



STATEMENT OF COMMON GROUND

APPELLANT: MIDLAND PROPERTIES AND FINANCE (BIRMINGHAM) LTD

LOCAL PLANNING AUTHORITY: BIRMINGHAM CITY COUNCIL

SITE: 334-340 HIGH STREET & 8-22 HARBORNE PARK ROAD, HARBORNE, BIRMINGHAM

PROPOSAL: DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF 83 RESIDENTIAL APARTMENTS ACROSS TWO NEW DEVELOPMENT BLOCKS, CENTRAL AMENITY SPACE INCLUDING SOFT LANDSCAPING AND PLANTING, CYCLE STORAGE, BIN STORES, PLANT STORE AND ENABLING WORKS

<p>Signed:</p> 	<p></p> <p>Signed:</p>
<p>Name: Stuart Wells</p>	<p>Name: Andrew Fulford</p>
<p>On behalf of: Midland Properties and Finance (Birmingham) Ltd</p>	<p>On behalf of: Birmingham City Council</p>
<p>Date: 26/02/2024</p>	<p>Date: 27/02/2024</p>

CONTENTS:

Page No:

1.	DESCRIPTION OF THE SITE AND LOCALITY	1
2.	PLANNING HISTORY AND PRE-APPLICATION DISCUSSIONS	3
3.	THE DEVELOPMENT PLAN	5
4.	THE PROPOSED DEVELOPMENT	8
5.	MATTERS AGREED BETWEEN THE PARTIES	13
6.	MATTERS OF DISAGREEMENT BETWEEN THE PARTIES	29
7.	PLANNING OBLIGATIONS	32
8.	PLANNING CONDITIONS	33

APPENDICES:

APPENDIX A – FORMAL PRE-APPLICATION ADVICE FROM THE COUNCIL

1. DESCRIPTION OF THE SITE AND LOCALITY

- 1.1 The appeal site has an area of 0.24 hectares and is located between Harborne High Street and Harborne Park Road, Harborne, Birmingham, B17 9PU. The site includes 334-346 High Street and 8-22 Harborne Park Road.
- 1.2 The appeal site currently includes a 3-storey mixed use building with rear single storey extensions which fronts onto the High Street on its northern boundary. The ground floor of this building includes a carpet and furnishings showroom (owned by the Appellant) as well as two further adjacent vacant commercial units.
- 1.3 The two upper floors of the building include 6 unoccupied x2 bedroom private rental maisonettes with access via stairwell to the rear. Projecting to the rear of the building are an agglomeration of single storey extensions forming the eastern boundary of the site.
- 1.4 An open undeveloped grass area fronts onto Harborne Park Road along the appeal site's western boundary which is separated from the service yard by an existing brick wall. There is a garage block with 6 garages forming the site's southern boundary.
- 1.5 There are no statutory designations covering the site, no known ground contamination issues, with the site located entirely within Flood Zone 1. The site is not within or adjacent to a Conservation Area with no listed buildings or structures on or within the immediate vicinity.
- 1.6 The site is located towards the western end of Harborne High Street and is within the Harborne District Centre boundary but outside of the Primary Shopping Area. The site is also located at the northern end of Harborne Park Road (A4040), near to the junction with High Street and Harborne Park Road.
- 1.7 The site is located in a mixed-use area comprising various commercial, retail, community and residential uses.

- 1.8 The neighbouring building immediately to the west on High Street is 3 storeys in height with retail on the ground floor and residential on the upper floors. Beyond this is Kings Oak Flats, a 3.5-storey residential building located on the junction of High Street and Harborne Park Road. Kings Oak Flats has a dual frontage and swings round to abut the western end of the appeal site on Harborne Park Road.
- 1.9 Directly to the east of the appeal site along High Street is a 5-storey building with an additional 2-storey upward extension finished in metal cladding (total 7-storeys). The residential element of this building is known as 'Harborne West'. At ground floor level this building includes commercial uses with the upper floors being mixed-use with residential apartments and offices.
- 1.10 Directly opposite the site on High Street is a 3-storey residential care home known as 'Pinner Court' with rooms on the ground floor facing High Street.
- 1.11 Opposite the site on Harborne Park Road are 2.5-storey terraced residential properties. There are also retail and commercial uses along Harborne Park Road.
- 1.12 Harborne Baptist Church lies to the south, which includes the main church building, parking area and the Southlink Charter Centre building, both of which are single storey buildings.
- 1.13 The surrounding buildings are generally faced in brickwork and there is a mixture of flat roof construction and pitched tiled roofs. Newer developments to the west, notably Kings Oak Flats, introduce render on residential apartment buildings.

2. PLANNING HISTORY AND PRE-APPLICATION DISCUSSIONS

2.1 Relevant planning history of the appeal site is outlined below:

REFERENCE NO.	PLANNING APPLICATION	DECISION	DATE OF DECISION
2019/04496/PA	Application for a non-material amendment to planning approval 2017/07064/PA, for alterations to front elevation, addition of RWPs and gutters to elevations, additional AOV to staircase and amendment to apartment size	Approved	26/06/2019
2017/07064/PA	Erection of 12 flats, parking associated landscaping and access from Harborne Park Road	Approved	30/11/2017

2.2 Formal pre-application discussions commenced with Birmingham City Council ('the Council') on 17th October 2019. The early proposals put forward by the Appellant at pre-application stage included a scheme of 88 apartments (75% 1-bed and 25% 2-bed apartments) within three new development blocks located around a central courtyard.

2.3 Planning Officers at the Council provided initial advice on 9th December 2019 commenting on the scale, massing and heights of the proposed buildings as well as their architectural design and matters of privacy and overlooking of adjacent properties. This written advice is included at **Appendix A**.

2.4 In response to this initial advice, the Appellant reduced the overall scale, height and massing of the development. The Appellant also provided further information to the Council on privacy and preventing overlooking of adjacent properties.

- 2.5 Planning Officers provided further advice to the amended scheme, which included remaining concerns regarding the proposed set backs of the upper storeys on both of the proposed buildings, and over intensification. The proposed protruding elements into the courtyard were noted as being acceptable by the Council.
- 2.6 The Appellant's final proposals which formed the planning application included a scheme of 87 apartments with 2 development plans facing High Street and Harborne Park Road. This included changing the proposed set backs on the upper floors of both the buildings fronting High Street and Harborne Park Road to a pitched roof design with projecting dormer windows, which reflects the design and form of adjacent buildings. The Appellant reduced the size of the proposed third building down from 3-storeys to a single storey building which is now only proposed to house plant equipment, bin and cycle storage. Projected elements into the courtyard were also reduced in massing and footprint. The submitted scheme adjusted the mix to 61% 1-bedroom apartments and 39% 2-bedroom apartments.

3. THE DEVELOPMENT PLAN

3.1 The development plan for the appeal site against which planning applications should be determined, as per Section 38(6) of the Planning and Compulsory Purchase Act 2004, currently comprises the following:

- Birmingham Development Plan (BDP) which was adopted on 10th January 2017
- Development Management in Birmingham Development Plan Document (DPD) which was adopted on 7th December 2021

3.2 The Birmingham Development Plan (BDP) is over five years old since its adoption on 10th January 2017.

3.3 The Council are currently in the early stages of preparing a new Local Plan for Birmingham which will guide how the city will develop in the future and will provide policies to guide decisions on development proposals and planning applications up to 2042. Once adopted, the new Birmingham Local Plan will replace the BDP (2017). An Issues and Options consultation (Reg 18) was undertaken on the emerging Local Plan between October 2022 to December 2022. This did not include a Policies Map or proposed housing allocations. Very limited weight is given to this emerging plan.

3.4 Those relevant development plan policies to the appeal proposals include the following:

Birmingham Development Plan (BDP)

Referenced on the decision notice:

- Policy PG3 – Place Making
- Policy TP27 – Sustainable Neighbourhoods
- Policy TP30 – The Type, Size and Density of New Housing
- Policy TP31 – Affordable Housing

- Policy TP44 – Traffic and Congestion Management
- Policy TP45 – Accessibility Standards for New Development

Other relevant BDP policies:

- Policy TP3 – Sustainable Construction
- Policy TP4 – Low and Zero Carbon Energy Generation
- Policy TP6 – Management of Flood Risk and Water Resources
- Policy TP9 – Open Space, Playing Fields and Allotments
- Policy TP21 – The Network and Hierarchy of Centres
- Policy TP24 – Promoting a Diversity of Uses within Centres
- Policy TP28 – Location of New Housing
- Policy TP47 – Developer Contributions

Development Management in Birmingham Development Plan Document (DPD)

Referenced on the decision notice:

- Policy DM2 - Amenity
- Policy DM14 – Transport Access and Safety
- Policy DM15 – Parking and Servicing

Other relevant DPD policies

- Policy DM6 – Noise and Vibration
- Policy DM10 – Standards for Residential Development

3.5 Other material planning considerations include:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance
- National Model Design Code
- Birmingham Design Guide Supplementary Planning Document (SPD) adopted on 6th September 2022
- Birmingham Parking Supplementary Planning Document (SPD) adopted in November 2021
- Shopping and Local Centres Supplementary Planning Guidance (SPG) adopted in March 2012
- Public Open Space in New Residential Development Supplementary Planning Document (SPD) adopted in July 2007.
- Affordable Housing SPD adopted in September 2001.
- Birmingham Housing and Economic Development Needs Assessment (HEDNA) April 2022
- Birmingham 5 Year Housing Land Supply 2023-28 (November 2023)

4. THE PROPOSED DEVELOPMENT

- 4.1 A full planning application ref 2022/06737/PA subject to this appeal sought permission for the following description of development:

“Demolition of existing buildings and construction of 83 residential apartments across two new development blocks, central amenity space including soft landscaping and planting, cycle storage, bin stores, plant store and enabling works.”

- 4.2 The scheme is for the redevelopment of the site including the demolition of all existing buildings and the erection of 83 apartments split across two development blocks.
- 4.3 Block A fronts High Street and is up to 6 storeys high including accommodation in the pitched roof space with large dormer windows along the High Street frontage. Block A will accommodate 42 apartments, incorporating 13 x1 bedroom apartments and 29 x2 bedroom apartments.
- 4.4 Block B fronts Harborne Park Road and is 4 storeys high including accommodation in the pitched roof space with projecting dormer windows along the Harborne Park Road frontage. Block B will accommodate 41 apartments, incorporating 27 x1 bedroom apartments and 14 x2 bedroom apartments.
- 4.5 There are a total of 40 x1 bedroom apartments (48%) and 43 x2 bedroom apartments (52%) across both Blocks A and B.
- 4.6 All apartments will be in build-to-rent tenure.
- 4.7 A singular vehicular access is proposed off Harborne Park Road. This will provide access for service and maintenance vehicles and also access to 2 disabled parking bays.
- 4.8 A communal rear courtyard is provided. In addition, the ground floor apartments on the rear of both blocks have their own private amenity space and roof top terraces (communal and private) are provided for Block A and Block B.

4.9 Bin and cycle storage is provided in the rear courtyard. The proposals include two cycle stores housing a total of 86 bicycles as well as providing 8 visitor cycle spaces (total 94).

4.10 The application was originally for an 87-apartment scheme. The Council consulted on the original scheme and provided the Appellant with a number of comments, including:

- Reducing the frontage height of Block A
- Concerns regarding the views of the gable wall of Block A from the west
- Comments on the Block A High Street elevation design
- Reducing the height of the Block B elevation
- Concerns on zero on-site parking and no disabled parking
- Reverse the housing mix so there are more 2 beds than 1 beds

4.11 The Appellant made revisions to the scheme in response to the Council's comments, this included:

- Reducing the height of Block A with amended elevation design
- Remodelling of the Block A gable end to reduce its visual impact when viewed from the west
- Reducing the elevation height and ridge line of Block B to reflect previously consented scheme, with amended elevations.
- Reduction to a total of 83 apartments.
- Adding 2 disabled parking bays into the courtyard

- Revising the housing mix to provide a greater proportion of 2 bed apartments.

4.12 Amended plans showing a revised scheme of 83 apartments were submitted to the Council who then reconsulted on this revised scheme.

4.13 Plans for approval ,which reflect the revised scheme, are set out below:

Plan	Reference
Site Location Plan	844-D5A-00-00-DR-A-0002-Site_Location_Plan-A3-P01
Site Ground Floor Proposed	844-D5A-00-00-DR-A-0101-Site_Ground_Floor_Proposed-A3-C03
Landscaping Plan	844-D5A-00-00-DR-A-9401-Landscaping_Plan-A3-C01
Block A Ground Floor Proposed	844-D5A-00-00-DR-A-0301-Block_A_Ground_Floor_Proposed-A3-C04
Block A First Floor Proposed	844-D5A-00-01-DR-A-0301-Block_A_First_Floor_Proposed-A3-C04
Block A Second Floor Proposed	844-D5A-00-02-DR-A-0301-Block_A_Second_Floor_Proposed-A3-C04
Block A Third Floor Proposed	844-D5A-00-03-DR-A-0301-Block_A_Third_Floor_Proposed-S3-C03
Block A Fourth Floor Proposed	844-D5A-00-04-DR-A-0301-Block_A_Fourth_Floor_Proposed-S3-C03
Block A Roof Level Proposed	844-D5A-00-05-DR-A-0301-Block_A_Roof_Level_Proposed-A3-C04
Block A Roof Floor Plan Proposed	844-D5A-00-RF-DR-A-0301-Block_A_Roof_Floor_Plan_Proposed-A3-C02
Block A Elevations 1-2	844-D5A-00-ZZ-DR-A-0411-Block_A_Elevations_1_2-A3-C04
Block A Elevations 3-4	844-D5A-00-ZZ-DR-A-0412-Block_A_Elevations_3_4-A3-C04
Block B Ground Floor Proposed	844-D5A-00-00-DR-A-0302-Block_B_Ground_Floor_Proposed-A3-C03
Block B First Floor Proposed	844-D5A-00-01-DR-A-0302-Block_B_First_Floor_Proposed-A3-C03
Block B Second Floor Proposed	844-D5A-00-02-DR-A-0302-Block_B_Second_Floor_Proposed-A3-C03
Block B Roof Level Proposed	844-D5A-00-03-DR-A-0302-Block_B_Roof_Level_Proposed-A3-C03
Block B Roof Floor Plan Proposed	844-D5A-00-RF-DR-A-0302-Block_B_Proposed_Roof-A3-C02
Block B Elevations 5-6	844-D5A-00-ZZ-DR-A-0421-Block_B_Elevations_5_6-A3-C03
Block B Elevations 7-8	844-D5A-00-ZZ-DR-A-0422-Block_B_Elevations_7_8-A3-C03
Bay Study 1	844-D5A-00-ZZ-DR-A-3101-Bay_Study_1-A3-C02 (updated version)
Bay Study 2	844-D5A-00-ZZ-DR-A-3102-Bay_Study_2-A3-C02 (updated version)

4.14 For clarity, the following plans originally submitted were not updated during the course of the application in order to reflect the revised scheme. Therefore these plans still reflect the 87-dwelling scheme

Plan	Reference	Comment
Site Level 1 Proposed	844-D5A-00-01-DR-A-0101-Site_Level_1_Proposed-A3-C01	Update not deemed necessary as details are covered in other revised plans
Site Level 2 Proposed	844-D5A-00-02-DR-A-0101-Site_Level_2_Proposed-A3-C01	
Site Level 3 Proposed	844-D5A-00-03-DR-A-0101-Site_Level_3_Proposed-A3-C01	
Site Level 4 Proposed	844-D5A-00-04-DR-A-0101-Site_Level_4_Proposed-A3-C01	
Site Level 5 Proposed	844-D5A-00-05-DR-A-0101-Site_Level_5_Proposed-A3-C01	
Site Roof Proposed	844-D5A-00-RF-DR-A-0101-Site_Roof_Proposed-A3-C01	
Street Elevations Proposed	844-D5A-00-ZZ-DR-A-0401-Street_Elevations_Proposed-A3-C01	
Bay Study 1	844-D5A-00-ZZ-DR-A-3101-Bay_Study_1-A3-C01	Plans show further details to that shown on the elevations. These plans have therefore been updated to be consistent with the revised elevations for approval.
Bay Study 2	844-D5A-00-ZZ-DR-A-3102-Bay_Study_2-A3-C01	

4.15 The Council’s decision was issued prior to the Appellant having the opportunity to update several plans and documents to be consistent with the revised scheme. As such, updated versions of the following plans and documents have been submitted with this appeal and are listed below:

Plan / Document	Reference
Addendum Transport Assessment and Framework Travel Plan	
Updated Financial Viability Assessment	
Bay Study 1	844-D5A-00-ZZ-DR-A-3101-Bay_Study_1-A3-C02
Bay Study 2	844-D5A-00-ZZ-DR-A-3102-Bay_Study_2-A3-C02

- 4.16 It is agreed that the substance of the application / proposed development is not being materially altered through the submission of these documents to the appeal. It is also agreed that the Council considered and reconsulted on the amended scheme prior to issuing their decision.
- 4.17 The submission of these documents ensures that in making a decision, the Inspector has up to date documentation to be consistent with the amended scheme subject to this appeal.

5. MATTERS AGREED BETWEEN THE PARTIES

5.1 The following matters are agreed upon by the signatory parties.

Housing land supply

- 5.2 The parties agree that the Birmingham Development Plan (BDP) was adopted on 10th January 2017 and is therefore over five years old. The Council undertook an Issues and Options (Reg 18) consultation on the new Local Plan from October to December 2022 which did not include a Policies Map or proposed housing allocations.
- 5.3 Therefore, as the BDP is more than five years old and the new Local Plan has not reached a Regulation 18 stage including a policies map or proposed housing allocations, the Council is currently required to demonstrate a five years' supply of housing.
- 5.4 Until the new Local Plan is adopted, which will replace the BDP, the Local Housing Need for Birmingham (as derived from the Government's Standard Method) must therefore be applied to calculate the five-year housing land supply position.
- 5.5 The Council's latest 5-year housing land supply 2023-28 position statement was published in November 2023 and has a base date of 1st April 2023. This confirms that as at 1st April 2023 the Council has a deliverable supply of 31,534 dwellings over the five-year period 2023-2028, against a total five-year requirement over the same period of 37,223 dwellings (7,445 per annum) derived from the standard method (incl. 35% urban centres uplift and a 5% buffer). This equates to a 4.24 years of housing.
- 5.6 The new NPPF was published on 19th December 2023 after the publication of the Council's latest position statement. The new NPPF removed the requirement to include a 5% buffer (or 10% where appropriate) to the five-year housing requirement (with only a 20% buffer applied in circumstances where there has been a significant under delivery of housing as per paragraph 77).

- 5.7 Based on the Council's latest position statement and taking away the need to apply a 5% buffer results in the Council having a 4.45 years supply.
- 5.8 The parties agree that the Council cannot currently demonstrate a five-year supply of housing land. For the purposes of this appeal, the supply should be taken to be 4.45 years.

Presumption in favour of sustainable development

- 5.9 Given that the Council cannot currently demonstrate a five-year supply of housing land, development plan policies involving the provision of housing are out-of-date. As such paragraph 11d of the NPPF is engaged and the presumption in favour of sustainable development applies.
- 5.10 The 'tilted balance' is engaged with regards to the determination of the appeal proposals – i.e. whether any harm significantly and demonstrably outweighs the benefits to justify a refusal.

Principle of development

- 5.11 The site is located within Harborne District Centre but outside of the designated Primary Shopping Area. Policy TP21 of the BDP expresses support for residential use within District Centres.
- 5.12 Consent has previously been granted on the Harborne Park Road frontage for 12 apartments, comprising 6 x1 beds and 6 x2 beds, (2017/07064/PA) establishing the principle of residential development on this part of the site.
- 5.13 The proposals would result in the loss of 6 maisonettes, resulting in a net gain of 77 residential properties on the site.
- 5.14 The proposals would result in the loss of a retail unit however the site is outside of the Primary Shopping Area on the periphery of the District Centre. The existing carpet and furnishings business is relocating to a more suitable unit.

- 5.15 The proposals would support the vitality and viability of Harborne High Street and the District Centre.
- 5.16 The appeal site is previously developed land with the proposed development making efficient use of this land.
- 5.17 The entirety of the appeal site is located within Flood Zone 1 – land at least risk of flooding.
- 5.18 The site is located in close proximity to a significant range of services and facilities which are accessible by walking and cycling. There is very good availability of bus services in the vicinity of the site, as well as bicycle and e-scooter hire stations within the vicinity. University Railway Station is located within a 25-minute walk or 7-minute cycle from the appeal site.
- 5.19 This is a sustainable location appropriate for the proposed use. The principle of residential development is acceptable.

Design & character impact

- 5.20 The existing 3-storey building along the High Street frontage dates from the 1960/70s and has no architectural merit. The loss of the building is acceptable providing a replacement of high-quality design is proposed.
- 5.21 Behind this building is an agglomeration of unattractive single storey extensions, garages, service yard and undeveloped grassed area fronting Harborne Park Road.
- 5.22 The appeal proposal presents an opportunity to improve the appearance of the site and consolidate its built form and more effectively use the land.
- 5.23 The area is generally characterised by 2 and 3 storey properties with some more modern apartment buildings up to 4-storeys in height in close proximity to the site. The existing High Street frontage includes a 7-storey building (including all setbacks) containing apartments directly adjacent to east of the site.

5.24 The parties agree to the principle of two new development blocks fronting High Street and Harborne Park Road respectively.

5.25 Policy TP30 of the BDP requires new housing in this location to be provided at a target density of at least 50 dwellings per hectare. The proposal exceeds this target. With 83 dwellings on a site of 0.237ha a density of 350 dwellings per hectare is achieved.

5.26 With regards to Block A, the following is agreed:

- The footprint of the proposed building should be to the back of the pavement line;
- Residential use on the ground floor;
- A stepped down building with gable towards the western end of the site along High Street;
- Dual aspects on the ground floor;
- The layout of the apartments;
- The rear projecting elements into the rear courtyard; and
- The proposed use of materials, including red facing brick, metal standing seam cladding to the pitched roof and dormers, and terracotta banding between the ground floor and first floor and between the third and fourth floors.

5.27 With regards to Block B, the following is agreed:

- The footprint of the proposed building should be to the back of the pavement line;
- Residential use on the ground floor;
- The layout of the apartments;

- The pitched roof form;
- The proposed roof terraces;
- The rear projecting elements into the rear courtyard; and
- The proposed use of materials, including red facing brick, metal standing seam cladding to the pitched roof and formers, and metal balustrading along building frontage.

5.28 The landscaping layout as shown on the submitted Landscaping Plan (844-D5A-00-00DR-A-9401 C01) is considered to be broadly acceptable although full planting details and hard landscaping materials would need to be secured via condition.

5.29 Consent has previously been granted on the Harborne Park Road frontage for 12 apartments, comprising 6 x1 beds and 6 x2 beds, (2017/07064/PA). The previously consented building had 3 storeys with a maximum height of 11.58m.

Housing mix

5.30 The parties agree that the Council's Housing and Economic Development Needs Assessment (HEDNA) April 2022 is a relevant material consideration with regards to determining housing mix. The HEDNA supersedes the Strategic Housing Market Assessment (2013) for the purposes of assessing the proposed housing mix.

5.31 The HEDNA identifies Harborne as being located within the sub-area of Edgbaston, with table 8.26 of the HEDNA highlighting a 7% requirement for 1 beds, 33% requirement for 2 beds, 42% requirement for 3 beds and 18% requirement for 4 bed (or larger) homes in this sub-area.

5.32 Policy TP30 of the BDP requires account to be taken of the HEDNA, as well as detailed Local Housing Market Assessments (where applicable), current and future demographic profiles, locality and ability of the site to accommodate a mix of housing, and market signals and local housing market trends.

5.33 The parties agree that a Build to Rent model is acceptable in this location and on this site.

Affordable housing

5.34 The parties agree that Policy TP31 of the BDP requires 35% affordable homes on residential developments of 15 dwellings or more. This would equate to the delivery of 29 dwellings as part of the appeal proposals.

5.35 Policy TP31 allows for the use of a viability assessment tool where the Appellant considers that the development proposal cannot provide policy-compliant levels of affordable housing.

Viability

5.36 The Appellant has submitted an updated Financial Viability Assessment (FVA) which reflects the revised scheme of 83 apartments.

5.37 It is agreed that the FVA represents a standard viability assessment tool recognised by the Council.

5.38 The Council appointed viability advisors Lambert Smith Hampton (LSH) to review the Appellant's original FVA for 87 dwellings. A draft response was provided to the Appellant on 10/10/2022, however the LSH final review was never completed.

5.39 Discussions are currently ongoing between both parties regarding the viability appraisal. It has not been possible to reach an agreed position by the deadline of 27th February. However, both parties are optimistic that an agreed position can be reached over the levels of any S106 contributions and where spend should be prioritised in the event that not all contributions can be viably afforded. A separate statement of common ground will be provided in the coming weeks to cover this issue.

5.40 Policy TP45 of the BDP as referenced in reason for refusal 2 is not relevant to the assessment of affordable housing provision.

Public open space

- 5.41 Policy TP45 of the BDP as referenced in reason for refusal 3 is not relevant to the assessment of open space provision.
- 5.42 Policies TP9 and TP47 of the BDP relates to the provision of open space and developer contributions and are therefore the relevant policies in relation to this matter. Note that Policy TP9 of the BDP is not referred to in the reasons for refusal or Officer Report.
- 5.43 The Council's Public Open Space in Residential Development SPD requires that any development over 20 units should contribute towards the provision of public open space either on site or through an off-site contribution. In calculating the amount of open space required, the Open Space SPD sets out that an occupancy rate of 1 person per 1 bed dwelling and 2 persons per 2 bed dwelling should be applied.
- 5.44 Leisure Services did not object to the proposal on the basis that in the absence of on-site provision a contribution of £187,675 to spend on off-site improvements at Grove Park or other local open spaces within Harborne ward would be provided. This figure reflects the original scheme of 87 dwellings with a resident population of 121 people.
- 5.45 The parties agree that the calculation needs to be updated to reflect the revised scheme of 83 dwellings which has a greater proportion of 2 beds (40 x1-beds and 43 x2-beds). This gives rise to a gross resident population of 126 people. Given there are 6 x2-beds on site already, the existing resident population therefore needs to be deducted (12 people) giving a net population increase on site of 114 people.
- 5.46 The updated calculation is therefore:

People generated from the accommodation = 114 divided by 1000 x 20,000 (2 hectares per thousand population) = 2280sqm of POS generated. 2280sqm-1225sqm (size of a typical junior play area)= 1055sqm. 1055 x £65 (average cost of laying out POS per m2) = £68,575 + the cost of a junior play area £110,000 = Total contribution of £178,575

Highways matters

- 5.47 The Council's Transportation Department raised no objection to the proposed development, subject to a legal agreement requiring the Appellant to undertake 6 monthly parking surveys in local streets for a period of 3 years post the completion of the development with a financial contribution of £25,000 secured to undertake a Traffic Regulation Order to address any issues that have arisen. The Council also requested conditions requiring a Construction Management Plan, Demolition Management Plan, pedestrian visibility splays, gates to be set back and formalisation of the existing Harborne Park Road access.
- 5.48 The appellant has offered to include the financial contribution of £25,000 as part of a S106 agreement. The Council do not consider that this sum will be wholly effective but will confirm whether it agrees to the inclusion of this financial contribution within a forthcoming SOCG on viability matters. The parties agree to the recommended conditions from the Transportation Department.

Site location

- 5.49 It is agreed that the appeal site is located in a sustainable location and is in close proximity to a wide variety of services, facilities (including education, leisure, retail and community) and public transport options.
- 5.50 The appeal site is well placed to maximise short active travel journeys to these facilities on Harborne High Street which reduces the reliance on private car journeys.
- 5.51 In regard to pedestrian movement, the local environment surrounding the appeal site has a network of permeable footways, which provide convenient and safe access to/from the site. Footways are contiguous, hard surfaced and in good condition.
- 5.52 A number of controlled pedestrian crossings are provided within immediate vicinity of the appeal site on the High Street and Harborne Park Road. A Zebra Crossing is located c.100m to the east of the site, with two signal-controlled Puffin Crossings situated on

the High Street and Harborne Park Road at <50m from the site. In addition, dropped kerbs and tactile paving are present at Serpentine Road, Albert Road and War Lane. Ample opportunity exists to enable future residents to access local amenities situated on the northern and southern sides of the High Street.

- 5.53 The appeal site is within cycling distance to the Harborne Walkway and the Worcester and Birmingham Canal which provide traffic-free routes to Birmingham City Centre, with the latter extending south-west to the suburb areas of Stirchley, Bournville and Kings Norton.
- 5.54 12no. bus stops (11no. operational) are situated within a 400m walking distance of the appeal site; located on the High Street, Vivian Road, War Lane, Lordswood Road, and Harborne Park Road, where a total of 9no. high frequency bus services (correct at time of writing) provide access to destinations across Birmingham and the wider West Midlands. The bus journey time between Harborne High Street (bus stop id: nwmampwp [Serpentine Road]) and Birmingham City Centre (bus stop id: nwmptjwp [Library Metro Stop at Centenary Square]) is approximately 25-minutes. Journey times are extracted from the NX Bus Journey Planner.
- 5.55 The closest railway station to the appeal site is University Station, which can be accessed via a 25-minute walk or a 7-minute bicycle journey to the south-east of the appeal site towards the University of Birmingham. Journey times are measured from Google Maps journey planner function.
- 5.56 University Station offers northbound services to Nottingham, Lichfield, and Four Oaks via Birmingham New Street, and southbound services to Cardiff, Worcester, Hereford, Redditch and Bromsgrove via smaller suburban stations in Birmingham.
- 5.57 West Midlands Cycle Hire bicycles and E-scooters are available in Harborne and are operated by Beryl.cc on behalf of Transport for West Midlands. Bicycle / E-scooter docking stations are located on Lordswood Road and on High Street/Greenfield Road where 6no. and 7no. docks are provided respectively. Additional docking stations are

also located at University Station (13no.) and a further 42no. within proximity to the Five Ways Roundabout (formed of docks located at Hagley Road, Harborne Road, Five Ways and Broad Street).

- 5.58 Data from the 2021 Census (Method of Travel to Work TS061 dataset) for the Birmingham 075C Lower Super Output Area (LSOA), which includes the appeal site, shows a sustainable travel mode share equating to 29% of total commuter journeys, 44% working from home and 27% commuter journeys made by car or van. It should be noted that the census was undertaken in March 2021. On 22nd February 2021 the UK Government published its 4-step plan to ease lockdown restrictions following the global pandemic. The first step of the plan allowed school re-openings which took effect on Monday 8 March. The second step, which involved outdoor activities and trials of indoor activities that took effect on Monday 12 April. The third step, which allowed for limited indoor mixing and the reopening of indoor hospitality venues, took effect on Monday 17 May.
- 5.59 It is agreed the appeal site is located within a sustainable location in proximity to good quality public transport networks and a plethora of local services and facilities that can also be accessed by active travel. Many opportunities exist to progress the propensity for public transport and active travel for leisure/retail and commuting journey purposes which are primed to improve air quality and tackle the climate emergency.

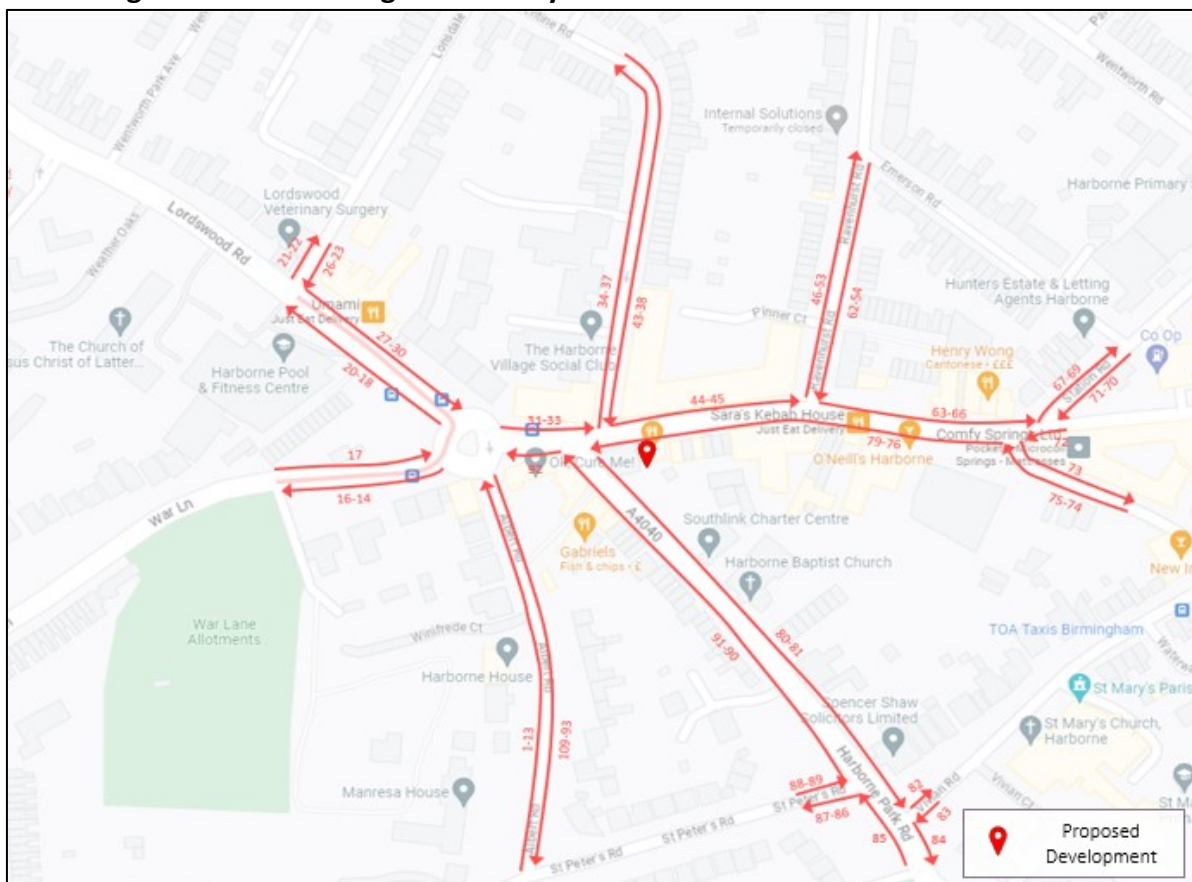
Parking

- 5.60 Parking standards for new developments are outlined in BCC's SPD, November 2021. The standards highlight city zones which adhere to different parking regulations and standards depending on the location of the proposed development. The appeal site is located within 'Zone B'.
- 5.61 The standards on Page 25 highlight that:

“The car parking standards should be considered as a maximum for all uses in Zones A and B. Zero or low car parking development will be supported as long as it can be demonstrated that this would not result in detrimental problems on the local highway”

- 5.62 The development proposals comprise 2no. on-site disabled vehicle bays.
- 5.63 A review of the local car parking opportunities has been undertaken in the form of a Parking Beat Survey undertaken by an independent traffic survey company (Auto Surveys Ltd). The Parking Beat Survey was undertaken in accordance with the *Lambeth Council Parking Survey Methodology guide* on Tuesday 19th September and Wednesday 20th September 2023 between the hours of 00:30-05:30.
- 5.64 The survey extents is illustrated within Figure 1.

Figure 1 Parking Beat Survey Extents

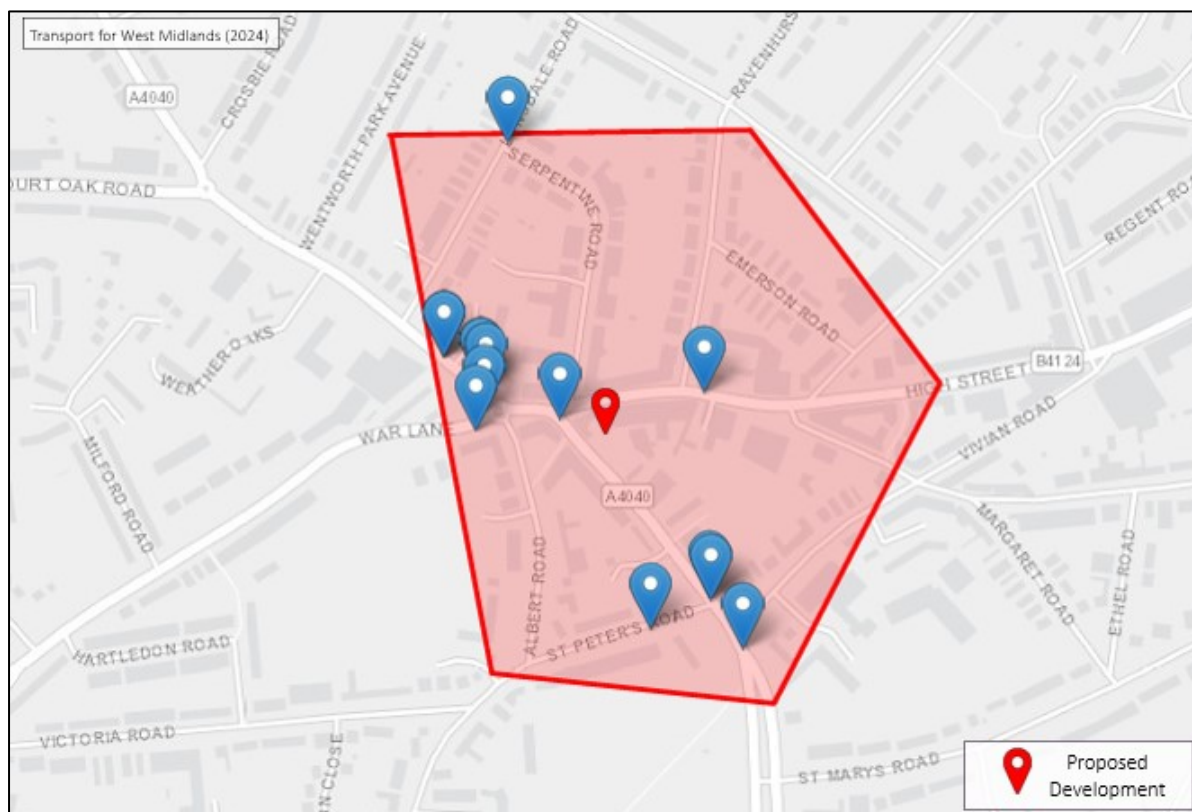


- 5.65 Bicycle parking is provided off-street in a covered cycle parking area as part of the development proposals. The bicycle parking is provided in accordance with the policy outlined in the BCC SPD.
- 5.66 Public transport information will be provided on notice boards within communal areas of the development. This will ensure that residents are aware of sustainable travel choices.

Highway safety

- 5.67 Personal Injury Accident (PIA) data has been obtained from Transport for West Midlands (TfWM) for the most recent available five-year period covering 01st January 2019 and 31st December 2023. The search cordon is illustrated in Figure 2.

Figure 2 Highway Safety Search Cordon



- 5.68 During the five-year search period a total of 12no. PIAs have been recorded. All PIAs resulted in 'slight' injury which is defined as injuries generally not requiring hospital treatment, such as sprains, cuts, bruises or shock requiring roadside treatment.

- 5.69 Upon review of the TfWM Collision Report the contributory factor 'Vision affected by stationary or parked vehicle(s)' is not identified as a factor for any recorded PIA within the search period.
- 5.70 The parties agree that the appeal site helps to support and achieve Policy TP1 of the BDP where the City Council is committed to a 60% reduction in total carbon dioxide (CO₂) emissions produced in the city by 2027 from 1990 levels. Car-free developments, such as the proposed development, and the sustainable location of the appeal site, promote the use of sustainable transport systems including walking and cycling (TP38-TP41) and deliver principles of sustainable neighbourhoods (TP27).

Quality of living environment

- 5.71 The parties agree that all 83 apartments meet the relevant size standards as set out within the Nationally Described Space Standards (NDSS).
- 5.72 The single and double bedrooms within each apartment would exceed the minimum required area of 7.5sqm for single and 11.5sqm for double bedrooms as stated within Policy DM1 of the DPD.
- 5.73 The Birmingham Design SPD requires 5sqm of amenity space for 1 bed apartments and 7sqm per 2 bed apartments. For the proposed development a total 501sqm of outdoor amenity space should be provided.
- 5.74 The proposals deliver a total of 635sqm through a combination of communal open space, private gardens, private roof terraces and a communal roof terrace. This is broken down as follows:
- Communal rear outdoor space – 200sqm
 - Communal roof terraces – 185sqm
 - Private terraces (plots A 39, A 40, B 34, B 35) – 61sqm
 - Private ground floor gardens (plots A 01 – 07, B 01-03 and B 10) – 189sqm

- 5.75 The parties agree that the quantity of outdoor amenity space is in accordance with the Birmingham Design Guide and is acceptable.
- 5.76 No objection was raised from Regulatory Services subject to conditions requiring a contamination remediation scheme, contaminated land verification report, noise insulation scheme, construction management plan and demolition management plan. Both parties agree to the inclusion of such conditions.
- 5.77 No objection was received from West Midlands Police.

Biodiversity

- 5.78 The site is not on or adjacent to any statutory designation for nature conservation. None of the onsite habitats are of principal importance.
- 5.79 The risk of harm from the development to bats and nesting birds is low.
- 5.80 The parties agree that with the imposition of a condition, ecological enhancements such as incorporating bird and bat boxes into the new buildings as well as planting beneficial to wildlife in the landscaping designs can be secured, increasing biodiversity and delivering environmental benefits.

Sustainability

- 5.81 The inclusion of energy efficient measures to minimise onsite energy use compared to a building regulations compliant design, will result in a reduction of 6.92% over the total baseline carbon emissions for the development. These measures will include efficient heating systems, improved insulation levels, high specification glazing and energy efficient lighting.
- 5.82 Photovoltaic systems are the most suitable technology for the development to provide additional carbon emission savings to achieve the required 19% improvement over a Building Regulations compliant building.
- 5.83 The proposals meet the requirements of BDP Policies TP3 and TP4.

Impact on neighbouring amenity

- 5.84 There is a separation distance of 13m between the front of Block A and the apartments at 313 High Street opposite. Block A will not cause a loss of privacy in relation to the apartments opposite.
- 5.85 The adjacent 7 storey building on High Street (known as 'Harborne West') has side facing windows. The windows on the 4th floor are 3m from the side elevation of the proposed development, however they are only secondary windows ensuring no undue impact would occur.
- 5.86 The side facing windows on the 5th floor of the adjacent development retain a distance of 13m and are of such a height that they sit above the pitched roof of the proposed development ensuring that the development would not appear overbearing when viewed from these side facing windows.
- 5.87 The position of Block A ensures that there is no breach of the 45-degree code in relation to 326 High Street ensuring no loss of light occurs.
- 5.88 A separation distance of 14m is retained between the front of Block B and the opposing terraced properties along Harborne Park Road. Block B will not cause a loss of privacy in relation to the opposing houses.
- 5.89 Block B is positioned so that there is no breach of the 45-degree code and no loss of light in relation to the nearest habitable windows on the rear of 2 Harborne Park Road (apartment No's 1-14), otherwise known as 'Kings Oak Flats'. The windows located on the side of 2 Harborne Park Road are secondary windows and therefore will have no significant impact on occupiers.
- 5.90 The proposed development is in accordance with the Birmingham Design Guide SPD and Policy DM10 in relation to this matter.

Benefits of the proposed development

5.91 It is agreed that the benefits of the proposed development include:

- Provision of 83 new dwellings (net 77);
- Economic benefits in respect of construction and supply-chain logistics as well as increasing local spend contributing to the economic dimension of sustainable development.
- Making efficient use of previously developed land
- Potential New Homes Bonus
- Enhancing the vitality and viability of Harborne High Street
- Promotion of sustainable travel patterns
- Biodiversity enhancements

6. MATTERS OF DISAGREEMENT BETWEEN THE PARTIES

6.1 The following matters are not agreed between the signatory parties.

Design & character impact

6.2 There is disagreement as to whether the adjacent 7-storey building on High Street is a relevant consideration with regards to the context against the proposed design.

6.3 The parties disagree as to whether the proposed scale of the development is acceptable having regard to heights, massing and density.

6.4 Specifically, with regards to Block A, the parties differ on the acceptability of the buildings proposed height having regard to the prevailing pattern of development, along with the buildings elevation and articulation facing High Street. The Appellant considers that the revised façade height of 187.280 is acceptable for Block A.

6.5 With regards to Block B, the parties differ on the acceptability of the proposed height of the buildings having regard to the height of the opposing residential properties along Harborne Park Road. The Appellant considers that the revised ridge height of Block B matches the previously consented scheme on this site.

6.6 There is disagreement between the parties as to whether the proposals have an over-intensive nature having regard to the proposed density of 350 dwellings per hectare.

6.7 The Appellant disagrees with the Council's view that the scale, design and massing of the proposal constitutes a poor design that materially harms the character and appearance of the wider area. As such there is disagreement between the parties as to whether the proposals are in accordance Policy PG3 of the BDP, Design Guide SPD and NPPF.

Housing mix

6.8 The parties disagree as to whether the proposed development delivers an appropriate mix of house types.

- 6.9 The parties disagree as to whether the proposed mix of accommodation, specifically the delivery of 40 x1 bedroom apartments (48%), would be contrary to Policy TP30 of the BDP.

Highway matters

- 6.10 The parties disagree regarding the level of parking provision proposed on site, notably the Appellant considers that zero on-site parking provision (other than 2 disabled parking bays) is appropriate for this development having regard to the site's highly sustainable location, housing type and tenure, and other considerations. The Council disagrees with this position.
- 6.11 The parties disagree as to whether the delivery of 83 new flats would increase the demand for on-street parking insofar that it will lead to highway and pedestrian safety issues and whether, in any event, residual impacts would be "severe".
- 6.12 Regarding illegal or inconsiderate parking with increased congestion, the parties disagree that the increased likelihood of illegal or inconsiderate parking will result in "unacceptable impact" on highway safety or "severe" impact on the local highway network.
- 6.13 The parties disagree over the methodology utilised for the Parking Survey. The survey states that 5m per space has been used to estimate the number of on street spaces available in the surrounding streets. The Council considers that a distance of 6m per space should have been utilised to reflect the size of modern cars and the need to be able to manoeuvre in and out of spaces. The Council considers that this has resulted in a considerable over-estimation of the number potential on street spaces available.

Quality of living environment

- 6.14 Regarding the quality of the outdoor amenity space being provided by the proposed development, the parties disagree as to whether this falls short of quality standards.

- 6.15 Specifically, the Appellant considers that the level of sunlight to the ground floor communal open space will not be greatly compromised as a result of the surrounding built form.
- 6.16 The Appellant disagrees with the Council's view that the ground floor open space would be broken up into smaller plots that limits its usability and attractiveness.
- 6.17 Furthermore, the Appellant disagrees with the Council's view that the roof terrace on Block A would be unattractive due to it being subject to a noisy environment on a main route into the City Centre.

Development plan and planning balance

- 6.18 Overall, there is disagreement whether the proposal complies with Policies PG3, TP27, TP30, TP31 and TP44 of the BDP, Policies DM2, DM14 and DM15 of the DPD, guidance in the Birmingham Design Guide SPD and the NPPF.
- 6.19 The Appellant disagrees with the Council's approach to the overall planning balance, including how the Council has considered and weighted the benefits, along with the Council's consideration of harm and associated weighting.
- 6.20 Specifically, the Appellant disagrees with the Council's view that there would be harm arising from the proposed development.
- 6.21 Even if there were harm arising from the proposed development, the Appellant disagrees with the Council's case that any such harm would significantly and demonstrably outweigh the benefits of the scheme and therefore warrant a refusal.
- 6.22 The Appellant considers that on a flat balance (i.e. where the tilted balance is not engaged) the benefits of the scheme would outweigh any harm.

7. PLANNING OBLIGATIONS

- 7.1 A list of agreed planning obligations will be provided in a separate Statement of Common Ground covering viability matters.
- 7.2 It is agreed that the proposed development of 83 dwellings is liable for CIL.

8. PLANNING CONDITIONS

- 8.1 A list of draft planning conditions will be prepared by the Council and agreed with the Appellant. This will be submitted as part of the appeal proceedings.

APPENDIX A

Your Contact: Pamela Brennan 0121 464 7792

Application Ref: 2019/08753/PA

09 December 2019

Ms Madeleine Dring
D5 Architects LLP
71-77 Coventry Street
Birmingham
B5 5NH



Dear Madeleine,

Pre-application Enquiry for the Demolition of Existing Commercial Retail Units and Residential Dwellings and Erection of 88 Apartments at 334-346 High Street and 8-22 Harborne Park Road (including land to the rear), Harborne, Birmingham B17 9PU.

I refer to your request for pre-application advice dated 17 October 2019. This response is based upon the submitted Stage One Feasibility Study and the accompanying Site and Location Plan 844-D5A-00-XX-DR-A-0001.

Any scheme for residential redevelopment will need to comply with the City Council's adopted Places for Living Supplementary Planning Guidance and the Department for Communities and Local Government Technical Housing Standards – Nationally Described Space Standards. In particular, attention should be paid to the design and density of the development along with the separation distances, size of accommodation and garden sizes outlined in Appendix A of the document/ National Technical Standards for Residential Development.

With regards to the development proposed I have consulted with the City Council's City Design and Transportation Officers and their comments are detailed below.

City Design

The increase in heights would not be supported as these would have a negative impact upon the streetscape, wider townscape and overall character of the area.

The building facing Harborne High Street should be no higher than four storeys with no set back and the building facing Harborne Park Road should remain as a three storey building as approved under the previous application (201707064/PA) with no set back either.

The position of the blocks is considered acceptable as these would infill the developments and form a strong building line infilling the block. However; the plot sizes need to be reduced and the protruding elements to the rear of Harborne High Street and Harborne Park Road need to be removed. Linear buildings that front on the street with no projected elements appear as incongruous additions to the main building.

No further details have been provided regarding architecture, however a more contemporary style would feel more integral to the streetscape on Harborne High Street. Regarding the Harborne Park Road elevations it is evident that a traditional imitation/pastiche approach to architecture was approved, however this would provide an opportunity for a more contemporary building which could take from the local vernacular in regards to materials and brick colours. Fundamentally this provides an opportunity to simplify the fenestrations. The



Planning Management
PO Box 28, Birmingham B1 1TU



removal of features such as render, Juliette balconies etc. would be better for the integrity of the proposed development.

Regarding planning amenity, there are concerns with the level of overlooking and privacy concerns which occur between habitable rooms that will require further assessment in order to ensure these do not negatively impact upon the current and future occupiers. From an urban design perspective however, the accumulative mass and height are considered to further exacerbate these issues.

The proposed development, by virtue of its mass, scale and bulk would adversely affect the character and wider townscape of the area. The proposed development would introduce an over intensification of the application site with an overbearing form of development which would have an unacceptable impact to the local neighbourhood and residential amenity.

Transportation

It is noted that the applicant is proposing zero parking provision and that they acknowledge the need for a Transport Assessment/Statement to justify this. Appropriate levels of secure cycle storage will need to be provided and a residential Travel Plan will also be required. Servicing/refuse collection arrangements will need to be submitted.

Based on the comments outlined above, I consider that the redevelopment for residential purposes is acceptable in principle however the scale of development proposed is not. As such, prior to arranging a meeting to discuss your proposal, I consider it advisable to review the comments noted above and provide us with a revised pre-application layout that takes into consideration the views expressed above in relation to the proposed layout.

These views are given on the information presently available and represent an informal officer view only that does not prejudice any future decision Birmingham City Council may wish to take. If you wish to discuss the above matter please feel free to contact me on the above number.

Yours sincerely,



Pamela Brennan
Principal Planning Officer