

## Birmingham City Council Comments to the Draft Jewellery Quarter NP – Regulation 16 consultation

Section/Policy Area	Page/ policy ref	BCC Comments
Whole document	General comment	Landscape layout for the document would be much better from a digital accessibility perspective. You can't read everything on a page unless you reduce it by about 50%
	General	It must be noted that the A.E Harris scheme is referenced a number of times. It is interesting to see that this scheme is currently facing extreme viability challenges and there is no commitment to build it out at this time. There are other more recent examples where affordable workspace has been secured i.e. at 51 Northwood Street - 2020/02655/PA and at Key Hill – 2021/06272/PA. Viability has been a big issue.
	General	The whole the JQ NP seems in conformity with the BDP and the Development Management in Birmingham DPD with only a few issues which need further clarification
	Page 72 – Related Documents.	Please add 'Development Management in Birmingham (2021)' with the status of 'Part of Birmingham's Local Plan' to the list.
	Various	Typographical errors - Section 1.4 second bullet, Section 3.7 first para, Policy 4(b) vi and Policy 4 (f) all contain the word 'historicly' which should be spelt 'historically'
	General	There are two maps with the Title map 2 namely the map of the Key routes plan on page 44 and the map of Non-designated heritage assets outside the Conservation Area on page 32. The map references in the policies will therefore need to be amended.
	General	Can the maps have some street names on them so it is easier to identify the areas/properties that are

		affected. Member of the public /developers will find it difficult to see where the boundaries fall and may not be familiar with the Jewellery Quarter. We also think it will be difficult to pick out which sites/buildings are in the Creative District
	Page 20 –	There is a more recent appeal decision than the one quoted on page 20 at for Beverly Hall Court on Regent Place (Planning Inspectorate reference APP/P4605/W/15/313839. See Appeal Ref: APP/P4605/W/22/3294919 for 6-8, Branston Street, Birmingham B18 6BP
	General	Although public transport is referred to in a generic sense, there doesn't seem to be anything specific on the importance of local bus / rail / metro connections to bring people into the area particularly from the city centre. Thought should also be given to how proposals may impact on existing bus services.
	General	We are concerned about the less than desirable mechanism by which the developers at Great Hampton Row have engineered a situation by which they have the temporary road closure for the 'pop up event' through CWG and subsequently attained planning approval for an extended 'temporary' arrangement without the requisite legalities to do so. The draft JQNP holds no weight, but the developers have reportedly been able to garner high-level support. Destination created without strategic consideration – i.e., whilst it evidently suits the developer for this node to be attached to their development – from a network strategy point of view this may not however be the most appropriate location. No filtered permeability, direct impact upon bus route (extended apparently duration not agreed with TfWM/NX), direct impact upon bus stop facilities, suboptimal re-routing necessitated without mitigations being considered/implemented. Potential significant civils / traffic signal works required for permanent and substantive traffic management on Constitution Hill required for duration of temp deployment. Note, this is more of a practical statement but exemplar of such being driven without strategic oversight.
	General	Transport - As part of the Our Future City Plan, the City Council is keen to breakdown the perceived barrier of the A4540 Ring Road. This could include identifying new or enhanced crossing locations. We're also starting to explore the concept of creating an orbital cycle route along the Ring Road, which would open up access to /

		from neighbourhoods in the north and west.
<b>Section 1</b>		
Section 1	Policies 1(a) and I(c)	<p>There is a general comment on the application of these policies and raises debate on a fundamental issue on how an inspector would consider paragraph 14b) of the NPPF against the JQNDP as it does not allocate any housing, or identify a housing need. In which case it could be argued it cannot meet all the criteria of paragraph 14. Therefore, the tilted balance would still apply (when in other instances having a NDP and meeting paragraph 14 would bring you out of the tilted balance). This would potentially make refusing residential applications that do not accord with Policy 1a and 1c of the NDP more complicated/difficult.</p> <p>As an example, if a 100% residential scheme in the identified creative quarter was proposed, with no offer of a mixed use or affordable workspace, the residential element of the proposal would still attract significant weight in the planning balance due to the lack of 5YHLS. Given the NDP does not attempt to identify a housing need or allocated any sites suitable for housing it could be argued the plan cannot meet the requirements of NPPF paragraph 14 and so the presumption in favour of development (tilted balance) still applies. If this was found to be the case, until a 5YHLS is achieved those policies (1a and 1c) would be undermined/weakened in resisting 100% residential schemes? Officers would have to be able to identify demonstrable harm in refusing 100% residential schemes in this location.</p> <p>But on the other hand, practically speaking, - this is not a problem as this is currently the position in the Industrial Middle and Golden Triangle. Although the argument on at the tilted balance would apply it must be said that but the Council has been able to demonstrate harm and refuse residential schemes on the basis the proposal would fail to preserve the character of the CA and therefore would fail to satisfy the requirements of the 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, section 16 of the Framework and conflicts with Policies GA1.3 and TP12 of the Birmingham Development Plan (2017) (BDP). See the recent appeal decision for application 2021/07946/PA.</p>
	Policy 1(a)	<ol style="list-style-type: none"> <li>1. Generally, in the golden triangle and industrial middle this policy is less restrictive than the current situation – but more realistic. It also avoids the largely unworkable ‘live work’ policy we currently have.</li> <li>2. Should the last line have the word ‘wilful’ before neglect and ‘deliberate’ before damage? Note is 4(e) duplicating this?</li> <li>3. Which Sui Generis uses are they referring to? It is not a Use Class and covers everything not in a use class. I assume not all of those uses would support the function of the JQ.</li> </ol>

	<p>Policies 1(a) and 4(e)</p>	<p>Policies 1(a) and 4(e) both refer to where properties fall into neglect and/or damage or vacant in the case of 4(e) only. We agree that a less flexible approach in both policies should be taken in cases where this is deemed to have been deliberately allowed to happen without any effort to rectify the situation by the applicant / owners. However, consideration should be given to the following:</p> <ul style="list-style-type: none"> <li>• Is the wording in the policies about “evidence of neglect or damage” robust? How will the planning authority be able to verify that any neglect or damage has been down to the current owner:</li> <li>• How will the planning authority judge whether the extent of the neglect or damage is sufficient enough to trigger the policy so that the flexibilities are to be denied.</li> <li>• In terms of vacant buildings, how is it to be judged that sufficient effort been made to market the property over a set period of time.</li> <li>• In terms of enabling development, which is mentioned in the policies, how is the applicant to prove the extent to which residential is required to support the requirement for business space.</li> </ul> <p>We therefore think that the policies will need to specify the kind of supporting information that would need to accompany a planning application for a building which would display those characteristics. This could either be in the supporting text to the policies or maybe in the Design appendix. Supporting information could include</p> <ul style="list-style-type: none"> <li>• independent architectural appraisals to establish and assess the extent of any neglect or damage.</li> <li>• proof of extensive marketing of vacant buildings at reasonable market values and for an extensive length of time (e.g., 2 years) to show that the property has not been deliberately left vacant</li> <li>• viability assessments to show the extent that enabling development is required to make the development proposal stack up</li> </ul> <p>Having said that it must also be noted that paragraph 196 of the NPPF has the same requirement. In practice we have only used this on one occasion, for example at 74 Great Hampton Street where the applicant had owned</p>
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		the building for years and not maintained it.
	Policy 1(a)	The flexibility in Policies 1(a) 2(f) and 2(h) to enable a proportion of residential use to be included in new developments seems to imply that all new developments will have an element of commercial space within it – we may have misinterpreted this. Are the policies therefore <u>inflexible</u> by precluding a wholly residential scheme if there are mitigating circumstances to its development e.g., workspace is provided off site to compensate or the building/conversion is entirely unsuited to commercial use. It’s understandable that commercial space needs to be protected but some flexibility should be there to cover all eventualities – otherwise the policies may be deemed as too inflexible at Examination
	Policy 1(a)	Whilst we understand the desire to conserve and enhance the creative industries and the character of the Creative District, we don’t think it is realistic that in all cases Use Class C shall not constitute the largest use by gross internal floor area. We never achieve this and at best on the AE Harris site we secured a split of 67% residential and 33% non- residential development. Even then the developers have not been able to secure funding for the development. It all depends on viability which we get independently assessed and often the public benefits of securing development and reuse of existing buildings outweighs the quantum of residential floorspace.
	Policy 1(b)(ii)	How do we know whether a development is ‘more suited to the needs of the jewellery and creative industries’? and we have no control over this going forward – they are not within the Use Classes Order – Class E is Class E etc...Where we secure affordable space we have defined through the Section 106 that the units should be available for jewellery and creative industries. But if they just have a Class E use then we can’t control this.
	Chapter 1.5	Where have the figures for the level of affordable workspace and level of discount come from? Is there any economic or viability work to demonstrate that this level of provision and discount will have a meaningful impact upon the overall provision of jewellery workspace? We should not specify the level of provision and discount. This is likely to be determined through a viability assessment and we may wish to secure less space but with a bigger discount. Is likely to be determined on a case-by-case basis.

	Policy 1(c)	We don't think it will be feasible to ensure any commercial floorspace is designed specifically for jewellery and creative industries in the Creative District. This is not a specific use class, and their needs will all be different. Whilst the occupants will not be known until the units are ready for occupation, the only thing we can realistically do is have a Section 106 agreement that provides affordable workspace and specifies who can occupy the units. Even then it may be better to allow another business to occupy a unit than for it to stand empty. The rent levels for the affordable workspace sought be via negotiation although it is noted that the policy mentions at least 20% below market rent. For the AE Harris development we had a requirement regarding the relocation of the existing business and the need to demonstrating suitable alternative accommodation however it was not enforceable because one of the businesses ceased trading and the other found new premises which they secured in Sandwell. We can't realistically provide appropriate relocation support arrangements.
	Policy 1(d)	There is no use class for this type of function – how do we secure this in planning terms from going to another use? If we cannot then surely we cannot give it much (any?) weight?
<b>Section 2</b>		
	Policy 2(a)	Same as Policy 1 (d) - again there is no use class for this type of function – how do we secure this in planning terms from going to another use? If we cannot then surely, we cannot give it much (any?) weight?
	Policy 2(c)	The policy refers to non-designated heritage assets outside the Conservation Area are indicated on Map 8 whereas it's not map 8. It should be Map 2 although there are currently two maps called Map 6
	Policy 2(d)	Reference needs to be made to the adopted Development Management in Birmingham (2021) document, which was adopted in December 2021 (it is currently referenced in the Plan as being in draft). The relevant policy in the document is Policy DM10 which could also be referenced.
	Policy 2 (f)	The policy for maintaining workspace for jewellery and creative industries has the same issues as per Policy 1 c. In addition, traditional businesses often relocate because their premises are too large, have no parking/delivery areas etc and they don't want an equivalent amount of spaces re-provided in a new

		development.
	Policy 2(g)	Cross references could be made to the Development Management in Birmingham document again as this Policy is supported by Policies DM2 (Amenity), DM5 (Light Pollution) and DM6 (Noise and vibration) of that document.
	Policy 2 (h)	For major developments there may only be a small amount of ground floor commercial floorspace if any if the sites are outside the Creative Zone and cannot see how we can insist that 50% of the space be allocated to creative industry businesses or what the justification will be for requiring affordable workspace. The Council's priority is normally affordable housing and this is needed in the Jewellery Quarter as well as workspace. We think the policy is suggesting that we have affordable workspace rather than affordable housing this will all be down to viability. We never secure 35% affordable housing on sites in the Jewellery Quarter so we are unlikely to secure 35% affordable commercial space. Also a rent or sale at 80% of the market rate may not be affordable as we are finding with low cost market sale or rented housing.
	Chapter 2.4	We already tried for an article 4 here – are we trying again? What's changed? Any evidence that the PD rights have caused issues? Now office to residential considers noise the risk is lower – although residential character issue remains (in theory)
	Policy 2(f)	Does not appear to cover the long derelict / not fit for purpose spaces scenario, We think it should. Also, part (ii) how are we meant to secure relocation support through the planning process? The overall function of planning, to my knowledge, is about uses and not individual businesses – as a general principle. There have been exceptions of course.
	Policy 2(g)	–We think the trigger at the end should be 'occupied' or 'first used'
	Policy 2(i)	Should they be explicit that temporary car parks won't be supported? Supporting policy 4(i)
	Para 2.6	major also includes 10 dwellings +
	Policy 2(h)	shouldn't we have flexibility on the level of discount and extent of any affordable workspace on a case-by-case basis?

### Section 3

	POLICY 3(b)	<p>Some of the new public routes will be difficult /Impossible to achieve because they rely on the use of privately owned land recently developed and in the case of Newhall Hill to Sloane St there is a huge difference in levels between the two roads.</p> <p>There is a map showing new routes that should be secured including Hylton St to York Terrace – the text refers to a refusal of permission refusal on 50 Hylton St (2017/05421/PA) for reasons including: The development of this site in isolation from adjoining land would prejudice the wider regeneration of the area to the detriment of the Jewellery Quarter Conservation Area...</p> <p>There is a is a new policy on page 48 - POLICY 3(b): Improving permeability by creating new high-quality public routes which seeks to ensure development proposals add to the variety of uses in the vicinity and should incorporate active frontages at ground floor level which includes:</p> <p>vi. Hylton St to York Terrace, with consideration to improving the link to Key Hill Drive.</p> <p>It states that as a minimum that these should provide pedestrian and cycle access.</p> <p>There is currently an application, reference 2022/05419/PA at 51 Hylton Street for demolition of existing building and erection of three storey building comprising of two live/work units and a ground floor commercial unit.</p> <p>Given the location and the above proposals, if an access was proposed here, it was considered that this would not be achievable.</p>
	POLICY 3(f)	<p>Refers to Map 6 when the Map showing the Canalside Development Area is Map 5. We don't think it is feasible to make provision on sites even if they come forward for development for lost canal arms. It will just not be viable for former canal arms to be reinstated as an extension to the canal system. It might be to</p>



		<p>indicate the location of the former canal arm in the landscaping of proposed development but that is about as much as could be realistically achieved.</p>
	<p>Page 43</p>	<p>Transport• Mentions ‘Cells’, which should now be Segments.</p> <ul style="list-style-type: none"> <li>• Discusses segregated cycle facilities but this needs an element of realism as very few roads in JQ would be wide enough for this, and certainly without either traffic restrictions (e.g., one-way) and / or significant impact on other road uses such as parking / loading, public realm, street trees. There will also be shared cyclist / pedestrian spaces where segregated cycle facilities are not possible (e.g., across Dayus Square) which may have particularly adverse implications for groups with certain protected characteristics (e.g., mental disabilities including visual / hearing impairments)</li> <li>• It may be worth mentioning the proposed A457 cycle route which is expected to run through the JQ from east to west whilst incorporating the canal towpath, enhancing access to the green / blue space.</li> <li>• Although it would be beneficial to highlight the accessibility of cycle parking for all users and types of bikes, it may be considered that cycle parking supported by facilities such as showers and lockers is slightly ambitious?</li> <li>• Top para third column. It would be good to cement the meaning here, does it mean motor vehicle use is focused for logistics only associated with the JQ economy?</li> <li>• End of last para third column. Is this saying businesses should take responsibility for cleaning and basic maintenance? Might need clarification if this is the stance. Also, the implementation of any new parklets etc. will need to align to any new design guidance and subject to approvals outside of the emergency Covid-19 powers.</li> <li>• Would the plan support mobility hub concepts including more WM cycle hire docking locations, e-scooters, car clubs and car sharing parking spaces etc.? The BTP also encourages the introduction of</li> </ul>

		consolidation and micro-consolidation centres that will serve specific areas of the city with the replacement of delivery journeys with electric vehicles, including e-cargo bikes that can serve the last part of delivery journeys.
	Page 44	<p>Transport • Could discuss the poor environment when entering the area from the north-east and passing under the Snow Hill Viaducts.</p> <ul style="list-style-type: none"> <li>• Although there are aspirations to downgrade Great Charles Street and provide improved surface-level crossings, this is likely to be longer-term. In the meantime, there would need to be improved links to existing crossing points at Newhall Street and St Chads – the latter can only be reached by going under the Viaducts.</li> <li>• Key Routes – it would be good if these also identified gateway improvements to/from neighbouring areas to the east, north and west. With Map 2, there doesn't appear to be an east west key route to help open up accessibility. This is constrained by the railway on the east, but there are opportunities. It doesn't need to turn its back on the surrounding areas and focus just on the City Centre. Needs to look outwards a bit more. For example, is there a key route from Dudley Road bus service passengers once over the Ring Road? Are the key routes also cycle routes and do they provide access to / from key bus and Public Transport interchanges?</li> </ul>
	Page 52	Transport - Consider mentioning that removing street clutter (e.g., signs) etc. may be distressing for those with mental disabilities (e.g., autism or blindness) where this has helped build recognition of their routes. Maybe highlight how these groups will benefit / changes may be communicated with them.
	Map 3 – 3.3	We question the utility/safety of some of the smaller links shown. E.g., York Terrace but OK.... however, we do strongly support the links across Gt Charles Street Queensway and wonder whether links around the wider quarter in general should be identified (leading into/supporting the Our Future City Plan work)
	Policy 3(f)	The only canal arm lost and shown in the quarter is within the heart of an established block – not therefore sure of the purpose of saying it should be reinstated or recognised? We don't know how we could justify the reinstatement of lost canal arms

	3.8	Not sure of the status of any future visioning studies?
	Page 70	<ul style="list-style-type: none"> <li>• Doesn't appear to be any support to perhaps reduce kerbside general parking to off-street parking i.e., encourage more use of the existing multi-storey car park in the centre of the JQ and then use key routes to access the area from there. Should this be a consideration promoted to visitors? (Although historically there has always been a safety concern over this with expensive jewellery purchases and walking through a multistorey car park when dark etc. this hasn't historically been a good combination unfortunately).</li> <li>• It could be emphasised that at least some parking spaces (e.g., Blue Badge Holder bays) will need to be provided - especially in close proximity to key services, for those who may be unable to use alternative modes of transport.</li> <li>• It would be encouraged to mention plans for any provisions for electric vehicles including charging points on-street and in any suggested parking areas.</li> </ul>
<b>Section 4</b>		
	Policy 4 (b)	Should be more nuisanced in terms of building lines – some existing lines are inconsistent with the historic environment and need rectifying. In fact, 4(f) touches on this.
	Policy 4 (b)	<p>Suggest including the need for buildings lines to also be reinstated ie</p> <p>Development proposals should have regard to the following design-related requirements:</p> <p>The building lines on street frontages are to be maintained, respected and/or reinstated</p>
	Policy 4 (g)	No minimum size threshold for this policy to apply?
	Policy 4(h)	Is the buffer zone approach only applicable where the signage would impact upon the character of the conservation area?

	POLICY 4(h):	Some of the signage examples quoted do not need advert consent including property agents' signboards and billboards/hoardings.
	Policy 4 (j)	Could cross reference our new SPD – which seeks car free and is on the face of it stricter than the JQ policy.
	Policy 4 (j)	POLICY 4(j) is out of date and does not accord with the recently adopted Parking SPD. There should be no parking on development sites apart from parking for persons with disabilities.
	Policy 4(e)	Typographical errors - Second para should read 'in order <u>to</u> secure... '
	Section 4.6	<p><b>Ecology</b> - In the policy wording though we think it should be made clear that National Statutory Legislation and requirements around Protected Species such as bats must be fulfilled.</p> <p>This is especially the case for renovation of existing buildings which has returned numerous records of bat roosts – these receive statutory protection and any work to or near identified roosts can only be undertaken under license.</p> <p>Therefore, it is not just new builds or extensions that must consider biodiversity, reference to renovations/ refurbishment of existing buildings should also be included</p> <p>The other aspect of this is, that since the original drafting, further legislation has come forward under the Environment Act 2021 – if a development is of sufficient size or contains priority habitat then a minimum of 10% biodiversity net gain must be delivered.</p> <p>That net gain can be on site or off site. Priority must be given for on-site delivery, where off site delivery is needed then this must be agreed with the LPA prior to any determination of planning consent.</p> <p>A financial sum may be secured for off-site delivery within the identified Nature Recovery Network as defined by BCC.</p>

		<p>So, if a development is applicable under BNG then just ensuring delivery of no net loss would not be permissible as the mandate is to deliver net gain.</p> <p>In addition, under the Environment Act eligible development sites that start with a Zero biodiversity habitat baseline can be required to deliver a pre-defined level of gain/ urban greening.</p> <p>Our proposal for delivery as of Nov 2023 (at which point BNG becomes absolutely mandatory) would be that sites with that Zero base line should seek to deliver against an urban greening factor.</p> <p>We will need to consider how this would be deliverable within the JQ plan area and if we need to make some form of concession within the developing Nature Recovery Network and BNG policy.</p>
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