

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT

198 Sneinton Dale, Nottingham

1 SUMMARY

Application No: 13/00800/PFUL3 for planning permission

Application by: Zenith Planning And Design on behalf of Mr M Nawaz

Proposal: Seven retail units with seven dwellings above.

The application is brought to Committee because this is a major application for retail development outside a define shopping centre.

To meet the Council's Performance Targets this application should be determined by 10th July 2013.

2 RECOMMENDATION

GRANT PLANNING PERMISSION for the reasons set out in this report, subject to the conditions substantially in the form of those listed in the draft decision notice.

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

3 BACKGROUND

3.1 The application site is a currently cleared having formerly contained the 'Aerborn' factory and factory shop. It is located on the southeast side of Sneinton Dale at its junction with Hardstaff Road. To the northwest across Sneinton Dale are shops and to the southwest, adjoining the site, is the Dale public house. To the rear of this, also adjoining the site, is an industrial building. Adjoining the site on the Hardstaff Road boundary is the flank wall of a house and there are houses facing the site across Hardstaff Road.

3.2 The site is identified in the Local Plan as being in a Primarily Residential Area. The shops across Sneinton Dale are in the Local Shopping Centre; on the southeast side, the Local Centre stops at the Dale public house and therefore the public house and the application site are out of centre.

4 DETAILS OF THE PROPOSAL

4.1 Construction of seven retail units (Class A1) (400 square metres) with seven two-storey flats above. The building is divided into eight sections, each separated by a brick column; each section contains an aluminium shopfront with the first and second floors above clad in terracotta tiles. The building steps up the hill in pairs of units (retail unit 7, on the corner, is a double unit with first floor storage). The roof is pitched and concrete tiled.

- 4.2 The site provides fourteen off-street parking spaces, nine alongside the public house flank wall and five alongside the boundary with the house on Hardstaff Road. Vehicle circulation is one-way, with the entrance on Hardstaff Road and the exit on Sneinton Dale. Vehicle exit and entrance would be controlled by sliding gates, with separate pedestrian access to the yard. A small ground floor yard to the rear of each unit would be enclosed by a low fence; bin storage would be in this area. First and second floors are set back at the rear so that each flat has a terrace at first floor level. The residential units can be accessed through the shop or independently.
- 4.3 The flats comprise a living room, kitchen and wc at first floor and two bedrooms, a study and bathroom on the second floor. Flat 7, the corner unit, has three bedrooms on the second floor.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

175 and flat over, 177 and flat over, 179 and 179A, 181 and flat over, 183 and flat over, 185, 187, 189 and flat over, 191 - 193, 195 and flat over, 200, Dale PH and flat over, all Sneinton Dale. Apartments A, B and C, 1 Barnston Road. 72 - 78 evens, Shrewsbury Road. 4 - 14 evens and 7 - 23 odds, Hardstaff Road.

Two objections received on grounds of parking, servicing and delivery problems and that there is no need for further food stores. Two responses received expressing concern that sufficient parking is provided, there is no undue impact on views and privacy and that further takeaways are not needed. These matters are discussed below.

On letter received in support, noting that the area would benefit from more shops and choice.

Additional consultation letters sent to:

Pollution Control: No objection subject to conditions regarding gaseous emissions, contamination and implementation of sound insulation scheme.

Highways: No objection subject to conditions regarding drainage, provision of access points, cycle parking, construction management plan and potential remedial works to the highway.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework:

Paragraph 17 of the NPPF lists the core planning principles that should underpin decision taking on planning applications. Of particular relevance to this application is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Nottingham Local Plan (November 2005):

ST1 - Sustainable Communities - complies.

H2 - Density - complies.

H3 - Appropriate Housing Types - complies.

BE1 - Design Context in the Public Realm - complies.

BE2 - Layout and Community Safety - complies.

BE3 - Building Design - complies.

BE4 - Sustainable Design - complies.

BE5 - Landscape Design - complies.

BE21 - Shopfronts - complies.

S5 - Edge of Centre Retail - complies.

NE9 - Pollution - complies.

NE12 - Derelict and Contaminated Land - complies.

NE14 - Renewable Energy - complies.

T3 - Car, Cycle and Servicing Parking - complies.

National Planning Policy Framework - complies.

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- i) Principle of retail development
- ii) Principle of residential development
- iii) Design and impact on the street scene, impact on neighbouring occupiers
- iv) Parking and highway issues

i) Principle of retail development (Policy S5)

- 7.1 The site is allocated as Primarily Residential but lies adjacent to the Local Shopping Area to the south and across Sneinton Dale. The Sneinton Dale shopping centre is thriving and has a low level of vacancy rates. The use of the site has been 'commercial' and indeed has long been used as a 'factory shop'. The proposed retail use, in being sustainably located and providing more choice and business opportunity immediately adjacent to an existing centre, would sustain and help to enhance the vitality and viability of the existing centre. The development would also assist in enabling the wider redevelopment of a brownfield site for a mix of uses. The proposal is therefore considered to be in accordance with Policy S5.
- 7.2 The proposed retail units are similar in size to existing units in the centre and would offer a flexibility of choice for occupiers by being capable of amalgamation. Indeed the corner unit is proposed to be larger, with storage above, and faces traffic coming into the centre, providing the opportunity for a 'flagship' shop unit. The units

are designed to allow operators to live above, providing an appropriate business model for such a shopping area.

7.3 In terms of specific uses, the application is for retail (Class A1). Recent applications for hot food uses in the Local Shopping Centre have led to the conclusion that it is at a saturation point (approximately 20%) for takeaways and that there are issues of anti-social behaviour associated with these use. It is noted that the application does not include such uses and provision has not been made for flues etc. Food and drink uses would require further planning permission and would be considered on their merits; given the concerns about the number of hot food uses and the potential impact on amenity and anti-social behaviour, it is unlikely that these uses would be considered favourably.

ii) Principle of residential development (Policies ST1, H2, H3, BE2 and BE3)

7.4 The application site is located within a Primarily Residential Area as identified by the Local Plan. There is therefore no objection in principle to residential development, provided that it complies with the other policies of the plan. As part of a mixed use scheme, apartments are considered appropriate in this location, particularly as this results in a three-storey building which is in character with the street scene.

7.5 The flats have a floor area of 100 square metres (with one being larger) which provides a good standard of accommodation. The flats are well laid out with appropriate light and outlook; the provision of private outdoor amenity areas is welcomed and, with the provision of railings to their outer enclosure, would help with surveillance of the rear yard.

iii) Design and impact on the street scene (Policies BE3 and BE21)

7.6 The scale and mass of the proposed building is considered to be appropriate. A three-storey building in this corner location would have a strong presence in the street scene and as the introductory building to the Sneinton Dale Shopping Area. The new building would be of a similar height to the former factory building and so would have no more physical impact on light to or views from nearby property.

7.7 The stepping of the building up the slope of the road and the vertical emphasis of each shop unit reflects the traditional form of existing shops. The materials of red brick, terracotta tiles, concrete roof tiles and aluminium windows and shop fronts are an appropriate mix of traditional and contemporary.

7.8 The shopfronts are also well designed, a contemporary reflection of stallrisers and pilasters and with an appropriate signage zone. The application does not propose external security grilles and this helps to provide an open, interactive relationship with the street.

7.9 The proposal is considered to be in accordance with Policies BE3 and BE21.

iv) Parking and highway issues (Policies BE2 and T3)

7.10 The application proposes fourteen car parking spaces to the rear of the building within the enclosed rear yard and capable of being managed by the building operators. The car park is capable of providing parking for residents as well as

shoppers and a condition is proposed to require a car park management plan. It is envisaged that the car park would provide spaces for both shoppers and residents.

- 7.11 Works to the highway will be needed to provide the new access points for the site and to ensure that the access onto Sneinton Dale is kept free. A construction method statement will also be needed and these measures can be required by condition.

Other matters (Policies NE9 and NE12)

- 7.12 Contaminated land and gas protection measures are proposed to be dealt with by condition, as is the implementation of the sound insulation and complementary acoustical ventilation scheme.

8. SUSTAINABILITY / BIODIVERSITY (Policy BE4 and NE14)

The application submission includes a Sustainable Energy report. The report advises that photovoltaic cells are proposed on the southern (rear) roof slope of the building will meet the 10% renewable requirement. A condition can ensure that sustainable urban drainage measures are used. It is considered that the proposal accords with Policy BE4.

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

Neighbourhood Nottingham: Providing a high quality and sustainable development.

Working Nottingham: the development will provide employment opportunities and encourage new business.

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: 13/00800/PFUL3 - link to online case file:
<http://plan4.nottinghamcity.gov.uk/WAM/pas/findCaseFile.do?appNumber=13/00800/PFUL3>
2. Observations of Highway section dated 29.04.2013.
3. Observations of Pollution Control section dated 30.04.2013.
4. Observations of Severn Trent Water dated 24.04.2013.
5. Comments from residents dated 23.04.2013, 25.04.2013, 01.05.2013 and 06.05.2013 (x2).

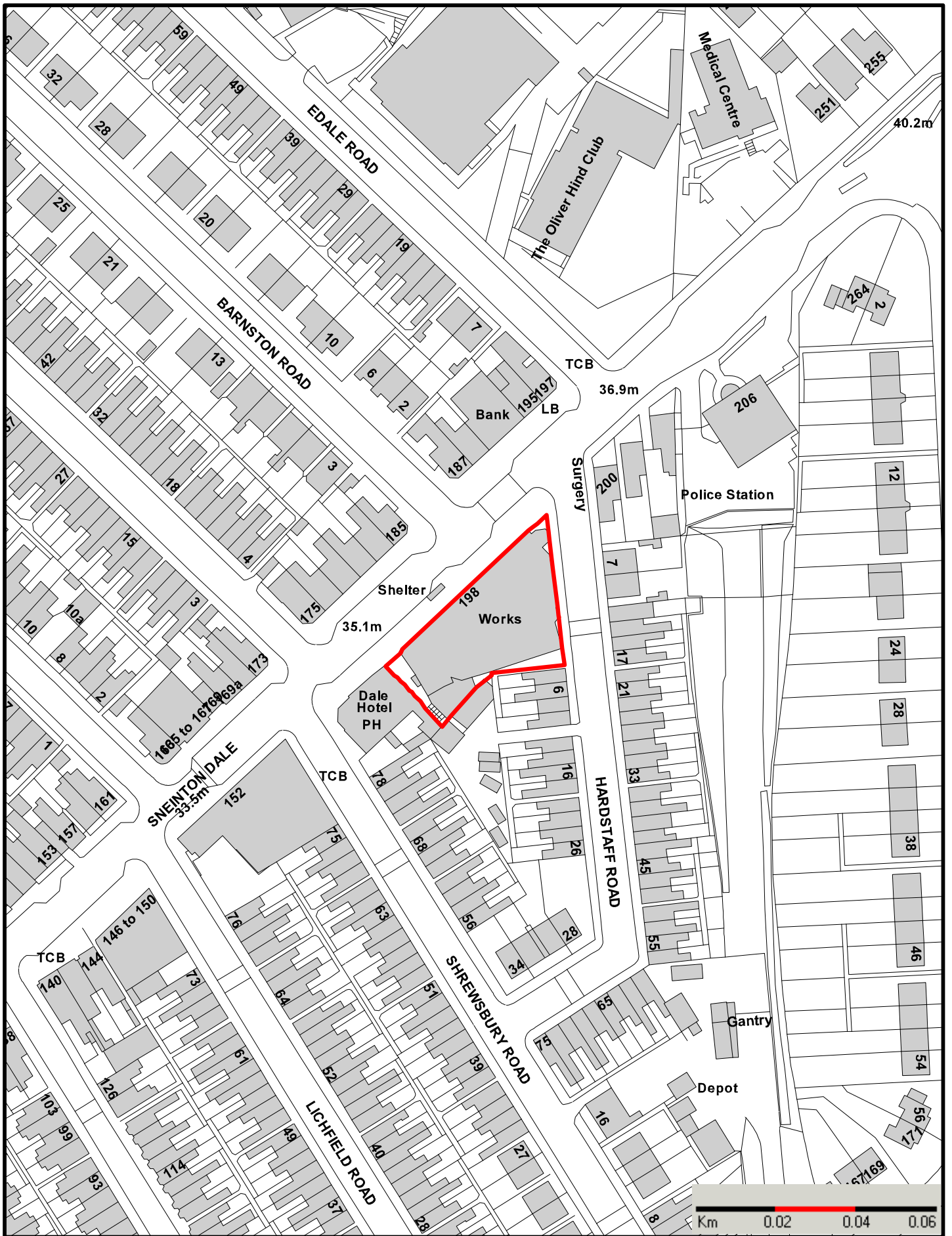
17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

Contact Officer:

Mr P.H. Shaw, Case Officer, Development Management.

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Nottingham
City Council

My Ref: 13/00800/PFUL3 (PP-02554179)
Your Ref:
Contact: Mr P.H. Shaw
Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
City Planning
Loxley House
Station Street
Nottingham
NG2 3NG

Tel: 0115 8764447
www.nottinghamcity.gov.uk

Zenith Planning And Design
FAO: Mrs Alison Dudley
38 Greenhills Road
Eastwood
Nottingham
NG16 3DG

Date of decision:

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

Application No: 13/00800/PFUL3 (PP-02554179)
Application by: Mr M Nawaz
Location: 198 Sneinton Dale, Nottingham, NG2 4HJ
Proposal: Seven retail units with seven dwellings above.

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Pre-commencement conditions

(The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)

2. The development shall not be commenced until details of the external materials of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the appearance of the development will be satisfactory in accordance with Policy BE3 of the Local Plan.

3. The development shall not be commenced until details of all new hard surfacing, in porous or permeable materials and incorporating sustainable urban drainage measures, have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the appearance of the development will be satisfactory and in the interests of sustainable development in accordance with Policies BE3 and BE4 of the Local Plan.



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4. The development shall not be commenced until a construction plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the type, size and frequency of vehicles to/from the site, haul routes (if any), staff parking provision, site security, traffic management plans, wheel cleaning facilities and measures to prevent the deposit of debris on the highway and, a timetable for its implementation. Thereafter the construction plan shall be implemented in accordance with the approved details and timetable unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid prejudice to traffic conditions within the vicinity of the site and to safeguard the amenities of neighbouring residents in accordance with Policies BE2 and NE9 of the Local Plan.

5. The development shall not be commenced until the access points have been provided at Hardstaff Road and Sneinton Dale as shown for indicative purposes on the attached plan ME1305/11-3 to the satisfaction of the Local Planning Authority.

Reason: To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general Highway Safety in accordance with Policy BE2 of the Local Plan.

6. The development shall not be commenced until the following have been submitted to and approved in writing by the Local Planning Authority; details of the measures required to make good redundant entrance and exit points and to provide entrance and exit points and ensure that these points remain accessible.

Reason: In the interests of highway safety in accordance with Policy BE2 of the Local Plan.

7. The development shall not be commenced until details of the sound insulation scheme as specified in the report by Encon Acoustics dated Feb 2010 (ref A1242/ENIA), including the glazed areas of the property and any complementary acoustical ventilation scheme, have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the occupiers of the development in accordance with Policy NE9 of the Local Plan.

8. The development shall not be commenced until a detailed scheme to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. This shall include an investigation and assessment to identify the nature and extent of contamination and the measures to be taken to avoid any risk to health and safety when the site is developed. In particular the scheme shall include:
- i) details of how the site investigation and the analysis of chemical contaminants are proposed to be carried out, prior to implementation;
 - ii) details of the results of the site investigation including the results of all sampling/site testing, and an assessment of the conditions found;
 - iii) proposals (including timescales for implementation) for dealing with any conditions or contamination which might be present on the site, and details of the proof testing regimes to be used to ensure that the remedial measures are effective;
 - iv) a contingency plan for dealing with any contamination, not previously identified in the site investigation, encountered during the development.

Reason: In the interests of the health and safety of the users of the development in accordance with Policy NE12 of the Local Plan.

9. The development shall not be commenced until a detailed scheme for dealing with the gaseous emissions on the site has been submitted to and approved in writing by the Local Planning Authority. This shall include:-
- i) details of an investigation and assessment of the gaseous emissions on the site;
 - ii) proposals for ensuring the safe removal of gas;
 - iii) proposals for preventing the lateral migration of gas; and
 - iv) any other remedial measures shown in the assessment to be necessary.

Reason: In the interests of the health and safety of the users of the development in accordance with Policy NE12 of the Nottingham Local Plan.

10. The development shall not be commenced until a detailed landscaping and planting scheme for the development indicating the type, height, species and location of proposed trees and shrubs, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall, in particular, include a tree in the northwest corner of the site, as a replacement for the sycamore to be removed. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development will be satisfactory in accordance with Policy BE5 of the Local Plan.

Pre-occupation conditions

(The conditions in this section must be complied with before the development is occupied)

11. No part of the development hereby permitted shall be brought into use until the parking / turning / service areas and the cycle stands have been provided, and the parking bays marked out, in accordance with the approved plans. The parking / turning / service areas shall not be used for any purpose other than the parking / turning / loading and unloading of vehicles.

Reason: In the interests of highway safety in accordance with Policy BE2 of the Local Plan.

12. The residential accommodation shall not be occupied until the approved sound insulation and complementary acoustical ventilation scheme has been installed.

Reason: In the interests of the amenities of the occupiers of the development in accordance with Policy NE9 of the Local Plan.

13. No part of the development hereby permitted shall be brought into use until a car park management plan including arrangements for parking by shoppers and residents, servicing and delivery requirements has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. Therefore the car park management plan shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate parking provision is made to reduce the possibility of overspill parking on to the adjoining public highway and in the interests of Highway Safety in accordance with Policies BE2 and T3 of the Local Plan.

14. No building(s), drainage or sewerage facilities nor any areas surfaced with materials impermeable to gas shall be used unless the approved remedial, preventive or precautionary measures for removing the gaseous emissions on the site have been implemented, and the system for dealing with the gaseous emissions shall be monitored and maintained in an efficient condition.

Reason: In the interests of the health and safety of the users of the development in accordance with Policy NE12 of the Nottingham Local Plan.

15. No part of the development hereby permitted shall be occupied until remedial or precautionary measures required to deal with ground contamination have been completed, and the approved regime of proof testing has been implemented to demonstrate the effectiveness of the remediation work, and the results have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the health and safety of the users of the development in accordance with Policy NE12 of the Nottingham Local Plan.

Regulatory/ongoing conditions

(Conditions relating to the subsequent use of the development and other regulatory matters)

16. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner, and any trees or plants which die or are removed or become seriously damaged or diseased within five years shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the appearance of the development is satisfactory, in accordance with Policy BE5 of the Local Plan.

17. Once the development is in use the use of photovoltaic cells to ensure that the CO2 emissions of the development will be reduced by at least 10% shall be permanently retained and maintained and shall continue to provide energy for the development for as long as it remains unless otherwise agreed in writing with the Local Planning Authority.

Reason: To provide 10% of energy by renewable means in accordance with Policy BE4 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 10 April 2013.

Reason: To determine the scope of this permission.

Informatives

1. 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.

2. 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.

3. The responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or the landowner. The developer is strongly recommended to institute a thorough investigation and assessment of the ground conditions, nature and degree of contamination on the site to ensure that actual or potential risks to public health and safety can be overcome by appropriate remedial preventive or precautionary measures. The developer will be expected to provide at his own expense such evidence as is required to indicate clearly that the problem has been addressed satisfactorily.

4. Noise Control: hours of work and equipment during demolition/construction
To assist with project planning, reduce the likelihood of justified complaint and avoid costly restriction and development delays, 'acceptable hours' are detailed below:-

Monday to Friday: 0730-1800 (noisy operations restricted to 0800-1800)
Saturday: 0830-1700 (noisy operations restricted to 0830-1700)
Sunday: at no time
Bank Holidays: at no time

Work outside these hours may be acceptable but must be agreed with Nottingham City Council's Pollution Control Section (Tel: 0115 9156410; Fax 0115 9156020).

Equipment

All equipment shall be properly maintained, serviced and operated in accordance with the manufacturer's recommendations and with appropriate noise suppression/silencers.

Dust/Grit and other fugitive emissions



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Construction and demolition work invariably generates grit and dust, which can be carried offsite and cause a Statutory Nuisance, and have a detrimental effect on local air quality.

Contractors are expected to use appropriate methods to minimise fugitive emissions, reduce the likelihood of justified complaint and avoid costly restriction and development delays. Appropriate methods include:-

Flexible plastic sheeting
Water sprays/dampening down of spoil and demolition waste
Wheel washing
Periodic road cleaning

5. The City Council is responsible for the allocation of street names and property numbers/names. If your proposal will create a new property, through either new build or conversion, you should contact the Address Management section at an early stage of the development, if they have not already made contact. The section details are: Nottingham City Council, Loxley House, Station Street, Nottingham, NG2 3NG; e-mail address.management@nottinghamcity.gov.uk; telephone (0115) 8765012.

They will agree an official address with you and ensure that all relevant parties are notified of it, including the emergency services and Royal Mail. This will ensure the allocation of an official and unique address for each property, avoiding any problems with location or misidentification that can arise through the use of unauthorised addresses.

6. The proposed exit onto Sneinton Dale will require a Traffic Regulation Order to amend the parking bay lining to ensure it does not extend across the access and to prevent parking in front of the exit. The developer should note that the Order can be made on behalf of the developer by Nottingham City Council at their expense. This is a separate legal process and the applicant should contact Liz Hiskens on 0115 876 5293 at the earliest opportunity. All costs shall be borne by the applicant.

In order to carry out the off site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact Liz Hiskens on 0114 876 5293 at the earliest opportunity. All costs shall be borne by the applicant.

It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

In order to arrange the dilapidation survey, and temporary traffic regulation orders you are advised to contact Louise Smith (Weds-Fri) on 0115 876 5242 at the earliest opportunity. All costs shall be borne by the applicant.

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: 13/00800/PFUL3 (PP-02554179)

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/pes.

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.



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