

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT

512-514 Berridge Road West, Nottingham

1 SUMMARY

Application No: 12/03059/PVAR3

Application by: Karimia Institute

Proposal: Variation of condition of planning permission reference 01/00467//PVAR3 to allow alteration to opening hours.

The application is brought to Planning Committee because the application is considered to be sensitive given the level of public interest.

To meet the Council's performance targets this application should have been determined by 24th December 2012.

2 RECOMMENDATIONS

GRANT PLANNING PERMISSION subject to the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to Head of Development Management.

3 BACKGROUND

- 3.1 512 – 514 Berridge Road West is a 2-storey former factory located within a Primarily Residential Area. Planning permission for the conversion of the premises to Community Centre, incorporating sports hall, day nursery, classrooms, kitchen and prayer room was granted in September 2000 (ref. 00/01188/PFUL3) with a condition limiting the hours of operation of the Community Centre to 09:00 – 21:00 Monday – Saturday and the day nursery to Mon – Fri 09:00 – 15:30.
- 3.2 The hours of operation were varied in 2001 (01/00467/PVAR3) to allow use of the Community Centre on Sundays between the hours of 10:00 – 20:00.
- 3.3 There have been 2 other applications over the years to extend the premises. Only one of these, a small single storey extension, has been implemented.

4 DETAILS OF THE PROPOSAL

- 4.1 This application is seeking permission to vary the hours of operation of the Community Centre. The application has been submitted following discussions with the City Council's Planning Enforcement Officer following complaints received from members of the public.

4.2 The requested hours of operation are as follows:

	Existing	Proposed
Nursery	Mon – Fri 09:00 – 15:30	Mon – Fri 08:30 – 16:30
Sports Hall	Mon – Sat 09:00 – 21:00 Sun 10:00 – 20:00	Mon – Sun 09:00 – 21:30
Radio Dawn	Mon – Sat 09:00 – 21:00 Sun 10:00 – 20:00	Mon – Sun 08:30 – 21:00
Prayer Room	Mon – Sat 09:00 – 21:00 Sun 10:00 – 20:00	Unrestricted.

- 4.3 The nursery is attended by approximately 45 children who are split into morning and afternoon sessions, there are a total of 7 part-time nursery nurses. The extended opening hours would enable preparation work to be carried out, but not increase the time that children attend.
- 4.4 During the first two hours of the morning, Radio Dawn is presented by two local people who do a live show and walk to the site.
- 4.5 Unrestricted opening hours have been requested for worship due to the variation in sunset and sunrise throughout the year. The earliest people attend for prayers is 04:00 where up to five local people walk to the site. These prayers last for 10 minutes. The last prayers which are 23:00 at the latest are regularly attended by approximately 10 – 15 people some of whom travel by car. These prayers last for 20 – 25 minutes. During Ramadan there are approximately 100 worshippers attending the evening prayer.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

The following addresses were consulted:

85 – 123 (odds) Bobbers Mill Road
508; 510; 516 – 522 (evens); 577 – 581 (odds) Berridge Road West
91 and 108 Hazelwood Road

A site notice was displayed outside the site.

The period for consultation expired on 28th November 2012. Five letters of objection have been received, making the following comments:

1. The Karimia Institute is currently open 24 hours a day.
2. All of the side roads off Berridge Road West (BRW) have become part of a residents' parking scheme which has led to increased traffic/parking on BRW itself. This is the worst parking has been since the Community Centre opened. Increasing the opening hours will make the parking situation worse.
3. The statement that there are only 4 – 5 cars parked by users of the Community Centre is a gross underestimate particularly on Friday afternoons when residents have to park streets away as BRW is full of cars belonging to people attending the mosque.
4. The Police and Highways office are regularly involved as the traffic nuisance and noise causes complaints.

5. This summer during Ramadan the Community Centre opened until 01:00 every day for 4 weeks causing a lot of sleepless nights for residents.
6. It is supposed to be a Community Centre but as 99% of the users are Muslim this is hardly a Community issue.
7. Concerns that residents on Kenslow Avenue not had letters about the application.
8. The new resident's parking scheme was supposed to alleviate the difficulties in the area but if prayer times are to be allowed at the weekend this will be pointless.
9. Resident's parking scheme should be Mon – Sat not just Mon – Fri as there are no businesses around this area to be affected by Saturday restrictions.
10. It is already difficult to get out on to BRW so when it is prayer time the situation will be much worse.

Comments on letters of objection:

1. The City Council is aware that the Karimia Institute is not adhering to the approved hours of operation. Discussions about the hours of use have led to this application being submitted.
2. See main report.
3. See main report.
4. Noted. Both of these parties have been consulted as part of the application process.
5. See main report.
6. No comment.
7. Letters have been sent to local residents living adjacent to and close to the site. In addition, a site notice was displayed to ensure that the wider community is aware of the proposal. This is in excess of statutory requirements, which requires that the authority either displays a notice near to the site, or sends letters to adjoining owners or occupiers.
8. The premises already has permission to operate on Saturdays and Sundays so this situation would not materially change.
9. This matter has been forwarded to the council's highway colleagues, to be considered outside of the planning process.
10. Prayer times are not changing from the way the premises are currently operating.

In addition, one letter of support has been received, raising no objection to the extended hours.

Additional consultation letters sent to:

Pollution Control: There have been issues of noise on the site previously in relation to the use of a loud speaker for the call to pray, this has been removed. There have also been complaints with regard to the management of people leaving prayer late at night. These activities need to be managed properly.

Highways: No objections. The current on-street parking situation along Berridge Road West is undesirable, with vehicles being parked both straddling and wholly on the footway, as well as on both sides of the carriageway. From a highway point of view, the existing situation is not desirable, and we would not wish to exacerbate this any further. However, the proposed variation in operating hours would not see any additional highway movements to and from the Community Centre occurring

once the majority of residents are at home and therefore would not adversely impact upon on-street parking available to residents.

Police: No objections. There has been one reported incident with regard to this Centre and this referred to vehicle congestion within the area due to a funeral. The proposed variation of hours application should not exacerbate such a situation and as there are no other reported incidents which directly refer to the Centre there are no objections.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework:

Paragraph 17 of the NPPF lists the core planning principles that should underpin decision taken on planning applications. Relevant to this application is the requirement that a good standard of amenity should be afforded to existing occupants of surrounding properties.

Nottingham Local Plan (November 2005):

BE2 - Layout and Community Safety. Complies.

BE3 - Building Design. Complies.

CE1 - Community Facilities. Complies.

H7 - Inappropriate Uses in Residential Areas. Complies.

NE9 - Pollution. Complies.

T3 - Car, Cycle and Servicing Parking. Complies.

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- i) Principle of Development;
- ii) Residential Amenity;
- iii) Traffic and Parking.

Issue i) Principle of Development (Policies CE1 and H7)

- 7.1 The principle of the use of the site for a community facility has been established through the granting of the original planning permission in September 2000, albeit with restricted hours of operation which were varied in 2001.

Issue ii) Residential Amenity (Policies BE3, NE9 and CE1)

- 7.2 Neighbouring residents have expressed concern about noise and disturbance from the Community Centre and particularly the use of the facility outside of the approved hours. The applicant has advised that the use of the building for prayer meetings, which have been part of the use since the original application, means that there are occasions when the original hours restriction of Mon – Fri 09:00 – 21:00 and Sun 10:00 – 20:00 cannot be complied with. This is because of a need in some instances to pray outside of daylight hours and therefore, particularly

during the religious festival of Ramadan, the building is used quite extensively beyond these hours. The Ramadan period is currently within the summer period (July / August) and so this has led to prayer times outside of the approved hours. However, the Ramadan period is not constant with the Gregorian calendar, moving forward approximately 10 days per year and so over time prayer meetings during this period will fall back to early evening/mid evening hours.

- 7.3 There is no evidence that the activity of praying itself is an amenity concern but residents have commented that the comings and goings associated with people arriving and departing from the Community Centre are causing a level of disturbance and there have been complaints to Pollution Control. It is acknowledged that a significant number of people leaving the premises late at night would cause some disturbance but this is generally constrained to the relatively short time frame of Ramadan and is not a common occurrence throughout the year. It is therefore considered that the hours condition should be varied to those requested for the nursery; Radio Dawn and Sports Hall with the Majid Worship Times being extended to 04:00 – 22:00 with the exception of the period of Ramadan when worship times would be unrestricted. The presence of a prayer room has been allowed on this site since the original planning permission in 2000, such a use cannot operate without extended hours and therefore whilst wholly unrestricted hours may impact upon residential amenity it is considered appropriate to allow worship during the relatively short period of Ramadan.

Issue ii) Traffic and Parking (Policies BE2, CE1 and T3)

- 7.4 It is clear from the objections received from local residents that there are problems regarding both traffic congestion and on-street parking during prayer times and in particular during Ramadan.
- 7.5 Many of the streets immediately surrounding the Community Centre are subject to the Birkin Avenue residents' parking scheme Mon – Fri 09:00 – 17:00 which has been implemented since the opening of the Community Centre.
- 7.6 The current on-street parking along Berridge Road West is undesirable, with vehicles being parked both straddling and wholly on the footway, as well as on both sides of the carriageway. This reduces the available width of the carriageway to a single lane and causes obstruction to pedestrians. The Community Centre currently has planning permission to operate all of its different facilities between the hours of 09:00 – 21:00 Mon – Sat and 10:00 – 20:00 Sun with the nursery being restricted to 09:00 – 15:30 Mon – Fri. The proposed variation in hours to allow the sports hall to be used 09:00 – 21:30 Mon – Sun; Radio Dawn 08:30 – 21:00 Mon – Sun; the nursery 08:30 – 16:30 Mon – Fri and unrestricted hours on the prayer room would coincide with the majority of residents being at home and therefore on balance it is not considered that the proposal would materially impact on the availability of on-street parking for residents.
- 7.7 Whilst it would be difficult to argue that the Community Centre is the cause of all the on-street parking on Berridge Road West, it is considered reasonable to impose a condition requiring the Community Centre to submit a travel plan setting out initiatives for users of the Centre to access the site by means other than the private car, including setting specific targets and providing a strategy for monitoring and review. The Community Centre has submitted a copy of their Travel Policy (May 2012) which is visible on the notice board in the reception area of the Community

Centre, there are regular announcements at the site and there has been a leaflet drop to local service users.

- 7.8 While the impact of an extended operating hours is not ideal, it is clear from discussions with the applicant that the facility could not effectively operate without a greater degree of flexibility. The refusal of the application would be unreasonable in this context and would falsely raise local expectations that the Council could successfully enforce the hours of use. The application presents the opportunity to secure a travel plan, which will help to reduce on-street parking pressures and therefore on balance, the proposal is considered to be acceptable.

8. SUSTAINABILITY / BIODIVERSITY

None.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

The issues raised in this report are primarily ones of planning judgement. Should legal considerations arise these will be addressed at the meeting.

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

None.

14 CRIME AND DISORDER ACT IMPLICATIONS

None.

15 VALUE FOR MONEY

None.

16 List of background papers other than published works or those disclosing confidential or exempt information

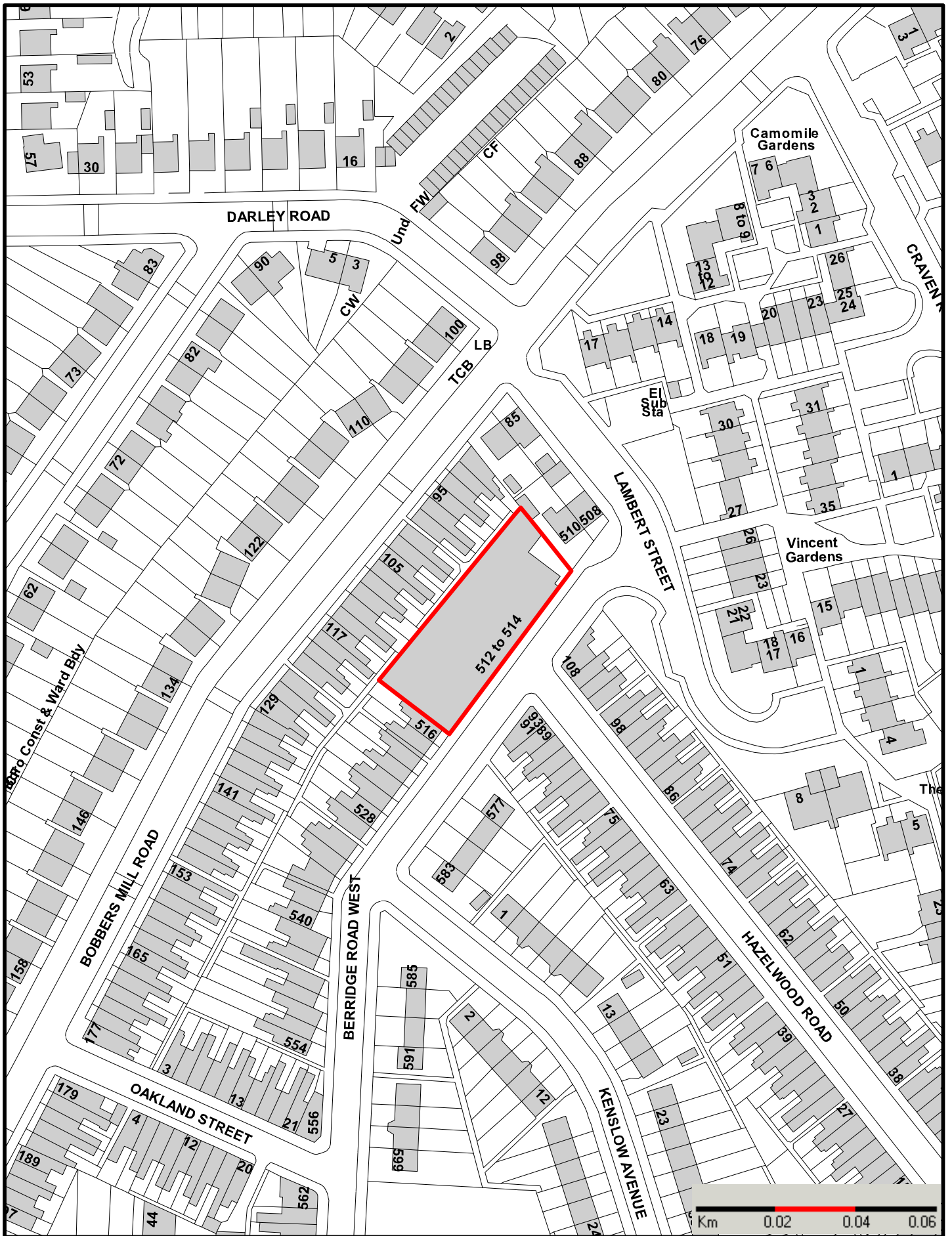
1. Application No: 12/03059/PVAR3 - link to online case file:
<http://plan4.nottinghamcity.gov.uk/WAM/pas/findCaseFile.do?appNumber=12/03059/PVAR3>;
2. Comments from Highways 03.12.12
3. Comments from Police 27.11.12
4. Comments from Pollution Control 06.12.12

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

Contact Officer:

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Nottingham
City Council

My Ref: 12/03059/PVAR3

Your Ref:

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Date of decision:

**TOWN AND COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION**

Application No: 12/03059/PVAR3
Application by: Karimia Institute
Location: 512-514 Berridge Road West, Nottingham, NG7 5JU
Proposal: Variation of condition of planning permission reference 01/00467//PVAR3 to allow alteration to opening hours.

Nottingham City Council as Local Planning Authority hereby **GRANTS PLANNING PERMISSION** for the development described in the above application subject to the following conditions:-

Time limit
Pre-commencement conditions (The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)
Pre-occupation conditions (The conditions in this section must be complied with before the development is occupied)
Regulatory/ongoing conditions (Conditions relating to the subsequent use of the development and other regulatory matters)
1. The premises shall not be used outside of the following hours: Day Nursery - 08:30 to 16:30 Mon to Fri Sports Hall - 09:00 to 21:30 Mon to Sun Radio Dawn - 08:30 to 21:00 Mon to Sun Prayer Room - 04:00 to 22:00 Mon to Sun, with the exception of during the period of Ramadan when the prayer room can be available for worship at all times. <i>Reason: In the interests of residential amenity and in accordance with Policies BE3 and NE9 of the Local Plan.</i>
2. Within two calendar months of the date of this permission, a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall detail initiatives

for users of the centre to access the site by means other than the private car, including setting specific targets, and provide a strategy for monitoring and review.

The travel plan shall thereafter be implemented in accordance with the approved details.

Reason: To reduce reliance on the private car and on-street parking during peak periods in accordance with sustainable travel principles and the aims of Policies BE2 and CE1 and T3 of the Local Plan.

Standard condition- scope of permission

S1. Unless otherwise agreed in writing by the Local Planning Authority or modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the forms, drawings and other documents comprising the application as validated by the council on 29 October 2012.

Reason: To determine the scope of this permission.

Informatives

1. The reason for this decision, and a summary of the policies the local planning authority has had regard to are set out in the committee report, enclosed herewith and forming part of this decision.

2. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

Where a condition specified in this decision notice requires any further details to be submitted for approval, please note that an application fee will be payable at the time such details are submitted to the City Council. A form is available from the City Council for this purpose.

Your attention is drawn to the rights of appeal set out on the attached sheet.



RIGHTS OF APPEAL

Application No: 12/03059/PVAR3

If the applicant is aggrieved by the decision of the City Council to impose conditions on the grant of permission for the proposed development, then he or she can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Any appeal must be submitted within six months of the date of this notice. You can obtain an appeal form from the Customer Support Unit, The Planning Inspectorate, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Phone: 0117 372 6372. Appeal forms can also be downloaded from the Planning Inspectorate website at <http://www.planning-inspectorate.gov.uk/pins/index.htm>. Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal online. You can find the service through the Appeals area of the Planning Portal - see www.planningportal.gov.uk/pcs.

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay.

The Secretary of State need not consider an appeal if the City Council could not for legal reasons have granted permission or approved the proposals without the conditions it imposed.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

PURCHASE NOTICES

If either the City Council or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. This procedure is set out in Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain limited circumstances, a claim may be made against the City Council for compensation where permission is refused or granted subject to conditions by the Secretary of State. The circumstances in which compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.