

# Report to Council

**26 July 2022**

<b>Subject</b>	Delegation of decision-making authority to Birmingham City Council to determine cross-boundary planning application for proposed demolition of structures at land to the rear of Anderson Road, Smethwick and erection of two-storey building to provide 17 assisted living units with associated car parking and landscaping
<b>Director</b>	Tony McGovern – Director of Regeneration and Economy
<b>Contact Officer</b>	Carl Mercer - Principal Planner carl_mercer@sandwell.gov.uk

## 1 Recommendations

- 1.1 That Council delegate Sandwell Metropolitan Borough Council's decision-making authority to Birmingham City Council in respect of the above cross-boundary planning application.

## 2 Reasons for Recommendations

- 2.1 At its meeting on 22 June 2022, Planning Committee considered planning application DC/22/66919 and resolved to recommend to Council that the council's decision-making function should be delegated to Birmingham CC only in the instance of this planning application.



2.2 The majority of the application site lies within the administrative area of Birmingham CC except for a small triangular area of land at the southwest boundary. This area of land lies within the administrative boundary of Sandwell MBC. Given that there are no strategic cross-boundary implications associated with the proposal, and much of the site area and access is within Birmingham CC's administrative area, it is recommended that Birmingham CC is granted the authority to determine the application in this instance.

### 3 How does this deliver objectives of the Corporate Plan?

N/A

### 4 Context and Key Issues

4.1 An application for the '*demolition of existing structures on site, to allow for the erection of a two-storey detached building to provide 17no. assisted living residential units, with associated car parking and landscaping works*' (for residents with disability and support needs) was submitted to Birmingham CC on 15 June 2021 (application reference 2021/05314/PA).

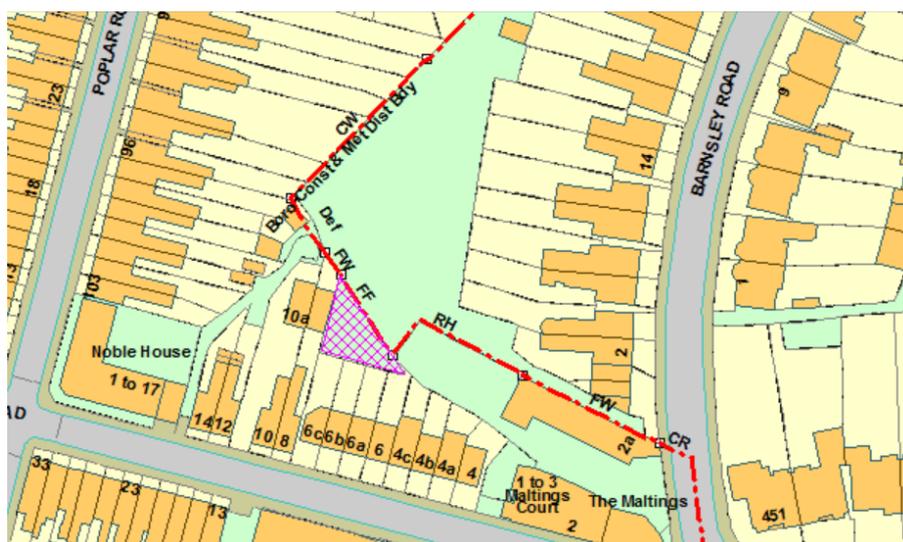
**Fig 1 Proposed site plan**



4.2 A triangular part of the application site falls within the administrative area of Sandwell MBC (approximately 7% of the site area):



**Fig 2 Area within Sandwell MBC authority (shown hatched)**



In circumstances where an application site crosses the administrative boundary between two local planning authorities (LPA) two identical applications should be submitted, one to each LPA, seeking planning permission for the development of land falling within each LPA's administrative area. Accordingly, an identical planning application was submitted to Sandwell MBC on 7 April 2022. No planning application fee is payable to Sandwell MBC, as it has the smaller portion of the site area within its authority.

- 4.3 In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the LPA in whose administrative area the development is proposed to be carried out. In the case of cross-boundary applications, this can lead to two LPAs making individual determinations and imposing different conditions on the permissions. However, this is not recommended as it does not promote a coordinated approach to development management and the permissions granted by each LPA may be inconsistent in terms of the conditions attached to them. This is, of course, highly undesirable in terms of achieving a coordinated approach to delivering development. It is also contrary to the overall tenor of Government guidance, which encourages joint working between LPAs in relation to the use of their planning powers and the duty to cooperate in relation to plan-making.



- 4.4 Section 101(1) of the Local Government Act 1972 authorises a local authority to arrange for the discharge of functions by any other local authority. This provision could be relied on by an LPA to delegate its development management functions to another local authority in respect of a specific cross-boundary planning application.
- 4.5 Therefore, the council could delegate its decision-making powers to Birmingham CC in respect of its determination of this planning application. Birmingham CC, which has been paid the full application fee in any event, would then determine both the application submitted directly to it and the application initially submitted to Sandwell MBC but delegated to Birmingham CC. As Birmingham CC has granted consent for the cross-boundary development, it would thereby grant planning permission authorising the development applied for in both administrative areas.
- 4.6 As mentioned above, it should be noted that Birmingham CC's Planning Committee approved their planning application on 7 April 2022. Delegation of decision-making authority to Birmingham in this instance would thereby ratify Birmingham CC's approval for the entire site.
- 4.7 Given that the access and a majority of the site (some 93%) lies within the administrative area of Birmingham CC, it is considered appropriate in this case for Sandwell MBC to delegate its development management functions to Birmingham CC. The proposal raises no significant concerns from a policy, design or residential amenity perspective. Highways have been consulted and raise no overall objection (10 parking spaces are required, nine are provided).
- 4.8 With reference to Birmingham's Planning Committee report, all statutory publicity for the proposal has been carried out, including with Sandwell residents. It should be noted that objections have been raised by residents in response to the Birmingham CC consultation, which its Planning Committee considered when making the determination.



- 4.9 As Sandwell MBC has not received a planning fee for the application the council would assume all associated processing costs, including publicity (neighbour notification letters, site and press notices), administration, officer and member's time. Consequently, the application has not been validated and public consultation has not been carried out for the application submitted to Sandwell MBC. However, residents who share a boundary with the site were notified of the Planning Committee meeting in June and the proposal to delegate authority to Birmingham CC.
- 4.10 Taking into account the circumstances highlighted above, Planning Committee recommends that Council permit Birmingham CC to issue a planning decision within a portion of its administrative area. Council has the ultimate authority over the decision to delegate.

### Alternative Options

- 5.1 Refusal to delegate authority to Birmingham CC is an option, but the planning application would then have to be processed and determined by Sandwell MBC; which unduly complicates the decision-making process, considering there are no strategic cross-boundary implications. Determining the application also has resource implications which are exacerbated by the fact that the council is not entitled to a planning fee for the application.

## 6 Implications

<b>Resources:</b>	The granting of authority to Birmingham CC in this instance would conserve council resource.
<b>Legal and Governance:</b>	The council may discharge its functions to any other local authority under section 101(1) of the Local Government Act 1972.
<b>Risk:</b>	None relevant.
<b>Equality:</b>	None relevant.
<b>Health and Wellbeing:</b>	N/A
<b>Social Value</b>	N/A



## 7. Appendices

None.

## 8. Background Papers

Planning application DC/22/66919.

