I also note that each unit and their bedrooms would be of a fairly regular shape and that each unit would also be provided with internal storage area.
- 6.12. The nearest directly facing residential dwellings are the flats situated above the commercial premises across Wellington Road to the south of the site which are approximately 40 metres from where the new building would be erected. The windows at first floor level above the African Village Restaurant and Bar which face towards the site serve a kitchen and offices with the closest approximately 30 metres from the application site boundary. The nearest garden of a residential dwelling is the rear garden of number 309 Wellington Road which is situated approximately 57 metres away to the west of the application site. On the basis of this assessment, I consider the proposed new development is unlikely to have an adverse overlooking or intrusion of privacy impact. Furthermore, there would be no loss of light or outlook to residential dwellings identified.
- 6.13. The proposed development would not provide any on site communal private amenity area. It is recognised that the provision of on site private amenity space for

residential apartment schemes in local centres locations such as these can be problematic and can impact on achieving the desired higher densities. On this basis, I do not consider the non provision of external private amenity area as an issue with respect to this scheme.

- 6.14. Parking/highway impact
- 6.15. Transportation Development confirm that they raise no objection to the level of parking proposed and recommend a condition to require secure and covered cycle parking is applied to any approval (which may require amendments to the proposed layout to provide practical cycle parking provision). However, they do advise that since their comments on the previous refused scheme information received indicates there has been a change in the dimensions of the refuse vehicles that may service the site and therefore the applicant will need to provide tracking analysis for the appropriate size vehicles that would likely service the site. Such information has been requested of the applicant.
- 6.16. The applicant has responded by stating the application submission is exactly the same as application 2016/08154/PA and the information submitted regarding highways is the same as that which the Council have previously deemed to be acceptable. Adding that there has been no change in circumstance to warrant a request for additional information.
- 6.17. I therefore conclude that on the basis of the lack of satisfactory tracking information that shows refuse vehicles of a size that could service such a development, it has not been adequately shown that the parking and servicing arrangement would not undermine highway safety.
- 6.18. Ecology
- 6.19. The site currently has limited value in ecological terms. Scope exists to provide for ecological enhancements which I consider can be achieved through conditions. The City Ecologist concurs with these views.
- 6.20. Trees
- 6.21. The site contains 5 trees, one of which is covered by a TPO, whilst there also exists the canopy of other trees that overhang the site. It is proposed to remove the 4 non TPO trees that are situated on the site which comprise a Common Lime, Gean, Sycamore and Laurel. The TPO that exists on site is a Common Lime and is situated at the rear of the site forming part of a row of other trees that in the main run along the rear of the neighbouring site that is occupied by the African Village Restaurant and Bar. The removal of the aforementioned trees is considered acceptable from an amenity perspective. The overhang of tree canopies onto the site along the western boundary, could be covered by appropriate trimming.
- 6.22. The canopy of the TPO tree to the north of the new building extends to a degree so that it will obstruct construction operations and will require a reduction in the lateral spread of the crown towards the proposed development by 3 metres. The crown of that tree naturally tapers inwards in the upper half and therefore the works only need to be completed to the lower section. I consider the extent of the works relative to the full volume of the crown are small and will have no impact on the health and longevity of the tree. The Tree Officer raises no issues with respect to this application.

6.23. S106 Planning obligation

- 6.24. Due to the application exceeding 15 and 20 units, policies TP31 and TP9 of the BDP seek contributions for affordable housing and public open space respectively. Where an applicant considers that a development proposal cannot meet policy requirements, the viability of the proposal will be assessed. The applicant has confirmed that he is unable to provide any on site affordable housing as part of this development and instead repeats his offer of a sum of £151,200 for the provision of affordable housing and/or provision/improvements to POS and childrens play as a commuted sum as offered under the previous refused scheme. To support the offer the applicant has resubmitted the viability assessment submitted with the previous refused scheme dated September 2016. However, the applicant has not agreed to cover the Council's costs in having it independently appraised.
- 6.25. Members are reminded that part 57 of the NPPF (2018) states "Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available".
- 6.26. On the basis of the above advice contained within the NPPF (2018), I do not consider the resubmitted viability assessment dated September 2016 would provide an accurate reflection of current market circumstances to accurately evaluate what the scheme could or could not currently deliver in terms of section 106 contributions. Furthermore, in the absence of payment by the applicant to independently evaluate the submitted assessment in relation to current market circumstances, an appropriate evaluation of the S106 offer is not possible and therefore the submitted scheme conflicts with part 57 of the NPPF (2018) as well as policies TP9 and TP31 of the Birmingham BDP (2017).

7. Conclusion

- 7.1. The scheme is acceptable in terms of its proposed use, design, impact on visual amenity and on the residential amenity of neighbouring uses. However due to the lack of information related to the tracking of waste service vehicles that would be likely to service the site, the development has the potential to undermine highway safety. Furthermore, given the submission of a dated viability assessment and no payment for its independent appraisal it is not possible to evaluate the potential scope for S106 contributions the development could make on the basis of current market circumstances.

8. Recommendation

- 8.1. Refuse.

Reasons for Refusal

- 
- 1 The application has failed to demonstrate that an appropriate level of Section 106 contributions towards affordable housing and public open space is proposed and therefore the submitted scheme conflicts with policies TP9, TP31 and TP47 of the Birmingham Development Plan (2017) and the NPPF (2018)
  - 2 It has not been adequately demonstrated, by reason of the lack of satisfactory tracking information that shows refuse vehicles of a size that are likely to service the development, that the proposal would not have an adverse impact on highway safety. For this reason, the proposal conflicts with policies PG3 and TP 44 of the Birmingham Development Plan (2017) and the NPPF (2018).
- 

Case Officer: Wahid Gul

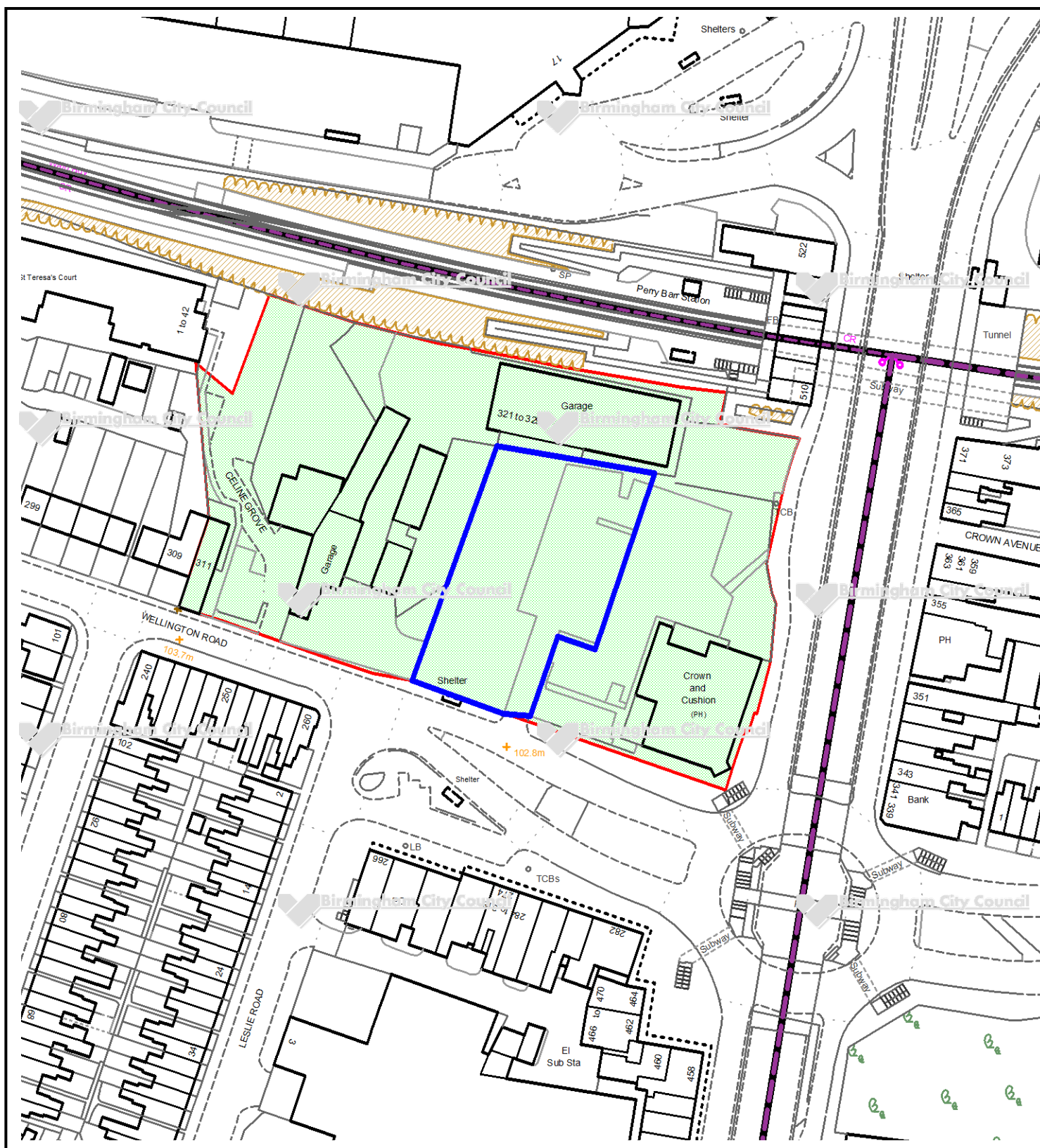
## Photo(s)



Photo 1 - View of site from across the road



## Location Plan



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Committee Date:	14/02/2019	Application Number:	2018/06134/PA
Accepted:	28/08/2018	Application Type:	Outline
Target Date:	27/11/2018		
Ward:	Soho & Jewellery Quarter		

Western Business Park, Great Western Close, Winson Green, Birmingham, B18 4QF

Outline application (with appearance and landscaping reserved) for the erection of 6 blocks between 3 and 7 storeys comprising up to 296 residential units (Use Class C3) together with day nursery (use class D1) (88sqm) and gymnasium (use class D2) (88sqm) and associated car parking.

#### Recommendation

#### **Refuse**

#### 1. Proposal

- 1.1. Outline application for the erection of six blocks varying between 3 and 7 storeys comprising 296 residential apartments (use class C3) a day nursery (use class D1) (88sqm) and a gymnasium (use class D2) (88sqm). Application seeks consent for access, layout and scale only.
- 1.2. Three storey apartments are proposed adjacent to Handsworth New Road stepping up to seven storey blocks within the site which reduces to four storeys at the other end of the site (eastern side).
- 1.3. 282 car parking spaces (95%) would be accommodated at both the ground floor level of some of the apartment blocks and at surface level along Great Western Close extending through to the eastern end of the site. Indicative locations at various locations within the site have shown provision for 328 cycle spaces (110%). Access would remain as existing from Handsworth New Road into Great Western Close which is directly to the north of the application site.
- 1.4. The residential accommodation would consist of 178 one bed apartments (60%), 108 two bed apartments (36.5%) and 10 three bed apartments (3.5%). Whilst internal layouts have not been provided the applicant has indicated that the apartment sizes would vary between 42 and 56sqm for one bed apartments, would be 70sqm for two bed apartments and between 100 and 110sqm for three bed apartments. The accommodation would comply with the national space standards.
- 1.5. The site is approximately 2.8ha and the proposal represents a density of 105.7 dwellings per hectare.

#### 1.6. [Link to Documents](#)

#### 2. Site & Surroundings

- 2.1. The site is located on a parcel of land which is bounded by Handsworth New Road to the west, Great Western Close Industrial Units and railway lines to the north, Bacchus Road to the east and Willes Road to the south. The site was formally used as a railway yard and comprises of overgrown grassland with mature trees around the periphery which are subject to Tree Preservation Order 1457. The site has been subject to fly tipping in part.
- 2.2. There is a noticeable change in levels from Great Western Close and Willes Road which is approximately 10m. The site drops down to an embankment which then shelves down steeply to Great Western Close which provides vehicular access to the site from Handsworth New Road.
- 2.3. The surrounding area contains a mix of Victorian terraced houses and newer infill residential developments including 17 houses on Berry Drive which is located to the south east of the site. There is a grade II\* listed church (Bishop Latimer Memorial Church) and a locally listed grade B building adjacent to the church to the west of the application site.
- 2.4. The railway line partially bounds the site on the north western boundary with the industrial units forming a barrier between the remainder of the site and the railway lines to the north.
- 2.5. Winson Green metro stop is approximately 150m from the western side of the site on Handsworth New Road.
- 2.6. [Location Plan](#)
3. [Planning History](#)
  - 3.1. 12/02/1997 - 1996/01707/PA. Land reclamation works to provide for public open space use. Withdrawn.
  - 3.2. 05/07/1990 - 1990/00665/PA. Gatehouse and flat, offices 52 No. light industrial. Approved subject to conditions.
  - 3.3. 24/04/1984 – 29599005. Development comprising 23 factory units for class III light industrial use, access road, hardstandings and car parking. Approved subject to conditions.
  - 3.4. Other historic consents in relation to industrial/warehouse development.  
  
Adjacent Site - Berry Drive
  - 3.5. 14/08/2012 - 2012/03392/PA. Erection of 17 new dwelling houses, associated access road, parking and landscaping works. Approved subject to conditions.
  - 3.6. 10/12/2007 – 2007/05371/PA. Outline application to establish the principle of the erection of 14 houses (2 two bed, 4 three bed and 8 four bed). Layout, scale and access from Bacchus Road under construction. All other matters reserved. Approved subject to conditions.
4. [Consultation/PP Responses](#)
  - 4.1. Press and site notices posted. MP, Councillors, Residents' Associations and neighbouring occupiers notified.

- 4.2. Councillor Charman Lal welcomes the proposal however objects to the high density flats in this location which do not meet the local housing needs which consist of small and large family houses in this area.
- 4.3. Two objections have been received from local residents raising the following issues:
- High density flats will cause trouble, disruption and noise in the area.
  - Existing parking issues in the area will be exacerbated.
  - Loss of privacy for local residents due to the position of their private gardens.
  - Unclear about the scale of development and the relationship of the proposed flats and the surroundings.
  - Significant works to level the site would be required.
  - Unsafe development adjacent to the railway line.
- 4.4. A further two comments have been received raising the following matters:
- There is a need to stop fly tipping on the site.
  - Concerns raised regarding loss of light to properties on Handsworth New Road.
  - Avoid social housing of any description on the site as this would adversely impact on the ecological value of the site and would result in the site being badly maintained.
  - Query regarding who the applicant is.
  - Area severely overgrown with trees and bushes and has been neglected for years.
  - Query regarding the type of intended tenant.
  - Query regarding whether the industrial units to the north would be demolished (outside the application site).
  - The development would result in increased pressure on schools and roads.
  - Level of detail provided is poor therefore difficult to support or object to the proposal.
- 4.5. Transportation Development – Awaiting final comments on revised Transport Assessment.
- 4.6. Regulatory Services - No objections subject to conditions in relation to contamination remediation scheme, contaminated land verification report, a more detailed air quality assessment, further noise insulation and assessment, lighting and construction method statement/management plan.
- 4.7. Environment Agency – No objections subject to conditions in relation to land remediation strategy. Other advice given in relation to procedures for waste on site and waste removal from site.
- 4.8. Severn Trent Water – No objections subject to a condition in relation to drainage plans for the disposal of foul and surface water flows.
- 4.9. Local Lead Flood Authority – Object to the development and require further Sustainable Urban Drainage information.
- 4.10. West Midlands Police – No objections. Applicant may wish to consider crime prevention and home security advice contained within ‘Secured by Design New Homes’.

- 4.11. West Midlands Fire Service – No objections and Water supplies for firefighting should be in accordance with guidelines.
- 4.12. Leisure Services - No objections subject to a contribution of £581,575 which would be spent on the provision, improvement and/or biodiversity enhancement of public open space, and the maintenance thereof at Musgrave Recreation Ground and All Saints Park all within the Soho and Jewellery Quarter Ward.
- 4.13. NHS – Contribution requested of £5,581 to provide additional services and capacity to meet patient demand
- 4.14. Education – Request a contribution of £644,286 for the provision of nursery, primary and secondary school places.
- 4.15. Natural England – No objections.
- 4.16. Network Rail – No objections and recommends a Risk Assessment and Method Statement.
- 4.17. Midlands Metro – Permits for working next to Metro may be required.

## 5. Policy Context

- 5.1. Birmingham Development Plan 2017; Birmingham UDP 2005 saved policies; Places for Living SPG; Places for All SPG; Car Parking Guidelines SPD; Public Open Space in new residential Development SPG; Affordable Housing SPG; Shopping and Local Centres SPD and the National Planning Policy Framework.

## 6. Planning Considerations

Principle – loss of open space

- 6.1. The application site is situated on a former railway yard which is now a brownfield parcel of land without any buildings. Paragraph 6.57 of the BDP defines open space as all open land that has recreational or public value, including playing fields, which primarily consist of natural elements such as trees, grass and water that may or may not have free public access. The site according to this definition therefore is deemed to be open space.
- 6.2. TP9 of the BDP applies which relates to open space, playing fields and allotments and it states that planning permission will not normally be granted for development on open space except for particular circumstances. One of the exceptions is when it can be demonstrated that the area of open space is underused and its loss would result in the remaining part of the site being significantly improved. However, limited information has been provided to justify the loss of open space and further information was required from the applicant however was not received. Therefore, whilst there may be scope for the redevelopment of this site for residential development, insufficient justification has been made and this represents a reason for refusal.

Provision of open space

- 6.3. TP9 sets out the requirement for the provision of new public open space for new residential developments. The requirement for 296 residential units is 1.4ha. The

submitted design and access statement fails to address this policy and simply states that 'the landscape approach is focused around creating a high quality setting for the new development' and goes on to state that 'the extensive area will be overlooked and enjoyed by many of the apartments and will be designed to retain the ecological/habitat qualities'. The submitted plans do not show an area of dedicated public open space or a play area however show a shrub marsh land area, plantation woodland and standing water pools. Much of which is important from an ecological perspective but may not be publically accessible.

- 6.4. Leisure Services have outlined that any development for 20 or more dwellings should provide an on site area of public open space and/or a children's play provision area. On the basis that neither of these have been provided, a contribution of £581,575 has been requested by Leisure Services which would be spent on the provision, improvement and or/biodiversity enhancement of public open space, and the maintenance thereof at Musgrave Recreation Ground and All Saints Park all within the Soho and Jewellery Quarter Ward. However, given the scale of the proposed scheme, no justification has been given as to why public open space and a play area cannot be provided on-site and this represents a reason for refusal.

#### Scale and layout

- 6.5. The revised NPPF emphasises the importance of good design as a key aspect of sustainable development and local policies, including PG3 of the BDP, reinforce this objective and seek to ensure that all new development demonstrate a high design quality contributing to a strong sense of place.
- 6.6. This application is outline but it seeks detailed consent for scale and layout and plans therefore show how the development would be accommodated on the site. The built form consists solely of apartments and would be located in an area which is made up almost entirely of two storey terraced residential properties. It is considered that an exclusively apartment scheme is the wrong approach to this site given the established local context. The apartments would be out of character with existing residential properties on Willes Road the apartments relate poorly to the industrial units on the opposite side of Great Western Close.
- 6.7. There is scope for a mix of housing and apartments on the site and with regards to scale Blocks A and B are 3 storey, which is appropriate facing existing 2 storey houses on Handsworth New Road (however issues raised from the Tree Officer below). The site sections show that other blocks would be significantly taller than existing built form in the surrounding area, rising above houses on Willes Road that are located on the embankment to the southern edge of the site. Blocks D, F and G are effectively 7 storeys (6 residential floors including 'roof level' and ground floor car / cycle parking and refuse), block C is 5 storeys and E is 6 storeys. The scale and massing of blocks D, E and G along Great Western Street is considered overbearing. Feedback has been provided in October 2018 to the applicant however revised drawings did not reduce the scale as requested but took on board some other suggested changes.
- 6.8. Parking has been poorly designed into the scheme as there is a continuous row of cars on Great Western Close, whilst much of the remainder of the car parking is proposed at ground floor level which creates inactive ground floors to buildings and should be minimised where possible. The overall amount of parking on the site is high due to the intensity of the proposed development and if the scale of the scheme was reduced it would reduce the need for such high levels of car parking which would help contribute to a more attractive environment.

- 6.9. Taking all of these matters into consideration it is considered the layout and excessive scale of development would be out of character with the area and would have an overbearing and unacceptable impact on surrounding residential properties as well as relate poorly to the industrial estate opposite.

#### Ecology and Trees

- 6.10. The site is listed as a Potential Site of Importance (PSI). These are identified by EcoRecord (the ecological database for Birmingham and the Black Country) as sites that are known to contain or potentially contain biological or geological interest, but are yet to be evaluated against Birmingham and Black Country Local Site criteria and/or are yet to be formally adopted as a SINC or SLINC.
- 6.11. The proposed development will result in habitat loss across a significant proportion of the site. Areas of scrub/scattered trees, wetland, ditches/standing water, wet woodland and poor semi-improved grassland would be lost. A Preliminary Ecological Appraisal (PEA) and Ecological Impact Assessment (EclA) have been submitted in support of the application. The City Ecologist has raised concerns that the submitted information does not provide adequate assurance that adverse impacts can be satisfactorily mitigated and that the proposals will deliver an ecological net gain. Further information has been requested but has not been received to date and this represents a reason for refusal.
- 6.12. The Tree Officer also raises concerns in relation to the position of blocks A and B and considers their location as being unacceptable as they would result in a number of protected trees being lost. This is also considered a reason for refusal.

#### Housing Mix

- 6.13. The residential accommodation would consist of 178 one bed apartments (60%), 108 two bed apartments (36.5%) and 10 three bed apartments (3.5%). TP30 of the BDP states that proposals for new housing should deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhood. It also identifies that high density schemes will be sought in the city centre.
- 6.14. Housing Strategy have provided figures on the need in the area and the outcome was as follows:
- There are already more flats currently in the Ladywood District (5993) than Houses and Maisonettes (3757).
  - In Ladywood District there were a lot more lettings of flats then houses in 2017/18 – 656 flats/233 houses.
  - The data for percentage of need met in Ladywood District for 2017/18 again demonstrates that there is unmet need for 3 and 4 bed accommodation against 1 and 2 beds:
    - 152% need met for 1 bed
    - 91% need met for 2 bed
    - 49% need met for 3 bed
    - 10% need met for 4 bed



- 6.15. This data reiterates the need for family accommodation comprising of mainly 3 and 4 bed accommodation in the area. Therefore whilst the redevelopment of the site would deliver additional housing on a brownfield site, the proposed mix would deliver a significantly higher proportion of 1 and 2 bed units without justification which does not reflect need and therefore fails to satisfactorily address TP30 of the BDP. This represents a further reason for refusal.
- 6.16. The applicant submitted a letter from a Lettings Agents which supports the proposed tenure and considers there would be demand for such accommodation. The letter suggests 151 one bedroom apartments, 142 two bedroom apartments and 6 large three or four bedroom apartments. This amounts to 299 apartments which does not correspond with the number of units proposed. This letter directly conflicts with the housing need according to Housing Strategy. This letter has been considered but ultimately given limited weight.

#### Planning Obligations

- 6.17. Given the nature of the proposal, affordable housing and POS would be required in accordance with policies TP9 and TP31, unless it can be demonstrated this would compromise the viability and deliverability of the scheme. TP9 has been discussed at length above. The financial appraisal has been independently assessed. However, the financial appraisal relies on a number of assumptions which the Council does not accept. The applicant has failed to conclusively demonstrate that affordable housing cannot be provided and negotiations are currently ongoing contesting this matter. Consequently, the proposal offers no affordable housing or public open space contribution and the development therefore fails to provide planning benefits which are necessary to support and serve the development, contrary to policy.
- 6.18. Contributions from education have been received, which is covered by CIL. However, the site is within the low market value area for residential development and therefore would not be liable for any CIL payments if recommended for approval.
- 6.19. I note the request received from the NHS Trust, for a sum of £5,581. Our position is that we do not consider the request would meet the tests for such Section 106 contributions, in particular the necessity test (Regulation 122.(2)(a) *necessary to make the development acceptable in planning terms*). We believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to allow the Trust to plan for population growth and associated. Discussions with the relevant Trust are continuing on this matter, in order for us to understand more fully their planned investments in the City and how we might best be able to support that.

#### Highways

- 6.20. Issues were raised by highways colleagues in term trip generation assessment, car/cycle parking and tracking analysis. An amended Transport Assessment is currently with Transportation Development and their comments will be reported verbally to the Planning Committee.

#### Other matters

- 6.21. Energy and sustainability considerations have only been briefly analysed in the application submission and an expanded examination of these issues is needed. As

outlined in Policy TP4 for developments over 200 units, consideration should be given to the inclusion of Combined Heat and Power (CHP) generation or a network connection to an existing CHP facility or other technologies that will have the same or similar benefits. This has not been undertaken and represents a reason for refusal.

- 6.22. A day nursery and gymnasium form part of the proposal. Policy TP21 highlights the preferred location of such uses within a defined district or local centre. As the proposed location is outside a defined district or local centre, a sequential test would be required to comply with TP21. The applicant has disputed the need for a sequential test due to the fact that the nursery and gymnasium would be used by residents of the apartments only. Colleagues in Strategy however remain unsatisfied with this approach and have requested the sequential test be carried out. This has not been forthcoming and again represents a further reason for refusal
- 6.23. Regulatory Services have raised no objection to the proposal subject to a number of conditions.
- 6.24. The LLFA currently recommend refusal due to insufficient sustainable urban drainage information and a refusal reason is recommended accordingly.

## 7. Conclusion

- 7.1. Whilst residential redevelopment of this site might be acceptable it has been clearly evidenced within this report that the level of information accompanying this application is insufficient to allow a full appraisal of all the relevant planning matters. The information was requested however was not received in a timely manner. As such the proposal is contrary to policy and should be refused.

## 8. Recommendation

- 8.1. Refuse

### Reasons for Refusal

- 
- 1 Insufficient information with regard to loss of open space has been submitted and the proposal is therefore contrary to Policy TP9 of the Birmingham Development Plan 2017 and the NPPF.
  - 2 Insufficient information with regard to the absence of on-site public open space has been submitted and the proposal is therefore contrary to Policy TP9 of the Birmingham Development Plan 2017 and Public Open Space in New Residential Development SPD and the NPPF.
  - 3 The proposed layout and excessive scale of development would result in an unsatisfactory, over-intensive development which would be out of character with the area and harmful to visual amenity contrary to policy PG3 and TP27 of the Birmingham Development Plan, Places for Living SPG and the NPPF.
  - 4 Insufficient information has been provided in the Ecological Impact Assessment, Design and Access Statement and proposed layout to demonstrate that adverse impacts can be satisfactorily mitigated and that the proposals could deliver an ecological net gain, as such the proposal is therefore contrary to TP7 and TP8 of the Birmingham Development Plan 2017 and the NPPF.
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- 5 The proposed development would involve the removal of several trees on the site that are protected by a Tree Preservation Order. Their loss would have an adverse impact on the visual amenity of the area, and as such it would be contrary to Policies PG3 and TP7 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
  - 6 The proposed residential mix is unacceptable as it does not reflect the housing need in the area and therefore would fail to meet both local needs and fail to create a mixed balanced sustainable neighbourhood, contrary to Policy TP30 and TP27 of the Birmingham Development Plan 2017 and the NPPF.
  - 7 The application has failed to demonstrate that an appropriate level of Section 106 contributions towards affordable housing and public open space is proposed and therefore the submitted scheme is contrary to policy TP9, TP31 and TP47 of the Birmingham Development Plan, Public Open Space in New Residential Development SPD, Affordable Housing SPG and the NPPF.
  - 8 Insufficient information with regard to sustainable construction and low and zero carbon energy generation has been submitted and the proposal is therefore contrary to Policies TP3 and TP4 of the Birmingham Development Plan 2017 and the NPPF.
  - 9 Insufficient information with regard to a sequential test in relation to the main town centre uses that form part of the proposal has been submitted and the proposal is therefore contrary to Policy TP21 of the Birmingham Development Plan 2017 and the NPPF.
  - 10 Insufficient information with regard to Sustainable Urban Drainage including details such as the proposed outfall connection to the existing public sewer, details on the proposed attenuation basins, levels across the site and indication of flow routing, plan showing existing exceedance flow routes and details of the operation and maintenance of all proposed surface water features and the proposal is therefore contrary to TP6, TP27 and PG3 of the Birmingham Development Plan and the NPPF.
- 

Case Officer: Joanne McCallion

## **Photo(s)**



**Photo 1 - Northern boundary of the site on the right from Great Western Close**



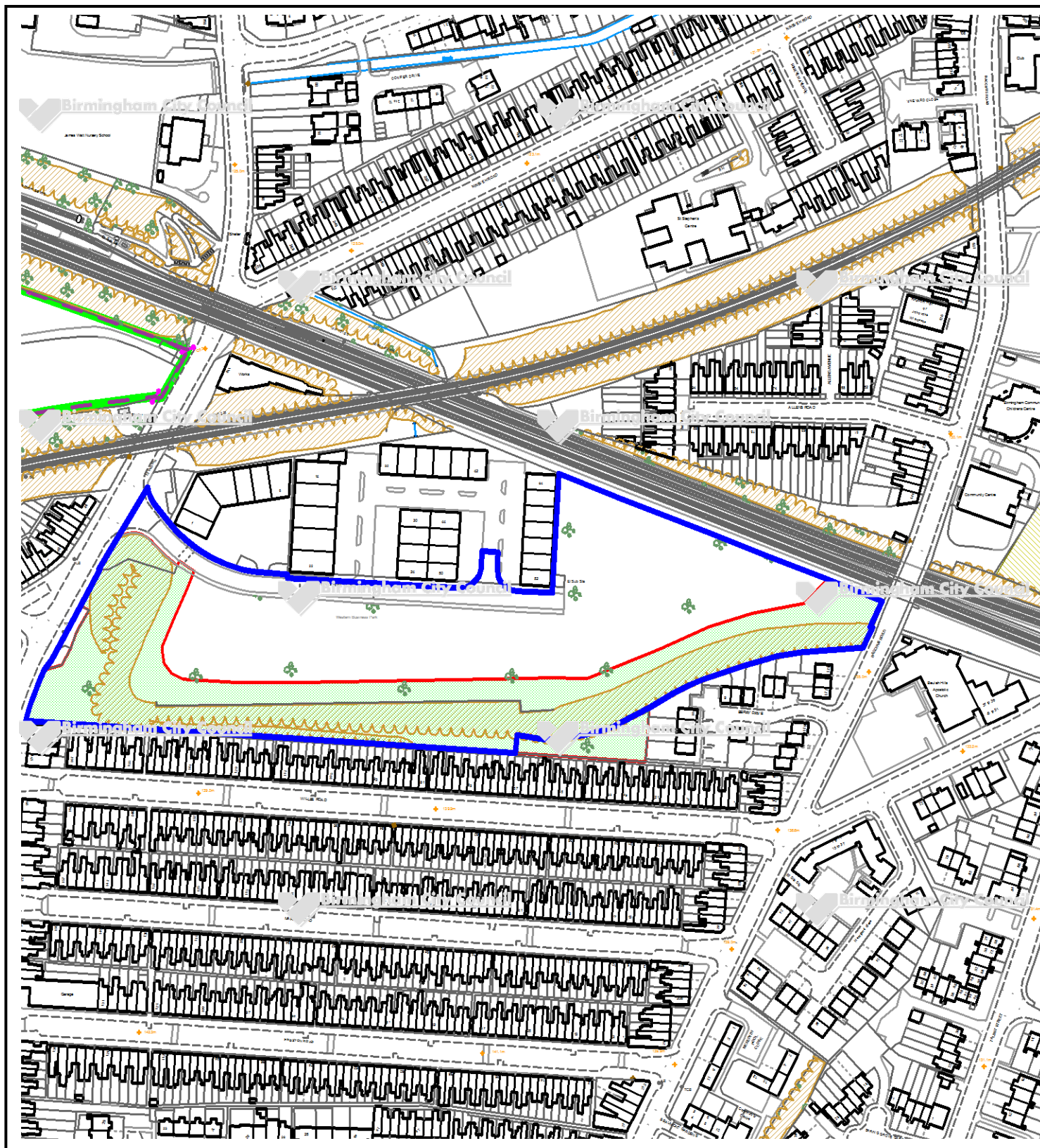
**Photo 2 - Western boundary of the site on the left from Handsworth New Road**





**Photo 3 - Google Maps Image showing extent of site**

## Location Plan



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Committee Date:	14/02/2019	Application Number:	2017/01495/PA
Accepted:	13/06/2018	Application Type:	Full Planning
Target Date:	28/02/2019		
Ward:	Perry Barr		

Former Express Dairy Site, Land adjacent 189 Aldridge Road, Perry Barr, Birmingham, B42 2EY

Erection of 147 residential units with associated access, car parking and ancillary works.

Recommendation

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

1. Proposal

- 1.1. The applicant proposes the erection of 147 residential units comprising 72 houses and 75 apartments on a currently vacant site which was formerly occupied by a dairy. The general layout would have houses fronting Aldridge Road with access in and out of the main part of the development through a new access road off which a number of other roads would spur upon which the other houses and apartment blocks would in the main face onto. The proposal also includes alterations to an existing central reservation gap to the south of the entrance to Nash Square.
- 1.2. The western and northern edge of the development site would abut the embankment of the River Tame. It is proposed to erect a 2 metre high timber acoustic fence along part of the northern edge of the site. Along the north western and western boundaries it is proposed to install a 1.2 metre high timber post and rail fence. That fence would accommodate two openings to provide access to the river for the Environment Agency.
- 1.3. With respect to the proposed dwellings these would comprise:-
  - 30 x 2 bed apartments
  - 45 x 1 bedroom apartments
  - 51 x 2 bedroom houses
  - 21 x 3 bedroom houses
- 1.4. The apartments blocks would be three storeys high. Other than apartment block 'C', all the other apartment blocks ('A, B, D and E') would form L shapes and be situated at the western end of the site. The internal layout of the three floors would follow a fairly similar layout with each flat having a living room/kitchen; bathroom and either one or two bedrooms.
- 1.5. The external appearance of the proposed houses would be in the main distinguished by their width and slight variations in their architectural appearance. They would be laid out throughout the site in various arrangements ranging from detached to blocks of terraces.

- 1.6. The internal layout of the unit house types would provide:-
- 1.7. House type Hanbury- Living room; kitchen/dining room and WC on the ground floor. Two bedrooms, office and bathroom on the first floor.
- 1.8. House type Chatsworth- living room; WC, Kitchen/dining room and integral garage on the ground floor. 3 bedrooms (one with en-suite) and bathroom on first floor.
- 1.9. House type Souter- Living room; kitchen/dining room and WC on the ground floor. Bedroom, bathroom and office on the first floor with the second bedroom which would incorporate an en suite on the second floor (in the roof space).
- 1.10. House type Hatfield- Lounge; dining room/kitchen, WC and cupboard and utility room on the ground floor. Three bedrooms (one with an en-suite), bathroom and cupboard on the first floor.
- 1.11. House type Sutton- Living room, kitchen/dining room and WC on the ground floor. Double bedroom, bathroom and office on the first floor. Double bedroom on the second floor (in the loft).
- 1.12. House type Clayton- Lounge, breakfast room/kitchen, WC, store room and utility room on the ground floor. Two bedrooms (one with en suite), office and bathroom on the first floor.
- 1.13. The site area measures 3.09 hectares representing a density of 47.57 units per hectare. A total of 244 parking spaces (266 including garages) are proposed representing a provision of 166% (181% including garages).
- 1.14. The applicant has submitted a viability appraisal with this scheme which, after further negotiation, has led to the offer of 15 (10%) on-site affordable low cost units which would comprise 9no. 1 bed flats – block A; 3no. 2 bed flats – block A and 3no. 2 bed houses (Hanbury) – plots 28-30.
- 1.15. The applicant has submitted the following supporting information for this application:- Dust and odour review; Highways note, Report on existing noise climate (further updated with noise contour drawings and supporting noise design note from the applicant's noise consultant), Stage 1 Road Safety Audit, marketing evidence, Perimeter barrier calculation (noise mitigation), Design and Access Statement, Phase 1 habitat survey, Flood Risk Assessment (FRA), Planning Statement, Heritage Impact Assessment, Site Investigation Report, Transport Assessment, Viability Assessments for the proposed residential scheme (and an alternative industrial scheme to compare the viability of developing the site for industrial purposes) and Arboricultural Method Statement.
- 1.16. [Link to Documents](#)
2. Site & Surroundings
- 2.1. The application site was formerly a dairy and currently lies as vacant cleared overgrown land. The River Tame runs along the site's northern and western boundary. Across the river to the west is an industrial site nearing completion of development and another site adjacent to it which also has consent to be redeveloped for B1 (b,c), B2 and B8 purposes. There is a roofing business situated between those two. To the north west of the site is waste recycling business. To the

north are other commercial premises. To the south are residential dwellings whilst the Aldridge Road runs to the east of the site.

2.2. [Site location](#)

3. [Planning History](#)

3.1. 18.12.2008- 2008/05359/PA- Construction of six storey further education college with associated landscaping, car parking, means of access and highways works- approved subject to conditions.

3.2. 10.11.2005- 2005/04245/PA- Construction of college campus with associated car parking and landscaping with improvements to the highway- approved subject to conditions.

4. [Consultation/PP Responses](#)

4.1. Surrounding occupiers, local councillors, local community group and Neighbourhood forum as well as local MP notified as well as site and press notices displayed (over various modifications to the scheme).

4.2. Three responses received from local residents raising the following issues.

- Welcome provision of housing.
- Highway safety in terms of drivers trying to turn right when exiting the site.
- Risk of collapse of brick wall that screens the rear drive to 169-187 Walsall Road.
- Disturbance during construction.
- Security and condition of passageway to rear/side of 169-189 Aldridge Road.

4.3. A response received from Councillor John Hunt who raises the following point:

- Generally supportive of housing on the site.
- Concerns around traffic and see 2 possible solutions - (1) is to reinstate the proposed traffic light junction that was designed for the last project on this site and (2) is to create a safe and legal u-turn opportunity using the traffic light junction at Wickes.
- Concern around additional population on the neighbourhood and depending on the level of the S106, a sum in the region of £20,000 is entrusted as an endowment to address potential impact on Perry Park and local aspiration for micro-improvements to this park running up to the games and beyond it.
- An opportunity to develop facilities on the east side of the park, including the play area, vehicle access and creation of recreational cycling facilities.

4.4. A response has been received from 3B's Neighbourhood Forum raising the following issues:

- S106 funds should be made available to Perry Park.
- Concern over traffic turning right out of the site.
- Impact on school places and medical facilities.
- Query the provision of pedestrian access across Aldridge Road.
- Flood Risk.
- Traffic safety.

- 4.5. A response has also been received from Premiere Waste which is located to the northwest of the site objecting on the grounds of the potential impact that residents may be exposed to from nearby commercial operators.
- 4.6. A response received from Aggregate Industries, which is also located to the northwest of the site objecting on the grounds of the proximity of the proposed development to them and what they believe is a noise report that paints a misleading picture of the existing noise climate (their plant has the ability to operate 24/7 in order to meet customer demand).
- 4.7. Responses have also been received on behalf of the developers of the northern part of former Tucker Fastner site (to the west of the application site) who raise the following concerns:
- The application does not make an acknowledgment of redevelopment of the former Tucker Fastner site for 24/7 industrial/logistic purposes and that their development was designed and approved for noise mitigation purposes on the basis of the proximity and relationship of existing dwellings.
  - Concerns with the Design and Access statement.
  - The night time background noise levels set out in the applicants noise assessment are not consistent with the work of the Tucker Fastner site consultants previously assessed work and may not be robust.
  - Recommend further noise measures are undertaken to ensure a representative assessment of existing and proposed noise sources.
  - Question what they believe is the limited nature of the BS 4142:2014 assessment.
  - There may be exceedance of acceptable noise level exposure to residents of the scheme from the development on the former Tucker Fastner site
  - Mitigation proposals presented for the scheme do not appear adequate and appear to be a day time option only.
  - Concerned about the relationship of this site and the new industrial/logistics facility on the opposite side of the river.
  - The revised site layout seems to reintroduce houses closer to the western site boundary with no acknowledgement on the site layout plan itself of any noise mitigation measures.
  - They trust that noise impacts will form an important consideration in the assessment of this revised site layout to ensure that both future residents are adequately protected from the potential noise arising from the industrial/logistics facility and that the future operators of that site are not affected by complaints.
- 4.8. A response received from Councillor Linnecor who requests that Oscott Ward's open spaces be given a proportion of any S106 contribution to help with urgently needed improvements.
- 4.9. Transportation Development- No objection subject to conditions relating to S278 highway works, visibility splays and tracking analysis for the improved central reservation gap.
- 4.10. Regulatory Services- Do not feel the site is ideal for residential development in terms of noise but raise no objection subject to conditions relating to noise mitigation measures and a construction method statement. With respect to the matter of the site contamination (including potential risk from ground gases) they would require a

further report including a detailed remediation strategy (including ground gas mitigation) and are content for this to be conditioned accordingly.

- 4.11. Lead Local Flood Authority - No objection subject to a condition relating to a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan.
- 4.12. Education- Request a S106 totalling £678,085.39 to cover nursery, primary and secondary education.
- 4.13. Leisure Services- No objections subject to both POS and play area contributions totalling £370,975 to be spent on the provision, improvement and or maintenance of POS and Play facilities at Perry Park and Perry Hall Playing Fields within the Perry Barr Ward.
- 4.14. Employment Action Team- Request the incorporation of a jobs and skills clause in a S106 Agreement.
- 4.15. Housing- Supports the provision of 15 on-site affordable units.
- 4.16. Environment Agency- No objections subject to a condition that requires the development to be carried out in accordance with the approved FRA and specific mitigation measures in the FRA. They recommend a condition that would address previously unidentified contamination if found to be present at the site post approval.
- 4.17. Severn Trent Water - no objection subject to a condition relating to the disposal of foul and surface water flows.
- 4.18. West Midlands Police- Makes a number of observations in terms of boundary treatment/gates, parking provision, natural surveillance, lighting, CCTV coverage of car park to apartment blocks and 'Secured by Design'.
- 4.19. West Midlands Fire Service – No objection.

## 5. Policy Context

- 5.1. Birmingham Development Plan (2017); Birmingham Unitary Development Plan (saved policies) 2005, SPG Places for Living, SPD Car Parking Guidelines, SPD Loss of Industrial Land to Alternative Uses, SPG Affordable Housing, SPD Public open space in new residential development and the NPPF.

## 6. Planning Considerations

### 6.1. **Principle/loss of industrial land:**

- 6.2. Paragraph 11 of the NPPF (2018) states "Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:
  - approving development proposals that accord with an up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing

the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

- 6.3. Within the BDP and ‘Loss of industrial land to alternative uses’ SPD there is a general presumption against the loss of industrial land. Policy TP20 of the BDP highlights that employment land and premises are a valuable resource to the City’s economy and will be protected where they contribute to the portfolio of employment land and are needed to meet longer term employment land requirements. The SPD also recognises that there will be occasions where it can be demonstrated that there are good planning grounds to depart for the general presumption against the loss of industrial land. The application site is not classed as Core Employment Land within the Birmingham Development Plan.
- 6.4. The SPD incorporates a number of criteria when considering alternative uses and these include non-conforming uses, active marketing (normally for a minimum of 2 years), viability of industrial development (including investigations into the potential for public sector funding to overcome site constraints), strategic land swaps and other strategic planning factors.
- 6.5. The applicant has provided information relating to the marketing process that was undertaken. This states that all potential purchasers, who might have had an interest in this type of development site, were made aware of the disposal. In total, nine bids were received from a large variety of purchasers. The marketing process lasted for 6 weeks. The applicant argues that the offers received showed that there was a clear lack of interest in this site from the industrial/employment sector.
- 6.6. The applicant has also submitted a viability report for industrial/warehouse development which demonstrates a negative land value. The report has been independently assessed by consultants appointed by the Council. Overall, the independent assessor is of the opinion that whilst the market based development appraisal produces a deficit, the subject site could sell for employment use if it were to be openly marketed, although given the site constraints, they believe it is questionable whether the site would sell at an appropriate level to incentivize the landowner to release the site for redevelopment.
- 6.7. Planning Strategy has considered the submission and consider that while both the viability report and the independent assessment do not assess the potential for public funding to overcome site constraints, it is considered unlikely that public funding for economic development would be available given that the site is now part of a wider regeneration linked to the Commonwealth Games Athletes Village and the commitment of Government to £165m to support its delivery. A residential scheme on the application site would support this wider regeneration programme.
- 6.8. Therefore, whilst the site is not non-conforming, due to the presence of industrial premises to the opposite side of the River Tame, subject to a very short period of the site being actively marketed and the viability report did not consider the potential for public sector funding, it is considered that the unique strategic regeneration proposals / circumstances surrounding the Commonwealth Games provides appropriate planning justification for the loss of this industrial land and the site’s redevelopment for residential development.
- 6.9. Regarding the location of new housing, BDP Policy TP28 seeks, amongst others, that they should be accessible to jobs, shops, and services by modes of transport other than the car. The site is located within an established mixed use area and



existing housing backs onto the site to the south with easy access to Perry Barr District Centre and public transport links.

**6.10. Design and layout:**

- 6.11. Part 117 of the NPPF states “Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions”.
- 6.12. Part 122 of the NPPF states “Planning policies and decisions should support development that makes efficient use of land, taking into account: .....
- e) the importance of securing well-designed, attractive and healthy places”.
- 6.13. Policy 127 of the NPPF states “Planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”.
- 6.14. Paragraph 130 of the NPPF states “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)”.
- 6.15. The proposed layout and design of the proposed residential units have gone through a number of modifications during the duration of the life of this application. The final version of the scheme before members would see the establishment of a

development that would, in layout terms, achieve good urban design principles such as having houses face onto main streets and the setting out of houses that secure the backs of existing houses on Aldridge Road in a traditional manner.

- 6.16. In summary, I raise no objection to the design, layout, scale and massing of the proposed new residential buildings, and I consider the current layout before members represents a more coherent development to that submitted earlier in the application process and represents a logical arrangement, within the context of the site's constraints, of dwelling types which includes providing a main active frontage to Aldridge Road and views to the river.

**6.17. Parking and highway matters:**

- 6.18. As per the submitted Transport Statement (TS), the proposal would be likely to increase the traffic to/from the site, however the level of increase would be unlikely to have a significant impact on surrounding highways. The TS also states that "The TRICS assessment showed that the proposed residential use will generate significantly fewer trips than the previously consented college scheme".
- 6.19. 200% parking provision (excluding garages) is proposed for the houses and approx. 150% provision is proposed for the proposed apartments. However, 45 out of 75 proposed apartments are one bedroom, which are likely to generate slightly lower level of parking demand. The site also has a good level of accessibility to public transport with frequent bus and train services accessible within walking distance.
- 6.20. The provision of bollards, or similar might need to be extended along the full width of the site's frontage to Aldridge Rd to prevent parking on grass verges etc. which can be secured by a condition.
- 6.21. Furthermore, it can be conditioned that modified drawings are submitted that show the removal of the raised surface arrangement at the proposed road junction outside blocks B & D and outside plots 114 – 122, as Emergency Services would likely to object to this and its removal would not undermine highway safety.
- 6.22. Transportation Development have assessed the application and raise no objection subject to conditions relating to a package of highway works, cycle storage, visibility splays and tracking analysis for the improved central reservation gap to the south of Nash Square.

**6.23. Residential amenity:**

- 6.24. Contamination - With respect to the matter of the site contamination (including potential risk from ground gases) they would require a further report including a detailed remediation strategy (including ground gas mitigation) and are content for this to be conditioned accordingly. I concur with this view.
- 6.25. With respect to contamination issues and impact on water resources within the remit of the Environment Agency, the Agency recommend the application of a condition that would address previously unidentified contamination if found to be present at the site post approval. They also state that the applicant/developer is made aware of their approach to groundwater protection as an advisory, if the application is approved. They also provide their advice on waste on the site and how it should be dealt with which the applicant can be referred to.

- 6.26. Noise from nearby industrial premises - A number of acoustic reports and information have been submitted in relation to the scheme, which identified that the existing noise climate primarily is determined by traffic flows on Aldridge Road to the east and the M6 beyond due to these roads carry heavy volume of traffic during both the day and evening. Measurements and observations also identified audible noise from the industrial units to the northwest. The submissions have also analysed the predicted noise levels of the new industrial units to the west at the former Tucker Fasteners site. The modelling has taken into account local topography, ground reflections and building reflections to calculate noise levels. It also includes the barrier attenuation in the form of the 4m fence erected along the eastern boundary of the recent redeveloped of the former Tucker Fasteners site as well as the submitted information relating to plant and machinery and HGV movements contained within the noise report accompanying that application.
- 6.27. The scheme has been design in corporate mitigation measures and include the use of noise insulation to windows to habitable rooms, 2m high boundary treatment to rear gardens, the internal layout of the apartment buildings closest to the industrial units on the opposite side of the River Tame has been configured so that kitchens, bathrooms and circulation spaces have façades facing these industrial noise sources whilst bedrooms and living rooms are predominated shielded.
- 6.28. Regulatory Services consider that whilst the assessment of road traffic noise impact is relatively straight-forward, this site poses a number of difficulties and risks in terms of the assessment of noise impacts from the existing and permitted industrial/commercial uses to the west and north-west which operate 24-hours a day. They add that existing uses to the north-west have been measured and characterised and the impacts can be reasonably assessed. However the permitted development at the former Tucker Fastener site is not yet operational and hence no measured real data can be collected. The applicant has used the available data provided in the application 2016/08591/PA for the development of the former Tucker Fastener site to input into a noise model which has combined the measured and predicted data to assess potential impact on the new receptors introduced at the development subject to this application. The site layout is effectively using the apartment blocks to act as noise barriers for the remaining development. The model predicts adverse impacts on the west and north-west facing facades of the apartment blocks along with some flanking noise along the adjacent facades. The applicant has provided a mitigation scheme which, based on the modelling, suggests that a noise nuisance is unlikely to occur. However the site is in close proximity to a 24-hour intensive industrial/commercial activity and this will undoubtedly have an impact on the residential amenity in respect of noise. It is difficult to characterise the level of this amenity impact and the supporting information suggests that this has been mitigated by design and on balance whilst Regulatory Services do not feel this site is ideal for residential development they have no objections to make, subject to conditions.
- 6.29. Existing and future residents - There are existing residential properties adjoining the site to the south east and south, along Aldridge Road and Nash Square respectively, which are in the main at a higher ground level than the application site. Sufficient set back and separation distances are provided that meet with Places for Living in terms of the new and existing properties, with one exception. Plots 8 and 9 (Sutton house type) is some 13.2m from the side boundary to the rear garden of 189 Aldridge Road. The Sutton house type has a bedroom within the roof space with a roof light set back approximately 1.3m from its rear elevation. This creates a distance of 14.5m whereby 15m would normally be sought. In view of this distance and the roof light being 1.6m off the floor level, limiting direct views into neighbouring

gardens, it is considered that this arrangement is acceptable. The arrangement between the new properties is considered acceptable, achieving an appropriate layout and a suitable density for this location.

- 6.30. With regard to garden sizes, the proposed houses meet the relevant guidelines for 2 and 3 bedroom properties, with 3 exceptions relating to 2 bedroom houses, whereby between 44-46sqm would be provided, whilst a minimum of 52sqm is sought. Within the context of the overall scheme, it is considered that this does not represent a reason for refusal. In terms of the apartments, 30sqm of communal amenity space is sought, whilst this scheme provides some 19sqm per apartment. In addition, blocks A and B have landscaped frontages that would complement the landscaped bank to the River Tame. Further areas of incident open space are also proposed that further complement the River Tame and the frontage of Block E. No public open space is proposed on site, however Perry Park is located some 250m to the north and it is considered that the shortfall of communal amenity space for the apartments is adequately compensated for by the provision of an extensive public park in such close proximity.
- 6.31. In addition, it is important to consider the size of the proposed units for future occupiers within the context of the Nationally Described Space Standards. Whilst these standards are not yet adopted in Birmingham, they provide a useful yardstick for assessing the size of dwellings. In terms of overall floorspace, all the house types comply. However, a significant proportion of the apartments fall short of these standards, from 1-7sqm on each occasion. In terms of bedroom sizes, a number of double and single bedrooms also fall short, ranging from 0.1-0.9sqm with the houses, to between 0.7-1.2sqm with the apartments. Whilst a significant number of units and bedrooms do not meet these standards, they are, in the vast majority, very minor shortfalls and internal layouts have been provided that demonstrate the units can accommodate furniture and therefore on balance, and in light of the standards not yet being adopted in Birmingham, do not represent a reason for refusal of the scheme.
- 6.32. **Other matters:**
- 6.33. Flooding- The Environment Agency state they have no objections, in principle, to the proposed development with respect to the matter of flood risk subject a condition that requires the development to be carried out in accordance with the approved FRA and specific mitigation measures in the FRA. The Environment Agency also state that they also encourage the sustainable use of water in the build out and comment that if contamination risk to groundwater was considered negligible (as currently identified on the basis of the applicants pre commencement of development submitted site investigation report), they would support the use of SUDS. I concur with this view and consider the aforementioned conditions should address matters related to flood risk.
- 6.34. Archaeology – A heritage impact assessment has been undertaken to assess the potential for archaeology deposits to survive within the development site as well as the impacts on the upstanding designated heritage assets within 1km. The research found that the application site was occupied by Perry Pont, a Georgian villa and pleasure grounds, with agricultural meadowland to the west and southwest, and with an earlier building, possibly Jacobean, predating this. The villa was demolished around 1938, after which the site underwent a succession of industrial uses affecting much of the site. The assessment also considers that there remains the potential for pre-medieval features, particularly of the Roman period, as well as earlier features, to survive within the application site. This submission has been considered by the

City Archaeologist and recommends a condition relating to a written scheme of investigation for archaeological observation and recording during the development.

- 6.35. Ecology – An ecological report has been submitted which identifies that the site is mostly comprised of a hard core rubble base with developing areas of grassland and scrub. It is not of high wildlife value but does provide a buffer alongside the River Tame SLINC. The ecological report sets out enhancements and the amended scheme now has landscaped open areas along the majority of the edge of the River Tame, rather than back gardens, which will incorporate new tree planting. The City ecologist raises no objection and a condition relating to ecological enhancement measures is attached.
- 6.36. Trees – The submitted tree survey highlights that the majority of the trees are located on the site's boundary to the River Tame (north and west) or along the boundary of neighbouring properties (east and south). The vast majority of these are Category C or U. There are 3 Category B Sycamore trees, one to the north, another to the west and one to the south, which would be retained. Furthermore, many of the trees along the boundary with the houses on Aldridge Road and Nash Square would be retained. Trees on the canal side are likely to need to be removed because of remnant industrial apparatus and built structures, as well as many trees have grown through existing palisade fencing and may not be suitable for retention following the removal of the fence. The amended scheme now achieves greater landscape buffers to the River Tame, which provides the opportunity for new tree planting and landscaping, in conjunction with ecological enhancements to significantly improve the character and appearance of the river bank and the wider site.
- 6.37. Boundary wall – Comments received from local residents are noted in relation to the condition of a retaining wall to the rear of a shared driveway serving properties along Aldridge Road. Whilst this is ultimately a civil matter, a boundary treatment condition is attached that would secure suitable boundary treatment to the application site.
- 6.38. S106 and CIL:**
- 6.39. The application is required to deliver planning gain in relation to affordable housing as well as public open space and play facilities. Policy contained within 'Affordable Housing' SPG seeks a minimum 35% provision. 'Public open space in new residential development' SPD seeks, where practical to do so, that new public open space is provided on site. In addition, there are circumstances where it may be preferable for the public open space to be provided as an off-site monetary contribution. Such circumstances include new development being in close proximity to existing public open space or it may not be practicable to provide on-site. Due to the proximity of Perry Park, at a distance of some 250m to the north on Aldridge Road, it is considered that an off-site financial contribution would be appropriate in this case.
- 6.40. However, the applicant is not able to meet in full the affordable housing or off-site public open space requirements and has submitted a Financial Viability Assessment, which has been independently appraised. This concludes that a provision of 10% on-site low cost units (9no. 1 bed flats, 3no. 2 bed flats and 3 no. 2 bed houses) at 75% of market value could be delivered.
- 6.41. In view of the close proximity of Perry Park it is considered that all the planning gain should focus on the provision of on-site affordable housing. In light of the above, it

is considered that the proposal accords with planning policy within the context of viability and deliverability.

- 6.42. With respect to the request for funding towards education, this is covered by the Community Infrastructure Levy (CIL). The proposal is a non CIL liable development and as such does not attract a CIL contribution.

## 7. Conclusion

- 7.1. The location of the application site in relation to the Council's wider aspirations for the Commonwealth games represents a strategic planning justification for the loss of this industrial site and its redevelopment for residential purposes. Following extensive negotiations the development proposal now represents a scheme that meets good urban design principles in terms of its layout, scale, massing and architectural style that will improve the character and quality of the area. The proposal would provide new housing, including an element of on-site affordable housing, in a sustainable location that will see a significant transformation over the coming years. In addition it would safeguard existing residential amenity and provide a satisfactory environment for future occupiers as well as allow existing nearby commercial premises to continue operating and have no adverse impact in terms of ecology, archaeology and highway safety. The proposal is in accordance with relevant policy and guidance and the granting of planning permission is recommended.

## 8. Recommendation

- 8.1. That consideration of application 2017/01495/PA be deferred pending the completion of a Section 106 legal agreement to secure:
- a) The provision of 12 on site low cost apartments (comprising 9 x 1 bed and 3 X 2 bed) and also 3 low cost houses (comprising 3 x 2 bed) to be sold at a discount of not less than 25% of market value in perpetuity.
  - b) Payment of a £1,500 monitoring and administration fee associated with the legal agreement.
- 8.2. In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by 28th February 2019, planning permission be refused for the following reason:
- In the absence of a legal agreement to secure on site affordable housing, the proposal conflicts with Policy TP31 Affordable Housing of the Birmingham Development Plan 2017, the Affordable Housing SPG and the NPPF
- 8.3. That the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
- 8.4. That in the event of an appropriate legal agreement being completed to the satisfaction of the Local Planning Authority by 28<sup>th</sup> February 2019, planning permission be APPROVED subject to the conditions listed below:-

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1	Requires the prior submission of a contamination remediation scheme
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- 2 Requires the submission of a contaminated land verification report
  - 3 Requires the submission of unexpected contamination details if found
  - 4 Requires the submission of sample materials
  - 5 Requires the prior submission of a sustainable drainage scheme
  - 6 Requires the submission prior to occupation of the properties of a Sustainable Drainage Operation and Maintenance Plan
  - 7 Requires the prior submission of level details
  - 8 Requires the submission of boundary treatment details
  - 9 Requires the implementation of the approved Flood Risk Assessment
  - 10 Requires the submission of a scheme for ecological/biodiversity/enhancement measures
  - 11 Requires the prior submission of details for the disposal of foul and surface water flows
  - 12 Requires the submission of a lighting scheme (street lighting and lighting within the grounds of the apartment blocks)
  - 13 Requires the submission of a CCTV scheme within the grounds of the apartment blocks
  - 14 Removes PD rights for new windows
  - 15 Removes PD rights for extensions
  - 16 Requires the submission of hard and/or soft landscape details
  - 17 Requires the submission of hard surfacing materials
  - 18 Prevents occupation until the service road has been constructed
  - 19 Requires the submission of details of bollards, or similar, to the Aldridge Road frontage
  - 20 Requires the submission of cycle storage details for the apartment blocks
  - 21 Requires vehicular visibility splays to be provided
  - 22 Requires pedestrian visibility splays to be provided
  - 23 Requires the submission and completion of works for the S278/TRO Agreement
  - 24 Requires the provision of a tracking analysis
  - 25 Requires the removal of the raised road surface arrangement
  - 26 Requires the prior submission of investigation for archaeological observation and
-

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recording

- 27 Requires the prior submission of a construction method statement/management plan
  - 28 Requires the provision of a vehicle charging points to the apartment blocks
  - 29 Requires the scheme to be in accordance with the listed approved plans
  - 30 Implement within 3 years (Full)
  - 31 Requires the prior submission of a construction method statement/management plan
  - 32 Requires the prior submission of noise mitigation measures
  - 33 Requires specific windows to be non-openable
  - 34 Requires the installation of an acoustic fence
- 

Case Officer: Wahid Gul

## Photo(s)



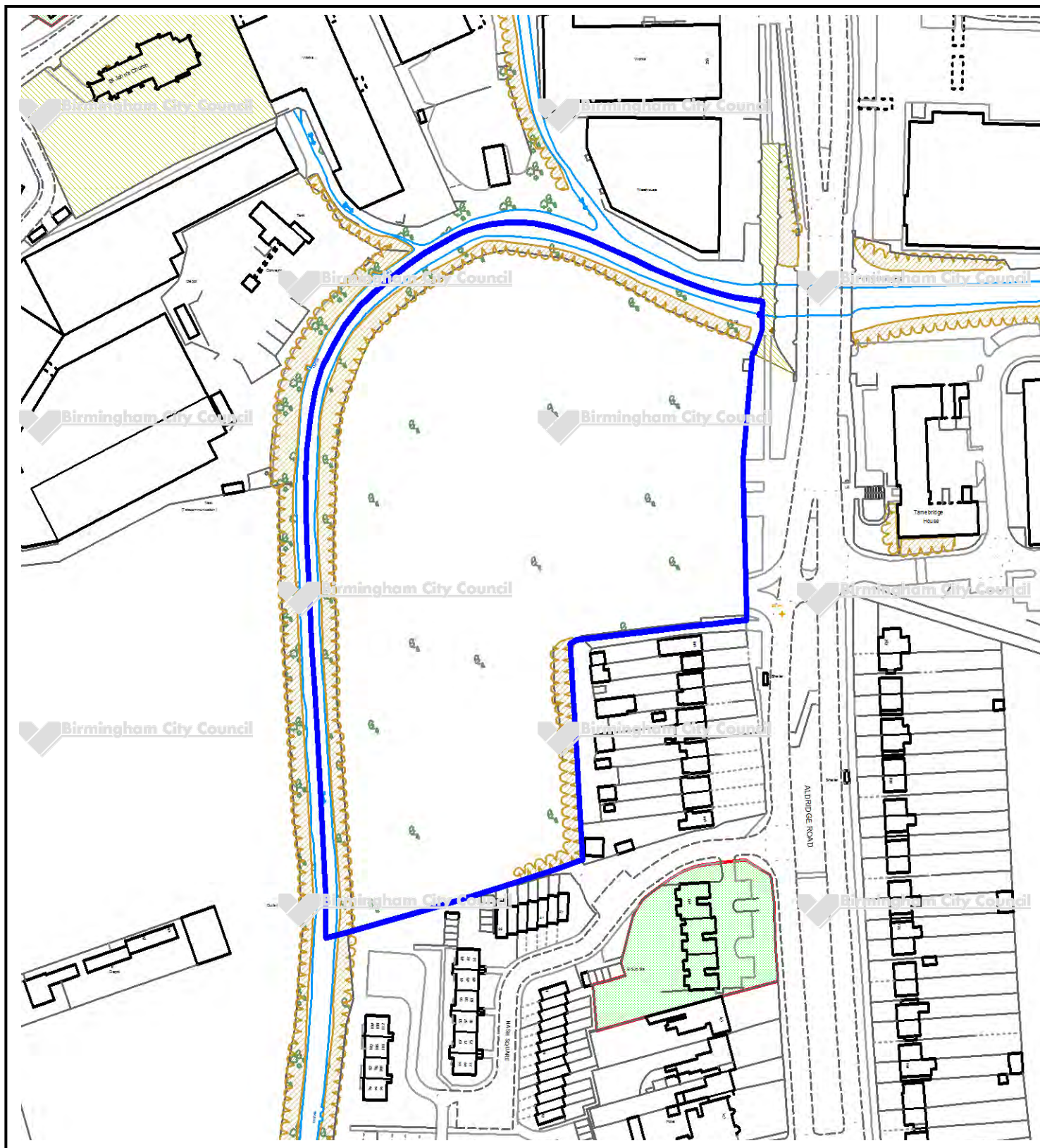
Photo 1 – view of frontage with nos. 187 and 189 to the left of the picture



Photo 2 – view across the site from Aldridge Road (east) to the River Tame (West). The buildings in the foreground are industrial/commercial buildings to the opposite side of the River Tame



## Location Plan



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Committee Date:	14/02/2019	Application Number:	2018/03818/PA
Accepted:	03/08/2018	Application Type:	Full Planning
Target Date:	02/11/2018		
Ward:	Newtown		

168 Bridge Street West, Hockley, Birmingham, B19 2YX

Demolition of existing buildings and erection of 6 storey building containing 62 student studios (Sui Generis) and associated works.

Recommendation

**Approve subject to Conditions**

1. Proposal

1.1. [Link to Documents](#)

1.2. This application seeks full planning consent for the demolition of the existing building and redevelopment of the site with a 6 storey building providing student accommodation in the form of 62 no. individual units on land at 168 Bridge Street West, Hockley, B19 2YX.

1.3. The submitted plans show that an inverted 'C' shaped building would be accommodated to the east of the site and would be positioned to the back of the footpath. The building would be of a contemporary, rhythmical design with a high proportion of glazed fenestration to brick. The Bridge Street West elevation would be 4 storeys with a double height ground floor, to the internal courtyard it would be 5 storeys and to the rear 6 storeys. The parapet height to Bridge Street West would be 13.325m and the parapet height of the recessed 6<sup>th</sup> storey would be 16.175m. Red brick is indicated to be the main external finish material.

1.4. Internally the rooms are shown to be fully contained studios which would range in size from approx. 18sq.m to 33sq.m. An internal common room, small office, foyer with post boxes, a refuse store and laundry room would also be provided. The internal courtyard would provide approx. 220sq.m of external communal space with 30 no. covered cycle spaces provided within the courtyard. No onsite car parking is proposed.

2. Site & Surroundings

2.1. The site is located to the south edge of Newtown. The current building on the site ranges from single to three storeys. The planning history suggests that it was used as a B2 industrial unit however current signage on the building suggests that it is currently/last used as an education centre and church (use class D1). The site forms part of a block of properties that also includes a vehicle repairs/MOT testing business, an office and a vacant derelict building.

2.2. To the north of the site on the opposite side of Bridge Street West is the Pannel Croft extra care retirement village development. An area of public open space wraps around the wider development block and forms a buffer to the ring road at New John Street West. The site is accessible to the City Centre.

### 2.3. [Site Location](#)

#### 3. Planning History

- 3.1. 12/04/2018 – 2017/06995/PA – Outline planning application (all matters reserved) for demolition of existing building and erection of student accommodation for up to 61 units – Approved.

*164-166 Bridge Street West*

- 3.2. 25<sup>th</sup> November 2014 - 2014/06256/PA Outline application (all matters reserved) for up to 26 residential units and associated car parking – approved with conditions.

*266-272 Hospital Street*

- 3.3. 3<sup>rd</sup> September 2015 - 2015/04331/PA Change of use of existing premises from use class B1a to student accommodation to provide 57 bedrooms and associated facilities and associated external alterations as well as provision of retail shop (A1) – approved with conditions.

- 3.4. 5<sup>th</sup> September 2017 - 2017/00762/PA Change of use from use class B1a (offices) to House in Multiple Occupation (HMO) (SG), associated facilities and associated external alterations – approved with conditions.

*401-416 New John Street West*

- 3.5. 9<sup>th</sup> December 2016 – 2016/05697/PA Demolition of existing building fronting Bridge Street West and renovation of existing Grade II Listed Brandauer Works and conversion to student accommodation, erection of two new student accommodation blocks and associated landscaping works - approved subject to conditions.

#### 4. Consultation/PP Responses

- 4.1. Site and press notice displayed. MP, ward members, residents associations and neighbouring occupiers notified. No comments received.

- 4.2. Regulatory Services – No objection, subject to conditions;

- Noise insulation scheme.
- Construction Method Statement.
- Contamination Remediation Scheme and Verification Report.

- 4.3. Severn Trent – No objection, subject to foul and surface water drainage condition.

- 4.4. Lead Local Flood and Drainage Authority (LLFA) – No objection, subject to conditions;

- Prior submission of a sustainable drainage scheme,
- Submission of a Sustainable Drainage Operation & Maintenance Plan.

- 4.5. Environment Agency – No objection, subject to site remediation condition.



- 4.6. Transportation Development – Amended cycle storage and access required and condition reinstating redundant footway crossing.
- 4.7. West Midlands Police – Seeks confirmation on MOMI (moving out, moving in) process, security staffing, CCTV and notes that the development would need to comply with Approved Document Q and Secured by Design Homes 2016.
- 4.8. NHS Trust – Request a financial contribution for planned future growth of £1,996.00.
- 4.9. Leisure Services – No objection.

## 5. Policy Context

- 5.1. Adopted Birmingham Development Plan 2017, Saved UDP policies, Aston, Newtown and Lozells AAP, Places for All SPG, Places for Living SPG, Loss of Industrial Land SPD, Specific Needs Residential Uses SPG, Car Parking Guidelines SPD and NPPF.

## 6. Planning Considerations

- 6.1. Paragraph 11 of the National Planning Policy Framework (NPPF) advises that there is a presumption in favour of sustainable development and for the decision maker this means approving development proposals that accord with the development plan and that planning policies and decisions should encourage the effective use of land.
- 6.2. The application site is located within Aston, Newtown and Lozells growth area (policy G3) and policy MU1 of the Aston, Newtown and Lozells AAP identifies the site to fall within an area which could be redeveloped for a mix of uses including residential, health, education/training, cultural and community uses, light industry, leisure, ancillary offices and enhanced open space. The site is not located in a core employment area and is now considered a non-confirming use.
- 6.3. Policy TP33 supports off campus purpose built student accommodation subject to a series of criteria being met including whether there is a demonstrated need for the development. A Student Accommodation Needs Assessment was submitted with the previous outline application (determined in 2018). The principle of student accommodation on the site has been established with the extant outline planning consent of 2018.
- 6.4. There are a mix of uses within the vicinity, including residential and student accommodation at the Brandauer Works, within this identified growth area which is located within a sustainable location to a number of universities, a view shared by Planning Strategy.

### *Site Constraints*

- 6.5. The application has been submitted with a drainage strategy that deals with the overall site. The details have been assessed by the Lead Local Flood Authority (LLFA) officer who accepts the overall principles of the proposed development with attenuation features and flow controls and has recommended that conditions securing the prior submission of a sustainable drainage scheme and a maintenance and operation strategy be secured prior to occupation of the building. I concur with this viewpoint and recommend that such conditions are imposed.

- 6.6 The proposal has been submitted with a site assessment report which assesses the ground for potential contaminants given the sites previous industrial/commercial uses. The submitted sub surface report has been assessed by Regulatory Services who conclude that the site is contaminated and that further survey works (instructive investigation works) and mitigation measures as indicated within the survey should be undertaken and raise no objection subject to conditions securing such works.

#### *Scale and Design*

- 6.7 The submitted plans show that the proposed level of accommodation would be accommodated within a modern flat roofed development positioned to the back of pavement in line with the adjacent developments with an active frontage. At four and a half storeys high to the street scene it would reflect surrounding development levels, including the adjacent site which was the subject of a previous planning approval (2014/06256/PA) for the provision of up to 26 no. apartments within similar design parameters to that currently proposed.
- 6.8 Further, whilst the development would increase to six storeys to the rear of the site, due to the development being 'dug' down, the sixth storey position 23.8m from the site frontage and the existing urban fabric, it would not adversely affect the street scene sufficient to warrant refusal. I also note that it would be of no greater scale than the previously approved residential development on the adjacent site. On this basis, it is considered that the proposed development would be a positive addition to the streetscene and is appropriate in this regard subject to conditions securing external finish material samples. The city design officer also raises no objection to the proposal.

#### *Residential Amenity*

- 6.9 The site is located within a larger block of properties and the redevelopment of this plot should not comprise development of adjacent plots. The proposed building would comprise of single aspect development looking out onto an internal courtyard area with no windows along either the eastern or southern boundaries. Internally the ground would be 'dug out' and a wall erected along the western boundary. There would be between 12 and 17m distance separation for floors 3-5 looking west onto a communal courtyard area and in excess of 29m to the facing elevation of the previously approved adjacent development and I note the 45 Code has also been considered. I do not therefore consider the proposal would constrain the development of the adjacent sites by virtue of loss of light or overlooking. Consequently I am satisfied that the site can be appropriately developed in isolation without unduly constraining the rest of the block should these sites come forward for redevelopment in the future.
- 6.10 The submitted floorplans show a communal courtyard area a small internal communal room and a laundry room with room layouts provided to demonstrate that a satisfactory internal layout can be achieved. I note that the accommodation would be in excess of the minimum standards identified within Specific Needs Residential Accommodation. A sunlight/daylight report has been submitted to demonstrate that the Average Daylight Factor (as required by BRE Guidelines) would comply or exceed the minimum levels required. I therefore consider the proposed development would provide acceptable amenity levels for future occupiers, as student accommodation.
- 6.11 West Midlands Police have raised a number of queries regarding site security and day to day site management, specifically around the provision of CCTV, general

access arrangements, sufficient boundary treatments and confirmation of the MOMI process (moving in and moving out). It is considered that the day to day management of students would be addressed by staff. However, it is considered reasonable and necessary to impose conditions to secure appropriate security arrangements in the form of access door (intercom) and CCTV provision. The provision of boundary treatments has already been addressed within the submission with appropriate, secure provision made.

- 6.12 Regulatory Services have been consulted on the proposal and are of the view that there is no significant risk of noise impacts from adjacent commercial uses given that the rear building façade adjacent to the commercial use has no windows and is largely circulation and shared use areas. They have however, requested a number of conditions related to noise insulation, a construction method statement and a land contamination survey and verification report, be imposed which I consider to be necessary and reasonable in this case.
- 6.13 On the basis of the above, I consider that the development can be accommodated on the site appropriately without detriment to either future occupiers or neighbouring properties.

#### *Highway Impacts*

- 6.14 Policy TP33 requires student accommodation to be well located in relation to the educational establishment that it is to serve and to local facilities by means of walking, cycling and public transport. The proposal would result in 62 no. students. It includes no car parking provision but would include 30 no. covered bike spaces. Further, the site is near to public transport links and within walking distance of a wide range of services including educational establishments (approx. 1km as the crow flies to Aston University) and that other student accommodation has been approved in the vicinity.
- 6.15 I also note that Transportation Development consider that the traffic generated by the proposal would not be significantly different to the existing use with on street parking available within the immediate vicinity and that subject to conditions ensuring that a redundant footway crossing on Bridge Street West is reinstated and that improved cycle storage and access arrangements are provided, no objections are raised to the proposal. I therefore concur with them and the requested conditions which I recommend accordingly.

#### *Planning obligations*

- 6.16 The City has adopted CIL and the proposed development is liable for CIL as Student Accommodation at £79.69 (2018 figure) per square metre of new floorspace created which is increased annually. As such, the total liability in this case based upon 2018 figures would be £99,612.50.
- 6.17 I note the request received from the NHS Trust, for a sum of £1,996.00. Our position is that we do not consider the request would meet the tests for such Section 106 contributions, in particular the necessity test (Regulation 122.(2)(a) necessary to make the development acceptable in planning terms). We believe the interval from approval to occupation of the proposed development, along with published information (such as the BDP and SHLAA) gives sufficient information to allow the Trust to plan for population growth and associated. Discussions with the relevant Trust are continuing on this matter, in order for us to understand more fully their planned investments in the City and how we might best be able to support that.

7. Conclusion

- 7.1. The proposed development would result in a sustainably located brownfield development which would be located close to existing higher education establishments. The proposal would result in a CIL payment, would not have an adverse impact on the adjacent highway, upon the amenity of future occupiers or neighbour amenity and can be accommodated without having an adverse impact on its surroundings. The proposal would therefore comply with both local and national planning policy and should be approved.

8. Recommendation

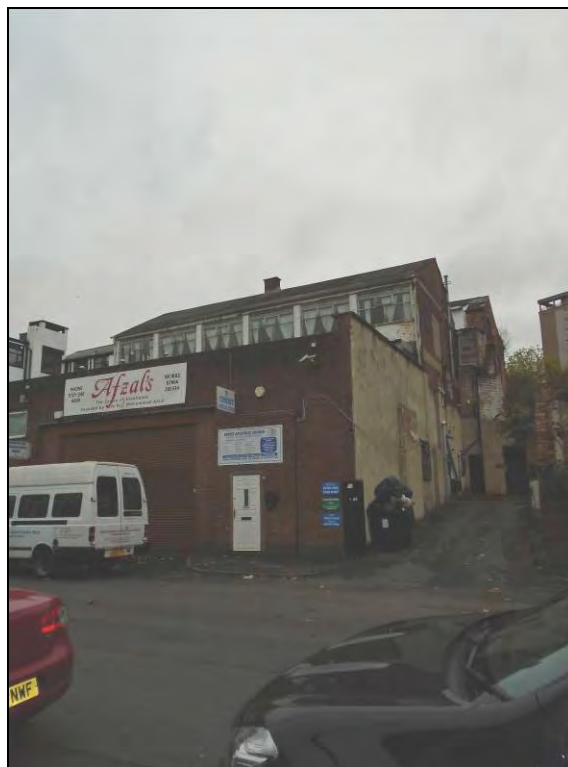
Approve, subject to conditions.

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- |    |                                                                                                                      |
|----|----------------------------------------------------------------------------------------------------------------------|
| 1  | Requires the scheme to be in accordance with the listed approved plans                                               |
| 2  | Requires the prior submission of a contamination remediation scheme                                                  |
| 3  | Requires the submission of a contaminated land verification report                                                   |
| 4  | Requires the submission of hard and/or soft landscape details                                                        |
| 5  | Requires the submission of boundary treatment details                                                                |
| 6  | Requires the submission of sample materials                                                                          |
| 7  | Requires the submission of a lighting scheme                                                                         |
| 8  | Requires the submission of a CCTV scheme                                                                             |
| 9  | Requires the submission of cycle storage details                                                                     |
| 10 | Requires the reinstatement of the redundant footway crossing to full height kerb                                     |
| 11 | Limits the occupation of the development to students in full time education                                          |
| 12 | Requires submission of a student management plan                                                                     |
| 13 | Requires provision of a management plan for the move in/move out of students at the beginning and end of term        |
| 14 | Requires the prior submission of a Sustainable Drainage Scheme                                                       |
| 15 | Requires the submission of a Sustainable Drainage Assessment and Sustainable Drainage Operation and Maintenance Plan |
| 16 | Requires the prior submission of a drainage scheme                                                                   |
| 17 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection                       |
| 18 | Requires the prior submission of a demolition method statement/management plan                                       |
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- |    |                                                                                  |
|----|----------------------------------------------------------------------------------|
| 19 | Requires the prior submission of a construction method statement/management plan |
| 20 | Implement within 3 years (Full)                                                  |
- 

Case Officer: Christopher Wentworth

## Photo(s)



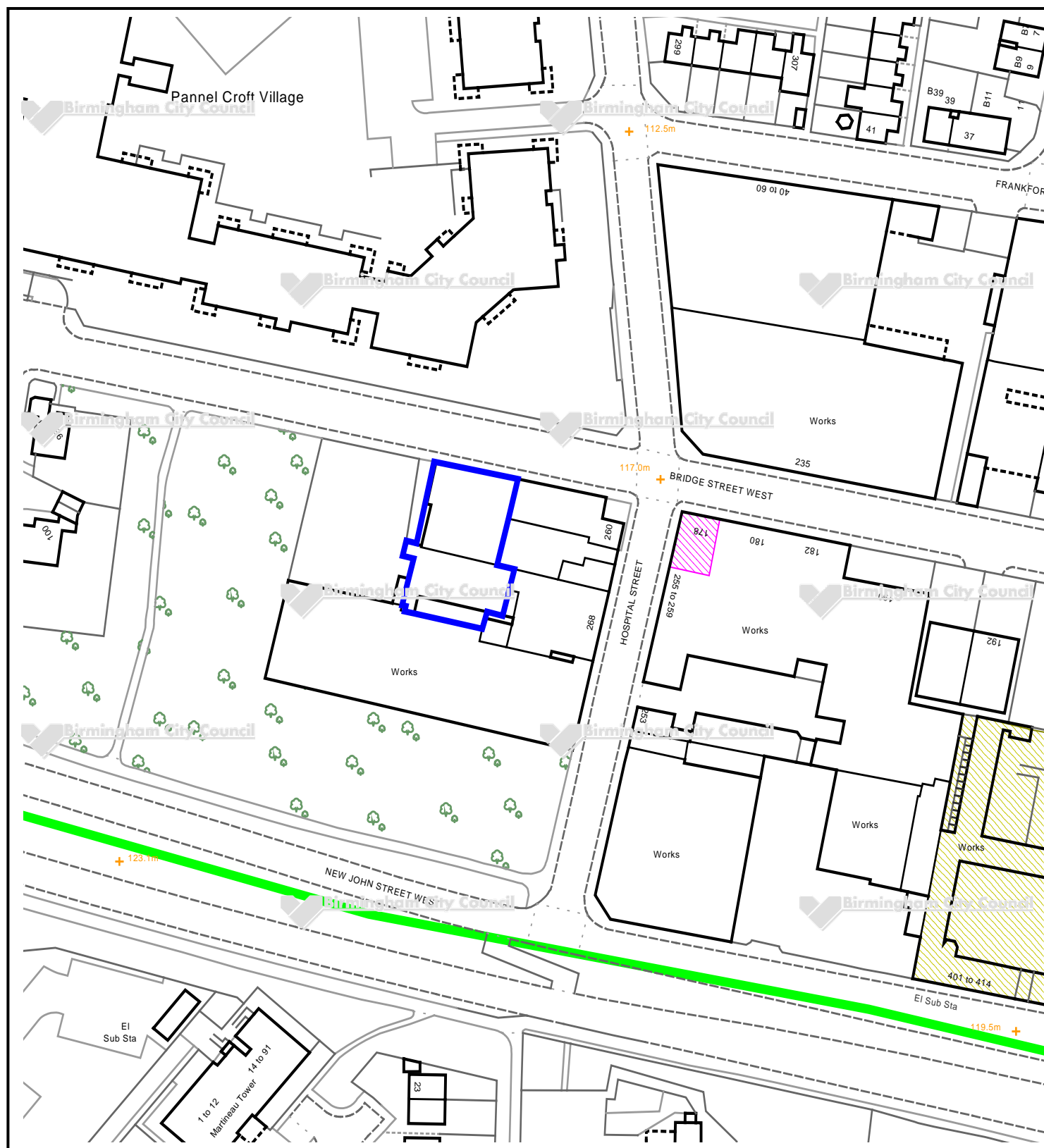
**Photo 1 – Frontage to Bridge Street West.**



**Photo 2 - Streetscene**



## Location Plan



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Committee Date:	14/02/2019	Application Number:	2018/08257/PA
Accepted:	10/10/2018	Application Type:	Full Planning
Target Date:	25/01/2019		
Ward:	Sutton Vesey		

Land to the rear of 11-13 Redacre Road, Sutton Coldfield, Birmingham, B73 5EA

Erection of 1 no: residential dwelling house

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1. The current application is for the erection of a detached two-storey dwelling with integral garage on land to the rear of 11-13 Redacre Road, fronting Heathlands Road, on its west side.
- 1.2. The façade of the proposed dwelling is in line with the established building line along Heathland Road, with the exception of the two-storey bay window element, which projects around 1.1 metres closer to the road / 8 metres back from the front boundary of the site.
- 1.3. The proposed dwelling is two-storey in height, with a hipped roof and forward projecting gable at its northern end (to which the aforementioned bay is attached). The proposed garage is integral, is located at the southern end of the dwelling and projects slightly ahead of the first floor above it and the central bay within which the front entrance is situated. A lean-to canopy roof is proposed over the projecting ground floor part of the garage and over the front door, to provide a covered entrance to the dwelling.
- 1.4. The proposed materials are a mix of red brick and pearl grey render with limestone cills, grey roof tiles, white uPVC casement windows and black steel garage door.
- 1.5. Internally, the dwelling comprises a central hallway, front lounge and rear family room, with a kitchen / dining room to the rear and a single garage to the front. At first floor level four bedrooms are provided, one with an en-suite and a family bathroom. Including the garage the dwelling provides a gross internal floor area of circa 182 sq.m. (98 sq.m. and ground floor and 84 sq.m. at first floor level).
- 1.6. The proposal provides space for 2 no. off-street car parking spaces, which equates to a 200% parking provision. A new/widened footway crossing is proposed off Heathlands Road to serve the dwelling.

1.7. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site comprises the end of the rear gardens of 11 and 13 Redacre Road and measures 350 sq.m. It is rectangular in shape – being approximately 12.5 metres wide by 28.5 metres deep. The front boundary of the site, adjacent to Heathlands Road, is currently finished with a 1.8 metre high closed-board fence. The proposal would result in the rear gardens of 11 and 13 Redacre Road being reduced to (a minimum of) 12.4 metres in length.
- 2.2. The site is located in a mature residential suburb containing traditionally designed detached and semi-detached dwellings that have traditional front gardens set-back from the highway. Heathlands Road is characterised by two-storey detached dwellings finished in a mix of red brick and render, with tiles roofs of various colours.
- 2.3. [Site location](#)
3. [Planning History](#)
- 3.1. 2002/04547/PA - Outline planning application with all matters reserved to erect a two storey detached dwelling at rear. Refused October 2002 for two reasons – (1) detrimental impact on the character and appearance of the area; and (2) loss of a tree that contributes to the amenity of the area. The tree in question appears to have been a cedar tree, located within the rear garden of the proposed dwelling.
4. [Consultation/PP Responses](#)
- 4.1. Local MP, Councillors, Residents' Associations and the occupiers of nearby properties were notified of the application; a site notice was also erected.
- 4.2. 11 letters of representation have been received from the residents at six properties in the vicinity, who raise the following concerns:
- Loss of the open aspect of the neighbourhood.
  - The property is excessive in scale when compared with its neighbours and too large for its plot – it will thus be out of character with and dominate its immediate surroundings.
  - Heathlands Road has very specific early 1930s architecture that needs to be preserved.
  - All detached properties on Heathlands Road have the garage on the right side as you face the building, that proposed is on the left side, which is out of keeping.
  - Overshadowing and overlooking / loss of privacy.
  - Noise and disturbance – both during the course of construction and from residents of the new dwelling.
  - Increase in traffic – both during the course of construction and from residents of the new dwelling.
  - No Traffic Management proposals included with the application.

- Parking provided is inadequate for the scale of the dwelling.
  - Existing parking problems in the area will be exacerbated (which will be made even worse if double yellow lines are introduced, as is suggested may occur).
  - Virtually no store space on site to store materials during the course of construction.
  - Impact of the development on the Silver Birch tree on the pavement, which contributes to the sylvan character of the area.
  - Re-location of the lamppost - the road is dark and moving the lamppost (location unknown) will affect the safety and security of the area, in particular, the gully and garages opposite the site, which have been the focus of anti-social behaviour in the past.
  - The previous application was refused on the grounds of loss of trees and the proposed building not being in line with the other properties on the road - this is still the case.
  - No site notice erected.
  - Trees felled on the site prior to the application being submitted.
  - One of the existing boundary fences on the site encroaching onto third party land.
  - No need for the development / other more appropriate brownfield sites available to develop.
  - So close to the northern boundary of the site as to prevent reasonable access for maintenance.
  - Loss of green space in a built-up area.
- 4.3. Transportation Development – No objection subject to conditions relating to highway works and visibility splay.
- 4.4. Regulatory Services – No objection, subject to conditions relating to noise insulation, contamination and electric vehicle charging points
- 4.5. Severn Trent Water – No objection (and no conditions recommended).
- 4.6. West Midlands Police – No objection.
- 4.7. Royal Sutton Coldfield Town Council – Objection. Mass, scale and design is not in keeping with the current street scene.
5. Policy Context
- 5.1. Birmingham Development Plan 2017; Birmingham UDP 2005 (saved policies); Places for Living SPG; Mature Suburbs SPD 2008; Car Parking Standards SPD 2012; 45 Degree Code SPD; and National Planning Policy Framework 2018.

6. Planning Considerations

- 6.1. The key planning considerations in this case are considered to be the principle of development; and impact of the proposal on the character and appearance of the area; existing residential amenities; future residential amenities; and parking and other highway issues (including street lighting and highway trees).

**Principle of development**

- 6.2. Planning policy at both the local and national level has changed since the last proposal for a dwelling on the site was assessed in 2002. The National Planning Policy Framework 2018 (NPPF) states that 'to support the Government's objective of significantly boosting the supply of homes it is important that a sufficient amount and variety of land can come forward where it is needed'. It also states that, in principle, 'planning policies and decisions should support development that makes efficient use of land' (paragraph 122).
- 6.3. Policy PG1 of the Birmingham Development Plan 2017 (BDP) sets the overall level of growth for the Council area. Policy PG3 states that all new development will be expected to 'make best use of existing buildings and efficient use of land in support of the overall development strategy'. Other relevant policies of the BDP include Policy TP27, which requires new housing to contribute to making sustainable places; and Policy TP28, which sets out criteria for the location of new housing.
- 6.4. The site is located within an established residential area, within which there is a general presumption in favour of residential development. In addition, the site is located in a sustainable location in terms of access to local services, facilities and public transport.
- 6.5. It is noted that one of the letters of representation suggests that there is no need to develop the site and that other more appropriate brownfield sites are available to develop. However, the Council have identified a need for additional housing across Birmingham and although the current proposal will only provide one additional dwelling, it will contribute to the overall housing supply of the City.
- 6.6. Taking into account all of the above, it is considered that the proposed development is acceptable in principle.

**Character and appearance**

- 6.7. Policy PG3 states that all new development will be expected to demonstrate high quality design and contribute to a strong sense of place and the Places for Living SPG emphasises the need for new developments to reinforce the positive local characteristics of an area.
- 6.8. The Mature Suburbs SPD notes that the spacious nature and low density of some of the City's mature suburbs has led to development pressure for intensification through the development of infill plots and backland areas. In acknowledging such pressure, it states that it is essential that such developments are appropriate in terms of design and make a positive contribution to the environment and community

within which they are located. It also states that proposals that undermine and harm the positive characteristics of a mature suburb will be resisted.

- 6.9. The Mature Suburbs SPD advises that building form (such as frontage width, depth, height and massing) should be in keeping with those in the area; building plots should be of an appropriate size to reflect the typical form of plots in the area; new buildings should respect established building lines and set-backs from highways; be of a high design standard (although proposals are not expected to be a copy or pastiche of existing design styles); and that separation distances between buildings should respect the separation distances that generally characterise the area.
- 6.10. The proposal is for a two-storey detached dwelling with gardens to the front and rear, which reflects the general pattern of development in the area. The design and use of materials are considered to be in keeping with the architectural legacy of the area and provide a contemporary design solution to the site (rather than representing a pastiche of existing dwellings). In this respect, minor variations in detail, such as the positioning of the garage on the opposite side of the house to others in the area, are considered acceptable.
- 6.11. The dwelling is of a similar height to that to its south, on Heathlands Road (number 2) and is lower than those to its north on Redacre Road (numbers 11 – 13). The proposed plot, whilst not characteristic of the area in terms of its width and depth, is similar to that to the west of the site, fronting Ivy Road (number 1a), on which a new detached infill dwelling has recently been constructed. The proposal also generally maintains the established building line along the west side of Heathlands Road and in this respect, its impact on the streetscape is considered acceptable.
- 6.12. Taking into account the overall scale, height, bulk and location of the proposed dwelling within the site, it is not considered that it will appear dominant in the streetscape. Whilst the proposal will reduce both green space and the open aspect of the area by providing a building where one does not currently exist, it is not considered that it would affect the character of the area sufficient to justify the refusal of planning permission.
- 6.13. Further to all of the above, it is considered that the proposal demonstrates a high quality design that will reinforce the positive local characteristics of the area, in accordance with Policy PG3 of the BDP and the Mature Suburbs SPD.

#### **Residential amenities – existing residents**

- 6.14. The Appendix to the Places for Living SPG sets out numerical standards for separation distances between existing and proposed dwellings. Those that apply in this instance are 21 metre separation between building faces for two-storey dwellings; 12.5 metre separation between windowed elevations and opposing single and two-storey flank walls; and minimum requirement of 70 sq.m. for rear gardens for family dwellings.
- 6.15. The proposed dwelling is set-back in line with the existing dwelling to its side and only one window is proposed in the side elevations at first floor level – which serves an en-suite on its south side. Subject to the window to the en-suite being obscurely



glazed and top opening only, the proposal would not result in any direct overlooking of neighbouring properties. To maintain the amenities of the adjoining sites, a condition is proposed restricting the future insertion of side windows in the dwelling at first floor level or above.

- 6.16. The rear garden of the new dwelling extends 10 metres beyond its first floor rear windows, which is considered sufficient to maintain the privacy of the gardens to the rear of the site (5m per storey setback). Again, to protect the amenities of adjoining property from future overlooking a condition is proposed restricting the future erection of extensions without planning permission first having been obtained.
- 6.17. Due to the location of the dwelling, to the north of that adjacent and over 12 metres from the rear elevation of the dwelling to its north, it is not considered that the proposal will result in loss of light to adjoining properties sufficient to justify the refusal of planning permission.
- 6.18. A number of letters of representation raise concern regarding noise and disturbance, both during the course of construction and from the residents of the new dwelling and also in relation to the storage of materials on site during the course of construction.
- 6.19. Whilst taking into account the residential nature of the area it is a small scale development with no exceptional constraints and as such a Construction Management Plan is not considered necessary to make the scheme acceptable in planning terms. Other legislation covers noise associated with construction. With regard to noise and disturbance generated by future occupiers of the dwelling, it is noted the site is already in use as a residential garden and that no change to the use of the land is proposed.

#### **Residential amenity – future residents**

- 6.20. The proposed dwelling meets the overall internal space standard for a two-storey four-bedroom dwelling, as set out in the Technical housing standards – nationally described space standards, i.e. a minimum of 124 sq.m.. It also meets the minimum sizes with regard to bedroom sizes (bedrooms 1 and 2 achieving the double bedroom standard, with bedrooms 3 and 4 achieving the single bedroom standard).
- 6.21. The dwelling is provided with an adequate usable rear garden area that meets the minimum (70 sq.m.) requirement for family accommodation set out in the Places for Living SPD.
- 6.22. On the basis of the above, it is considered that the amenities of the future occupiers of the proposed dwelling is satisfactory.

### **Parking & other highway issues**

- 6.23. Birmingham Council Car Parking Guidelines SPD set maximum parking standards of 2 spaces per dwelling in locations such as this. The proposal meets this standard, providing 2 space per dwelling in a tandem layout as well as a garage space.
- 6.24. The concerns of local residents relating to an increase in traffic in the area (both during and after the course of construction); inadequate parking provision for the proposed dwelling; and increase in parking difficulties in the area as a result of the proposal (in particular, if double yellow lines are introduced), are noted. However, Transportation Development have assessed the proposals and have raised no objection subject to conditions relating to (1) works in the public highway, including the relocation of any street furniture such as street lighting columns being carried out to the highway authority's standards and specifications; (2) pedestrian visibility; and (3) any impact on the highway tree being subject to approval from BCC Highway Tree Asset Management.
- 6.25. With regard to the highway tree adjacent to the site, the Council's Tree Officer considers that the existing footway crossing would probably need to be widened a little. All works would be undertaken by AMEY and are well versed in working methods near trees. The Tree Officer considers that these works could be done with caution. In response, a condition is proposed, requiring an Arboricultural Method Statement to be submitted for approval prior to the commencement of works on the access, with a caveat stating that any tree shown for retention in the approved details that dies, or becomes seriously diseased or damaged as a result of the development works within 3 years of the commencement of development shall be replaced at the applicant's expense.
- 6.26. Transportation Development have confirmed that due to the location of the proposed access it will more than likely be necessary to re-locate the lamppost. The concerns of local residents regarding its re-location are noted, however Transport Development have confirmed that any necessary relocation of the lamp post will be undertaken by BCC and that the process will include appropriate design / assessment to ensure acceptable highway lighting provision is achieved / retained.

### **Other issues**

- 6.27. Regulatory Services have raised no objection to the proposal subject to conditions relating to contamination remediation and verification; the submission of a Noise Insulation Scheme for the new dwelling; and the provision of a vehicle charging point for the new dwelling. The conditions relating to contamination are considered necessary and are proposed, as is that relating to the noise insulation qualities of the new dwelling. It is not considered necessary to impose a condition requiring a vehicle charging point to be provided however, as should future residents need one there is sufficient space on the site to provide one.
- 6.28. The following concerns are noted but are not material with this application: trees felled on the site prior to the application being submitted (unprotected trees); one of the existing boundary fences on the site encroaching onto third party land (civil

matter); and the proximity of the dwelling to the northern boundary of the site preventing future access for maintenance (civil matter).

7. Conclusion

- 7.1. It is considered that the proposal for a new dwelling on an area of garden land in this residential area would constitute a sustainable form of development that would be in accordance with the policies of the BDP, relevant adopted supplementary planning guidance and the aims and objectives of the NPPF.

8. Recommendation

- 8.1. Approve subject to conditions

- 
- |    |                                                                                                |
|----|------------------------------------------------------------------------------------------------|
| 1  | Implement within 3 years (Full)                                                                |
| 2  | Requires the scheme to be in accordance with the listed approved plans                         |
| 3  | Requires the submission of sample materials                                                    |
| 4  | Requires the submission of boundary treatment details                                          |
| 5  | Requires the submission of hard and/or soft landscape details                                  |
| 6  | Requires the prior submission of level details                                                 |
| 7  | Removes PD rights for new windows                                                              |
| 8  | Requires the en-suite window in the side to be obscurely glazed and top opening only           |
| 9  | Removes PD rights for extensions                                                               |
| 10 | Requires the submission a Noise Insulation Scheme to establish residential acoustic protection |
| 11 | Requires the prior submission of a contamination remediation scheme                            |
| 12 | Requires the submission of a contaminated land verification report                             |
| 13 | Requires pedestrian visibility splays to be provided                                           |
| 14 | Requires the implementation of highway works                                                   |
| 15 | Requires the prior submission of an Arboricultural Method Statement                            |
- 

Case Officer: Lydia Hall

## Photo(s)



Photo 1 - Frontage to Heathlands Road.



Photo 2 - Front of 11 and 13 Redacre Road.

## Location Plan



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# **Birmingham City Council**

## **Planning Committee**

**14 February 2019**

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 - Conditions	18	2018/09681/PA  203-205 Stratford Road Sparkbrook Birmingham B11 1QZ  Change of use from retail shop (Use Class A1) to hot food take-away (Use Class A5) and installation of new entrance door to front
Approve - Temporary	19	2018/09904/PA  McDonald's Restaurant Chester Road Erdington Birmingham B24 0QY  Removal of condition number 7 attached to previous application E/C/37068/9 to enable the McDonald's Restaurant to trade 24 hours a day, seven days a week
No Prior Approval Required	20	2018/09790/PA  128-158 (evens) Rowden Drive Erdington Birmingham B23 5UR  Application for Prior Notification for the proposed demolition of maisonette block



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Committee Date:	14/02/2019	Application Number:	2018/09681/PA
Accepted:	29/11/2018	Application Type:	Full Planning
Target Date:	15/02/2019		
Ward:	Sparkbrook & Balsall Heath East		

203-205 Stratford Road, Sparkbrook, Birmingham, B11 1QZ

Change of use from retail shop (Use Class A1) to hot food take-away (Use Class A5) and installation of new entrance door to front

Recommendation

**Approve subject to Conditions**

1. Proposal

- 1.1 The application proposes a change of use from a retail shop (Class A1) and off-licence to a hot food take away (Class A5). The application includes the installation of a new entrance to Ladypool Road and an extraction flue to the rear of the site at 203-205 Stratford Road, Sparkbrook. The application is seeking a renewal of a previous consent approved in 2015.
- 1.2 The proposed hours of opening are in line with the previous application and are 08:00 to 23:30 daily.
- 1.3 The application does not propose any off road parking.
- 1.4 The first floor flat over the existing retail premises will be retained.

[Link to Documents](#)

2 Site & Surroundings

- 2.1 The application site is a three storey end terraced retail shop with flat above. The premises are located at the junction with Stratford Road and Ladypool Road. To the rear of the site is a two storey rear wing, with single storey extension beyond. The premises are located outside of the Sparkbrook local centre. To the front of the site there are TRO red route parking restrictions and double yellow lines along the highway to the side of the property on Ladypool Road.

[Site Location](#)

3 Planning History

- 3.1. 2015/09588/PA – Change of use from retail shop (Use Class A1) to hot food take away (Class A5) – approved 15/1/2016.

3.2. 18609004 - Proposed drinks store sited in yard at rear of shop - approved 23/3/1982.

#### 4.0 Consultation/PP Responses

4.1. Ward members and neighbouring properties consulted.

- Councillor Shabrana Hussain - Concerns regarding litter, parking and highway safety, take-away close to local schools and obesity.
- Councillor Azim has requested that the application be determined by planning committee.
- Transportation Development – recommend conditions: No home deliveries and improvements to the highway to be agreed with the highway authority at the applicant's expense.
- Regulatory Services - recommend conditions: For the proposed noise levels for the extraction equipment and in relation to the proposed hours of operation.
- West Midlands Police – No objections.

#### 5 Policy Context

- The following policies are considered to be relevant;
- National Planning Policy Framework
- Birmingham Development Plan 2017
- Shopping and Local Centres SPD
- Car Parking Guidelines
- Shop Front Design Guide (1995)

#### 6 Planning Considerations

- 6.1 The Council is required to make a decision in line with the Development Plan, unless material considerations indicate otherwise. (Section 38 (6) PCPA 2004 and Section 70 (2) TCPA 1990). The National Planning Policy Framework is a key material planning consideration.
- 6.2 The Birmingham Development Plan seeks to promote sustainable development and the supporting text to Policy TP1 is the central theme that underpins the policies in the plan and seeks to ensure the reduction of the City's carbon footprint. Policy TP2 relates to adapting to climate changes including matters such as flood risk, green infrastructure, protecting the natural environment and resilience to extreme weather conditions.
- 6.3 The revised NPPF 2018 relates to sustainable development and Section 7 advises that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs

- 6.4 Section 38 of the NPPF requires that Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 6.5 The main considerations for this proposal are the impact on residential amenity, visual amenity, highway safety and impact on the vitality and viability of the local centre.
- 6.6 Policy 6 of the Shopping and local centres relates to non-retail uses outside the local shopping centres. It seeks to ensure that there is not a concentration of Hot Food Takeaways (A5), and no more than 10% of units within a frontage shall consist of hot food takeaways.
- 6.7 Policy TP21 of the Birmingham Development Plan relates to the Network and Hierarchy of Centres and seeks to ensure that the vitality and viability of the centres within the network and hierarchy identified will be maintained and enhanced. These centres will be the preferred locations for retail, office and leisure developments and for community facilities. It is considered that the renewal of this permission does not undermine the hierarchy of the local centre in Sparkbrook and it could have been implemented already under the previous application. Although there is a restaurant on the opposite corner of Stratford Road/ Ladypool Road, there are no hot food takeaways within the frontage. Therefore, the proposal is considered to be acceptable in principle subject to appropriate conditions.
- 6.8 Residential Amenity
- 6.9 There are flats above the existing shops within the parade of shops that the application site is located within. The application forms submitted with the application indicate that the proposed hours of opening (0800 – 2330 hours daily) are the same as those previously approved under the application reference 2015/09588/PA. It is considered that the impact of the proposal on the grounds of residential amenity in relation to noise and disturbance could be mitigated by the proposed hours of operation of the proposed use. In addition, the proposed extraction system to the rear of the site can be controlled by a condition to ensure details of the method and type of extraction system are submitted and agreed in writing with the LPA.
- 6.10 Highway Safety
- 6.11 The application site is sited at the junction with Stratford and Ladypool Road and outside the premises on Stratford Road are red route parking restrictions. Transportation Development have assessed the scheme and raise no objections, subject to conditions for minor highway works to discourage footway parking and for no home delivery service to operate from the site. I concur with this view. I consider that the proposal is unlikely to have an adverse impact on highway safety within the immediate vicinity of the site. As such, the appropriate conditions are attached.
- 6.12 Other Matters
- 6.13 Councillor Shabrana Hussain has made representation in regards to the impact of the proposal would have on litter. I advise that there is a large service area at the rear and a condition is attached requiring details of refuse storage. In respect of

healthy eating/ obesity, I advise that the proposal provides no details of the type of food to be prepared at the property. Although, healthy eating is a material consideration, I consider that there is no evidence submitted to suggest that the proposed use would result in detriment to the healthy eating programmes. Consequently, I do not consider that this concern warrants refusal of this application.

## 7.0 Conclusion

7.1 The application has been considered on its merits and in accordance with the relevant current development plan policies. The proposal complies with the objectives of the policy context and is recommended for approval subject to the attached conditions.

## 8.0 Recommendation

8.1. Approve with conditions.

- 
- |   |                                                                            |
|---|----------------------------------------------------------------------------|
| 1 | Requires the scheme to be in accordance with the listed approved plans     |
| 2 | Requires the submission of extraction and odour control details            |
| 3 | Limits the noise levels for Plant and Machinery                            |
| 4 | Limits the hours of operation to 0800 - 2330 daily                         |
| 5 | Requires the submission of details of refuse storage                       |
| 6 | Requires the submission and completion of works for the S278/TRO Agreement |
| 7 | Prevents home deliveries of the takeaway                                   |
| 8 | Implement within 3 years (Full)                                            |
- 

Case Officer: Ann Scott

## Photo(s)

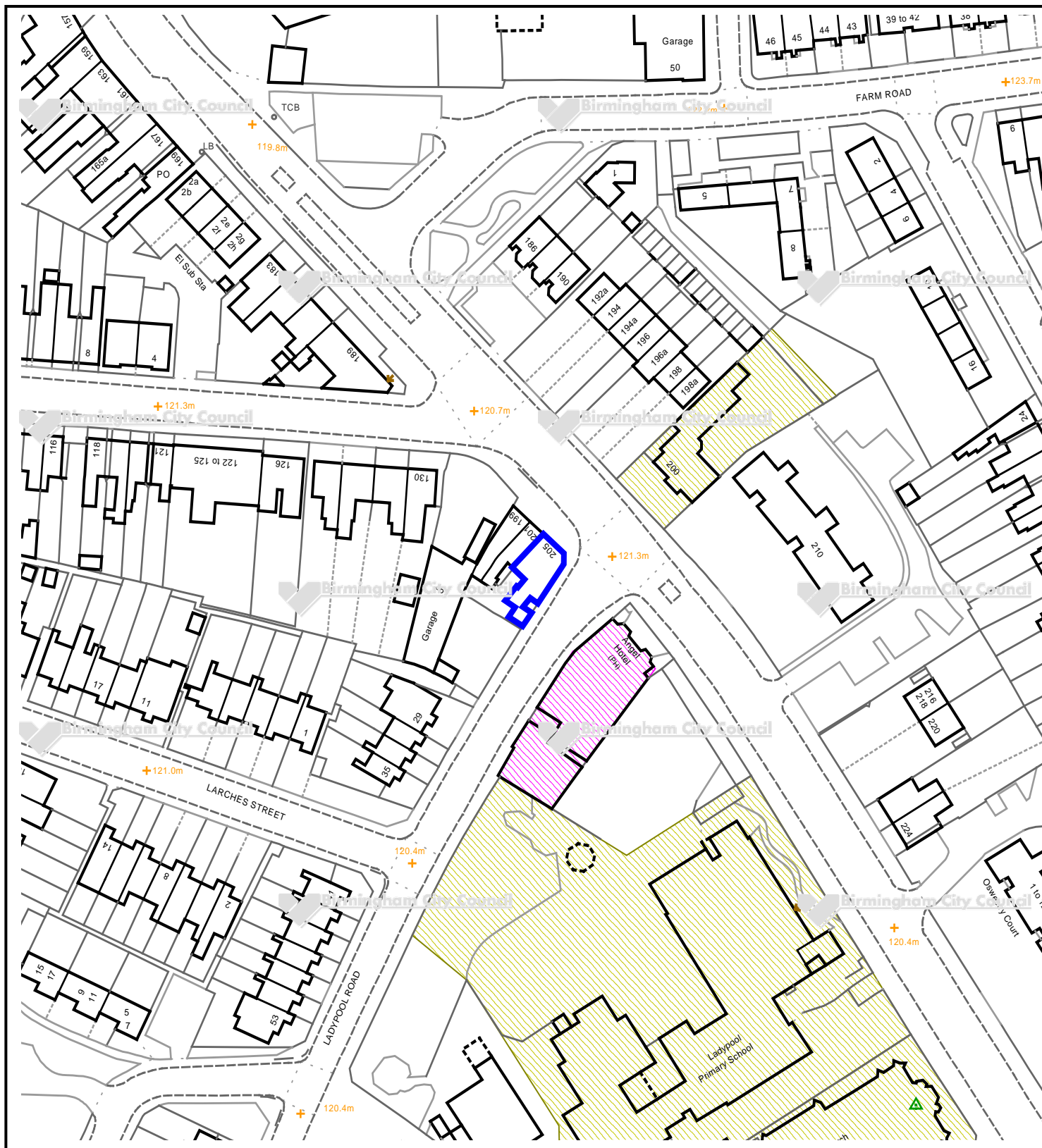


Fig. 1: Front elevation



Fig. 2: Side entrance to Ladypool Road

## Location Plan



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Committee Date:	14/02/2019	Application Number:	2018/09904/pa
Accepted:	07/12/2018	Application Type:	Variation of Condition
Target Date:	14/02/2019		
Ward:	Pype Hayes		

McDonald's Restaurant, Chester Road, Erdington, Birmingham, B24 0QY

Removal of condition number 7 attached to previous application E/C/37068/9 to enable the McDonald's Restaurant to trade 24 hours a day, seven days a week

Recommendation

**Approve Temporary**

1. Proposal

1.1. *Background/Planning History:* Approval was granted on the 6th October 1988 under application E/C/37068/9, for the redevelopment of the site to provide a bungalow and purpose built freestanding restaurant with drive thru facility and car park, together with ancillary staff, storage and office accommodation. The following condition number 7 was attached: -

- *The said premises shall be closed and cleared of customers between midnight and 0600 hours and 2300 hours and midnight daily.*

1.2. Subsequently, a Section 73 application was submitted under application reference 2015/08651/PA for the removal of condition 7 of application E/C/37068/9, to allow the business to operate for 24 hours per day 7 days per week. A temporary approval for a one-year period was granted on 8th January 2016. The reason for the temporary one-year permission was to allow for the monitoring of the site in order to ascertain whether the extended hours would adversely affect the amenities of the occupiers of dwellings in the immediate vicinity of the site.

1.3. However, this temporary permission was not implemented and a subsequent application 2016/06787/PA for the removal of the condition was granted on 10<sup>th</sup> November 2016. This permission also allowed the 24 hour operation for a temporary 1 year period within the three year time frame and the operation of the premises needed to be discontinued within 12 months of the pre-commencement date agreed between the applicant and the Local Planning Authority. This again was not implemented.

1.4. **Proposal:** This current application seeks the removal of condition number 7 attached to the originally approved application E/C/37068/9 to allow the restaurant to open 24 hours per day seven days a week.

1.5. Supporting information was provided as part of previous applications 2015/08651/PA and 2016/06787/PA, which the appointed agent has confirmed is to be used in the assessment of this application. The supporting information is in the form of a

Planning Statement, a Noise Impact Assessment, a Community Consultation Statement and a Site Management Plan which states that: -

- In order to maximise security the restaurant has recently upgraded to a fully comprehensive CCTV system which operates 24 hours a day and consists of 20 cameras;
  - There are 6 external and 4 internal litter bins provided. The store has a strict litter collection protocol which includes dedicated litter patrols every 30 minutes around the restaurant and car park;
  - The restaurant is in the process of installing a StaffSafe system which is an audio visual system and will be linked to a remote monitoring station;
  - Signage is located around the restaurant, requesting that customers should be respectful of neighbours and keep noise to a minimum when leaving the premises;
  - All managers are required to complete conflict management awareness courses so managers can deal effectively with any problems faced by customers;
  - In order to ensure that neighbours are not disturbed and to discourage 'boy racers' at the site, the restaurant will close a section of the car park during the extended hours of 2300-0600; and,
  - Any incidents of anti-social behaviour or other crime and disorder issues will be recorded within an incident log book, which will be regularly monitored, reviewed and where necessary, action can take place.
- 1.6. The applicant has stated that the proposed additional opening hours would result in the creation of an additional 15 employees, 85 in total.

1.7. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site relates to the McDonalds Restaurant, 1151-1159 Chester Road, Erdington. The restaurant is located to the north eastern side of the busy A452 (Chester Road) between Humberstone Road and the Tyburn Island. The restaurant is a stand-alone single storey building with a drive-through facility and a large landscaped car parking area to the rear.
- 2.2. The site is located within an area of mixed uses including residential properties to the northwest, industrial units to the south east and industrial units are located to the adjacent (south western) side of Chester Road.

2.3 [Site Location](#)

3. Planning History

- 3.1 10.11.2016. 2016/06787/PA, Removal of condition number 7 attached to previous application E/C/37068/9 to enable the McDonald's Restaurant to trade 24 hours a

day, seven days a week. Approved for a temporary 12 month period within the three year time frame to discontinue on the pre-commencement date agreed between the applicant and the Local Planning Authority.

- 3.2. 08.01.16. 2015/08651/PA, Removal of condition number 7 attached to previous application E/C/37068/9 to enable the McDonald's Restaurant to trade 24 hours a day, seven days a week. Approved for a temporary 12 month period.
- 3.3. 06.06.2008. 2008/02461/PA, Variation of condition 7 attached to planning consent E/C/37068/9 to change the opening hours to 0600-2400 Monday to Thursday and 0600-0100 Friday to Saturday, Refused.
- 3.4. 08.01.2005. 2004/07439/PA, Variation of condition 7 attached to planning consent E/C/37068/9 to change the opening hours from the approved 0600-2300 to 0600-Midnight, Refused.
- 3.5. 06.10.1988. E/C/37068/9, Redevelopment to provide bungalow and purpose built freestanding restaurant with drive thru facility and car park, together with ancillary staff, storage and office accommodation, Approved.

#### 4. Consultation/PP Responses

- 4.1. Regulatory Services – No objection to a temporary permission subject to compliance with the Noise Management Plan.
- 4.2. Transportation Development – No objections.
- 4.3. Birmingham Public Health – Object, stating that in order to tackle increasing levels of obesity, especially in children, Birmingham Public Health object to the granting of any additional A5 applications regardless of location.
- 4.4. West Midlands Police – No objections.
- 4.5. Site notice posted, nearby residents, residents associations, local MP and Ward Councillors notified, with the following responses received –
  - Two near neighbours have objected on the grounds that the increased opening hours would result in a loss of residential amenity due to increased and noise and disturbance as a result of people/vehicles using the facility throughout the night disturbing the sleep of local residents, odour pollution, potential for an increase in anti-social behaviour. There would also be additional traffic impact.
  - Councillor Higgs has requested that this application is considered by Planning Committee rather than under delegated powers because of highway safety and impact on the neighbourhood.

#### 5. Policy Context

- 5.1 Birmingham Development Plan (BDP) 2017, Birmingham UDP 2005; Car Parking Guidelines (2012) SPD; Places for All (2001) SPG, NPPF (2018).

#### 6. Planning Considerations

- 6.1. I consider that the main considerations in the determination of this application to be the impact of the proposal in terms of residential amenity, crime and disorder and highway safety.
- 6.2. **Policy:** Policy PG3 of the BDP outline the City's environmental strategy which is based on the need to protect and enhance what is good in the City's environment and to carefully consider the impact of all development on the amenity of a neighbourhood.
- 6.3. The National Planning Policy Framework (NPPF) confirms that there is a presumption in favour of sustainable development. However, there is also a requirement for planning policies and decisions to consider any significant adverse impacts on health and quality of life which may arise as a result of noise and disturbance.
- 6.4. **Impact on residential amenity:** The application site is located within a mixed area, with industrial/commercial uses to the south western side of Chester Road, to the east and neighbouring to the south east. Residential properties in the form of three storey flatted developments on Humberstone Road to the north western boundary and a terrace of three 2 storey properties fronting Chester Road, further residential properties are located to the north eastern rear of the site within Julia Avenue.
- 6.5. Two letters of objection have been received from nearby residents on the grounds that the increased opening hours would result in a loss of residential amenity due to increased noise and disturbance arising from people/vehicles using the facility throughout the night disturbing the sleep of local residents.
- 6.6. In response to the above and in line with the requirements of the NPPF, the applicant submitted a Site Management Plan as part of application 2015/08651/PA which is relevant to this current application, in which it is stated that six external and four internal bins are provided and that the store has a strict litter collection protocol which includes dedicated litter patrols every 30 minutes, signage is placed around the site requesting that customers should be respectful of neighbours keeping noise to a minimum when leaving the premises and, in order to ensure that neighbours are not disturbed the restaurant (Customer Order Display) COD system would be turned down and a section of the car park will be closed during the extended hours of 2300-0600.
- 6.7. The application site is located on the busy Chester Road in close proximity to the Jaguar Land Rover site and the Tyburn House traffic island, which is very heavily trafficked. Regulatory Services have assessed the proposal and raise no objections, commenting that the noise report submitted (Sustainable Acoustics Report 14-0167-7-R01) indicates that it should be possible to extend the operating hours without an adverse impact on the adjoining residents. For the extension of the operating hours to be implemented without an adverse effect it is necessary to manage the operations. The planning application includes a site management plan, compliance with the plan would be imposed as a condition and any changes to this plan would require agreement with the LPA. The volume of the Customer Order Display Unit (COD Unit) would be reduced after 23:00 as recommend in the noise impact report, which will also be complied with through condition. It is recommended that the amended condition should initially be on a one-year temporary basis to allow the impact of the extension of operating hours to be fully assessed and the applicant to demonstrate that there is no adverse impact on local residents. I concur with these views and accordingly attach the requested conditions.

- 6.8. In response to concerns raised regarding *odour and light pollution*, it is considered the proposed increase in operating hours would not result in an unacceptable increase in odour/light pollution to justify refusal of the application. Furthermore, the Council's Regulatory Services (pollution control) would be in a position to investigate during the temporary one-year period in the event that these issues should cause significant harm to residential amenity.
- 6.9. **Crime and disorder:** Concern has been raised by near neighbours to a potential increase in anti-social behaviour, due to people leaving the nearby public houses after closing time. In response, the appointed agent has provided a Community Consultation Statement, in which it is stated that the applicant consulted directly with surrounding residents, the local police and elected representatives. Whilst it is noted that two public houses are located within walking distance of the restaurant in question, these public houses close at normal closing times, therefore it is not considered that patrons of these two establishments would be likely to use the facility in the early hours of the morning. Furthermore it is anticipated by the applicant that shift workers, emergency service staff, taxi drivers and passing trade would be the most likely people to use the extended facility. I concur with this view and consider that the proposal would not result in significant adverse impact above or beyond the existing situation. West Midlands Police have assessed the proposal and raise no objections.
- 6.10. **Public Health:** Birmingham Public Health have assessed the proposal and have raised objection, on the grounds that in order to tackle increasing levels of obesity, especially in children, they object to the granting of any additional A5 applications regardless of location. Public Health recommends no A5 should be within 400 metres of any primary school, secondary school/sixth form colleges, youth facilities/community centres, playing fields/parks/children's play spaces, or leisure centres. In response, this application does not seek consent for the addition of new A5 hot food takeaway, rather for the removal/variation of an hour's condition to an existing A3 restaurant. The proposed additional hours are from late evening to early morning, times which have no effect upon school pupils. The submitted objection therefore does not justify the refusal of the submitted application.
- 6.11. **Highway safety:** Transportation Development have assessed the proposal and raise no objections, commenting that there are no highway safety/network performance related concerns as the use is already permitted to operate during network peak traffic periods, when it tends to attract peak levels of movement. I concur with this view.
- 6.12. **Validity of varied condition:** the validity of the proposed variation is considered acceptable with the following wording:
- *The restaurant premises may operate for the sale of hot food and drink 24 hours a day on any day for a single, continuous and uninterrupted limited period of up to one calendar year. The section of car park depicted within the Community Consultation Statement shall be closed during the extended hours of 2300-0600. The temporary period shall not commence until the Local Planning Authority has received 10 days prior written notification of the start and end date of the temporary period, 10 days prior to first commencement of the temporary period. The temporary period must first commence no later than twenty-three months from the date of this permission. The 24 hour use must cease at the end of the temporary period. Upon the expiry of the temporary period, the restaurant may only operate between the hours of 06:00 hours to 23:00 hours on any day as permitted under permission E/C/37068/9.*

- 6.13. **Conditions** - It is noted that the original consent was subject to a number of pre-commencement conditions and there does appear to be evidence that these conditions were discharged. However, the original consent dates to 1988; it is clearly evident that the scheme has been implemented on site and given the passage of time it would now be unreasonable to impose the pre commencement conditions which generally have no relevance to the subject matter of this application. A number of relevant conditions are imposed which relate to the alteration of the opening hours.

7. Conclusion

- 7.1 I consider that the principle of a temporary consent has been accepted in the previous applications for the removal of the opening hours condition. The applicant has responded to issues surrounding noise and disturbance, by undergoing an extensive range of noise, litter and social issues mitigation, in an attempt to satisfy concerns regarding residential amenity issues. Consequently, I consider the removal/variation of condition 7 of application E/C37068/9 should be granted permission for an allotted continuous one-year temporary period within a three year time frame, to allow for the assessment of the extended opening hours on the residential amenity of neighbouring occupiers.

8. Recommendation

- 8.1 Approve for a temporary one-year continuous time period to be implemented within a three year time-frame.

- 
- |   |                                                                                                                                                                                     |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Requires the 12 month temporary approval within the three year time frame to discontinue on the pre-commencement date agreed between the applicant and the Local Planning Authority |
| 2 | Requires the Customer Order Display system to be reduced in noise level between the hours of 2300-0600                                                                              |
| 3 | Requires the area of car parking to the rear of the site as shown on page 15 of the submitted Community Consultation Statement to be closed between the hours of 2300-0600          |
- 

Case Officer: David Kelly



## Photo(s)

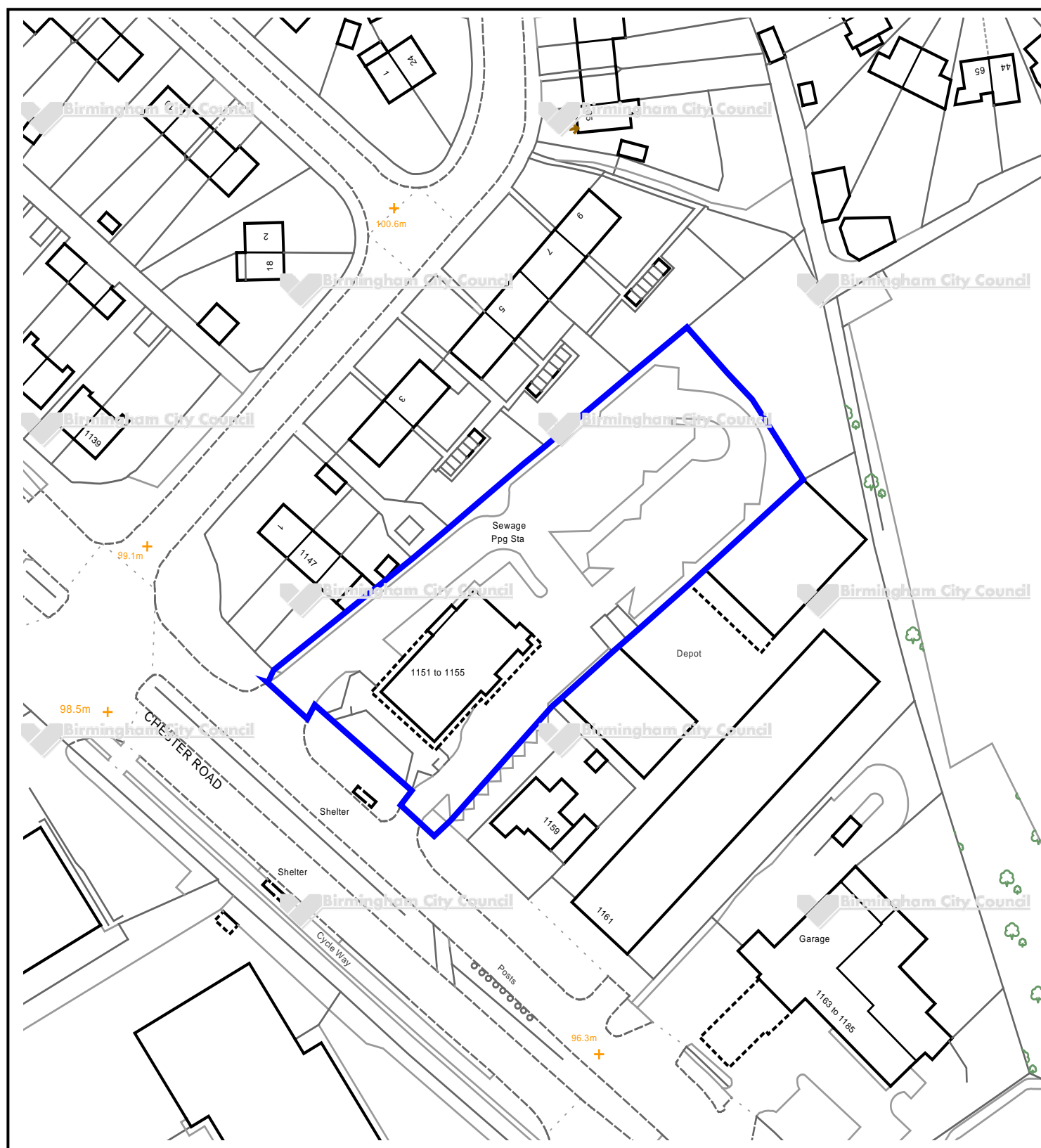


Fig 1: View of Car Park



Fig 2: Front Entrance

## Location Plan



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Committee Date:	14/02/2019	Application Number:	2018/09790/PA
Accepted:	04/12/2018	Application Type:	Demolition Determination
Target Date:	15/02/2019		
Ward:	Erdington		

128-158 (evens) Rowden Drive, Erdington, Birmingham, B23 5UR

Application for Prior Notification for the proposed demolition of maisonette block

Recommendation

**No Prior Approval Required**

1. Proposal

- 1.1. This application is made under Part 11 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and seeks a determination as to whether prior approval is required for the method of demolition, or the site remediation following demolition works, for the demolition of maisonette block at 128-158 Rowden Drive.
- 1.2. The traditional block, containing 16 flats in total, is being demolished due to a proposed redevelopment in the area. The site forms part of the Abbey Field development (former Lyndhurst Estate). This phase includes the erection of residential properties and delivery of public open space in the form of a playing pitch and new multi-use games area.
- 1.3. This application is accompanied by a 'Demolition Method' statement. A specialist demolition contractor would be employed, and carry out the disconnection of all services to the buildings. The demolition method would be mechanical, and all combustible items, fixtures, fittings etc. would be removed prior to works commencing, in addition to the removal of all asbestos. Where possible, all spoil/rubble would be recycled. Any hazardous waste found on site would be disposed of at an appropriately licensed waste disposal tip. Some sections of the development close to adjacent properties will have exclusion zones and require some hand demolition. In this instance, scaffolding within the exclusion zone would be utilised to gain access to any higher works. Arisings would be allowed to fall internally onto the footprint of the building, then cleared, sorted and loaded by the excavator. The site would be restored to match the surrounding levels on completion. All trees would be protected from being damaged. The working area would be cordoned off with 1.8m high chain link fencing.
- 1.4. Demolition works are expected to start March 2019 with expected completion September 2019.

[Link to Documents](#)

## 2. Site & Surroundings

- 2.1. The application site relates to a four storey block of maisonettes, the majority of the flats are vacant. There is one ground floor flat that is currently occupied and is subject to Compulsory Purchase Order which has been confirmed by the Secretary of State. The site is situated at the junction of Rowden Drive, Rogerfield Road and Stonnal Grove, with the A452 (Chester Road) and railway lines located in close proximity. The wider locality is primarily of residential use, with industrial use located nearby on Chester Road.

### Site Location

## 3. Planning History

- 3.1. 01/06/2015 – 2015/01554/PA – Reserved matters application for the erection of 110 2, 3, 4 and 5 bedroom houses with associated open space, ground works, retaining walls and new roads (phases 2 and 3) associated with outline planning permission ref:- 2012/07153/PA. – Approved subject to conditions.
- 3.2. 07/03/2013 – 2013/00204/PA – Reserved matters application for the erection of 26 no. 2, 3 & 4 bed houses (Phase 1A) associated with outline planning permission 2012/07153/PA – Approved subject to conditions.
- 3.3. 10/12/2012 – 2012/07153/PA – Minor material amendment attached to planning approval 2010/04319/PA for outline application for up to 316 new dwellings and re-provision of public open space and playing fields. Omission of relocated youth centre and new health centre surgery previously proposed and reduction of minimum on-site playing field re-provision from 0.4ha to 0.3ha. All matters reserved for subsequent approval excluding access. Variation of conditions 24, 34, 35 & 37 and deletion of conditions 18, 19, 20, 21, 23, 25 & 26 – Approved subject to conditions.
- 3.4. 21/10/2010 – 2010/04319/PA – Outline application for up to 316 new dwellings, revised highway layouts, new open space, relocated youth centre, new multi games area and new D1 facility: healthcentre surgery. All matters reserved for subsequent approval excluding access – Approved subject to conditions.
- 3.5. 01/06/2006 – 2006/02754/PA – Demolition to include removal of foundations, clearance & grading of site & erection of timber trip rail & 1.8 metre high chain link fencing to site boundary – No prior approval required.

## 4. Consultation/PP Responses

- 4.1. Transportation Development – No objection subject to conditions regarding demolition and traffic management details.
- 4.2. City Ecologist – Need to have an up-to-date method statement / mitigation strategy as part of the bat survey. The strategy submitted has been approved by Natural England and is satisfactory.
- 4.3. Local residents associations and Ward Councillors notified – no comments received.

5. Policy Context

- 5.1. The following local policies are relevant;
- The Birmingham Development Plan 2017
  - Birmingham Unitary Development Plan (UDP) saved policies
- 5.2. The following local policies are relevant;
- National Planning Policy Framework (NPPF)
  - General Permitted Development Order 2015

6. Planning Considerations

- 6.1. Schedule 2, Part 11, Class B of the General Permitted Development Order 2015 states that any building operation consisting of the demolition of a building is permitted development subject to a number of criteria, including the submission of prior notification application in order to give local planning authorities the opportunity to assess the details of demolition and site restoration only, to minimise the impact on the local amenity. This application seeks determination as to whether prior approval is required for the demolition of 128-158 (evens) Rowden Drive.
- 6.2. The developer has provided details of how this work will be advanced using a combination of manual hand demolition and mechanical demolition. The buildings are not listed nor a schedule monument or in a conservation area. Therefore, I raise no objection to the principle of the demolition of these buildings, using the methods identified.
- 6.3. The proposed method of demolition is consistent with demolition applications approved elsewhere in the City. The demolition method statement states that prior to demolition, all furnishings and loose fittings within the buildings would be stripped out and all asbestos removed. Also, the perimeter of the site would be made secure to prevent any unauthorised access using 1.8m high fencing.
- 6.4. Transportation Development raised no objections to the application, subject to a demolition management plan and traffic management plan being provided, detailing how vehicles relating to the construction process would access or egress the site, and how demolition and contractors' vehicles would be stored during the works.
- 6.5. Regulatory Services raised no objections to the application but advised on hours of operation when noisy works should be done as Monday to Friday 0800-1800 and Saturday 0800-1300. I concur with this view. The hours of operation/noise controls for demolition works is not normally controlled through the planning process as they are governed by other legislation.
- 6.6. City Ecologist raise no objection. An up-to-date method statement and mitigation strategy, approved by Natural England, as part of the bat survey has been submitted. This has confirmed the status of the bat roost and the mitigation/compensation measures that will be implemented prior to any demolition works on site.
- 6.7. Therefore, I consider the principle of the proposed demolition works, site security and method of site restoration measures are acceptable.

7. Conclusion

7.1. I consider the detail that has and will be provided satisfies the provisions of Schedule 2, Part 11, Class B of the General Permitted Development Order, 2015.

8. Recommendation

8.1. That prior approval is not required.

Case Officer: Luke Campbell



## **Photo(s)**

Figure 1: Application Site



## Location Plan



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**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE DIRECTOR, INCLUSIVE GROWTH**

**PLANNING COMMITTEE**

**14<sup>th</sup> February 2019**

**WARD: Nechells**

**High Speed 2 (HS2) (London to West – Midlands) Act 2017**

**Certificates of Appropriate Alternative Development**

**1. SUBJECT OVERVIEW**

- 1.1 This report provides Members with guidance on the consenting regime for certificates of appropriate alternative development (CAAD), a mechanism for helping to establish land values where land is being acquired through compulsory purchase powers (CPO).
- 1.2 As Members will be aware, as a consequence of the High Speed Rail (London - West Midlands) Act 2017 (HS2 Act), land in the city is being compulsorily purchased by the Secretary of State for Transport, via its nominated undertaker HS2 Ltd, to make way for the construction of the new train line and railway station (HS2).
- 1.3 A number of landowners are likely to come forward seeking a certificate, and this briefing seeks to provide Members with background information on the process and purpose of this regime.

**2. Recommendations**

- 2.1 That Members note the contents of this report.**

**3. CONTACT OFFICER**

Nicholas Jackson, Principal Planning Officer, Planning and Economy  
[nicholas.jackson@birmingham.gov.uk](mailto:nicholas.jackson@birmingham.gov.uk)

**4. BACKGROUND**

- 4.1 Members will be aware of the new high speed rail link connecting Birmingham to London, Manchester and Leeds. This is a major national infrastructure project that will be progressed over several years, by three Hybrid Bills through Parliament. Phase One of the network, between London and the West Midlands (including into

Birmingham City Centre), has successfully progressed through Parliament and received Royal Assent on 23<sup>rd</sup> February 2017. Within the city, HS2 Phase One will include a new rail line from Water Orton through Castle Vale, Bromford, and Saltley to a new City Centre station at Curzon Street (to be completed 2026). Phase 2A, between the West Midlands and Crewe (to be completed 2027), is currently being progressed through a further Hybrid Bill in Parliament. A third Hybrid Bill for Phase 2B between Crewe and Manchester and the West Midlands and Leeds is in its development stage and will be deposited in Parliament in 2019 (to be completed 2033).

## **5. DEEMED PLANNING PERMISSION**

- 5.1 The HS2 Act grants deemed planning permission for HS2 Phase One and all associated works (“the Works”) between London and the West Midlands. The permission is granted subject to conditions which are set out at Schedule 17 of the Act. Those conditions require that HS2 Ltd must seek approval of certain matters from the relevant planning authority.

## **6. THE CAAD REGIME**

- 6.1 Either the landowner or the acquiring authority (HS2 Ltd) may apply to the Local Planning Authority for a certificate which confirms that had HS2 been cancelled, a certain form of development would reasonably expect to have been granted planning permission. The certificate is helpful to the Upper Tribunal (Lands Chamber) in ruling on the value of the land being acquired.
- 6.2 The legislation providing for this regime is the Land Compensation Act 1961 as amended by the Localism Act 2011. Section 20 of the Ministry of Housing, Communities and Local Government’s guidance note ‘Guidance on Compulsory Purchase Process and The Crichel Down Rules’ (February 2018) provides detailed guidance beyond the summary set out in this brief report. This is attached as Appendix A.
- 6.3 It should be noted that the landowners are the likely applicants in this instance, rather than HS2 Ltd. Acquiring authorities such as HS2 Ltd could apply for a ‘nil’ certificate – i.e. that there is no appropriate alternative development, however there is no indication that such an application will be forthcoming in this instance. The guidance notes state that there is no practical benefit in seeking a certificate that does not attempt to maximise the value of the land, and therefore landowners will be seeking to illustrate the mixture of uses and scale of development that would yield the highest value and be reasonably expected to gain planning consent were it not for the CPO.
- 6.4 It should be noted that all of the large cleared sites within the City Centre benefitted from historic pre-HS2 consents which have since expired, with the emergence of HS2 clearly preventing the majority of these sites being delivered. The three notable

consents in the City Centre are a) the original Birmingham City University campus; b) City Park Gate; and c) Curzon Park.

- 6.5 The guidance note makes it clear that the Local Planning Authority need not concern itself that the granting of a certificate would create any precedent when determining planning applications.
- 6.6 Where a 'positive' certificate is issued, the certificate must stipulate the uses and scale (limitations on height/density) together with a broad indication of conditions that would affect the value of the land along with the likely planning obligations. The clearer the certificate is the more useful it will be in the valuation process.
- 6.7 Any decision on the application or following a failure to issue a decision within 2 months, the decision may be appealed. This right of appeal extends to the acquiring authority (i.e. HS2 Ltd can appeal any positive certificate issued). Appeals are dealt with through the Upper Tribunal process, and aside from a challenge on procedural grounds, there would be limited/no involvement in the appeal process by the City Council as Local Planning Authority.
- 6.8 It should be noted that the City has an ownership (and therefore financial) interest in two of the three sites named in 6.4, and therefore must exercise its property and planning functions independently.

## **7 IMPLICATIONS FOR RESOURCES**

- 7.1 Applications for CAADs are a standard application type, the regime for which has been in place since the 1961 Act and is subject to the standard fee charging schedule set nationally.

## **8. PUBLIC SECTOR EQUALITY DUTY**

- 8.1 No equality analysis has been undertaken as the content of this report is a briefing to committee members about a longstanding procedure surrounding compulsory purchase. It is noted that the Government is assessing equality issues on the HS2 scheme and line:-

([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/484618/CS439A\\_Final\\_Routewide\\_EqlA\\_Update\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484618/CS439A_Final_Routewide_EqlA_Update_web.pdf))

## **9. IMPLICATIONS FOR POLICY PRIORITIES**

- 9.1 The delivery of HS2 will contribute to the Council's regeneration objectives as set out in the Curzon Masterplan, the Smithfield Masterplan and the Birmingham Development Plan.

APPENDIX A – Guidance on Compulsory Purchase Process and The Crichel Down Rules  
(Section 20)



## Section 20: certificates of appropriate alternative development

### 254. What are the planning assumptions?

[Part 2 of the Land Compensation Act 1961](#) as amended by Part 9 of the Localism Act 2011 provides that compensation for the compulsory purchase of land is on a market value basis. In addition to existing planning permissions, section 14 of the 1961 act provides for certain assumptions as to what planning permissions might be granted to be taken into account in determining market value.

Section 14 is about assessing compensation for compulsory purchase in accordance with rule (2) of section 5 of the 1961 act (open market value). The planning assumptions are as follows:

- subsection (2): account may be taken of (a) any planning permission in force for the development of the relevant land or other land at the relevant valuation date; and (b) the prospect (on the assumptions in subsection (5)) in the circumstances known to the market on the relevant valuation date of planning permission being granted, other than for development for which planning permission is already in force or appropriate alternative development
- subsection (3): it may also be assumed that planning permission for appropriate alternative development (as described in subsection (4)) is either in force at the relevant valuation date or it is certain that planning permission would have been granted at a later date
- subsection (4): defines appropriate alternative development as development, other than that for which planning permission is in force, that would, on the assumptions in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, reasonably have been expected to receive planning permission on that date or a later date. Appropriate alternative development may be on the relevant land alone or on the relevant land together with other land.
- subsection (5): contains the basic assumptions that (a) the scheme underlying the acquisition had been cancelled on the launch date; (b) that no action has been taken by the acquiring authority for the purposes of the scheme; (c) that there is no prospect of the same or similar scheme being taken forward by the exercise of a statutory power or by compulsory purchase; and (d) that if the scheme is for a highway, no other highway would be constructed to meet the same need as the scheme
- subsection (6): defines the 'launch date' as (a) for a compulsory purchase order, the publication date of the notice required under [section 11](#) of or paragraph 2 of [schedule 1](#) to the Acquisition of Land Act 1981; (b) for any other order (such as under the [Transport and Works Act 1992](#) or a development consent order under the [Planning Act 2008](#)) the date of first publication or service of the relevant notice; or (c) for a special enactment, the date of first publication of the first notice required in connection with the acquisition under section 15, planning permission is also to be

assumed for the acquiring authority's proposals

**255. On what date are the planning assumptions assessed?**

The main feature of the arrangements is that the planning assumptions are assessed on the relevant valuation date (as defined in [section 5A of the Land Compensation Act 1961](#)) rather than the launch date (even though the scheme is still assumed to have been cancelled on the launch date). This will avoid the need to reconstruct the planning regime that existed on the launch date, including old development plans, national planning policy and guidance. Also that the planning assumptions are based on 'the circumstances known to the market at the relevant valuation date', which would include the provisions of the development plan. This removes the need for the specific references to the development plan which were contained in the previous section 16 that had become out of date.

**256. What is a certificate of appropriate alternative development?**

Where existing permissions and assumptions are not sufficient to indicate properly the development value which would have existed were it not for the scheme underlying the compulsory purchase, [Part 3 of the Land Compensation Act 1961 as amended by Part 9 of the Localism Act](#) provides a mechanism for indicating the descriptions of development (if any) for which planning permission can be assumed by means of a 'certificate of appropriate alternative development'. The permissions indicated in a certificate can briefly be described as those with which an owner might reasonably have expected to sell his land in the open market if it had not been publicly acquired.

**257. Who can apply for a certificate of appropriate alternative development?**

[Section 17\(1\) of the Land Compensation Act 1961](#) provides that either the owner of the interest to be acquired or the acquiring authority may apply to the local planning authority for a certificate. Where an application is made for development of the relevant land together with other land it is important that the certificate sought relates only to the land in which the applicant is a directly interested party. The description(s) of development specified in the application (and where appropriate the certificate issued in response) should clearly identify where other land is included and the location and extent of such other land.

**258. In what circumstances might a certificate be helpful?**

Circumstances in which certificates may be helpful include where:

- a) there is no adopted development plan covering the land to be acquired
- b) the adopted development plan indicates a 'green belt' or leaves the site without specific allocation; and
- c) the site is allocated in the adopted development plan specifically for some public purpose, eg a new school or open space
- d) the amount of development which would be allowed is uncertain
- e) the extent and nature of planning obligations and conditions is uncertain

## **259. When does the right to apply for a certificate arise?**

The right to apply for a certificate arises at the date when the interest in land is proposed to be acquired by the acquiring authority. [Section 22\(2\) of the Land Compensation Act 1961](#) describes the circumstances where this is the position. These include the launch date as defined in section 14(6) for acquisitions by compulsory purchase order, other orders or by private or hybrid Bill. For acquisition by blight notice or a purchase notice it will be the date on which 'notice to treat' is deemed to have been served; or for acquisition by agreement it will be the date of the written offer by the acquiring authority to negotiate for the purchase of the land.

Once a compulsory purchase order comes into operation the acquiring authority should be prepared to indicate the date of entry so that a certificate can sensibly be applied for.

Thereafter application may be made at any time, except that after a notice to treat has been served or agreement has been reached for the sale of the interest and a case has been referred to the Upper Tribunal, an application may not be made unless both parties agree in writing, or the Tribunal gives leave. It will assist compensation negotiations if an application is made as soon as possible.

Acquiring authorities should ensure, when serving notice to treat in cases where a certificate could be applied for, that owners are made aware of their rights in the matter. In some cases, acquiring authorities may find it convenient themselves to apply for a certificate as soon as they make a compulsory purchase order or make an offer to negotiate so that the position is clarified quickly.

It may sometimes happen that, when proceedings are begun for acquisition of the land, the owner has already applied for planning permission for some development. If the local planning authority refuse planning permission or grant it subject to restrictive conditions and are aware of the proposal for acquisition, they should draw the attention of the owner to his right to apply for a certificate, as a refusal or restrictive conditions in response to an actual application (ie in the 'scheme world') do not prevent a positive certificate being granted (which would relate to the 'no scheme world').

## **260. How should applications for a certificate be made and dealt with?**

The manner in which applications for a certificate are to be made and dealt with has been prescribed in articles 3, 4, 5 and 6 of [the Land Compensation Development \(England\) Order 2012](#).

Article 3(3) of the order requires that if a certificate is issued otherwise than for the development applied for, or contrary to representations made by the party directly concerned, it must include a statement of the authority's reasons and of the right of appeal under section 18 of the 1961 act. From 6 April 2012, this has been to the [Upper Tribunal](#). Article 4 requires the local planning authority (unless a unitary authority) to send a copy of any certificate to the county planning authority concerned if it specifies development related to a county matter or, if the case is one which has been referred to the county planning authority, to the relevant district planning authority. Where the certificate is issued by a London borough or the Common Council of the City of London, they must send a copy of the certificate to the Mayor of London if a planning application for such development would have to be referred to him.

Article 4 should be read with paragraph 55 of [schedule 16 to the Local Government Act 1972](#), which provides that all applications for certificates must be made to the district planning authority in the first instance: if the application is for development that is a county matter, then the district must send it to the county for determination. This paragraph also deals with consultation between district and county authorities where the application contains some elements relating to matters normally dealt with by the other authority. Where this occurs, the authority issuing the certificate must notify the other of the terms of the certificate.

Article 5 of the order requires the local planning authority, if requested to do so by the owner of an interest in the land, to inform him whether an application for a certificate has been made, and if so by whom, and to supply a copy of any certificate that has been issued. Article 6 provides for applications and requests for information to be made electronically.

## **261. What information should be contained in an application for a certificate?**

In an application under section 17, the applicant may seek a certificate to the effect that there either is any development that is appropriate alternative development for the purposes of section 14 (a positive certificate) or that there is no such development (a nil certificate).

If the application is for a positive certificate the applicant must specify each description of development that he considers that permission would have been granted for and his reasons for holding that opinion. The onus is therefore on the applicant to substantiate the reasons why he considers that there is development that is appropriate alternative development.

Acquiring authorities applying for a 'nil' certificate must set out the full reasons why they consider that there is no appropriate alternative development in respect of the subject land or property.

The phrase 'description of development' is intended to include the type and form of development. Section 17(3)(b) requires the descriptions of development to be 'specified', which requires a degree of precision in the description of development.

The purpose of a certificate is to assist in the assessment of the open market value of the land. Applicants should therefore consider carefully for what descriptions of development they wish to apply for certificates. There is no practical benefit to be gained from making applications in respect of descriptions of development which do not maximise the value of the land. Applicants should focus on the description or descriptions of development which will most assist in determining the open market value of the land.

An application under section 17 is not a planning application and applicants do not need to provide the kind of detailed information which would normally be submitted with a planning application. However, it is in applicants' interests to give as specific a description of development as possible in the circumstances, in order to ensure that any certificate granted is of practical assistance in the valuation exercise.

Applicants should normally set out a clear explanation of the type and scale of development that is sought in the certificate and a clear justification for this. This could be set out in a form of planning statement which might usefully cover the following matters:

- confirmation of the valuation date at which the prospects of securing planning permission need to be assessed
- the type or range of uses that it considers should be included in the certificate including uses to be included in any mixed use development which is envisaged as being included in the certificate
- where appropriate, an indication of the quantum and/or density of development envisaged with each category of land
- where appropriate an indication of the extent of built envelope of the development which would be required to accommodate the quantum of development envisaged
- a description of the main constraints on development which could be influenced by a planning permission and affect the value of the land, including matters on site such as ecological resources or contamination, and matters off site such as the existing character of the surrounding area and development
- an indication of what planning conditions or planning obligations the applicant considers would have been attached to any planning permission granted for such a development had a planning application been made at the valuation date
- a clear justification for its view that such a permission would have been forthcoming having regard to the planning policies and guidance in place at the relevant date; the location, setting and character of the site or property concerned; the planning history of the site and any other matters it considers relevant

Detailed plans are not required in connection with a section 17 application but drawings or other illustrative material may be of assistance in indicating assumed access arrangements and site layout and in indicating the scale and massing of the assumed built envelope. An indication of building heights and assumed method of construction may also assist the local planning authority in considering whether planning permission would have been granted at the relevant date.

## **262. Is there a fee for submitting an application for a certificate of appropriate development?**

A fee is payable for an application for a certificate of appropriate alternative development. Details are set out in [Regulation 18 of the The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#) (as amended).

## **263. What should a certificate contain?**

The local planning authority is required to respond to an application by issuing a certificate of appropriate alternative development, saying what planning permissions would have been granted if the land were not to be compulsorily acquired. [Section 17\(1\)](#) requires the certificate to state either that:

- a) there is appropriate alternative development for the purposes of section 14 (a

‘positive’ certificate); or

- b) there is no development that is appropriate alternative development for the purposes of section 14 (a ‘nil’ or ‘negative’ certificate)

Section 17(4) of the Land Compensation Act 1961 requires the local planning authority to issue a certificate, but not before the end of 22 days from the date that the applicant has, or has stated that he or she will, serve a copy of his or her application on the other party directly concerned (unless otherwise agreed).

Section 17(5) requires (a) that a positive certificate must specify all the development that (in the local planning authority’s opinion) is appropriate alternative development, even if it is not specified in the application and (b) give a general indication of any reasonable conditions; when permission would reasonably have been granted (if after the relevant valuation date); and any reasonable pre-condition, such as a planning obligation, that could reasonably have been expected.

Section 17(6) provides that for positive certificates, only that development specified in the certificate can be assumed to be appropriate alternative development for the purposes of section 14 and that the conditions etc apply to the planning permission assumed to be in force under section 14(3).

Local planning authorities should note that an application made under s17 is not a planning application. The authority should seek to come to a view, based on its assessment of the information contained within the application and of the policy context applicable at the relevant valuation date, the character of the site and its surroundings, as to whether such a development would have been acceptable to the Authority. As the development included in the certificate is not intended to be built the local planning authority does not need to concern itself with whether or not the granting of a certificate would create any precedent for the determination of future planning applications.

If giving a positive certificate, the local planning authority must give a general indication of the conditions and obligations to which planning permission would have been subject. As such the general indication of conditions and obligations to which the planning permission could reasonably be expected to be granted should focus on those matters which affect the value of the land. Conditions relating to detailed matters such approval of external materials or landscaping would not normally need to be indicated. However, clear indications should be given for matters which do affect the value of the land, wherever the authority is able to do so.

Such matters would include, for example, the proportion and type of affordable housing required within a development, limitations on height or density of development, requirements for the remediation of contamination or compensation for ecological impacts, and significant restrictions on use, as well as financial contributions and site-related works such as the construction of accesses and the provision of community facilities. The clearer the indication of such conditions and obligations can be, the more helpful the certificate will be in the valuation process.

#### **264. Should a certificate be taken into account in assessing compensation?**

A certificate once issued must be taken into account in assessing compensation for the



compulsory acquisition of an interest in land, even though it may have been issued on the application of the owner of a different interest in the land. But it cannot be applied for by a person (other than the acquiring authority) who has no interest in the land.

## **265. Should informal advice be given on open market value?**

Applicants seeking a section 17 certificate should seek their own planning advice if this is felt to be required in framing their application.

In order that the valuers acting on either side may be able to assess the open market value of the land to be acquired they will often need information from the local planning authority about such matters as existing permissions; the development plan and proposals to alter or review the plan. The provision of factual information when requested should present no problems to the authority or their officers. But sometimes officers will in addition be asked for informal opinions by one side or the other to the negotiations. It is for authorities to decide how far informal expressions of opinion should be permitted with a view to assisting the parties to an acquisition to reach agreement. Where they do give it, the Secretary of State suggests that the authority should:

- a) give any such advice to both parties to the negotiation
- b) make clear that the advice is informal and does not commit them if a formal certificate or planning permission is sought

It is important that authorities do not do anything which prejudices their subsequent consideration of an application.

## **266. How are appeals against certificates made?**

The right of appeal against a certificate under [section 18 of the Land Compensation Act 1961](#), exercisable by both the acquiring authority and the person having an interest in the land who has applied for the certificate, is to the Upper Tribunal (Lands Chamber). It may confirm, vary or cancel it and issue a different certificate in its place, as it considers appropriate.

[Rule 28\(7\) of the Upper Tribunal Rules, as amended](#), requires that written notice of an appeal (in the form of a reference to the Upper Tribunal) must be given within one month of receipt of the certificate by the planning authority. If the local planning authority fail to issue a certificate, notice of appeal must be given within one month of the date when the authority should have issued it (that date is either two months from receipt of the application by the planning authority, or two months from the expiry of any extended period agreed between the parties to the transaction and the authority) and the appeal proceeds on the assumption that a 'nil' or 'negative' certificate had been issued.

The reference to the Tribunal must include (in particular) a copy of the application to the planning authority, a copy of the certificate issued (if any) and a summary of the reasons for seeking the determination of the Tribunal and whether he or she wants the reference to be determined without a hearing. The Upper Tribunal does have the power to extend this period (under [Rule 5](#)), even if it receives the request to do so after it expires. Appeals against the Upper Tribunal's decision on a point of law may be made to the Court of Appeal in the normal way.

More information on how to make an appeal can be found on [the Upper Tribunal's website](#). Also available on the website is a form you will need to make an appeal and information on the fees payable. If you do not have access to the internet you can request a copy of the information leaflets and a form by telephoning 020 7612 9710 or by writing to:

Upper Tribunal (Lands Chamber)  
5th floor, Rolls Building  
7 Rolls Buildings  
Fetter Lane  
London  
EC4A 1NL