

REPORT OF DIRECTOR OF PLANNING AND TRANSPORT

Former Calor Gas Ltd, Abbeyfield Road

1 SUMMARY

Application No: 13/01375/PFUL3
Application by: CBW Design Ltd on behalf of Sandicliffe
Proposal: New Car Dealership including showroom, workshop and ancillary facilities.

This application is brought to Planning Committee as officers are recommending that the application be granted, which represents a departure from the Development Plan.

To meet the Council's Performance Targets this application should be determined by 24 September 2013.

2 RECOMMENDATIONS

GRANT PLANNING PERMISSION for the reasons set out in the report subject to:

- a) the indicative conditions substantially in the form of those listed in the draft decision notice at the end of this report.
- b) the prior revocation of the Hazardous Substances Consent on the site (reference: 92/00004/HSDC) under Section 14 (1) of the Planning (Hazardous Substances) Act 1990.

Power to determine the final details of the conditions of the planning permission and the revocation of the above Hazardous Substances Consent be delegated to the Director of Planning and Transport.

3 BACKGROUND

Site

- 3.1 The site comprises 0.65ha of land formerly occupied by Calor Gas Limited. The buildings have recently been demolished though the site has been vacant since 2008. The site is located towards the north end of Abbeyfield Road, on the west side of Clifton Boulevard and is located within an industrial area. The site is within land designated in the Local Plan as a major business park/industrial site. The site is enclosed with palisade fencing on three boundaries and is open to Abbeyfield Road.
- 3.2 To the south of the site is a large scale grey clad warehouse, set back from the Abbeyfield Road frontage, whilst to the north is a large office building occupied by Vision Express. To the rear (west) of the site is Hyperama Wholesalers and to the east is Clifton Boulevard, which is separated from Abbeyfield Road by a hedge approximately 3m in height.

Relevant Planning History

- 3.3 In 1992 a Hazardous Substances Consent (92/00004/HSDC) was granted for specified quantities of liquified petroleum gases to be present on site.
- 3.4 In 2009 planning permission (09/01722/PFUL3) was granted to change the use of the site to a bus depot (Sui Generis) for a temporary period of two years. It does not appear that this permission was implemented.
- 3.5 In February 2013 (12/03416/PADA) it was deemed that prior approval was not required for the demolition of the buildings on the site.

4 DETAILS OF THE PROPOSAL

- 4.1 The application seeks planning permission for a new car dealership including a showroom, workshop and ancillary facilities. The building is proposed to be sited towards the front of the site and comprises mainly ground floor accommodation, some limited first floor office space and a feature four storey glazed tower at the front of the building. The ground floor includes a showroom at the front of the building with offices and a workshop to the rear. The glazed tower will be used for displaying and storing vehicles for sale. The building is proposed to be predominately flat roofed with an overhanging canopy to the front elevation, and the materials will be largely glazing on the front elevation with a silver cladding system used on the other elevations of the building. Also proposed is a valet building to be located adjacent to the rear boundary of the site, in the south west corner.
- 4.2 The site plan proposes some external space for the display of vehicles at the front and rear of the site, with the remainder of the site given over to customer and staff parking.
- 4.3 The application is accompanied by a Design and Access Statement, a Flood Risk Assessment, a Sustainability Statement, a Transport Statement and a Geo-Environmental Report. As part of the development package the developer is to deliver local employment and training opportunities during the construction and operation of the development, including a financial contribution towards pre-employment training and recruitment costs. This will be secured through a Section 106 obligation.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

- 5.1 The application has been advertised by a site notice and press advert. In addition the below neighbouring properties have been directly consulted:

Vision Express, Abbeyfield Road
Former Stibel factory, Abbeyfield Road
Hyperama, Bull Close.

- 5.2 No responses have been received from neighbouring properties.

Additional consultation letters sent to:

- 5.3 **Highways & Drainage:** No objections to the access arrangements or the parking provision. A request is made for further information to demonstrate that the site will be drained to reduce the amount of surface water run off.

- 5.4 **Heritage and Urban Design:** The scale/height of the proposed building is appropriate for this location and the simple light weight design approach complements the existing neighbouring uses. The ground floor will generally be screened from the A52 Clifton Boulevard by the existing hedgerows but the upper floors will still offer some presence.
- 5.5 **Environment Agency:** No objections with regards to contaminated land issues subject to conditions relating to methods to deal with any unidentified contamination and a control over the use of penetrative methods in piling and foundation designs. With regards to Flood Risk reference is made to standing advice.
- 5.6 **Noise and Pollution Control:** No objections subject to conditions relating to a scheme to deal with any gaseous emissions and any mitigation measures.
- 5.7 **Health Safety Executive:** The site for the proposed car dealership development was previously occupied by Calor Gas Ltd. This is a major hazard site by virtue of the hazardous substances consent which it currently holds to store up to 198 tonnes of liquefied petroleum gases. On this basis the HSE initially advised that there are sufficient reasons, on safety grounds, for advising against granting planning permission. Further discussions have led to the HSE advising that Nottingham City Council, as the hazardous substances authority, could consider formally revoking the hazardous substances consent which the site holds, under section 14 or 17 of the Planning (Hazardous Substances) Act 1990. This will ensure that a hazardous substance cannot be held on the site in a quantity above that set out in the Planning (Hazardous Substances) Regulations 1992 as amended, without a new hazardous substances consent being granted.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework:

- 6.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies. While planning applications still need to be determined in accordance with the development plan, which are set out in the report, the NPPF is a material consideration in the assessment of this application.
- 6.2 The NPPF advises that there is a presumption in favour of sustainable development and that development which is sustainable should be approved. 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 the requirement to support sustainable economic development, secure high quality design, make effective use of brownfield land and support the transition to a low carbon future.
- 6.3 Paragraphs 18-22 relate to the Government's commitment to building a strong competitive economy. Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.
- 6.4 Paragraph 56 states that great importance is attached to the design of the built environment, with paragraph 61 advising this not just limited to architectural appearance but wider design issues.
- 6.5 Paragraph 96 states that new development should be expected to take account of

landform, layout, building orientation, massing and landscaping to minimise energy consumption.

- 6.6 Paragraph 100 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Nottingham Local Plan (November 2005):

ST1 - Sustainable Communities. Complies

E3 – Major Business Parks/Industrial Estates. Does not comply

BE2 – Layout and Community Safety. Complies

BE3 - Building Design. Complies

BE4 - Sustainable Design. Complies

NE10 – Water Quality and Flood Protection. Complies

NE11 – Hazardous Installations. Complies

NE12 – Derelict or Contaminated Land. Complies

T3 – Car Parking

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- (i) Principle of Development
- (ii) Access and Traffic Impact
- (iii) Layout and Design
- (iv) Flooding

(i) Principle of Development (Policies ST1 and E3)

- 7.1 The site is located within an area defined as a major business park/industrial estate under Policy E3 of the Local Plan. This policy seeks to protect sites for employment development which is defined as B1 (offices/light industry), B2 (general industry) or B8 (storage and distribution) uses. The proposal for a new car dealership, whilst including elements of employment use, would be classed as sui generis by virtue of the fact that it encompasses a combination of uses including car sales. The proposed use would therefore represent a departure from the local plan and has been advertised accordingly.
- 7.2 Although the proposal does not meet the strict definition of employment development in planning terms, a closer examination of the components of the proposal shows that a significant proportion of the floor-space will be for employment use purposes. The total floor space proposed amounts to 2172m², of which the largest part is for the vehicle workshop located to the rear of the building at approximately 1007m². This use in isolation would be considered to be B2 and furthermore there is office space and storage space totalling a further 645m². The

showroom and sales area extends to 520m² and can not be classed as 'employment' in planning use class terms, but this represents less than 25% of the total floor space. It is recognised that the showroom and sales area is not ancillary and forms a principal function of the use and that the office and storage elements of the scheme largely relate to supporting uses for the showroom and workshop.

- 7.3 Whilst Policy E3 does not provide exceptions to employment development, it is considered that there are several other material considerations which should also be attributed overriding weight. The site has been derelict since 2008 and this proposal offers the opportunity for redevelopment, with the application stating that 24 full time and 4 part time jobs would be created. Furthermore Abbeyfield Road and Lenton Lane have over the past decade seen a number of similar developments for car showrooms and workshops, with the Audi development granted permission in 2006 being a recent example on Abbeyfield Road. It is considered that given these factors and that a significant percentage of the floor space development will involve employment uses, the principle of the development is acceptable. The proposal accords to the wider policy objectives of ST1 in strengthening the economic base.

(ii) Access and Traffic (Policies BE2 and T3)

- 7.4 The Council's highway section is satisfied that the access arrangements to the site are acceptable and that the level of parking provision is appropriate. Whilst Policy T3 does not specifically provide parking standards for sui generis uses, analysis has been undertaken by Highways against similar uses in the vicinity and the parking provision is considered acceptable. Other than customer and staff parking, external areas of the site will be used for the display of vehicles. This will predominately be at the rear of the site but even accounting for some vehicles displayed on the site frontage, this is considered acceptable for this type of use and within this location.

(iii) Layout and Design (Policy BE3)

- 7.5 The design of the building is centred around the feature glazed canopy, which at four storeys will be highly visible from Clifton Boulevard and will offer a street-scene presence, which would otherwise largely be restricted by the hedgerow separating Clifton Boulevard from Abbeyfield Road. The form of the building is simple but the proportions work well and the use of glazing as the predominant material on both the tower, but also the front elevation of the main building, will give the development a light and striking appearance. It is considered that the proposal will significantly raise the quality of the appearance of the edge of the industrial area and accords with the objectives of Policy BE3 of the Local Plan.

(iv) Flooding (Policy NE10)

- 7.6 The site is located within Flood Zone 2 (FZ2) and as the development is classed as less vulnerable development on a site up to 1ha in size, the Environment Agency refer to standing advice. The first step is for the development to pass the sequential test as set out in paragraph 101 of the NPPF. The site's location within FZ2 means that any available sites within FZ1 would be sequentially preferable. The applicant has to date provided insufficient information to address this test satisfactorily and further information is being sought in this regard and will be reported at the meeting. With regard to the Flood Risk Assessment this provides the required reassurance in reference to flood risk management, management of surface water

and resilience/resistance and evacuation procedures and is therefore considered acceptable.

Other Issues (Policies NE10, NE11 and NE12)

- 7.7 The Hazardous Substances Consent was issued in 1992 and the applicant at the time was Calor Gas Limited. It is understood that they left the site in 2008, and it has been vacant since, but the consent remains with the land. The Health and Safety Executive has advised that if the Hazardous Substances Consent is revoked from the site, this would remove the objection to the development as this will ensure that a hazardous substance cannot be held on the site in a quantity above that set out in the Planning (Hazardous Substances) Regulations 1992, without a new hazardous substances consent being granted. The applicant has provided written confirmation that they have no objection to the revocation of the consent. On this basis the revocation of the consent prior to the granting of permission forms part of the recommendation, and this will be undertaken under Section 14 (1) of the Planning (Hazardous Substances) Act 1990, as a material consideration to the determination of the application and will provide compliance with Policy NE11 of the Local Plan.
- 7.8 Both Noise and Pollution Control and the Environment Agency recommend conditions in relation to contaminated land and accordingly they are included within the draft decision notice to ensure compliance of the proposal to Policy NE12 of the Local Plan. The additional information sought in regard to drainage will be secured by condition in compliance with Policy NE10 of the Local Plan.

8. SUSTAINABILITY / BIODIVERSITY (Policy BE4)

An Energy Statement has been submitted with the application which identifies that the development will achieve a 10% reduction in carbon emissions through insulation materials and the use of solar photovoltaic panels. Subject to planning conditions requiring the provision of further details and implementation of this scheme, it is considered that the proposed measures accord 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

Working Nottingham: Creation of jobs through the development and training and employment opportunities for local citizens through the construction and operational stages the development.

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 file ref: 13/1375/PFUL3
<http://plan4.nottinghamcity.gov.uk/WAM/pas/findCaseFile.do?appNumber=13%2F01375&action=Search>
2. Comments from Highways dated 13 July 2013
3. Comments from Environment Agency dated 22 August 2013
4. Comments from Health and Safety Executive dated 15 and 30 July 2013
5. Comments from Noise and Pollution Control dated 22 July 2013
6. Comments from Heritage and Urban Design dated 13 August 2013

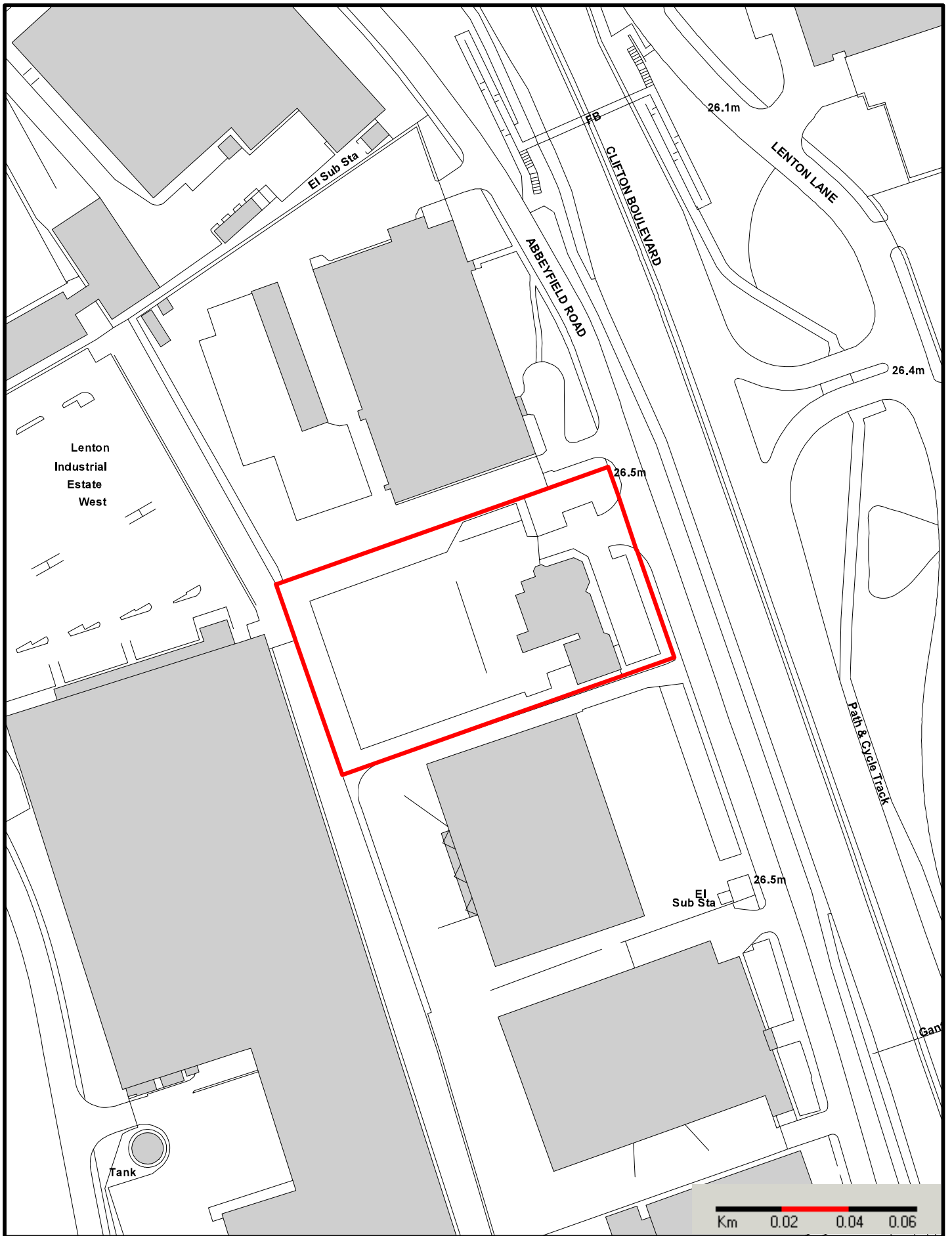
17 Published documents referred to in compiling this report

1. Nottingham Local Plan (November 2005).
2. National Planning Policy Framework.

Contact Officer:

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Nottingham
City Council

My Ref: 13/01375/PFUL3 (PP-02682307)
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Date of decision:

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

Application No: 13/01375/PFUL3 (PP-02682307)
Application by: Sandcliffe
Location: Calor Gas Ltd, Abbeyfield Road, Nottingham
Proposal: New car dealership including showroom, workshop and ancillary facilities.

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 buildings have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details unless otherwise agreed 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. Notwithstanding the details submitted the development shall not be commenced until a scheme for 10% of the development's energy supply (interpreted through carbon emissions) to be provided by way of a renewable or low carbon energy supply, has been submitted to and approved in writing by the Local Planning Authority, including a timetable for the implementation of the scheme. Thereafter the renewable/low carbon energy scheme shall be implemented in accordance with the approved details and timetable unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of providing a sustainable development with a proportion of its energy supplied by way of a renewable source in accordance with Policy BE4 of the Local Plan.

4. The development shall not be commenced until a surface water drainage scheme, including a timetable for its implementation and based on SUDS principles, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the surface water drainage scheme shall be implemented in accordance with the approved details and timetable unless otherwise agreed in writing by the Local Planning Authority.

5. Prior to the commencement of development a detailed scheme for dealing with the gaseous emissions on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme 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 public health and safety and in accordance with Policy NE12 of the Local Plan.

6. Notwithstanding the details provided, a revised drawing showing the staff and customer parking, the areas for the display of vehicles for sale and cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The parking areas and cycle facilities shall be marked out and available prior to the development first coming into use.

Reason: To ensure sufficient car and cycle parking and in accordance with the aims of Policy T3.

Pre-occupation conditions

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

7. 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 public health and safety and in accordance with Policy NE12 of the Local Plan.

8. The development shall not be occupied until a detailed landscaping and planting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type, height, species and location of the proposed trees and shrubs. Thereafter the approved landscaping and planting scheme shall be carried out in the first planting and seeding seasons following the occupation of the development. Any trees or plants which die, are removed or become seriously damaged or diseased within a period of 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: In the interests of the appearance of the development in accordance with Policies BE5 and NE5 of the Local Plan.

9. Prior to the occupation of the development the site shall be hard-surfaced in accordance with details that are first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development in accordance with Policy BE3 of the Local Plan.

Regulatory/ongoing conditions

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

10. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order for the time being in force relating to "permitted development" the showrooms of the car dealership premises shall not be used otherwise than for the display and sale of motor vehicles and motor vehicle accessories and parts.

Reason: To ensure that an acceptable balance of showroom and employment uses are maintained on the site and in the interests of the appearance of the development.

11. Car sales shall not take place within the car dealership building other than from the area identified on the approved plans, or as otherwise may first be approved in writing by the Local Planning Authority.

Reason: To ensure that an acceptable balance of showroom and employment uses are maintained on the site.

12. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect the underlying secondary A & B aquifers from contamination from the land raising activity that occurred at the site previously.

13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect the underlying secondary A & B aquifers from contamination from the land raising activity that occurred at the site previously.



Standard condition- scope of permission

S1. The development shall be carried out in complete accordance with the details described in the following drawings/documents:
Elevations reference 1105 3001 revision A dated 2 June 2013, received 10 June 2013

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: 13/01375/PFUL3 (PP-02682307)

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.