



STATEMENT OF CASE

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

December 2023





1. INTRODUCTION

- 1.1 Evolve Planning is instructed by Midland Properties and Finance (Birmingham) Ltd ('the Appellant') to act on its behalf in respect of an appeal against the refusal of planning application 2022/06737/PA by Birmingham City Council ('the Council').
- 1.2 This Statement of Case is submitted under Section 78 of the Town and Country Planning Act 1990 (as amended).
- 1.3 The application was submitted to the Council on 31st August 2022 relating to the redevelopment of land at 334-340 High Street & 8-22 Harborne Park Road, Harborne, Birmingham, B17 9PU ('the Site').
- 1.4



- List of all plans and documents that formed the original application submission for 87 apartments.

- Additional plans and documents that were submitted to the Council during the course of the application reflecting the revised scheme and which were considered by the Council in making their decision.

- List of all plans and documents upon which the Council made their final decision.

- Additional plans and documents submitted as part of this appeal and which were not previously seen by the Council (i.e. those plans and documents which the Appellant did not have the opportunity to update to be consistent with the revised scheme).



2. APPEAL PROPOSAL

- 2.1 A full planning application was submitted to Birmingham City Council ('the Council') on 31/08/2022 originally for a scheme of 87 apartments across two new development blocks, with the demolition of all existing buildings (application ref: 2022/06737/PA).
- 2.2 Block A fronts the High Street and was originally proposed to be 6 storeys in height with the top storey taking the form of a mansard roof with dormer windows. Block B fronts Harborne Park Road and was originally proposed to be 4 storeys in height with the top storey taking the form of a mansard roof with dormer windows.
- 2.3 The original housing mix proposed a total of 53 x1-bedroom apartments (61%) and 34 x2-bedroom apartments (39%).
- 2.4 The original scheme proposed zero on-site parking, with a maintenance and service access off Harborne Park Road.
- 2.5 The original proposals included communal amenity space to the rear of both Blocks A and B, with each of the ground floor apartments having their own private garden space.
- 2.6 Table 1 of **Appendix C** includes all plans and documents that formed part of the original application submission.
- 2.7 The Council consulted on the original proposals for 87 apartments, following which the provided a number of comments to the Appellant, 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 is more 2 beds than 1 beds

- 2.8 The Appellant then made revisions to the scheme to address the Council's comments, this included:

Reducing the height of Block A with amended elevation design



- 2.15 This is on the basis that the substance of the application/proposed development is not being altered through the submission of these documents to the appeal and therefore if the appeal were to be granted it would not deprive those who should have been consulted on the changes the opportunity to comment.
- 2.16 The Council had considered and reconsulted on the amended scheme prior to its decision with the refusal being based on that amended scheme. The Appellant is only seeking to bring some of the documentation up to date to be consistent with that amended scheme and is not further amending the scheme through the appeal.
- 2.17 Further details of the appeal proposals are set out in Section 4 of the Statement of Common Ground.



3. PLANNING POLICY

- 3.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA), applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 3.2 Material considerations for any proposal include national policy and guidance contained within the National Planning Policy Framework (NPPF) (published 19th December 2023) and the Planning Practice Guidance (PPG), as well as any relevant Supplementary Planning Documents (SPDs) adopted by the Council. In addition, emerging Local Plans represent material considerations in the determination of planning applications, with the weight to be attributed to them commensurate with the stage of their preparation, the extent to which there remains unresolved objections to those relevant parts of the plan, and the degree of consistency of the relevant policies to the Framework (paragraph 48 of the NPPF).

- 3.3 The development plan for Birmingham currently comprises the Birmingham Development Plan (BDP) (adopted 10th January 2017), the Development Management in Birmingham Development Plan Document (DPD) (adopted 7th December 2021), the Birmingham Design Guide Supplementary Planning Document (SPD) (adopted 6th September 2022), Birmingham Parking SPD (adopted November 2021), Shopping and Local Centres Supplementary Planning Guidance (SPG) (adopted March 2012), and the PubnG6P644cum



4. HOUSING LAND SUPPLY

Five Year Housing Land Supply Position

4.1 In accordance with paragraph 75 of the NPPF, local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies.

4.2 Paragraph 76 then adds that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if their adopted plan is less than five years old and that adopted plan identified at least a five year supply of specific deliverable sites at the time that its examination concluded.

4.3 Paragraph 77 then makes clear that in all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 of the NPPF apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old.

4.4 Paragraph 226 of the NPPF is clear that from the date of publication of the NPPF (19th D n5r0 595.3 2F1ul.4 0 1 10





- 4.7 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 be applied to calculate the five year supply position.



5. THE APPELLANT'S CASE

First Reason for Refusal

- 5.1 The first reason for refusal on the decision notice relates to design. The reason for refusal reads as follows:
- 5.2 When considering Policy PG3 of the BDP, guidance in the Design Guide SPD, Policy DM2 of the DPD and the NPPF, the Appellant will demonstrate that contrary to the view of Planning Officers, the proposals do not materially harm the character and appearance of the area. Rather the proposals represent a high design quality that reinforces a positive sense of place, but in any event, creates a positive sense of place in this locality particularly with regard to the adjacent 7 storey building on High Street which the Council considers is out of kilter with the character and appearance of the area.
- 5.3 Regarding scale, the proposed massing and height of the part 5/part 4 storey Block A (facing High Street) is coherent and suitable given the prevailing pattern of development that exists along this street frontage. This position has regard to the adjacent 7 storey building on the High Street and how the scale of the proposed development would improve the relationship of this adjacent building to its surrounds.
- 5.4 The Appellant considers that an assessment of storey heights, as undertaken by Planning Officers, is an overly simplistic approach when evaluating the merits of scale. An assessment of massing, including consideration of the heights of the proposed block compared with existing built form along the High Street, should be undertaken to understand whether the scale of the proposed development is acceptable. The Appellant's case will set this out and will reveal that the margin of difference between the parties, specifically over what is considered to be an acceptable height, is immaterial on the basis there would be no difference in perception. As such the Appellant will demonstrate that the proposed massing and height is not harmful to the character of the area.
- 5.5 Furthermore, with regards to Block B (facing Harborne Park Road) the Appellant will demonstrate that the proposed height is suitable and unobtrusive having regard to opposing and adjacent built form, specifically an assessment of the relationship between the proposed Block B and opposing residential terraced properties and other adjacent built form.



- 5.6 In response to the Council's claims regarding the over-intensive nature of the proposals, the Appellant will demonstrate that the proposals are compliant with the development plan having regards to its density and making efficient use of land.
- 5.7 On design and appearance, as a result of a considered and iterative design process involving the Council, the Appellant's case will set out how the proposals support the NPPF's objective to create high quality, beautiful and sustainable buildings and in accordance with Policy PG3 of the BDP will reinforce local distinctives with a design that responds to site conditions and the local area context.
- 5.8 It will be explained that the Council's complaint that the development would be harmful to the character and appearance of the wider area fails to take into account the precedent set by existing built form in the locality and the ability of the proposed development to improve the relationship of the adjacent building within the overall pattern of development.
- 5.9 Notwithstanding that Policy DM2 of the DPD relates to amenity, with limited relevance to the assessment of design, the Appellant will demonstrate that the proposals are appropriate to its location through the consideration of adjacent built form and the context of the local area.
- 5.10 The final design which forms the basis of the Council's decision is a culmination of an iterative process of engagement between the Appellant, Planning Officers and the Council's Design Officer, during both pre-application and application stages.
- 5.11 During the pre-application process the scale and massing of the proposal was amended several times following comments received from the Planning Officers. The heights were significantly reduced and massing was altered to ensure the top set back level was not visible from street views.
- 5.12 Through the planning application the Appellant further reduced the intensification of building footprint on the site by removing a residential building within the courtyard. Projecting elements to the rear were also reduced in footprint and scale and therefore further opening up the courtyard space. Pitched roofs replaced flat set backs as a response to the site's context.
- 5.13 Several planning amendments were then made to the submitted scheme which included reducing the heights of both blocks, reconfiguring the ground floor of Block A to dual aspect apartments, adjusting the mix to provide more 2-beds than 1-beds, resulting in a reduction to an 83-apartment scheme. Increased communal gardens were also added along with 2 accessible parking bays.
- 5.14





Second Reason for Refusal

5.15 The second reason for refusal reads as follows:

5.16 The Appellant submitted a F



despite Officers having seen the findings of the FVA for the 87 dwelling scheme and in the absence of any assessment undertaken by the Council and that which was made available to the Appellant. Furthermore, following the revisions to the scheme, notably the reduction to 83 dwellings, the Council was aware that the Appellant was in the process of updating the FVA to reflect the amended scheme.

- 5.21 Unfortunately, despite the Appellant asking the Council to advise when it would be suitable to update the FVA, the Council did not respond to this request and did not give the Appellant sufficient opportunity to prepare and submit the updated FVA to reflect the amended scheme and to resolve this matter.
- 5.22 The updated FVA has now been completed by the Appellant to reflect the revised scheme of 83 dwellings and has been submitted to this appeal in response to reason for refusal 2.
- 5.23 Whilst the refusal has been made on grounds of viability, other than the overall conclusion of the original FVA, the Council has had no regard as to what in the Appellant's viability case is specifically deemed unacceptable. The Appellant is unaware of the Council's position with regards to the viability of the revised scheme, however it is hoped that the parties can come to an agreement through the appeal.
- 5.24 Notwithstanding any agreements between the parties on the FVA (to be ironed out through the Statement of Common Ground), the Appellant will demonstrate that a non policy-compliant affordable housing contribution is justified for the proposed development as per the conclusions of the updated FVA such that the proposals are not contrary to Policy TP31 of the BDP, nor the NPPF.
- 5.25 Though





contributions; rather it states





5.35 Based on the approach in the Open Space SPD, the Appellant sets out the updated calculation as follows:



- 5.42 The Appellant completed a Parking Survey on Tuesday 19th and Wednesday 20th September 2023 and will submit the findings of this Parking Survey to the appeal.
- 5.43 The Parking Survey demonstrates that sufficient on-street parking is available within the locality of the appeal site.
- 5.44 It is the Appellant's case that even if it is found that the parking provision is insufficient, there is no reasonable basis to conclude that there would be any detrimental impact on pedestrian or highway safety.
- 5.45 When assessing the proposals against Policy TP44 the Appellant will demonstrate that the proposals would not adversely impact upon the efficient, effective and safe use of the existing transport network either at all or to an unacceptable degree. This will have regard to the impact from the existing commercial use of the site compared with the proposed residential use.
- 5.46 In line with the findings of the original Transport Assessment, the Appellant will show that the site is well located for access to local facilities, active travel routes and the public transport network. The transport network in the vicinity of the site will be able to accommodate the forecast trip generation of public transport and active travel journeys and is suited to increased use of these modes. It will be demonstrated that residents in this area are not required to own a car to access local services and facilities or generally require a car to travel to work.
- 5.47 The Appellant will demonstrate that low parking provision is acceptable due to the high-quality public





- 5.57 Note that the original scheme for 87 apartments proposed a mix of 53 x1-bedroom apartments (61%) and 34 x2-bedroom apartments (39%). The Appellant's revised this mix to address the Council's comment that the mix should be reversed so more 2 beds than 1 beds are provided.
- 5.58 An assessment of density will also be included in the Appellant's case demonstrating that the proposed density is acceptable given the locality of the site and its context.





shaded spaces. The plant, refuse and cycle store are planted with green roofs to encourage biodiversity and help with rainwater run off.

5.66 Thfact #Attached [Bottom]Type/Pagination/Subtype/FooterBDC q0.000008871 0 5



- 5.71 The need for new housing is pressing given the Council's current inability to demonstrate over a five years' worth of deliverable housing land. The proposals are able to deliver 83 new homes whilst making the efficient use of land, on a brownfield site, in a highly sustainable location.
- 5.72 The proposals will deliver wider economic, social and environmental benefits which will be detailed within the Appellant's evidence



6. PLANNING CONDITIONS AND OBLIGATIONS

- 6.1 The Appellant will present deeds pursuant to Section 106 of the Town and Country Planning Act 1990 to ensure that financial contributions towards necessary off-site infrastructure can be secured, notably the provision of off-site open space improvements at Grove Park and the implementation of a traffic regulation order (if required).
- 6.2 The Appellant will seek to ensure that any contributions that are sought are restricted to those which are necessary to allow the development to proceed and to comply with CIL Regulations 122 and 123.
- 6.3 The Appellant will enter into early discussions with the Council, in advance of the exchange of Proofs of Evidence to agree a package of Section 106 Contributions.
- 6.4 Note that the Appellant commits to the requirements of the Community Infrastructure Levy (CIL) in line with the Council's adopted CIL charging schedule.
- 6.5 An agreed set of conditions will also be provided to the Inspector before the start of the public inquiry.



