Recommendation

Approve Subject To A Section 106 Legal Agreement

1. Proposal

1.1 The application proposes the erection of a development of 109 apartments on land fronting Constitution Hill adjacent to St Paul’s Metro station. The development would be in the form of a new building situated on the back edge of the footway filling the full width of the site frontage with two wings to the rear. One of these wings would extend back from the centre of the main building up to the western edge of the site and the second wing would be in the form of a separate block extending along the full depth of the eastern boundary with an adjoining listed building at 60-62 Constitution Hill. The main frontage block would range in height from 6-7 storeys above a basement car park and the wings to the rear would be six storeys in height. Overall the development would provide 50 one bed, 57 two beds and 2 three bed apartments.

1.2 There is a difference in levels across the site frontage and this would be used to create a semi basement car park underneath the frontage block. This would accommodate 21 car parking spaces with a further 20 car parking spaces being provided at the rear of the site giving 41 spaces overall, a ratio of 37%. Access to the parking areas would be provided from Constitution Hill about 7 metres from the boundary with the adjacent listed building and be via a two storey high archway.

1.3 It is proposed that on the Constitution Hill frontage there would be 6 floors of living accommodation above the semi basement car park with the top floor being in the form of a set back, flat roofed glazed box type structure. The end section of the building adjacent to the metro station entrance would however be a full seven storeys in height providing a small glazed top “pavilion” This would give the main building a height of 19.5 metres with the “pavilion” adding a further 2.7 metres in height. The two wings would both be 6 storeys in height although the block adjacent to the boundary with the listed building would provide 5 floors of accommodation located above a ground floor parking area.
1.4 In terms of design the proposed development would provide a single pedestrian entrance into the apartments from Constitution Hill but otherwise the only openings provided at ground floor level would be to accommodate grills for the car park as well as the large two storey vehicular archway entrance. The site rises up Constitution Hill towards the Metro station but as the building has a uniform floor plate the height above street level of the first floor windows varies between 1.2 and 2.5 metres. On the Constitution Hill frontage the façade would be broken down into a series of five bays with the first, middle and last bay projecting slightly forward. It is proposed that each bay would have subtle differences in window presentation and brick detailing and that the three forward bays would be articulated with a stone frame.

1.5 The proposal of subdividing the elevations into bays would also be continued for the other elevations for the rear of the building and the wings which would be between 2.4 and 5 metres lower than the frontage block. The rear elevations facing the railway line and side elevations towards the Metro Station would have a number of openings mainly serving kitchens and bathrooms and also providing secondary windows to bedrooms and living rooms. It is intended that red bricks would be the dominant material but with contrasting detailing using projecting stone framing, a stone parapet, brick plinth, soldier and header courses and recessed banding. In several locations glass cladding panels and terra cotta panels are proposed between windows and a number of living room windows would have metal or glass balustrades or balconies. The windows would have grey frames and be set back into reveals. The building has been designed to meet the Code for Sustainable Homes Level 4 and green roofs would be provided throughout.

1.6 Most of the apartments in the rear two wings would have either a balcony or terrace overlooking two communal areas of amenity open space which would have a combined area of approximately 450 square metres. The parking in the rear of the site would be screened by either the new wing or a pergola. Existing brick walls on two of the site boundaries would be rebuilt to their existing heights.

1.7 The application represents a revised proposal for the site which has the benefit of planning permission for the erection of a six storey building providing 76 one and two bed apartments as approved under reference 1999/05509/PA in March 2001. The permission was subject to a Section 106 Agreement to secure a contribution of £50,000 towards the provision of environmental enhancements of the canal corridor in the vicinity of the site. Building work started on site in 2001 with the demolition of the existing building and recommenced in 2006 with the construction of foundations, drainage and low masonry walls for the southern wing of the building. The site was then sold to the current applicants but no further work was undertaken. As however work commenced on site to implement the 2001 consent it has not expired and the development could still be completed. The new site owners found the approved proposals to be unviable and have therefore submitted the current application which seeks to increase the number of apartments.

1.8 The site area is 0.22ha giving the development a density of 495 dwellings per hectare. The application is supported by a Design and Access Statement, Heritage Statement, Planning Statement, Transport Assessment, Travel Plan, Ground Investigation Report, Noise Assessment and Financial Appraisal

2. Site & Surroundings

2.1 The site lies on the eastern edge of the Jewellery Quarter Conservation Area fronting Constitution Hill. The site has been cleared of the warehouse that previously occupied the site and but is currently being used on a temporary basis for a
contractors yard/compound in connection with the construction of a 109 bed hotel on land at 90-104 Constitution Hill. The site frontage to Constitution Hill is enclosed with hoardings, the eastern boundary is formed by the side wall of the neighbouring listed building and the south and west boundaries are enclosed with brick walls. There is a difference in levels across the site frontage of about 1.7 metres.

2.2 The building forming the eastern boundary of the site at Nos 60-62 Constitution Hill is a 3 storey grade II listed building constructed between 1820-30 for Fenners and Bettridge but is now used as clothing wholesalers and retail shop for HS Tank. To the south lies the Midland Metro line and St Paul’s Station. The pedestrian entrance to the Metro and a sub station abuts the western boundary with the new hotel development beyond which is in the form of a conversion and new building to provide a 4/5 storey building. The wide area comprises of a mix of commercial and industrial buildings of various heights and ages.

3 Planning History

3.1 March 2001 - 1999/05509/PA – Planning permission granted for redevelopment of site and construction of 76 flats with associated car parking subject to a Section 106 Agreement.

4 Consultation/PP Responses

4.1 Transportation – No objection subject to conditions to secure provision of new footway crossing, reinstatement of the existing footway crossing, provision of bicycle/motorcycle parking and that any gates are set back 5.5 metres from the edge of the carriageway.

4.2 Local Services – No objection and comment that due to the previous history of the site, it is appreciated that it is unlikely that any contributions will be secured in relation to this application apart from those relating to public realm improvements.

4.3 Regulatory Services – No objection subject to conditions to ensure that the development is undertaken in conjunction with the submitted noise impact assessment and that a land contamination scheme and validation report are provided.

4.4 Severn Trent Water – No objection subject to condition requiring a detailed drainage scheme to be submitted.

4.5 Environment Agency – Originally objected to the application on the grounds that they had inadequate information to assess the existing ground conditions. Additional information has since been provided and the objection has been withdrawn subject to conditions requiring a site investigation and risk assessment.

4.6 English Heritage – Do not wish to offer any comments and consider the application should be determined in accordance with national and local planning policies and on the basis of the Council’s specialist conservation advice.

4.7 Birmingham Civic Society – No comments to make

4.8 Jewellery Quarter Development Trust – Generally support the principle of a residential-led development and welcome the revitalisation of a longstanding vacant site but object to the development principally due to the design and appearance of the building and the dwelling mi. They have the following concerns/objections:-
The current scheme represents an improvement on the 2001 permission, but clearer policies have since been adopted and the design falls short of expectations given its Conservation Area location and proximity to listed buildings.

Disappointed the applicant did not have pre-application discussions with the Jewellery Quarter Development Trust

Consider provision for ground floor active uses should be made and request a redesign to improve the pedestrian relationship with the building at street level and that a greater feature is made of the main entrance.

Consider the scale and mass of the building results in a large monolithic block which does not appropriately contribute to the street and its surroundings.

Feel the development dominates and pays insufficient regard to the adjacent Grade II listed building and that should be a transition in building heights with the building stepping down towards its neighbour.

Consider there should be a greater variation in the roof/line to add interest to the street although support the recessive upper floor.

Applaud the inclusion of the brick detailing and stone trims which helps break up the mass but wish this to be developed further. Must ensure the detailing is retained at the delivery stage.

Concerned that 1 and 2 bedroom flats will not encourages long term living and families within the Jewellery Quarter.

Consider the flats should have more space and provide communal areas for meetings between neighbours

Welcome the green roof and courtyard landscaping but request a more imaginative design and outdoor spaces at different levels.

Want to encourage gas-fired central heating but if only electric heating can be provided there should be of on-site electricity generation.

Consider the materials adhere to the local vernacular but that they are presented in an unimaginative way and should draw inspiration from the other Victorian buildings in Constitution Hill to contribute toward the revitalisation of the area.

Concerned that the level of parking is insufficient and would add pressure to existing car parking provision in the area.

Have concerns regarding right turn in and right turn out from the new access.

Consider the provision of 15 cycle racks is insufficient

Consider a glazing and ventilation strategy is needed due to the noise from traffic on Constitution Hill and from the Metro.

Although current financial constraints are recognised consider the scheme should provide an element of affordable housing.

Note the offer of £50,000 towards public realm improvements but would expect a higher obligation given the amount of accommodation and absence of affordable housing.

Have identified the following projects to which Section 106 monies could contribute --
- Works to footpaths in St. Paul’s Square
- Tree planting on Caroline Street
- Upgrading of street lighting across the Jewellery Quarter
- Upgrades to street crossings for disabled users
- Relocation of Jewellery Quarter information centre

Conclude that the scheme can contribute to the needs of the Quarter and the wider City but requires further revisions to the massing, elevational treatment and mix of apartment sizes

Conservation and Heritage Panel – The application was considered at the 11 March 2013 meeting and members of the Panel were of the view that the current proposals
were an improvement on the previous less sympathetic scheme however, they raised the following issues:-

- The treatment of the ground floor should be amended in order to provide greater emphasis and interest.
- The rear wing should be subservient to the main building especially when viewed from the street and the Metro.
- The blank ends to the two wings are disappointing and it would be preferable to incorporate some window openings.
- The courtyard will require careful treatment the emphasis should be on hard landscaping.

4.10 Centro – No objections in principle but to ensure the development does not interfere with the effective operation of Metro Line they will require full involvement with any Construction Management Plan. Comment that the site is located near to both bus and Midlands Metro Services and Constitution Hill is a major transport corridor into the City Centre. Consider that there are a range of proposed improvements to the infrastructure to St Pauls Metro Stop and consideration should be given towards a financial contribution towards delivering the long term development of the public transport network.

4.11 West Midlands Police - No objections in principle, but have made the following comments:-

- Consider 41 parking spaces will not be sufficient and lack of parking could cause neighbour disputes, inconsiderate parking and the displacement of vehicles in an area which has limited street parking
- Pleased to see that the car park area benefits from gated access control, the installation of CCTV could be considered.
- Recommend a boundary wall/fence 2.1 metres in height to prevent unauthorised pedestrian access to the site
- Request use of Secured by Design doors and windows
- Consider there should be an entry control system for residents and visitors.
- The theft of metal is a national problem and the use of this material should be avoided where possible
- The site should be secured appropriately during building operations to prevent the theft of plant, tools and materials

4.12 West Midlands Fire Service – Question whether fire access is sufficient as buildings with a floor level at more than 18 metres above fire service vehicle access levels should be provided with fire fighting shafts containing fire fighting lifts. Pumping appliance access should be to within 18 metres and within sight of the riser inlet.

4.13 Wildlife Trust for Birmingham – Support the ecological recommendations made for this site particularly the with green roofs and consider if implemented will ensure that the application makes a contribution to nature improvement in Birmingham

4.14 Network Rail - No objections as the proposal appears to be entirely on the third party land.

4.15 MP, Local Councillor, residents and businesses notified of the application, press and site notices displayed. Four letters received making the following objections:-

- The 6/7 stories height is out of keeping for the Jewellery Quarter will dominate the skyline from the Livery Street side of St Pauls Square.
- The new building would dwarf the adjacent listed building
• The south west elevation of the building would be visible from St Paul’s Square and is unattractive and does not reflect the nature of property in the vicinity.
• The red brick to be used for all elevations will be visually obtrusive and does not blend with neighbouring property,
• The scheme does not maximise the sites full potential or contribute to the wider area.
• The dead frontage facing the street looks like a defensive barrier and is aesthetically dull and separate from the world outside and would impede the development of a fully integrated wider community.
• Retail/leisure or industrial uses should be added to the ground level as required by the Jewellery Quarter Management Plan in order to create an active street frontage.
• The ratio of parking spaces to apartments is far too low and will increase the demand for on street parking particularly with the new hotel accommodation being built nearby.
• The new block will adversely impact on the H S Tank & Sons property at 60-62 Constitution Hill due to the need to access guttering along the common boundary which is particularly important in view of the Grade II Listed status of the building. The development would also cause a loss of light to roof lights located along the existing mansard roof slope facing the site and within the proposed residential conversion of the upper floors which has planning approval. The Council is requested to ask the applicant to delete the rear wing from the application.

5 Policy Context


6. Planning Considerations

6.1 It is considered that the main issues are whether the use of the site for housing is acceptable in principle and if so whether the layout, scale and design of the proposed scheme is appropriate for site as well as its impact on the adjacent listed building and the Jewellery Quarter Conservation. Also to be considered is the residential amenity of future occupnats, whether adequate parking/cycle facilities would be provided and whether satisfactory provision can be made for public open space and affordable housing.

6.2 Residential Use

6.3 Within the National Planning Policy Framework (NPPF) paragraph 17 supports sustainable economic development to deliver new homes and encourages the use of brown field land. Paragraphs 49 -50 state that housing applications should be considered in the context of the presumption in favour of sustainable development and local planning authorities should: plan for a mix of housing based on current and future demographic trends, market trends and the needs of different community groups.

6.4 The application site is not specifically referred to in the UDP but paragraphs 15.69 states that an urban village is proposed within the Jewellery Quarter with key
proposals including a new residential community of around 2000 new homes creating a balanced mix of housing types, sizes and tenures. Other UDP policies emphasise the importance of the City’s housing policies in contributing to the strategy for urban regeneration and economic revitalisation of the City. It’s policies also require that new housing developments should provide an appropriate environment (paragraphs 5.20-5.20A), a suitable housing density and mix (paragraph 5.40) and encourages a full range of housing types and sizes including affordable housing and those for and other specific needs (5.35 and 5.37). Paragraph 5.38 identifies that densities of at least 100 dwellings per hectare will be expected within the city centre. Paragraphs 3.14D and 3.14E of the UDP identify that new housing development should be designed in accordance with good urban design principles.

6.5 The Big City Plan identifies the Jewellery Quarter as grainy but special to our city, It comments that it is vital that its authentic character is both protected and cared for and supports mixed use redevelopments and landmark buildings on key gateway routes into the city. Within the management plan element of the Jewellery Quarter Conservation Area Character Appraisal and Management Plan the application site is shown as being within the Viaduct locality and comments that this area no longer has a strong relationship with the Jewellery Quarter, Uses are largely wholesale warehousing with an element of residential conversions. The management section of the plan encourages the development of vacant sites subject to the scale, form and density being appropriate

6.6 The principle of residential use on the application site is considered to have been established via the current approved scheme for 76 apartments as approved n 2001. This could still be completed and would provide an entirely residential scheme of apartments comprising of 20 one bed flats and 56 two bed flats. The scheme now proposed for the site would provide 50 one bed, 57 two beds and 2 three bed apartments and whilst this would result in a greater number of one bed flats being provided it would give a greater mix of dwelling sizes. The flats vary in size from 43 – 48 square metres for one bed units, 56 - 78 square metres for two beds and 87 -104 square metres for the three bed units

6.7 It is noted that the Jewellery Quarter Development Trust generally support of a residential-led development on the site but consider the proposed 1 and 2 bedroom flats would not support their desire to move away from a transient community to one which encourages long term living within the Quarter. It is however considered that due to the form of the development, the location of the site and the need to provide a viable scheme it would not be possible to accommodate larger family sized accommodation on the site such as houses with gardens. Whilst it is acknowledged that there is a large number of apartments within the Jewellery Quarter however the site is appropriate for a high density scheme as previously agreed.

6.8 Comments have also been received from the Jewellery Quarter Development Trust, local residents and Council’s Design Officer that a commercial unit should be added to the ground level in order to create a more active street frontage and improve the pedestrian relationship with the building at street level. Since the application was submitted a number of changes have been made to the design to add more interest at street level which are explained in more detail in paragraph 6.23 below. However the slope of Constitution Hill means that whilst the entrance to the car parking is at ground level at the lower end of the site it effectively becomes basement parking at the upper end. This gradient makes the introduction of retail difficult without compromising either the residential accommodation or parking. The proposed arrangement allows for most of the parking to be screened from view and for amenity
spaces to be created for future residents It also accord with the current consented scheme.

6.9 Layout

6.10 The layout previously proposed for the site provided a block filling the full width of the frontage with an L shaped wing to the rear and a surface car park of 23 spaces and shared amenity area. This revised scheme would provide two more regular shaped and lower wings to the rear of the site to emulate the shopping wings traditionally found in the Jewellery Quarter. This allows more amenity space to be provided (an increase from 325 square metres to 450 square metres) and one of the new wings would be built above the ground floor parking largely screening it from view. Overall the produces a much better layout and an improved outlook for future residents.

6.11 Objections have however been received on behalf of HS Tank & Sons, who occupy the adjacent listed building at 60-62 Constitution Hill, on the grounds that the new rear wing proposed adjacent to their boundary would affect access to their guttering and concerns that the development would cause a loss of light to their roof lights. The current approved scheme locates development away from the boundary allowing neighbouring side wall to be seen in full from the development .It is however not an attractive boundary feature being up to three storeys high, constructed of a variety of materials and provides views of the external plant and equipment on the neighbouring building. These revised proposals would not only screen this wall from view but would also reinstate a building on the site boundary of a similar size to that which originally occupied the plot. The heritage statement submitted by the applicants has provided details of the Great Western Brass Foundry that occupied the site between 1823 -1955 and photographs and maps provided show that it adjoined the HS Tank building.

6.12 The roof lights referred to by the objector comprise of two lines of roof lights that extend along the full length of the gabled roof on the front section of the listed building at 90 degrees to the application site. The main section of the roof that adjoins the application site slopes away from the boundary and does not contain any windows. It is not considered that light to the existing roof lights would be unduly affected by the proposals. Access to the neighbours guttering can be dealt with under a Party Wall Agreement.

6.13 Scale

6.14 The design policies within the Jewellery Quarter Conservation Area Management plan states that new development will normally only be granted where it respects the scale and density of the historic pattern of development, respects the scale and mass of traditional buildings in the locality and normally the height of new development would be a maximum of four storeys. The Viaduct area of the Jewellery Quarter however has a different character to other parts of the Conservation Area in that it was developed with large metal manufacturing buildings and engineering sheds mainly built during the 1800's. These generally were of a taller height and larger scale than in other parts of the Jewellery Quarter also reflecting their location on Constitution Hill as a major route to the city centre.

6.15 The building currently approved for the site comprises of a six storey building with a hipped roof which the committee report at the time commented as being of roughly the same height and mass as the warehouse that occupied the site at the time. The new building now proposed would be 6/7 storeys high and provide an additional floor of accommodation within the roof space, however the overall height of the building
would still be similar to that approved at 19.5 metres. Whilst the end bay of the building adjacent to the metro station entrance would be a full seven storeys in height with the addition of the glazed top pavilion it is intended that this would give emphasis to the corner and highlight the entrance to the Metro Station, which presently is almost hidden from view. This would be about 2.7 metres higher than the previous scheme.

6.16 The scale and bulk of the proposed building has been criticised by the Jewellery Quarter Development Trust who consider the building to be a large monolithic block which does not appropriately contribute to the rhythm of the street. They suggest the building should be stepped away from the HS Tank building, its form broken up and there should be a greater variation in the roof/cornice line, although they support the recessive upper floor. Other concerns have been raised regarding the seven storeys pavilion at the corner adjacent to the St Pauls Metro access.

6.17 Although there are some objections to the scale and massing of the development the Council’s conservation officer supports the proposals and considers the proposals to be a significant improvement compared to the current approved proposals for the site which include a shallow hipped roof which is not a traditional feature of the Jewellery Quarter. Unlike the previous scheme the building has also been broken down into bays on the Constitution Hill frontage to reduce the apparent scale. The Conservation and Heritage Panel also considered the revised proposals to offer a much better solution for the site than the current scheme. The architects have confirmed that the design of the 6th floor elevation includes both areas of transparent glazing and solid spandrel panels.

6.18 With regard to the pavilion the architect’s agents have explained that they consider that the North West corner of the building has a most important role to play in the urban design setting of Constitution Hill and beyond. This corner of the building needs to be clearly seen from distant viewpoints to not only signal the entrance to St Pauls Metro Station but also to reflect both the streetscape of Constitution Hill and the established urban design hierarchy of the Conservation Area where corner towers and spires already feature at significant locations. The prominence of the rooftop pavilion performs this role highlighting the station as a significant point in the streetscape and the City. The adjacent building at 32-54 Constitution Hill also has a tower feature on the corner of the building and it also introduces a more varied roof form to the proposed building. Overall it is considered that the scale and bulk of the proposed building including the pavilion is acceptable.

6.19 Design

6.20 The current approved scheme provides a ground floor car parking area with five floors of residential accommodation above. At street level fronting Constitution Hill the development has two pedestrian entrances but otherwise the only openings provided are four decorative grills for the car park and a large 6.7 metre wide vehicular archway. On the upper levels to both the Constitution Hill frontage and at the rear of both blocks the design includes predominantly small windows other than for main living rooms where larger windows with either projecting or Juliette balconies are provided. At fifth floor level the accommodation is set back behind a guard rail across the full frontage. The materials approved comprise architectural masonry at ground and first floor level to give the appearance of York stone, with red facing brickwork and sandstone coloured render above. The roof has a 20 degree pitch, is hipped and would be constructed from interlocking concrete tiles.
6.21 The new design now proposed has sought to provide a scheme that draws upon the key characteristics of the Jewellery Quarter. Although only a single pedestrian entrance into the apartments at street level fronting Constitution Hill is proposed a more regular pattern of metal grills for the basement car park would be provided and a more centrally located two storey archway for pedestrian and vehicles 6 metres wide. The building has also been broken down into a series of bays and it is proposed that each bay would have slight differences in window presentation and brick detailing. A regular pattern of metal framed windows would be provided subdivided with mullions and transforms in a number of patterns according to their status. It is intended that several different red bricks would be used with elements of terracotta panelling and brick and stone detailing. Although one objector questions the use of red bricks the Design Guidance identifies red brick with brick and stone detailing as being one of the defining characteristics of the Jewellery Quarter.

6.22 Overall there is a general consensus that the design is more sympathetic to the character and appearance of the Jewellery Quarter than the current approved scheme and that the pallet of traditional materials and detailing proposed reflects the Jewellery Quarter Design Guidance. Objections have however been received to aspects of the design from the Jewellery Quarter Development Trust, local residents, and the Conservation and Heritage panel particularly to the ground floor treatment, limited variation in the roof line and lack of windows in the rear elevation facing the metro line.

6.23 Following consideration of the objections the applicants have made a number of changes to elevations including adding two storey stone detailing and a canopy to emphasise and give greater prominence to the main entrance. A double height brickwork feature band has also been added around ground/basement windows, with decorative grillage added to basement car park with patterned brickwork below and bottom plinth between windows. This would provide grill features that extend to pavement level to reflect traditional basement areas. In addition brick detailing has been added around the first floor windows together with elements of stretcher bond brick work, a brick plinth and additional areas of string course brickwork. Further windows have also been provided to the north west and south elevations and additional areas of stone framing. These amendments are considered to enhance the front elevation of the building particularly at street level and would also improve the side and rear elevations when viewed from the Metro line and its pedestrian entrance.

6.24 Although the comment is noted that the building does not have a varied roof line or respond to the slope of Constitution Hill it does follow the same manner as other buildings in Constitution Hill and the form of the buildings that originally occupied the site. Notwithstanding that the building lies within the Jewellery Quarter it is considered that it reflects its immediate setting in the streetscape. In addition the applicants have advising that a flat roof is necessary to allow green roofs to be provided within the scheme which has been welcomed by consultees.

6.25 There have been other comments that the solid to void ratio of the front elevation of the design should be improved with larger windows on the lower levels however the design proposed closely responds to the fenestration pattern of the original foundry building which had a large regular pattern of windows. It is also a major improvement compared to the small windows openings approved on the current approved scheme.

6.26 Impact on the adjacent listed building
6.27 As the application site adjoins a Grade 2 listed building the Local Planning Authority are required to have special regard to the desirability of preserving the building or its setting. The UDP policies on listed buildings seek to ensure new buildings respect the area surrounding them and that they reinforce and evolve any local characteristics. The NPPF guidance on conserving and enhancing the historic environment states that in determining applications Local Planning Authorities should seek to conserve heritage assets in a manner appropriate to their significance and the more important the asset the greater the weight to be given. There is a presumption in favour of the conservation of heritage assets and in relation to Grade 2 listed buildings, loss or substantial harm, should be exceptional.

6.28 The applicants have submitted a detailed Heritage Statement which considers the history of the application site and its surroundings and the impact the proposed development would have on the listed HS Tank building. Currently the listed building adjoins a vacant site but in the past it adjoined the Great Western Brass Foundry that occupied the application site between 1823 and 1955. The foundry site was a large scale building rising 4/5 storeys that spanned across the whole street frontage and was built at virtually the same time as the adjoining listed building. When the building was demolished in 1955 it was replaced with another large industrial/warehouse building originally used as a Chemical Abrasive works and more recently known as Sirpel House. It also filled virtually the full width of the frontage although a gap had been left adjacent to the listed building used for vehicular access. This building was three storeys high with a basement area and had a height of about 18 metres and was demolished in 2001. The adjacent listed building at 60-62 Constitution Hill therefore sat alongside much taller industrial premises on the application site for well over 150 years. It also lies in close proximity to the Grade 2 listed Taylor and Challen building at 32-54 Constitution Hill which again is a much taller building dating from the 1920’s.

6.29 The heritage statement concludes that the impact of the proposals on the HS Tank building should be seen in the context of the historical relationship with the application site and its context in the street. It considers the new proposals will reinstate a building on the site reflecting its original setting and also reintegrating it into the streetscape. The Council’s conservation officer agrees with these conclusions and does not consider the development would have any adverse impact on the setting of the adjacent listed building.

6.30 It will be noted that comments have been received from objectors that they consider the development dominates and pays insufficient regard to its immediate Grade II listed neighbour and that building heights and should step down towards the lower building. However as mentioned above there has historically been a much taller development on the application site with a uniform height and no step down. Furthermore there is a current planning permission on the application site for a building of virtually the same height as the development now proposed which has no variation in the roofline other than providing a hipped roof. The proposed change in roof style to a more uniform form and the improved design of the new building are not considered to have any adverse impact on the adjacent listed building or its setting.

6.31 Impact on the Conservation Area

6.32 Within Conservation Areas special attention is to be paid to the desirability of preserving or enhancing the character or appearance of that area. UDP policies for also require that development should preserve or enhance the character or appearance of the Conservation Area and should respect the character of the existing architecture, in scale, grouping and materials. The Jewellery Quarter
Character Appraisal and Management Plan requires new development to respect the scale, form and density of the historic pattern of development, to protect views and roofscapes and to preserve and enhance the character or appearance of the area with emphasis placed on the form, scale, massing and materials in a contemporary response to context. The SPG also states the Council will always encourage the development of vacant sites. The Character Appraisal section comments that the Viaduct Area has an air of neglect and decay with poorly maintained vacant buildings and a number of cleared sites which fragment the streetscape.

6.34 The application site has now been vacant for about 12 years and is enclosed with a hoarding. As a result it forms a large gap in the street scene which does not enhance the character or appearance of the conservation area. Its development with a new building would reinstate the streetscape and would return a large scale building back to the site reflecting how the site was developed in the past. The form of the new building is considered to meet the design guidance for the Conservation Area in that it follows the historic street frontage line, the original historic form of development on the site and respects the historic plot boundaries. The scale and mass of the building reflects the height and bulk of the buildings that previously occupied the site and its surroundings. Constitution Hill was originally laid out with larger scale buildings than in other parts of the Conservation Area reflecting the important status of the road. The plan form has been designed to provide subservient wings behind the main frontage building which is a character of the Conservation Area and the elevational treatment and materials proposed follow the Jewellery Quarter Design Guidance.

6.35 It is therefore considered that the development would have a positive impact on the Conservation Area and enhance its appearance. The current scheme is a far more appropriate solution for the site than the current approved scheme. With the development of the new hotel near by at 90-96 Constitution Hill there would be a significant improvement and upgrading of the street and the Conservation Area generally.

6.36 Residential space standards and outlook

6.37 The layout proposed results in the two rear blocks of apartments having a separation distance of 18 metres which is below the guidance recommended in Places for Living but is considered to be acceptable in a high density city centre development. In terms of bedroom sizes all meet the minimum requirements set out in Places for Living. Although the Jewellery Quarter Development Trust consider the flats could be improved by giving more space to storage and general living each apartment has been provided with a large storage cupboard and the living spaces are considered to be of an acceptable size with those to the rear of the building also having a balcony or terrace. Although no specific communal rooms would be provided there are two shared amenity spaces. The comment that the developers should be encouraged to pursue gas-fired central heating is noted and in response the applicants has advised that it will be considered and developed post determination but will be consistent with environmental sustainability. The layout includes a sub station and heating plan within the ground floor basement area.

6.38 The provision of the second amenity area within the site is considered to be a further improvement compared to the current approved scheme and allows the apartments at the rear of the site to overlook a landscaped space rather than car parking. The design and access statement submitted shows the amenity areas laid out with grass, shrubs and grey paving. Comments have been received that more hard landscaping treatment is required including the use of blue paving brick, differences in levels and that the developer provides blue brick to the footway in front of their building and a
granite sett crossover to the vehicular entrance. The applicants have responded that in practical terms it would be difficult to introduce open areas and private outdoor spaces at different levels however they are willing to develop the landscape scheme further to achieve an appropriate scheme. A detailed landscape condition is recommended.

6.39 The Jewellery Quarter Development Trust has also advised that there will be a need to protect residents from noise generated from Constitution Hill and Metro. A noise impact assessment has been submitted with the application which concludes that the frontage of the building on Constitution Hill falls into noise category C, using the previous PPG24 guidance, and the southern façade facing the Metro is within Noise Category B. The assessment recommends a noise mitigation scheme including a glazing and ventilation specification which is considered acceptable by Regulatory Services officers. Conditions are recommended to ensure the mitigation measures are provided.

6.40 With regard to the comments made by West Midlands Police that a 2.1 metre high boundary wall will be needed to prevent unauthorised access to the site the replacement boundary walls proposed exceed this as they vary in height between 3 and 4 metres. The other issues they raise relating to use of Secured by Design doors and windows, the need for an entry control system can be covered through conditions. West Midlands Fire Service have questioned whether fire access is sufficient and in response the applicants advise that the detailed construction design will be developed to comply with relevant legislation regarding fire fighting

6.41 Parking/Cycling Provision

6.42 41 car parking spaces are proposed for the 109 Apartments a ratio of 37.6% where as the approved scheme provides a slightly better ratio of 51.3% having 39 spaces for the 76 apartments. A number of comments have been received that consider the parking provision to be inadequate and there could be difficulties with right turn in and right turn out from the new access. Transportation Officers however raise no objections to the development. They comment that the Transport Assessment submitted notes a minimal effect on the surrounding highway as a result of the proposals. There are no notable accident patterns surrounding the site and traffic generation will be minimal. The site is accessible by a choice of modes with regular bus services on Constitution Hill and the access to St Pauls Metro station is next to the site. Parking provision equates to 38% where guidelines seek an average of 100% provision. It is noted this site is accessible and also that surrounding roads are subject to parking controls that restrict/limit parking on weekdays.

6.43 The Jewellery Quarter Development Trust have commented that although cycle storage has been provided 15 cycle racks is insufficient. Transportation have commended that the 15 cycle stands are suitable for 30 cycles and this equates to 29% which is deemed a suitable level of provision when compared to other residential developments across the City.

6.44 Transportation have however requested that a condition be imposed that any gates provided be set back at least 5.5 metres from the highway which would not accord with the Jewellery Quarter Design Guide which seek to ensure any gates are located on the frontage building line. Following further discussions with Transportation they have accepted that the condition does not need to be imposed in this location given the wide nature of the road, the limited numbers of vehicles that would be using the site and the need for appropriate boundary treatments in the Conservation Area.
6.45 Planning Obligations

6.46 Planning policies would normally require a development of this scale to provide a proportion of affordable homes and either on site public open space or contributions towards off site provision. When the previous application was under consideration in 2002/2001 a financial appraisal was submitted which concluded that the scheme would not be viable if there was a requirement to either provide affordable housing on site or a contribution towards off site provision. The applicants did however offer to make a contribution of £50,000 towards environmental enhancements of the canal corridor. The committee accepted the offer and a Section 106 legal agreement was completed to secure the contribution. Although this development has commenced and the legal agreement is still valid, no contribution has been provided to date as the legal agreement only requires payment before first occupation.

6.47 A further financial appraisal has been submitted with this revised application which indicates that the development is only just viable and would only generate a small return. The agents advise that the downturn in the economy has prevented the approved scheme being implemented and that the redesign has been necessary to provide a viable development. They contend that the applicants cannot offer any larger contribution than that originally agreed. The financial report has been assessed and it is accepted that the return on the scheme is below the normal industry requirements and that any request for a larger financial contribution would affect the viability of the scheme. It would be preferable in design terms for the current proposals to be implemented rather than to leave the site vacant or for the applicant to revert back to the current approved scheme.

6.48 It is however recommended that rather than use the £50,000 for environmental improvements to the canal corridor as previously agreed the money is used instead for environmental/public realm improvements in the Jewellery Quarter. It is considered that the request for contributions would comply with the UDP, supplementary planning guidance for the Jewellery Quarter and meet the tests set out in Circular 05/2005 and the 2010 CIL regulations. Although Centro have requested contributions towards delivering the long term development of the public transport network it is considered more appropriate to use the money for improvements in the Jewellery Quarter as requested by the Jewellery Quarter Development Trust.

6.49 Supporting information

6.50 In support of the application a number of reports have been submitted including a Design and Access Statement, Heritage Statement, Planning Statement, Transport Assessment, Travel Plan, Ground Investigation Report, Noise Assessment and Financial Appraisal. These are not considered to raise any significant issues that could not be controlled through planning conditions.

7. Conclusion

7.1 The redevelopment of the site with apartments accords with both national and local policy and has previously been agreed on this site. The revised scheme now proposed would provide a more appropriate development for the site in terms of its layout, scale and design and is considered to comply with the Council’s design guidance for the Jewellery Quarter. It would not have an adverse impact on the adjacent listed building and or the Jewellery Quarter Conservation and would bring a vacant site back into use helping to upgrade Constitution Hill and its surroundings.
8. **Recommendation**

8.1 The application 2013/01277/PA be deferred pending the completion of a suitable Planning Obligation under Section 106 of the Town and Country Planning and Compensation Act which requires.

   a) A financial contribution of £50,000 (Index linked from the date of the committee resolution) to be used for environmental/public realm improvements in the Jewellery Quarter

   b) A financial contribution of £1,750 for planning administration and monitoring of the legal agreement to be paid upon completion of the legal agreement.

8.2 That in the event of the legal agreement being completed by 30th April 2013 planning permission is granted subject to the conditions listed below.

8.3 That in the event of the legal agreement not being completed to the satisfaction of the Local Planning Authority, by 30th April 2013, application 2013/01277/PA be refused for the following reason: in the absence of any suitable legal agreement to secure a financial contribution towards for environmental/public realm improvements in the Jewellery Quarter the site the proposal conflicts with Policy 3.14, 3.47, 6.45 and 8.50-8.54 of the Birmingham Unitary Development Plan, Policy 3.3 of the Jewellery Quarter Conservation Area Character Appraisal and Management Plan and Policy CC8 of the Draft Birmingham Development Plan.

8.4 That the Director of Legal and Democratic Services be authorised to prepare, seal and complete the legal agreement.

1 Requires the submission of unexpected contamination details if found

2 Requires the prior submission of a contamination remediation scheme

3 Requires the prior submission of a contaminated land verification report

4 Requires the prior submission of a scheme for ecological enhancement measures

5 Requires the prior submission of hard and/or soft landscape details

6 Requires the prior submission of a lighting scheme

7 Requires the prior submission of boundary treatment and gate details

8 Requires the prior submission of details of green/brown roofs

9 Requires the prior submission of sample materials

10 Requires the prior submission of drainage plans

11 Requires the prior submission and completion of works for the S278/TRO Agreement

12 Requires the prior submission of a residential travel plan

13 Requires the prior submission of external doors and windows
14 Requires the prior submission of a sample panel of walling and cladding
15 Requires the prior submission of samples of balcony and ballustrates
16 Requires the prior submission of samples and details of the car park grills
17 Requires the provision of cycle parking prior to occupation
18 Requires the parking area to be laid out prior to use
19 Requires the scheme to be in accordance with the submitted Noise Impact Assessment
20 Requires the prior submission of details of any plant or equipment to be installed at roof level
21 Requires implementation of Secure by Design measures
22 Requires the scheme to be in accordance with the listed approved plans
23 Limits the approval to 3 years (Full)

Reason for Approval

1 Birmingham City Council grants Planning Permission subject to the condition(s) listed below (if appropriate). The reason for granting permission is because the development is in accordance with: Policies 5.7 - 5.40 of the Birmingham Unitary Development Plan 2005; Places for Living (2001), which has been adopted as Supplementary Planning Guidance; and the National Planning Policy Framework.

Case Officer: Lesley Sheldrake