

APPEAL REF: APP/P4605/W/23/3336011

Appellant: Midland Properties and Finance (Birmingham) Ltd

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.

334-340 High Street Harborne and 8-22 Harborne Park Road, Birmingham B17 9PU

Inspector: Mrs C Dillon BA(Hons) MRTPI

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## OPENING STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

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### Introduction

1. The planning application for permission to demolish the existing buildings and erect two blocks totalling 83 residential apartments was refused by the Council in July 2023 for six reasons. Since then the Council has continued to engage with the Appellant and the issues that now fall to be considered at this inquiry have narrowed. Indeed they have narrowed since the parties filed their Statements of Case and discussed the main issues at the Case Management Conference.
2. So there is a considerable amount of common ground<sup>1</sup>. The loss of the current buildings and the principle of residential development is acceptable. If the appeal is allowed there would be a net gain of 77 dwellings. Birmingham has a shortfall in housing land supply at 4.45 years against a target of 5 years. But the development will not deliver the 35% affordable housing that policy normally requires because it is accepted that it is not viable to do so.
3. What then does the Council find is wrong with the proposal? The issues are encapsulated in the remaining ‘main issues’.
4. First<sup>2</sup>, “the effect of the proposed design on the character and appearance of the street scene, with particular regard to its appearance, massing and scale in terms of density and height.” The Council is concerned that the Appellant has regarded the neighbouring 7-storey building at 326 High Street as an appropriate ‘design-cue’. It is not. It is a very

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<sup>1</sup> Set out in the three SoCG in the CD11 series.

<sup>2</sup> Main Issue 1.

poor quality anomaly in design terms. There are also complaints about the elevational treatment on Block A. Block B faces Harborne Park Road, a traditional residential street of predominately 2 or 2½ storey buildings. Block B is proposed at 4 storeys. Efforts to keep its height as low as possible have given rise to a compressed appearance. Overall, what is presented is not a high quality design that contributes to a strong sense of place. The new development will not integrate successfully with its immediate surroundings.

5. Second<sup>3</sup>, “the effect on the local highway network and its users, with particular regard to the parking requirements of the appeal proposal.” The Appellant contends that this scheme, in this location, is suitable for a ‘zero-parking’ approach. The ‘zero’, of course, relates to the parking provided on-site<sup>4</sup>. The Council accepts that access to local facilities and public transport is good. But even the Appellant does not contend that the development will be ‘zero-car’. Rather, the Appellant’s case is that the number of cars likely to be owned by occupants of the development can be accommodated, so far as parking is concerned, on local streets. This is where the disagreement lies. The Council’s case is that the Appellant has not demonstrated this, and that the evidence actually shows that there will be many more cars than available on-street local parking opportunities. The Appellant also observes that the highways officers had no objection subject to a 3 year post-development regime of parking surveys and a financial contribution to fund any necessary Traffic Regulation Order - presumably delivering a residents parking scheme. But the Council’s planning officers do not accept this will solve the problem. There will be no reduction in cars wanting to park. It will inevitably lead to pressure to re-purpose short-term restricted parking which will be objected to and adversely effect those benefiting from it at present.
  
6. Third<sup>5</sup>, “whether or not satisfactory living conditions would be achieved for occupants of the appeal scheme, with particular regard to the quality of the proposed outdoor space.” Overall, the quantum of outdoor amenity space being provided is satisfactory in numerical terms. The only caveat on ‘the numbers issue’ is that once the private amenity space of some apartments is taken into account, the remaining space is not large enough to meet the Council’s standards for the remaining occupants. But the real issue is the quality of some of the space. Part of the ground-level designated amenity space is adjacent to the bin store and parking/vehicle access area. A roof terrace on top of Block

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<sup>3</sup> Main Issue 3.

<sup>4</sup> There will in fact be 2 parking spaces on-site reserved for those with a disabled parking badge.

<sup>5</sup> Main Issue 4.

A will also not be of good quality due to the likely noise climate. The approach to amenity space has all the feel of 'land left over'.

7. The other previously identified 'main issues' covering housing mix<sup>6</sup> and viability matters<sup>7</sup> have been resolved between the parties. The Council is now satisfied with the evidence presented by the Appellant and the position reached on planning obligation contributions. So far as the Council is concerned these need no longer be main issues at the inquiry.
8. That leaves the overall planning balance. For the reasons given by Mr Fulford, the Council's position is that the development is contrary to the development plan as a whole. However, it is acknowledged that the 'tilted balance' at paragraph 11.d) of the NPPF is engaged. The Council acknowledges the social benefits of providing additional market housing and a small financial contribution towards affordable housing - the equivalent of about 5 units, which falls some way short of a policy compliant 29 units. Overall, the housing in a sustainable location is still a benefit, but it is not as weighty a benefit as it would have been with 35% affordable housing.
9. But in Mr Fulford's view, the harm to the character and appearance of the area, the impact of the parking pressure on the highway network and the poor quality outdoor amenity space for the proposed occupiers are all adverse impacts which (collectively) significantly and demonstrably outweigh the benefits.
10. For these reasons, the Council's case is that the appeal ought to be dismissed.

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<sup>6</sup>Main Issue 2.

<sup>5</sup>Main Issue 5.