

PLANNING COMMITTEE

UPDATE SHEET

(List of additional information, amendments and changes to items since publication of the agenda)

22 May 2013

5(a) SITE AT PARK STREET AND LOMBARD CLOSE

1. The description of the application requires amendment to reflect amendments to the independent living building where three new units have been introduced on the ground floor of the south elevation. This now should read:

Redevelopment of site to provide 145 affordable homes comprising 57 no. flats for independent living, 16 no. bungalows, 62 no. 2 and 3 bed houses and 10 no. 1 and 2 bed apartments with associated on-site ancillary community facilities, parking and landscaping.

2. It is recommended that Condition 18 be amended to include reference to Use Class D1. This widens the scope of potential uses for the non residential ground floorspace in the gateway units. The condition would now be:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended or any re-enactment thereof, the units shall not be used other than for purposes defined in Classes A1, A3, B1 and D1 of the Town and Country Planning (Use Classes) Order 1987, as amended or any re-enactment thereof.

3. It is recommended that an amendment to condition 5 be made to read as follows:

The development shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved by the Local Planning Authority. The proposals should seek to demonstrate a 30% reduction in peak run-off rate. The surface water drainage scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To reduce the risk of flooding in the interest of sustainable development in accordance with Policy NE10 of the Nottingham Local Plan.

4. The pre-commencement and pre-occupation conditions are proposed to be amended to reflect the phasing of the development. The development is to be constructed in two phases, commencing with the independent living unit followed by the family housing and the gateway units.

5. Further responses from consultees:

Noise and Pollution Control: In response to the Investigation report and the Environmental Noise Assessment report, raise no objections subject to conditions.

Additional recommended conditions:

A detailed scheme for dealing with the gaseous emissions on the site which 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: To ensure that the site can be developed without health or safety risks to the environment, the occupiers of the development, and/or adjoining occupiers in accordance with Policy NE12 of the Nottingham Local Plan.

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: To ensure that the site can be developed without health or safety risks to the environment, the occupiers of the development, and/or adjoining occupiers in accordance with Policy NE12 of the Nottingham Local Plan.

No part of the development shall be occupied until the glazing and ventilation recommendations set out in the Environmental Noise Assessment have been implemented for that part of the development.

Reason: To ensure that the occupiers of the development do not experience noise nuisance in accordance with Policy NE9 of the Local Plan.

Highways: No objection subject to conditions and directives intended to cover a range of detailed issues.

The points raised are covered by the conditions already set out in the draft decision notice.

6. An independent Building for Life assessment has now been undertaken. This has been undertaken using the Building for Life 12 and has resulted in 10 out of the 12 questions being assessed as “green” (in some instances this is qualified by the need to ensure robust implementation) and the remaining 2 as “amber”.

The issues identified are mainly minor in nature and will be addressed through the recommended conditions. The main exception queries the relationship between an existing 5 storey building on the east side of Park Street and those two storey dwellings proposed west of Park Street, which will also be exaggerated by the difference in levels. This change in scale is acknowledged but as a major objective of the scheme is to achieve family housing, this is difficult to reconcile and it is considered that the relationship will be acceptable.

(Additional background papers: Highway observations dated 16/5/13, Email from Noise and Pollution Control, Building for Life assessment)

5(b) SITE OF HIGHCROSS COURT AND CLIFFORD COURT CLIFFORD STREET

1. Further responses from consultees:

Noise and Pollution Control: The noise assessment reports in principle are satisfactory. The condition relating to noise may be discharged provided works are carried as recommended in the noise assessment report. An additional condition is recommended.

Additional recommended conditions:

No part of the development shall be occupied until the glazing and ventilation recommendations set out in the Environmental Noise Assessment have been implemented for that part of the development.

Reason: To ensure that the occupiers of the development do not experience noise nuisance in accordance with Policy NE9 of the Local Plan.

Environment Agency: Object to the application and recommend refusal on the basis that it does not comply with the requirements set out in paragraph 9 the Technical Guide to the National Planning Policy Framework. The submitted FRA fails to provide sufficient detail as to how the surface water run-off from the proposed development will be treated. The surface water drainage scheme for the site should be based on sustainable drainage principles.

The site falls within flood zone 1 (ie the zone where there is no risk of flooding from a watercourse) and the issue of concern to the Environment Agency is the control of surface water from the site in order to reduce downstream flooding. In this case it is considered that this can be appropriately dealt with by condition and by including the Environment Agency's requirements as an informative. Condition 4 already addresses this issue but it is recommended that it be amended to read as follows:

The development shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved by the Local Planning Authority. The proposals should seek to demonstrate a 30% reduction in peak run-off rate. The surface water drainage scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To reduce the risk of flooding in the interest of sustainable development in accordance with Policy NE10 of the Nottingham Local Plan.

Highways: No objections subject to conditions and directives intended to cover a range of detailed issues.

The points raised are covered by the conditions already set out in the draft decision notice.

2. An independent Building for Life assessment has now been undertaken. This has been undertaken using the Building for Life 12 and has resulted in 10 out of the 12 questions being assessed as “green” (in some instances this is qualified by the need to ensure robust implementation) and the remaining 2 as “amber”.

The main concern highlighted in the assessment relates to car parking, particularly on plots 4-8 which front on to Clifford Street. It is agreed that the car parking could dominate this street frontage and the opportunity should be taken to re-assess this and explore any options for a different parking arrangement. It is therefore recommended that the following additional condition be imposed enable the review of this area to be undertaken, in consultation with Highways:

Notwithstanding the details shown on the submitted drawings, details of the proposed parking arrangement for Plots 4-8 on the Clifford Street frontage shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance and the layout of the development will be satisfactory in accordance with Policies BE2, BE3 and T3.

(Additional background papers: Email received 21/5/13 from Noise and Pollution Control, Letter dated 17.05.2013 from Environment Agency, Highway observations dated 15/5/13, Building for Life assessment)

5(d) GEORGE GREEN LIBRARY UNIVERSITY OF NOTTINGHAM UNIVERSITY BOULEVARD

Amend recommendation to add the following additional condition requiring a Construction Parking Management Plan to be submitted and approved:

The development shall not be commenced until such time that a Construction Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall set the proposed parking arrangements for all construction related staff including any sub contractors. The plan shall be implemented at all times whilst construction is underway unless 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(e) WESTMINSTER ABBEY 387 ST ANNS WELL ROAD

1. Paragraph 7.10 of the Committee report states that the second, smaller retail unit would be occupied by Financial and Professional services (Use Class A2). However, there was some concern about the potential uses which could fall within this use class and the scheme has therefore been amended to replace the proposed A2 use with an additional retail unit (Use Class A1).

An additional condition has been recommended to ensure that both units are only permitted to be occupied for retail purposes (use class A1).

Additional recommended condition:

Notwithstanding the provisions of the Town and Country Planning Town and Country Planning (General Permitted Development) Order 1995, as amended, the two ground floor units shall not be used other than for purposes falling within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended.

Reason: To determine the scope of this permission, and to ensure that alternative uses, which may be inappropriate in this location, can be subject to a full assessment of their impact.

2. An email has been received from the Police Architectural Liaison Officer which confirms that the Police have no objections to the proposals.

(Additional background paper: Email from Police ALO dated 21/5/13)

5(f) UNIT 1A AND 1B CASTLE RETAIL PARK RADFORD BOULEVARD

The Council has issued a certificate of lawfulness for proposed use (re:13/00956/PCLO) on 10 May 2013. This confirms that the amalgamation of Units 1A and 1B to form a single retail unit would be considered lawful on the proviso that operations within the floorspace of the current unit 1B do not contravene the requirements of condition 5 on planning permission 12/00073/PFUL3, which restricts the types of goods that can be sold from that area.

The agent for the application has provided a letter from a potential occupier of the unit, Morrisons' (who are not the applicant), which submits that the configuration of the store comprising the fallback position is both realistic and commercially viable. In particular the letter states that the size of the unit both in terms of gross and retail floor space is sufficient for a mid-range store and the regular shaped sales area enables an internal layout that would allow that company to meet customer expectations and maximise sales densities. Morrisons' advise that sufficient checkouts could be provided for the size of store and that the servicing arrangements are both acceptable and similar to other stores. A drawing is provided to demonstrate the tracking of a standard HGV reversing to the loading bay and then egressing from the site onto Churchfield Lane. The letter concludes by highlighting that the application includes a commitment to employment and training opportunities and a transport contribution.

The agent in a covering email to the letter from Morrisons' reaffirms the view that the fallback position is realistic. He comments that the store would benefit from glazing and an entrance feature fronting the customer car park which is of paramount importance to operators as the majority of customers visit such stores by car. The visibility of the store would primarily be secured through new signage which would be the subject of a separate application for advertisement consent. Furthermore he states that if additional glazing was desired, an application could be submitted and could not realistically be refused by the LPA. The agent submits that the provision of a café within a retail warehouse is considered ancillary and does not require planning permission. The sale of food and drink from a cafe would not breach the condition which limits the retail use of the floor space. Should the LPA disagree, Condition 5 attached to Planning Permission: 12/00073/FUL includes provision for up to 15% or 3,000 sq. ft to be used for the sale of ancillary goods in any event. The agent therefore considers that the café is deliverable as part of the fallback configuration.

The agent also remarks that Morrisons' have demonstrated that the servicing arrangements are acceptable and the checkout provision is adequate and in fact allows more checkouts than the 'proposed' layout submitted with the planning application.

Finally in conclusion the agent advises that if permission is refused the applicant will appeal and that due to the issues involved this would need to be a public inquiry. Given the previous recommendation and the evidence submitted with the application (including a QC Opinion and the correspondence from Morrisons), the applicant would seek to make a costs application with any appeal.

The agent has provided a 'briefing note' received 20/5/13 which he advises has been circulated to committee members in advance of the meeting. In summary the briefing note states that the development will enhance the retail offer in the local area, reducing the requirement for people to travel for day to day goods, and will have a significant economic boost in terms of job creation and earnings. The note states that the applicant has demonstrated conclusively that the store created under the 'fallback position' would be lawful and meet the requirements of the Company, or any other national grocer (in terms of sales floorspace, staff and customer facilities and servicing). It considers that the reason for refusal is not justified and that the LPA has failed to give the appropriate level of weight to the fallback position and therefore will be open to challenge. The note further re-iterates the benefits of the development and the intention to appeal the decision if refused and to apply for costs. Finally it is advised that if the applicant is unable to gain planning permission for the scheme as proposed by March 2014, the proposed operator will occupy the unit under the fallback position.

The agent has submitted an amended layout plan which annotates the size of the mezzanine floors proposed (347m² and 161m²) within the development. No change to the proposal has occurred here, the annotation is just for clarity.

The certificate issued by the Council confirms that the amalgamated units could be legally occupied by a single operator without planning permission, and subject to a particular configuration referred to throughout the application as the 'fallback' position could be used for the retail sale of food. The certificate of lawfulness is an interpretation of facts and therefore does not provide any evidence as to the likelihood of the amalgamated unit being occupied under the fallback position. Whether this fallback position is realistic is the key consideration in this application.

The size of the store, in terms of both gross and net floor space under the fallback position is very similar to that under the proposed store. It is however considered that the lack of visibility into the store and amount of daylight that it would receive would not be attractive to an operator and whilst Morrisons' letter makes no reference this, is considered a flaw in the fallback position. The tracking drawing provided demonstrates that a vehicle could undertake the manoeuvres required to service the store. Nevertheless this still involves a comparatively long distance reversing manoeuvre which is not considered desirable, and was particularly highlighted in the objection from GL Hearn as rendering the fallback position unrealistic.

The agent submits that the café, which would be located in the former Unit 1B floorspace, is an ancillary function of the retail operation. However, it is

considered that the café use would contravene planning condition 5 imposed by permission 12/00073/PFUL3 as it would involve the sale of goods outside of those listed as permitted. Condition 5 reads:

'If the Unit is used within Class A1, no goods may be sold from Unit 1B other than:

a)

- (i) building and DIY materials and tools;**
- (ii) motor parts and spares; cycles;**
- (iii) caravans, camping equipment and boats;**
- (iv) furniture and carpets;**
- (v) large electrical 'white' goods;**

(b)

(i) goods which are ancillary or directly associated with the above items (i) – (v), to a limit of 15% net sales area or each retail unit or 3,000 sq ft, whichever is the lower figure.'

This condition replicates the condition imposed on the original grant of consent for the retail park (with the exception that the 2012 condition does not permit food retail), hence the reference to 'each retail unit' in (b). However, it is considered that this condition wholly governs the items which may be sold from 1B; it does not admit the sales of food as ancillary to retail sales as a general class, on the basis that such sales could not be considered ancillary or directly associated with the items listed in (a) as required by (b).

It is therefore not considered that the café can be provided in the location proposed as part of the fallback proposal.

The comments of the agent and submission by Morrisons' are noted but it is considered that there remain several deficiencies in the fallback position from a commercial viewpoint. Whilst finely balanced and involving an element of planning judgement it remains the conclusion that the fallback position is not sufficiently realistic to be implemented. It is also noted that the applicant is likely to appeal and will make an application for costs as part of this process.

The briefing note repeats arguments that have been submitted and appraised in both the committee report and the analysis of Morrisons' and Savills' representations of 10 and 13 May respectively, within this update sheet.

The sizes of the proposed mezzanine floors are noted. These are stated as 344m² and 161m² within the committee report.

(Additional background papers: Letter from Morrisons dated 10/5/13, Email from Savills dated 13/5/13, 'Briefing Note for Members' from Savills dated 20 /5/13)

5(g) PARK HOUSE NURSING HOME CINDERHILL ROAD

Following the Committee site visit on 3rd May 2013, the applicant has agreed to amend the scheme to seek to address concerns about overlooking towards Bagnall. The design of the first floor bedroom windows on the southern elevation of the extension has been revised to incorporate a 350mm deep band of obscure glazing. Plans have been submitted to illustrate how this obscures the view towards the

gardens of Bagnall Cottages. An additional condition is recommended to ensure that this detail is provided in perpetuity.

A minor change has been made to the boundary treatment along the southern elevation. The timber fence that was originally proposed has now been removed due to concerns about the structure's appearance from the gardens of Bagnall Cottages. Revised plans have been submitted to illustrate additional planting instead. Full details will be secured by condition 8.

Additional recommended Condition:

First floor bedrooms labelled as 50-54 inclusive of the proposed extension shall not be occupied until such time as a band of permanent etched glazing has been installed within the south facing windows, in accordance with the details as illustrated on drawing 6950.P.19A (Proposed Etched Glazing Detail) dated 15 May 2013. The glazing shall thereafter remain in place in perpetuity.

Reason: In the interests of protecting the amenity of local residents, in accordance with policy BE3 of the Local Plan.