

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL AGAINST THE DECISION OF BIRMINGHAM CITY COUNCIL TO REFUSE
PLANNING PERMISSION FOR THE DEMOLITION OF EXISTING BUILDINGS AND
CONSTRUCTION OF 83 RESIDENTIAL APARTMENTS AT 334-340 HIGH STREET AND
8-22 HARBORNE PARK ROAD, HARBORNE, BIRMINGHAM, B17 9PU.**

**PROOF OF EVIDENCE BY ANDREW FULFORD BSc MA MRTPI ON BEHALF OF
BIRMINGHAM CITY COUNCIL**

28th March 2024

Planning Inspectorate Reference: APP/P4605/W/23/3336011

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Appendix A – Map showing locations of tall buildings in Harborne District Centre

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1. Introduction

- 1.1 My name is Andrew Fulford. I have a BSc (Hons) Degree in Geography and Planning from the University of Birmingham, and a Masters in Spatial Planning from Birmingham City University. I am a Chartered Member of the Royal Town Planning Institute.
- 1.2 I have been employed by Birmingham City Council in the role of Principal Planning Officer since February 2018. I was previously employed by Bromsgrove District Council between October 2007 and February 2018. Until August 2014 I worked as a Planning Officer in the Strategic Planning Team and after this date I was employed as a Principal Planning Officer in the Development Control Team. I previously worked as a Planning Officer within the Development Control section at Solihull Metropolitan Borough Council between March 2005 and September 2007. I have appeared as an expert witness for local planning authorities at a number of public inquiries over the past decade.
- 1.3 This proof concerns the decision by Birmingham City Council to refuse planning permission for the demolition of existing buildings and construction of 83 residential apartments at 334-340 High Street and 8-22 Harborne Park Road, Harborne, Birmingham, B17 9PU. The application was refused under delegated powers on 4th July 2023 for the following reasons:

1, By virtue of its scale, massing and appearance the proposal constitutes a poor design that would materially harm the character and appearance of the street scene and as such would be contrary to Policy PG3 of the Birmingham Development Plan 2017 guidance in Birmingham Design Guide SPD 2022, Policy DM2 of the Development Management in Birmingham DPD 2021 and the National Planning Policy Framework.

2, The scheme fails provide any affordable housing contribution contrary to policies TP31 and TP45 of the Birmingham Development Plan and the NPPF.

3, No contribution towards open space provision has been offered which is contrary to the Open Space SPD, Policy TP45 of the BDP and the NPPF.

4, The applicant has failed to demonstrate that there is sufficient off street parking in an area already experiencing high levels of parking demand. It is therefore considered that the inadequate parking proposed would lead to additional parking in nearby roads, to the detriment of pedestrian and highway safety. As such it would be contrary to Policies PG3 and TP44 of the Birmingham Development Plan 2017, policies DM14 and DM15 of the Development Management in Birmingham DPD and the National Planning Policy Framework.

5, By virtue of the significant number of 1 bed flats the proposed development fails to deliver a good mix of house types. There is an undersupply and evidenced demand in the City for family housing which the scheme fails to deliver and as such the proposal would be contrary to Policy TP30 of the Birmingham Development Plan 2017 and the National Planning Policy Framework 2021.

6, By virtue of its siting, layout and levels of sunlight received the private amenity space proposed is considered to be of a poor quality that creates an unacceptable living environment for the proposed occupiers and as such the development would be contrary to Policies PG3 and TP27 of the Birmingham Development Plan 2017, Birmingham Design Guide SPD 2022, Policy DM2 of the Development Management in Birmingham DPD 2021 and the National Planning Policy Framework.

- 1.4 In this proof I will set out the relevant material considerations and identify the harm arising before turning to the planning balance, within the context of s.38(6) of the 2004 Act as well as paragraph 11(d) of the NPPF.
- 1.5 I believe that everything within this proof is true at the time of writing. The statement incorporates my honest professional opinions and I confirm that I have acted with competence and integrity as I have done throughout my whole career. Due care and diligence has been taken when drafting this proof to ensure that I do not prejudice my professional status or the reputation of the RTPI. I can therefore confirm that I have closely adhered to the 5 core principles within the RTPI Code of Conduct.

1.6 This proof does not seek to repeat the Council's Statement of Case but it will provide a greater level of detail on each ground of refusal and address matters of planning balance.

2. Uncontested Issues

2.1 The signed and submitted statement of common ground (CD 11.1) and Viability statement of common (CD 11.2) ground sets out a number of issues where both parties are in agreement. The key areas of agreement are summarised below.

2.2 Housing Land Supply

2.3 The Council cannot currently demonstrate a five-year supply of housing land with supply agreed to be 4.45 years. As such paragraph 11d of the NPPF is engaged and the presumption in favour of sustainable development applies and the 'tilted balance' is engaged with regards to the determination of the appeal proposals.

2.4 Housing Delivery

2.5 The scheme delivers a net gain of 77 units of accommodation, including a contribution of £220,000 towards affordable housing in South Birmingham.

2.6 Sustainable Location

2.7 The application site is located within a District Centre with frequent bus services available. The appeal site is in a sustainable location within walking distance of a wide range of facilities.

2.8 Sustainable Development

2.9 The appeal proposals will deliver some social, environmental, and economic benefits. The proposed development will utilise a previously developed site to deliver a residential scheme that will enhance the vitality and viability of Harborne High Street.

- 2.10 The scheme includes energy efficiency measures that exceed Building Regulations requirements including the use of photovoltaic systems.
- 2.11 Air Quality
- 2.12 The proposal is not predicted to have an adverse impact on air quality. There is no objection to the appeal proposals from Regulatory Services.
- 2.13 Land contamination
- 2.14 There are no known sources of contamination that would constrain the development of residential development at the site. There is no objection from Regulatory Services in respect of any matters relating to land contamination.
- 2.15 Ecology and Biodiversity
- 2.16 The brownfield nature of the site limits the potential for protected species to be present and subject to the use of appropriate conditions it is considered that the scheme will deliver a biodiversity net gain.
- 2.17 Residential Amenity
- 2.18 Due to the level of separation from the nearest residential dwellings the proposal does not raise any concerns in terms of direct effects upon amenity in respect of either loss of privacy or loss of light.
- 2.19 Summary
- 2.20 The combination of factors identified above should be afforded weight in favour of the scheme.

3. Contested Matters

- 3.1 Character Impact

- 3.2 As set out within the Council's statement of case it is considered that the proposed development will materially harm the character and appearance of the local area.
- 3.3 The district centre of Harborne is linear in nature and covers a substantial area of approximately 1.2km in length between The Green Man Public House (2 High Street) and Harborne Pool and Fitness Centre (Lordwoods Road). The vast majority of the buildings along Harborne High Street are either 2 or 3 storey properties. The only exceptions are as follows:
- Apartment block on Lordswood Road (addresses between flats 1a-1f and 9a – 9g)
 - Harborne Village apartments, 349-353 High Street
 - Kings Oak apartments, 356 High Street
 - Harborne West apartments, 326 High Street
 - 270 High Street; and
 - Copper Box, 66-68 High Street
- 3.4 Of these 6 developments (shown in plan form in Appendix A) four are relatively modern apartment buildings which are a maximum of 4 storeys high. The only 2 buildings taller than this are the adjacent building known as Harborne West which is 7 storeys and 66-68 High Street which is 5 storeys high. Both of these taller buildings are older office buildings which have no particular architectural merit and by virtue of their original commercial use are not comparable to this case. 66-68 High Street is also 800m from the appeal site meaning the Harborne West apartments are the only taller building in close proximity to the appeal site and is considered to be a complete anomaly which is not reflective of its surroundings in terms of its scale and appearance and consequently does not provide a justification or precedent for further development of this scale or poor quality design on the appeal site.
- 3.5 The appeal scheme is a maximum of 6 storeys high on the High Street peaking at 17.9m tall (Block A). This scale is considered to be excessive especially when the site is positioned next to 350-352 High Street which is a very modest 3 storeys (9.3m high), a difference of over 8m.

- 3.6 Concerns over scale also persist in relation to Block B on Harborne Park Road which is a traditional residential street which consists of 2 and 2 and a half storey terraced dwellings where the 3rd storey is provided within the loft space. It is acknowledged that there is a 4 storey apartment block located on the corner of High Street and Harborne Park Road however a 4th storey on a prominent corner plot is generally considered to be acceptable as it 'marks' the corner. In this case, 4 storey development is acceptable on the corner as the location is effectively the gateway to the High Street. The appellants scheme has failed to address the street hierarchy and has maintained a substantial 4 storey scale across the whole Harborne Park Road frontage. This scale is in stark contrast to the traditional terraces opposite. Furthermore, the appeal scheme appears obtrusive and over-dominant when compared to the single storey Southlink Charter Centre and Baptist Church which are both located in close proximity on the same side of Harborne Park Road.
- 3.7 The previously approved 3 storey scheme on this parcel of land had a maximum height of 11.58m and fitted more comfortably within its context (CD 8.13). The proposed development (Block B) is over 1m taller at 12.7m high. In this additional 1.2m the applicant has managed to squeeze in an additional storey. It is interesting to note that the windows on each floor of the previously approved scheme aligned well the adjacent Kings Court which is not the case with the proposed development. This gives the impression of compressed floor to ceiling heights on each floor and adds to the incongruous appearance of 4 storeys in this location.
- 3.8 In an appeal decision at Sandown Racecourse (APP/K3605/W/20/3249790) the Inspector placed great weight on the harm arising due to the proposed scale of the proposals stating in paragraph 376 that:

The proposals would introduce intensive forms of development at, or close to, the edge of the racetrack at Sites 3, 4, 5 and B (the hotel). The combined effect would change the character of the racecourse as a whole from that of a managed open space bounded largely by trees to a space more tightly bounded by urban development. Notwithstanding the moderate sensitivity of the racecourse, in my view that change would be both significant and harmful due to the combined scale and physical extent of the proposals.

- 3.9 It is important to note that whilst the Sandown Racecourse appeal (CD 6.1) relates to a much larger parcel of land, the scale of individual buildings is similar in that a maximum of 6 storeys was proposed. The Inspector's views were fully endorsed by the Secretary of State in this instance. This emphasises the importance of developing to an appropriate scale and the weight that has been attached to this issue by an Inspector on a recent decision.
- 3.10 The site is relatively modest in size at 0.237ha yet 83 dwellings are proposed. This amounts to a density of 350 dwellings per hectare. This highlights the over-intensive nature of the development that is in stark contrast to its surroundings. Whilst density of itself doesn't govern the external envelope of a building – in this case it is the density of internal accommodation which has driven the excessive nature of the built development which is so obviously out of scale with its context.
- 3.11 In comparison, the terraced housing on Harborne Park Road (No's 15 – 51) has a density of 76dph. Even the adjacent apartment schemes have notably lower densities than the appeal site. For example, Kings Oak has a density 280dph and for Harborne Village Apartments the density is 209dph. These examples highlight how excessive the density is in comparison to the site's surroundings. The Council does not have policies that set maximum densities however policy TP30 of the Birmingham Development Plan states that new housing should be built to at least 50 dwellings per hectare in areas well served by public transport, which is the case here. However, policy TP30 goes on to state that in assessing the suitability of new residential development full consideration will need to be given to the site and its context. This emphasises that even if a density target is achieved it doesn't mean that a development is automatically acceptable and other policies will need to be complied with such as policy PG3 (place making).
- 3.12 Concerns are raised over the design and appearance of Block A. The High Street elevation has particularly cramped floor plates which has resulted in the fourth floor having small windows that sit unusually low in the elevation. The hipped roof is substantial and has unusually large and dominant dormer windows. As stated in the Council's statement of case the addition of a pitched roof on top of 5 storeys of development and projecting 5 storey oriel over the entrance are particularly alien

and discordant features not reflective of its surroundings. It is important to emphasise that the immediate context is traditional terraces constructed of red/orange brick with some render in places and pitched tiled roof above. There are also some more modern apartment buildings, although most of which are also of a traditional design constructed of red brick with a tiled roof.

- 3.13 The design deficiencies identified means that there is a breach of a number of policies. Beginning with the NPPF, it is clear that the proposal would fail to deliver a well-designed, beautiful and attractive scheme which is contrary to criteria e) of paragraph 128. The proposal fails to comply with paragraph 135 of the NPPF, specifically criteria a), b), (c), (d) and e) as it fails to add to the quality of the area, does not establish a strong sense of place, is unsympathetic to local character and history and fails to provide an appropriate amount of development. These NPPF breaches arise from the fact that by virtue of its scale, appearance and density the proposal does not integrate with its immediate surroundings.
- 3.14 The relationships with adjacent buildings has resulted in a scheme that that is not well designed and therefore should be refused in accordance with paragraph 139. Furthermore, this paragraph emphasises that development should be refused, especially where it fails to reflect local design policies, which in this instance is policy PG3 of the BDP and the Birmingham Design Guide SPD.
- 3.15 There is a clear breach of policy PG3 within the Birmingham Development Plan (CD 4.1). Policy PG3 identifies 7 criteria that developments should meet to demonstrate high design quality that contributes to a strong sense of place but there is significant conflict with the first bullet point. In light of the issues highlighted above the design has clearly failed to respond site conditions and the local area context. Furthermore, the proposals fail to integrate with its immediate surroundings thereby the proposals detract from the local distinctiveness of the area.
- 3.16 The proposal is contrary to Design Principles 1, 2, 11 and 14 as set out within the Design Principles document of the Design Guide SPD (CD 8.4). This is by virtue of failing to respond to the distinct characteristics of the area, by failing to demonstrate how a change in scale will enhance the area and by failing to deliver

coherent architecture which enhances its surroundings. The proposal is also contrary to City Notes LW-6, LW-7 and LW-8 of the Healthy Living and Working Places City Manual. City Note LW-6 highlights that the concept behind a building should be drawn from appropriate elements of the surrounding character area, which is not the case in this instance. The scheme is in conflict with City Note LW-7 as the form, scale and mass are influenced by the adjacent uncharacteristic 7 storey building. City Note LW-8 emphasises that buildings must display a coherent architectural approach with well-proportioned and balanced facades. The uncharacteristic features evidenced above highlight that there is a breach of this policy.

- 3.17 It is also considered that the proposal is contrary to the Guidance Notes published in relation to the National Model Design Code (CD 8.3). In the Built Form section, it indicates that building heights influence the quality of a place in terms of its identity and the environment for occupiers and users. Paragraph 113 states that consistent building heights, or variations within a narrow range can help make an area type feel coherent. This is not the case here with there being over an 8m height difference between the proposal and the adjacent 350-352 High Street.
- 3.18 The proposal also conflicts with the Identity section in the Guidance Notes. Paragraph 120 goes onto state that identity may come out of respecting and enhancing the existing character of the area and also from adapting and shaping to develop new character. Whilst also emphasising that the architectural approach needs to be influenced by its surrounding architectural character. It is clear by presenting a scale based on an uncharacteristically tall building the development cannot be respecting the character of the wider area. This is emphasised further by the inclusion of uncharacteristic features such as the oriel window and large dormers.
- 3.19 In summary, the evidence presented clearly identifies breaches with the NPPF, policies PG3 and TP30 of the BDP and the Birmingham Design Guide SPD. These policy conflicts weigh heavily against the proposal.
- 3.20 Transportation Matters

- 3.21 The scheme has been presented as 'car free' except for 2 disabled parking bays. In accordance with the Birmingham Parking Standards SPD the development (within Zone B) could provide a maximum of 83 spaces (1 per flat) plus 8 visitor spaces leading to a total of 91 spaces. This indicates the development could add a significant number of cars onto surrounding streets.
- 3.22 Many of the surrounding residential streets have parking restrictions and on street locations where parking is unrestricted are already in high demand. There are double yellow lines on both High Street and Harborne Park Road meaning that parking demand would have to be met in the surrounding streets such as St Peter's Road, Ravenshurst Road and Emerson Road. Google street view images provided in Appendix B show that these streets are already popular for on street parking through a combination of dwellings with no or insufficient off-street parking and customers/employees utilising facilities on the High Street.
- 3.23 The Council's Statement of Case highlighted that Harborne is a relatively wealthy and attractive suburb and as such there is an increased likelihood of higher levels of car ownership even if there are public transport options available. It is reasonable to suggest that a high proportion of the flat occupiers are likely to own a car. This is emphasised by the latest census data which highlights 67.27% of households in the Harborne ward own at least one car (6,693 of 9,949 households).
- 3.24 It is noted that the applicant has undertaken a parking survey which identifies a total of 99 parking spaces, however only 59 of these spaces are unrestricted. The remaining 40 spaces can be broken down as follows:
- 36 no. spaces –parking restrictions between Monday and Saturday 07:45-18:45
 - 2 no. spaces – Disabled Badge Holder layby; and
 - 2 no spaces – Off-street layby.
- 3.25 In light of the restrictions these 40 spaces are unlikely to be popular with occupiers from the proposed development. For example, if an occupier returns home from work at 5pm they can't realistically use any of time restricted spaces thereby adding further pressure onto the 59 unrestricted spaces.

- 3.26 Furthermore, concerns are raised over the methodology used as set out in the Council's Statement of Case. The survey uses a distance of 5m per space to estimate the number of on street spaces available. It is considered that a distance of 6m per space should have been used to reflect the size of modern cars and the need to be able to manoeuvre in and out of spaces. When considering only the 59 unrestricted spaces this equates to 295m of road where cars could be parked, based on 5m per car. Applying the more realistic 6m per space to the 295m of road, the number of spaces reduces to 49, which is a 17% reduction. Bearing in mind that these roads are already heavily parked it is inconceivable that up to 91 cars to be accommodated.
- 3.27 This high pressure for parking could lead to highway and pedestrian safety issues with increased likelihood of illegal or unsafe parking. It is pertinent that the applicant's survey identified an example of erroneous/double parking which is likely to only increase further as the demand for on street spaces increases. Such increases also raise the likelihood of accidents in the local area. For example, additional obstacles for drivers to manoeuvre around increases safety risks and reduced visibility arising from such obstacles makes it more challenging for drivers to see pedestrians. Furthermore, double parking can make it trickier for 2-way traffic to pass on terraced streets meaning it is more likely that cars will clip each other. It is also reasonable to suggest that a driver who is traversing residential streets searching for a parking space is likely become increasingly frustrated by the lack of spaces and become distracted as they are focussing on looking for a space rather than the act of driving safely.
- 3.28 The Council's Transportation Officer did not object to the application but did request a legal agreement that requires the applicant to undertake 6 monthly parking surveys in local streets for a period of 3 years post the completion of development with a financial contribution of £25,000 secured to undertake a traffic regulation order to address any issues that arise. The appellant has now indicated that they are able to agree to this financial request. Whilst it is not considered that this sum will be wholly effectively in addressing the substantial concerns, the Council have accepted the inclusion of this financial contribution as set out within a Statement of Common Ground on viability matters.

3.29 If the scheme were approved, it is not clear how clear how any traffic regulation order (TRO) would retrospectively address any parking problems identified by the 6 monthly surveys caused by the development. If more parking restrictions are introduced this would potentially frustrate existing homeowners who can no longer park outside their properties and push the problem further afield where parking restrictions do not exist. It is acknowledged that the council have accepted such sums to monitor parking and implement TRO's as necessary on student schemes. However, in such cases the student leases generally prohibit cars being brought to the area and furthermore students can leave their cars at the parental home once they realise that there is nowhere to park and/or their lease could be terminated if they are in breach. No such mechanism would be expected on a build to rent scheme and it is considered highly unlikely that occupiers would change their lifestyle to the extent that they would sell their cars. It is therefore questionable whether a TRO could satisfactorily address any parking problems in these circumstances.

3.30 By virtue of the severe impact arising from the lack of parking the proposal is in conflict with the penultimate bullet point of Policy TP44 of the Birmingham Development Plan and point 1 of policy DM14 of the Development Management in Birmingham DPD. Furthermore, the proposal is also in conflict with points 1, 2 and 3 of Policy DM15 by virtue as the lack of parking potentially increasing congestion, the operational parking needs of the development not being met and the lack of parking causing highway safety problems. In summary it is considered that the proposal would have an unacceptable impact on highway safety and consequently should be refused as set out in paragraph 115 of the NPPF.

3.31 Housing Mix

3.32 Policy TP30 of the Birmingham Development Plan highlights that housing schemes should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. The policy specifically states that account will need to be taken of the Strategic Housing Market Assessment (or any subsequent revision) and Detailed Local

Housing Market Assessments. The Council's Strategic Housing Market Assessment was superseded by the Housing and Economic Development Needs Assessment (HEDNA) when it was published in April 2022. It is considered that the HEDNA provides up to date and robust evidence on housing need and demand.

- 3.33 Table 8.22 highlights that on a city-wide basis that there is lowest need for 1 bedroom properties, just 5% for market housing. The HEDNA then explains in table 8.23 that as starting point for negotiation only 3% of a scheme should be 1 bed market housing where 35% affordable housing is being provided.

Table 8.22 - Suggested Mix by Broad Tenure

	1-bedroom	2-bedrooms	3-bedrooms	4+-bedrooms
Market	5%	35%	40%	20%
Affordable home ownership	20%	40%	30%	10%
Affordable housing (rented)	20%	35%	25%	20%

Source: Icen Projects based on Modelling

- 3.34 Helpfully, table 8.26 breaks down the market housing needs for different accommodation sizes into sub areas. The application site falls within the sub-area of Edgbaston where there is a 7% requirement for 1beds, 33% requirement for 2 beds, 42% requirement for 3 beds and 18% requirement for 4 bed (or larger) homes. This emphasises the high level of need for family housing in the wider Edgbaston area.

Table 8.23 Suggested Starting Point for Housing Mix Negotiations

	1 Bed	2 Beds	3 Beds	4+ Beds
Market (65%)	3%	23%	26%	13%
AHO (10%)	2%	4%	3%	1%
Affordable Rent (25%)	5%	9%	6%	5%
Total (100%)	10%	36%	35%	19%

Source: Icen Projects

Table 8.26 Modelled size requirement by sub-area – market housing

	1-bedroom	2-bedrooms	3-bedrooms	4+-bedrooms
Central	12%	35%	35%	18%
Edgbaston	7%	33%	42%	18%
Erdington	7%	32%	47%	14%
Hall Green	8%	28%	42%	22%
Hodge Hill	6%	32%	47%	15%
Northfield	7%	33%	46%	14%
Perry Barr	5%	30%	47%	17%
Selly Oak	6%	34%	44%	16%
Sutton Coldfield	6%	30%	40%	24%
Yardley	6%	32%	48%	14%
TOTAL	7%	32%	43%	18%

Source: Housing Market Model

3.35 In this appeal scheme there is a split of 48% 1 beds and 52% 2 bed apartments. With the greatest need for family housing the significant proportion 1bed properties clearly fails to address the housing need identified.

3.36 The HEDNA did not assess in detail demand by dwelling type i.e. house/apartment. However, para 8.93 states:

From the household survey it is clear that households would prefer houses to flats; of all household stating that they would like to move to a 2-bedroom property, some 22% would like a flat or maisonette. This figure is notably lower than the proportion of flats in the current stock.

3.37 Para 8.94 goes on to say:

Overall, this analysis would suggest that 2-bedroom homes should contain a mix of flats and houses. However, any decisions will still have to take account of site characteristics, which in some cases might point towards a particular type of development as being most appropriate (e.g. flats on City Centre sites). The analysis would suggest that the affordable sector might be expected to see a higher proportion of flats than for market housing, although it is still the case that a mix of the two is likely to be required.”

3.38 Taking into account the specific location of the site a significant reduction in 1 bed properties is still required and the introduction of some 3 bed properties is needed to achieve policy compliance. Consequently, the proposal fails to deliver a mix of house types to support the creation of mixed and balanced neighbourhoods contrary to policy TP30 of the BDP.

3.39 Outdoor Amenity Space

3.40 The statement of common ground confirms that the overall quantity of private amenity space is agreed to be 635sqm and this quantity of provision is considered to be acceptable. It is important to note that this calculation excludes the areas labelled 'private garden' on plots B-06 to B-10 (CD 1.14). These gardens front directly onto Harborne Park Road and therefore cannot be considered private. Whilst the overall quantity of provision is accepted, significant concerns are raised over the quality of open space to be provided.

3.41 200sqm of the communal space is provided within the rear courtyard. This area amounts to 2 small grassed areas severed by a path and an area of hardstanding that incorporates the visitor cycle parking. This means there is very little room to hang washing, relax and play ball games. This area is positioned directly behind block A and part of block B. The close proximity of the 2 blocks which are between 4 and 6 storeys high will greatly compromise the level of sunlight that will be received by this parcel of land. This space is further compromised by the close proximity of the bin store and car parking spaces. This does not create an attractive setting where residents would want to relax. The bin store could have odour issues and would generally be unappealing. The parking spaces further detracts from the space with noise arising from vehicles coming and going. Overall, this parcel of land has the feel of land that is simply left over and cannot be developed rather than good quality communal space for residents.

3.42 Concerns are also raised over the roof terrace provided for block A. This is positioned adjacent to the High Street which is not only within the district centre but also on a main route into the City Centre. This is clearly a noisy location throughout the day and evening which greatly reduces the attractiveness of this roof terrace.

- 3.43 13 of the apartments (6 x 1bed & 7 x 2bed) have their own private outdoor space this leaves the occupiers of 70 flats (34 x 1 bed & 36 x 2 bed) reliant on the communal areas which totals 385sqm (200sqm of rear outdoor space and 185sqm of roof terrace). The Birmingham Design Guide SPD requires 5sqm of space per 1 bed and 7sqm per 2 bed flat. This results in a requirement of 422sqm of communal open space arising from the flats that do not have a private garden/roof terrace. In this regard there is a shortfall 37sqm against the SPD requirement. Furthermore, there is nothing to prevent occupiers of the flats which have private gardens also utilising these communal spaces making them even more cramped.
- 3.44 It is therefore considered that the quality of open space provided falls short of the standards required by policy DM2 of the Development Management DPD which at criteria d) requires high quality and useable amenity space. Furthermore, contrary to Policy DM10 the proposal fails to provide sufficient useable outdoor amenity space. City Note LW-13 of the Birmingham Design Guide SPD states that communal spaces should be private landscaped gardens that allow multiple uses which is not the case on this appeal scheme. In summary, the sub-standard quality of the amenity space creates an unacceptable living environment for the proposed occupiers contrary to paragraph 96 of the NPPF.

4 Planning Balance

- 4.1 Notwithstanding the concerns highlighted above it is properly recognised by the Council that a balanced decision should be taken having regard to all relevant factors. A number of benefits of the scheme have been identified and are agreed with the appellants within the statement of common ground. The most notable benefits are considered to be the delivery of housing, the redevelopment of an underutilised site, economic growth, enhanced vitality and viability of Harborne High Street and biodiversity enhancements and building in a sustainable location which are discussed in greater detail below.

- 4.2 The Council accepts that it does not currently have a 5 year supply of housing land and therefore the 'tilted balance' applies and significant weight should be placed on the delivery of 77 additional homes.
- 4.3 The application site is in a sustainable location within a District Centre with frequent bus services available on High Street a short distance from the site. The additional population is likely to increase expenditure in shops and services along the High Street thereby supporting local businesses.
- 4.4 In addition to the social and economic benefits the proposal will also deliver ecological enhancements with a biodiversity net gain.
- 4.5 However, these benefits are significantly and demonstrably outweighed by the cumulative harm arising from the scheme. This includes harm to the character and appearance of the area, the impact on the local highway network, the poor mix of dwelling types and the poor quality amenity space for the proposed occupiers. There is a substantial level of conflict with policies PG3, TP30 and TP44 of the Birmingham Development Plan, policies DM2, DM10, DM14 and DM15 of the Development Management DPD and the Birmingham Design Guide. The proposal is also contrary to paragraphs 60, 96, 114, 115, 128, 135 and 139 within the NPPF.

5. Conclusion

- 5.1 In summary it is considered that there is substantial harm arising from the proposed development and consequently the proposal is contrary to the NPPF, Birmingham Development Plan (2017), Development Management in Birmingham DPD and Birmingham Design Guide SPD. The principle of residential development on the appeal site is accepted, but the proposed scheme is unacceptable. The Inspector is therefore respectfully requested by the Council to dismiss the appeal.

