

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT AND REGENERATION

The Portal, Portal Business Park, Queens Drive

1 SUMMARY

Application No: 14/02061/PFUL3
Application by: Stephen George and Partners on behalf of The Portal Nottingham Ltd.
Proposal: Construction of retail unit, car showroom with associated workshop and office block including link to existing data centre.

This application is brought to Planning Committee as this is a major application on a prominent site where there are complex land use considerations.

To meet the Council's Performance Targets this application should be determined by 5 December 2014.

2 RECOMMENDATIONS

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

Power to determine the final details of the conditions of the planning permission to be delegated to the Head of Development Management and Regeneration.

3 BACKGROUND

Site

- 3.1 The site comprises approximately 1.95ha of largely cleared land on the corner of Queens Drive and Castle Bridge Road. Formerly occupied by Furlong House a 3/4 storey office block and John Peyton House which was a single storey data centre and telephone exchange, the latter was adapted following planning permission in 2011 and sits in the eastern portion of the site, set back from the road. Access to the site is via Queens Drive adjacent to the eastern boundary of the site.
- 3.2 The site is situated at the western extremity of the Southside Regeneration Zone and the surrounding area comprises a mix of retail, employment and residential uses. Located to the immediate north is the railway line, separating the site from Castle Meadow Retail Park. To the west the site is bordered by Castle Bridge Road, with Home Base on the western side and beyond this is the 'NG2' Business Park. To the east are Castle Park industrial units, whilst to the south is a residential area within The Meadows.
- 3.3 Bus routes along Queens Drive include the service to the Queens Drive P&R. NET Phase II, which is nearing completion, will also pass along Queens Drive, with a tram stop almost opposite the site.

- 3.4 The enlargement and other alterations to the data centre were granted permission in 2011 (reference 10/01970/PFUL3). Planning permission was then granted in March 2012 (10/03476/PFUL3) for an office development comprising six and five storey buildings with associated car parking. The access works including a signalised junction have been installed but the actual office development itself has not been constructed.

4 DETAILS OF THE PROPOSAL

- 4.1 The application seeks planning permission for a mixed use development comprising a retail unit, a car showroom and an office block, the latter of which includes an option to be physically linked into the existing data centre.
- 4.2 The proposed retail unit has 3995m² of gross floor space across two floors and is proposed to be situated in the western half of the site, set back from Queens Drive by approximately 50m. Dunelm is the retailer for this part of scheme and advise that their offer is classed as 'bulky goods'. They are proposing to relocate from their existing premises at Castle Retail Park. In its form the proposed building reflects that of a traditional retail warehouse and includes a large glazed frontage, together with a protruding metal canopy supported with steel columns. The glazing on the main façade is flanked by dark blockwork and is situated below a horizontal section of grey cladding which would contain the signage areas. It is proposed to have 180 car parking spaces (including 10 disabled bays), 6 motorcycle spaces and 20 bicycle spaces to serve the retail unit.
- 4.3 The car showroom is proposed to be sited adjacent to Queens Drive approximately 30m to the west of the vehicular access to the site. The building is two-storey with a floor space of 1962m², which on the ground floor comprises sales space and a repair and service centre and the first floor is largely sales space with ancillary staff facilities. The predominant feature of the façade facing Queens Drive is a frameless glazing system which is complemented by an aluminium canopy which runs the width of the frontage and returns to the west elevation. The non-glazed areas of the building are proposed to be white render. There are 14 customer parking spaces proposed for the car showroom.
- 4.4 The proposed office building is three storeys and would provide a maximum of 1492m² of floor space including the linked section to the data centre. Its form is comparatively narrow to the retail and car showroom and is more akin to the shape of the existing data centre. The buildings main feature is the front and rear glazing, which is recessed from the protruding grey clad frame by approximately 2m. There is 46 staff parking spaces proposed for the office development.
- 4.5 The application is accompanied by a number of documents including a Planning and Retail Statement, a Marketing Report, a Transport Assessment, a Flood Risk Assessment, a Noise Assessment, a Phase 2 Geo-Environmental Assessment, an Ecological Appraisal and a Design and Access Statement. 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 the 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 thirty five neighbouring/local properties have been directly consulted:

Units 1-13 Castle Park
Units 9A-11 Castle Marina Retail Park
Home Base, Enterprise Way
1-6 Beardsley Gardens
10-17 Phoenix Close
7-8 Saffron Gardens

- 5.2 No responses have been received from occupiers of neighbouring/local properties.

Additional consultation letters sent to:

- 5.3 **Highways & Drainage:** No objection, advising that the trip generation from the proposed development would be less than the office scheme consented in 2012. The junction improvement works that formed part of the office permission have been undertaken. Conditions are recommended on a number of matters including restricting the retail operation to non-food use, approval of a travel plan, adherence to the Flood Risk Assessment, a construction management plan and the surfacing and provision of the car park, motorcycle and cycle spaces.
- 5.4 **Heritage and Urban Design:** Whilst it would be more desirable to have a stronger building frontage on the corner of Queens Drive and Castle Bridge Road, there is a significant constraint to siting a building in this location in the form of the fibre optic cables. The retail building reflects the context of the surrounding area and although a traditional retail warehouse in form, the main façade is improved with the amount of glazing and the canopy feature. The car showroom presents prominently to the street and has a simple but effective appearance with the clean crisp use of glazing and render.
- 5.5 **Noise and Pollution Control:** No objection but recommends conditions relating to noise from mechanical plant and a remediation strategy to mitigate risks associated with ground gas contamination including a requirement for further gas monitoring.
- 5.6 **Environment Agency:** No objection subject to the imposition of conditions which secures the mitigation measures set out in the Flood Risk Assessment, a surface water drainage scheme and proposals to deal with any unidentified contamination.
- 5.7 **NCC Ecology:** No objection as the ecological report confirms that no evidence of protected species or other species of interest have been found on the site.
- 5.8 **Nottingham Civic Society:** Objects to the application on the grounds of inappropriate land uses and poor urban design. More specifically they comment that the layout fails to address the two road frontages with buildings of sufficient stature and present frontage car parking to the streetscape. Four or five storey (office) buildings could have created an urban character which contributed to pedestrian activity and community safety aims whilst making the most of this sustainable location close to the new tram stop at NG2. The presence of the Data Centre on the site suggests that the location advantage for offices / employment uses is likely to improve along with land values in the vicinity of the operational tram

system. A higher density office development - with some retail use on the ground floor would be more sustainable. The retail element is inappropriate and will encourage car based trips.

- 5.9 **Tree Officer:** The tree report omits the three mature street trees which are located outside of the site. The root protection areas of these trees should be provided to enable a judgement as to whether any car parking spaces need to be removed or what measures need to be imposed to protect the root system of these trees. With regards to the proposed tree species, these are all of narrow or fastigate form which is appropriate for confined spaces, but trees of more natural form should be selected where air space is not at a premium. In particular boundary trees and those at prominent locations should not be narrow or columnar. A condition will also be required regarding tree pit details. An opportunity also exists to improve the landscape treatment of the northern boundary, which would have wildlife benefits.
- 5.10 **Nottingham Office Forum:** No objection, with little confidence about the ability of this site to deliver a major office development and therefore on balance protecting it for office purposes is not considered necessary. They advise that the mixed use scheme is in keeping with the range of uses in the vicinity and would regenerate a gateway site on an arterial route into the City.

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 pro-actively drive and support sustainable economic development, encouraging the effective use of brownfield land, the need to secure high quality design and supporting the transition to a low carbon future.
- 6.3 Paragraph 19 states that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 22 states that 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. Applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.
- 6.4 Paragraph 24 states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Paragraph 26 advises that a retail impact assessment will be required to understand the impact on existing, committed and

planned investment in town centres and the impact on the vitality or viability of nearby town centres.

- 6.5 Paragraphs 56-64 of the NPPF sets out the approach for achieving good quality design, including responding to local character, creating a strong sense of place and resisting poor design that fails to take opportunities to improve the character and the quality of an area.
- 6.6 Paragraph 96 states that new development should be expected to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

Aligned Core Strategy (September 2014)

Policy A: Presumption in Favour of Sustainable Development

Policy 1 – Climate Change

Policy 4 – Employment Provision and Economic Development

Policy 6 – Role of Town and Local Centres

Policy 7 – Regeneration

Policy 10 – Design and Enhancing Local Identity

Policy 14 – Managing Travel Demand

Policy 17 - Biodiversity

Nottingham Local Plan (November 2005):

ST1 – Sustainable Communities

E4 – Regeneration of Previously Used Employment Sites and Employment Premises

S5 - New Retail Developments on the edge or outside existing centres

NE10 – Water Quality and Flood Protection

NE12 – Derelict and Contaminated Land

T3 - Car, Cycle and Servicing Parking.

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- (i) Principle of the development in Southside Regeneration Zone
- (ii) The layout and design of the proposed development
- (iii) Impact on the highway network and accessibility by alternative forms of transport
- (iv) Flood risk

(i) Principle of the development in Southside Regeneration Zone (Policies 4, 6 and 7 of the Aligned Core Strategy and Policies ST1, E4 and S5 of the Local Plan)

- 7.1 The site is located at the far western point of the Southside Regeneration Zone. Policy 7 of the Aligned Core Strategy (ACS), which replaces Policy MU2 of the Local Plan, states that the Southside Regeneration Zone will be developed as a mixed use business district. It advises that this will be achieved primarily through offices but supported by residential development, new hotels and complementary retail and leisure activity across key sites. The application includes three distinct land uses with retail (3995m²), a car showroom (1962m²) and offices (1492m²). Although a mixed use scheme the application does not provide the balance of uses that is envisaged by Policy 7 of the ACS. Instead of being office led, the largest component is retail and therefore the reasons and justification behind this need to be explored.
- 7.2 In 2012 planning permission was granted for an office development providing 17,233m² of floor space across two buildings. However, demand for this office space has not been forthcoming and the applicant has submitted a marketing report which details that despite openly marketing the site and offering both the consented scheme and variations to the consented scheme in the market for some five years no occupiers have been attracted to the site. The marketing report advises that the primary reason for this is that the site is seen as a less attractive proposition than existing offices and new builds, either within Central Nottingham or out of town locations. The report's conclusions are that Nottingham has a plentiful supply of good quality sites capable of providing Grade A offices, both centrally and within out of town locations for the foreseeable future. The marketing report states that over the past three years the total take up of 643,000ft² recorded by the Nottingham Office Forum has been transacted on existing properties with no new build developments undertaken. The report considers that the City should, in healthy market conditions, be able to accommodate up to 100,000ft² of new build offices on an annual basis. The report has identified well in excess of two million square feet of consented and actively promoted Grade A office opportunities within Central Nottingham. In addition the site competes with NG2 Business Park which has capacity for in excess of 250,000ft² of new buildings. The overall conclusions of the report are that the site's location being neither City Centre nor out of centre results in it competing with both markets and that Nottingham has more than sufficient supply to ensure that the objectives of Policy 4 of the ACS, in terms of quality office provision, are met and that it can continue to expand as a regional office centre. These views are consistent with the opinion of the Nottingham Office Forum that the site is unlikely to deliver a large scale office development. The improving economic conditions, together with the impending completion of NET Phase 2, which offers a stop opposite the site, are considered in the report but are not seen as sufficient factors to bring about a change in the demand for offices on this site.
- 7.3 Notwithstanding the above conclusions, given that the site has a consent for a large scale office development and that the ACS Policy 4 requires office led schemes within the Southside Regeneration Area (as a whole), it was considered prudent to obtain a further external opinion on the key land use considerations with this application. The Council appointed a planning consultant to independently review the evidence submitted with the application. In relation to office demand the advice received from the consultant was that he considered there to be some deficiencies in the Market Overview evidence and that further work was required to demonstrate

that that there is sufficient quantity and range of alternative supply of employment sites to meet the needs of office space identified within the ACS (253,000 m² of all B1 uses rather than merely office, between 2011 and 2028). The consultant suggested, based on the evidence submitted, that the historical lack of take up at the Portal over the last few years has more to do with general economic conditions and the local office market situation over that period than the lack of attractiveness for office development on this site. The consultant recommended that further information and clarification be sought in regard to the Market Overview evidence but also commented that if the LAPP continues to propose that the site be removed from the Southside Regeneration Zone (Canalside Quarter), this would significantly weaken the requirement for office development on this site.

- 7.4 The applicant has been given an opportunity to review the advice of the Council's appointed consultant and has responded with further evidence. The submission, in the form of a Supplementary Market Overview (SMO) from FHP who produced the original marketing report, concentrates on the key issues, namely appraising office supply against the requirements of the ACS and clarifying and adding to the evidence base of office supply. The SMO provides background on how key assumptions with regards to annual office supply were derived, explaining that evidence was drawn from a robust time period of 2000-2014 (ie: within the property boom years 2000-2008, through the onset of the recession and, subsequently, the more recent recovery years). Further sites within Central Nottingham are provided to increase the total supply and breadth of sites used to justify that there is sufficient office supply to meet the ACS period. Indeed of the eight sites provided within Central Nottingham for consented and actively marketed office schemes, the total floor space amounts to 238,032m² (equating to 13,224m² per annum), which is only 15,000m² less than the 253,000m² requirement over the entire ACS plan period. Whilst the status of one or two of these schemes can be questioned, the generality of this figure is accepted. The figure of 238,032m² is restricted to Central Nottingham sites only and also does not include a list of 'pipeline' sites (ie. those currently without planning permission). The SMO submits that these would provide well in excess of a further 100,000m² of office floor space in Central Nottingham.
- 7.5 Policy E4 of the Local Plan requires that an application demonstrates that there is sufficient quantity and range of alternative supply of employment sites and premises available. Paragraph 22 of the NPPF states that 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 and that applications for alternative uses should be treated on their merits having regard to market signals. Both the Council's appointed planning consultant and the author of the SMO agree that the general market conditions have had an overriding influence on the uptake of office space during the first three years of the ACS period. However, in light of the amount of consented office floor space that is available within Central Nottingham (and how this aligns with ACS targets) and given the reservations expressed by the planning consultant of the ability to defend this site for office development if the LAPP excludes the site from the Southside Regeneration Zone, it is considered on balance that the proposal meets these required local and national policy tests. The evidence produced within the original marketing report and SMO is considered to provide a convincing case to suggest that an insistence on a predominant office scheme on this particular site, such as that approved in 2012, would not be reasonable having regard to the principles set out in the NPPF, and that the City has sufficient supply to meet the requirements of Policy E4 of the Local Plan. Based on the additional evidence of the SMO, the Council's appointed planning consultant has advised that this answers previous

queries with regard to demonstrating office supply. He concludes that there is a sufficient quantity and range of permitted and potential sites for office development to meet current and future requirements over the ACS plan period and having regard to this and the requirements of paragraph 22 of the NPPF, advises that a refusal on the grounds that the site should be retained for primarily office development would be unlikely to be successfully defended on appeal.

- 7.6 The primary use proposed for this application is retail and given the site's out of town location the applicant has undertaken a sequential test and impact assessment in line with the requirements of national and local policy (Policy 6 of the ACS and Policy S5 of the Local Plan). The applicant submits that Dunelm are a bulky goods operator, on the basis that they sell predominately bulky and heavy goods with some complementary smaller goods that are usually purchased with the larger items. Whilst the range of Dunelm's goods appear to include items that are neither bulky nor complementary/ancillary to larger products (ie: the majority of kitchenware items), overall it is accepted that Dunelm's product range does include a significant proportion of 'bulky' items that are awkward for customers to carry.
- 7.7 The sequential test has explored potential sites within the City Centre, including within the Victoria Centre and the Broadmarsh Shopping Centre. In the case of the two shopping centres the sequential test discounts these as viable options on the basis that the Dunelm model (large footprint/low sales density) is not seen as attractive to these centres and that the rents would be far in excess of what this type of retail model could achieve. Concern is also expressed about the ability of these centres to provide direct access to a car park which is seen as essential for a bulky goods retailer. Other City Centre sites have been identified such as the Trinity Place Units, the Laura Ashley unit on Castle Boulevard and Pearl Assurance House, Friar Lane (amongst others). These have all been discounted on the basis that they are unable to provide the floor space required by Dunelm and in some cases do not have dedicated car parking. The sequential test appraises the out of centre retail parks and finds them in good health with very few vacancies. The only vacancies identified are the former JJB unit at the Riverside Retail Park and the former Kiddicare Unit at Castle Marina Retail Park (to the rear of the site), which are both reported to be under offer. It is considered that the sequential test has been thoroughly undertaken at a level that is proportionate to the proposed development and no viable alternatives have been identified.
- 7.8 In terms of retail impact the submitted assessment concludes that the application is not expected to have any impact on the viability and vitality of Nottingham City Centre. Given the operator is relocating from an existing retail park within the City, it is anticipated in the report that trade will largely be retained from existing customers and that any new trade will be drawn from the south of the City. The report identifies that any trade diversion is likely to come from existing retail parks or out of centre retailers which offer similar products. It is acknowledged that the relocation from Castle Retail Park will leave opportunity for the existing Dunelm Unit to be occupied. However, any prospective occupier will be constrained by the existing bulky goods condition (as amended in 2000 to include products sold by Dunelm) that governs this unit and similarly to the impact of the proposed unit, the report concludes that trade diversion will largely be drawn from existing retail parks.
- 7.9 The methodology of the retail impact assessment, including the assumptions made in relation to catchment areas and trade diversion, are considered sound and the conclusions that the proposal would not cause any harm to the vitality and viability of the City Centre or any local centre is accepted. The retail use responds to the

context of the surrounding area bordering Castle Meadow Retail Park to the north and being opposite Homebase to the west. There is therefore a synergy with the retail element reflecting the area's character and there is a perception that the collection of sites' forms a retail destination, together with the opportunity of linked trips. It is therefore considered that, subject to a condition restricting the retail operation to a range of goods considered acceptable in an out of town location, the proposal will accord with the requirements of Policy 6 of the ACS and Policy S5 of the Local Plan. The Council's planning consultant commented on the retail aspect of the scheme and although some detailed assumptions are questioned, the overall conclusion is that it would not be justified to refuse the application on retail grounds.

- 7.10 In the context that providing a predominantly office scheme appears unrealistic for this site, based on the evidence submitted with the application and that there are no reasonable policy grounds for resisting retail development of the scale and type proposed, it is considered that significant weight should be apportioned to the economic benefits that the scheme would derive. The proposal would regenerate a long-term vacant site and would create a significant number of jobs. The car showroom which in a planning sense is not classified as an employment use, includes a components of employment development in the provision of repair and service centre and along with the retail and office elements of the scheme would meet the objectives of Policy E4 in creating job generating uses within a mixed use scheme. Therefore whilst the balance of uses proposed do not reflect the wider aspirations for the Southside Regeneration Area under Policy 7 of the ACS, they nonetheless significantly contribute to the objective of strengthening the economic base of the City in accordance with the aims of Policy ST1. It is therefore concluded that the principle of the proposed uses is acceptable.

(ii) The layout and design of the proposed development (Policy 10 of the Aligned Core Strategy)

- 7.11 The proposed retail unit is set back approximately 50m from the Queens Drive frontage, with a car park to the front. Whilst in urban design terms it would be more desirable to have a stronger building frontage on the corner of Queens Drive and Castle Bridge Road, there is a significant constraint to siting a building in this location. Fibre optic cables and associated easements run across the site from east to west and north to south. Whilst the north to south easement is relatively close to the western boundary and therefore not overly restrictive, the east to west easement, which is 10m wide, starts approximately 35m from the Queens Drive boundary and therefore would prevent a retail unit of the size proposed being sited at the front of the site. The cost of relocating the fibre optic cables is prohibitive, with the applicant advising this would cost approximately £8-9million. The previous consented office scheme was located adjacent to the corner of Queens Drive and Castle Bridge Road but was designed with ground floor parking, hidden behind the building's façade and so access to the fibre optic cables was maintained. Whilst the constraint of the cable easement is unfortunate, realistically it prevents challenging the traditional out of centre retail layout of development set back, with a parking frontage. On this basis it is accepted that the position of the retail unit is appropriate and the challenge is to maximise the effectiveness of the permeability, landscaping and boundary treatment aspects of the scheme.
- 7.12 The original layout as submitted showed the main pedestrian access along the centre of the southern boundary providing an attractive tree lined access into the site from Queens Drive. The proposed boundary treatment adjacent to the car park

along Queens Drive and returning along Castle Bridge Road is a box hedge set in front of a black railings. Whilst this provides an attractive form of enclosure, it results in the site being impermeable when approaching from the west, and would result in pedestrians having to use the access described above. Accordingly a secondary access has been negotiated on the corner of the Queens Drive/Castle Bridge Road junction which returns the hedge into the site and guides visitors into the car park, picking up a dedicated route to the retail store. In addition to the boundary hedge, 400mm high gabion walls are proposed at the main pedestrian entrance to Queens Drive and on the curved boundary to the immediate west of the vehicular access to the site. These will add a high quality 'hard' edge to the boundary treatment proposals, which will add variety to the enclosure of the site and contrast effectively with the soft landscaping. The landscaping scheme includes a generous number of trees within the car park areas and the western bank adjoining Castle Bridge Road is proposed to have structured planting, aided by the insertion of retaining structures. The on-site landscaping scheme in addition to the existing mature street trees on Queens Drive will provide an attractive setting for the development. The tree officer considers that the majority of the species proposed are appropriate, though more variation could be provided and therefore this, together with tree pit details will be secured by condition.

- 7.13 The retail unit takes the form of a traditional retail warehouse but greater attention has been paid to the elevation treatment in order to enhance its appearance. The frontage benefits from a significant amount of glazing which is flanked with strong corners in high quality Blackstone facing blockwork, which provides the building with a firm solid edge. In addition the canopy and supporting columns provide further visual interest, strengthening the appearance of the building. The applicant's approach to enhancing the building has been largely confined to increasing material quality and introducing higher proportions of glazing, over and above what is normally proposed for retail warehouses. A more radical approach, such as having a curved roof, has been raised with the applicant but is not considered a viable alternative by them for this scheme, particularly given the requirements of the tenants. The design of the retail unit is not out of context with the surrounding area and against the requirements of Policy 10 of the ACS is considered acceptable.
- 7.14 The position of the car showroom is not constrained by the cable easement and as such benefits from being sited much closer to the Queens Road frontage. The proposed building is simple in form, based on clean white rectangles and is heavily glazed. The main elevation is predominately glazed within a frameless system and both this and the feature canopy wrap around to the west elevation, which produces a strong southwest corner when approaching along Queens Drive from the west. The car showroom will have a crisp appearance, provided by the combination of a uncomplicated form, the predominance of glazing and the use of white render. These features will enhance the appearance of the street-scene and will deliver a high quality building on a prominent arterial route into the City Centre.
- 7.15 The proposed office building has been sited adjacent to the data centre for operational reasons but also helps close the building form in between the retail unit and the car showroom. The design follows the mantra of a simple shape but the significant recessed glazing on the front elevation is a strong feature and together with the use of quality materials will be an attractive addition to the site.
- 7.16 It is recognised that without the main constraint of the fibre optic cable easement an alternative layout and design solution may have been achievable on this site. However, against the context of the easement the scheme still delivers a number of

significant benefits, in addition to the primary objective of regenerating the site and providing jobs. The permeability into the site has been improved and the boundary treatment and landscaping of the site will create an attractive prominent corner setting for the development. In addition, whilst the building form does not address the street and corner frontages as successfully as the previously consented scheme, one benefit of this scheme over and above the extant consent is the continued longer range view of Nottingham Castle from the south west. The setting of heritage assets is in itself a consideration of Policy 10 of the ACS and on balance it is considered that the scheme complies with the requirements of this policy and is acceptable in design terms.

(iii) Impact on the highway network and accessibility by alternative forms of transport (Policy 14 of the Aligned Strategy and Policy T3 of the Local Plan.)

- 7.17 In terms of trip generation the proposed development would be less than the previously consented office scheme. The site has the benefit of the junction improvements required as part of the office scheme having been already installed and so there are no concerns that the proposal will have a detrimental impact on the highway network.
- 7.18 The parking proposed for the scheme is considered acceptable and does not exceed the maximum standards set out in Policy T3. The site is well served by the City Link Park and Ride service along Queens Drive and will also benefit in the near future from the NET phase II tram stop opposite the site.

(iv) Flood risk (Policy 1 of the ACS and Policy NE10 of the Local Plan)

- 7.19 The site is situated within Flood Zone 3a (high probability). The development has been subject to the sequential test in accordance with the requirements of the NPPF and ACS Policy 1 and found to be an appropriate site. The Flood mitigation measures have been proposed as part of the Flood Risk Assessment, including minimum finished floor levels and the attenuation of surface water drainage to ensure a 30% reduction in existing runoff rates. The Environment Agency are satisfied with this document and have raised no objection to the proposed development, subject to the inclusion of conditions relating to implementation of flood risk mitigation measures and details of the surface water drainage scheme.

8. SUSTAINABILITY / BIODIVERSITY

- 8.1 The applicant has submitted an Energy Statement which advises that the connection of waste heat from the on-site data centre, together with the use of Air Source Heat Pump technology, will provide on-site renewable energy generation of approximately 22%. This will satisfy the requirements of Policy 1 of the ACS, subject to a condition which will secure the details of this scheme and its implementation.
- 8.2 The Council's Biodiversity Officer is satisfied that the site does not contain any identified potential for protected species and that the scheme will not be harmful to ecological interests. The proposal therefore meets the requirements of Policy 17 of the ACS.

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: The development will deliver local employment and training opportunities during both the construction and subsequent operation of the development.

Neighbourhood Nottingham: The scheme will regenerate a long term brownfield vacant site, in a prominent location on a main route into the City. As a result the development will bring an enhancement to the appearance of the site, to benefit of the local area.

Safer Nottingham – Community safety maximised by creating public realm and an active frontage onto Queens Drive

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 reference 14/02061/PFUL3
2. Comments from Highways dated 23 September 2014
3. Comments from Noise and Pollution Control dated 16 September 2014
4. Comments from the NCC Ecology dated 16 September 2014
5. Comments from the Environment Agency dated 16 October 2014
6. Comments from the Tree Officer dated 19 September 2014
7. Comments from the Nottingham Civic Society dated 29 October 2014
8. Comments from the Nottingham Office Forum dated 7 November 2014
9. Comments from Ben Hunt Planning Ltd dated 18 November 2014

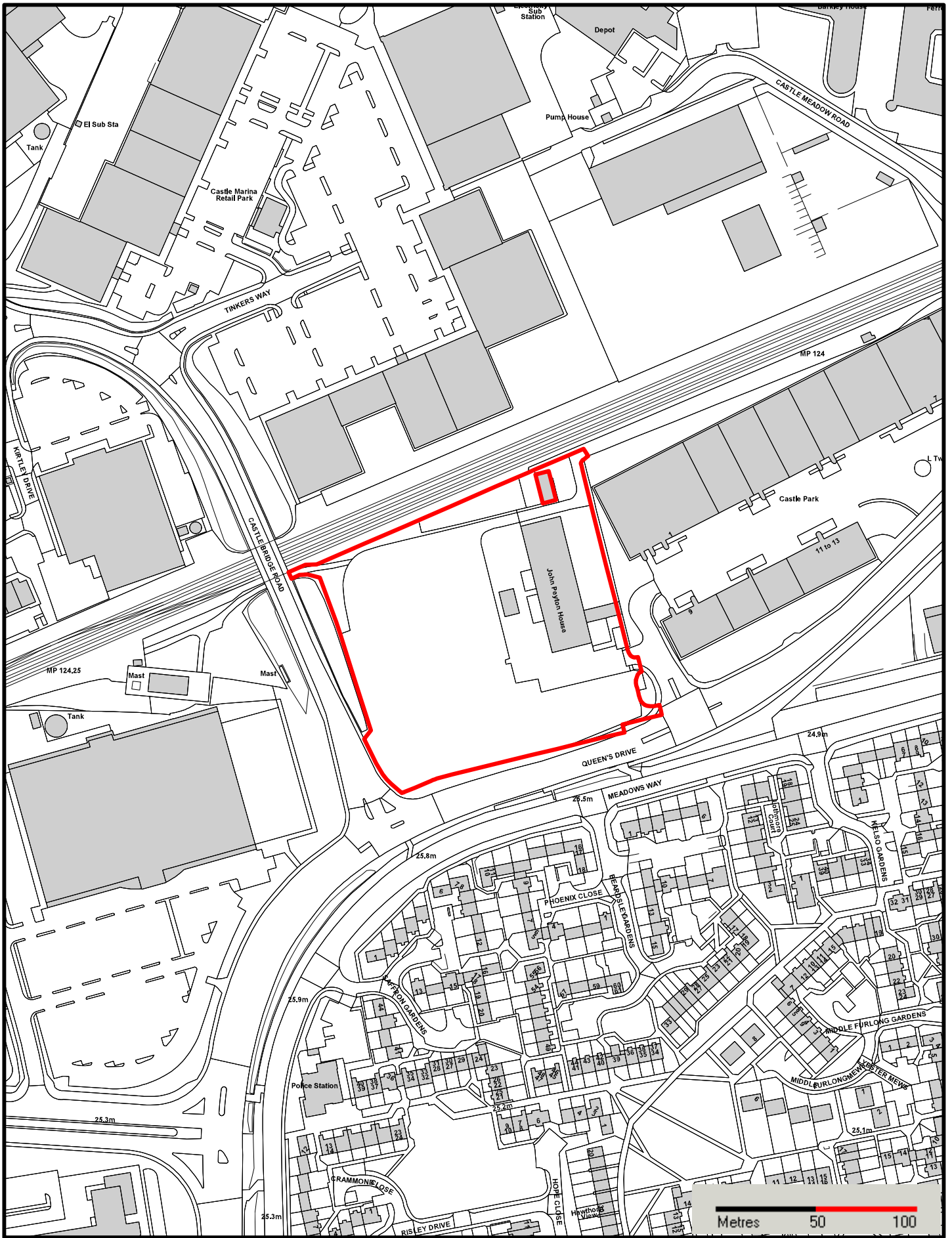
17 Published documents referred to in compiling this report

1. Nottingham Local Plan (November 2005).
2. Aligned Core Strategy (September 2014)
3. National Planning Policy Framework

Contact Officer:

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Nottingham
City Council

My Ref: 14/02061/PFUL3 (PP-03588573)
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**TOWN AND COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION**

Application No: 14/02061/PFUL3 (PP-03588573)
Application by: The Portal Nottingham Ltd
Location: The Portal, Portal Business Park, Queens Drive
Proposal: Construction of retail unit, car showroom with associated workshop and office block including link to existing data centre.

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 hereby permitted shall not be commenced until an Arboricultural Method Statement prepared in accordance with principles set out in British Standard 5837:2012- 'Trees in Relation to Design, Demolition and Construction - Recommendations', has been submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement shall specify measures to be put in place for the duration of construction operations to protect existing trees that are not identified for removal on the approved plans and the adjacent street trees on Queens Drive. The development shall be carried out in accordance with any ongoing requirements set out in the approved Arboricultural Method Statement.

Reason: To ensure the protection of trees during the construction period and in accordance with the aims of Policy NE5 of the Local Plan.

3. No development shall commence until a detailed surface water drainage scheme for the site, including a timetable for implementation, which is based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details. The scheme to be submitted shall demonstrate:
- Details of surface water drainage system(s).
 - Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to provide a 30% reduction over the pre-development rates.
 - Provision of surface water run-off attenuation storage
 - Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods
 - Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in accordance with the aims of Policy 1 of the Aligned Core Strategy and Policy NE10 of the Local Plan.

4. Prior to commencement of development on any individual building hereby permitted, details of external materials for that particular building, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason In the interests of the appearance of the development and in accordance with the aims of Policy 10 of the Aligned Core Strategy.

5. Prior to the commencement of the development, a Remediation Strategy that includes the following components to deal with the risks associated with ground gas contamination of the site shall be submitted to and be approved in writing by the Local Planning Authority:
- a) A Site Investigation, based on the Phase I Desk Study Report undertaken by BSP Consulting, and a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - b) A Remediation Strategy, based on a) above, giving full details of the remediation measures required and how they are to be undertaken (including a contingency plan for dealing with any unexpected contamination not previously identified in the Site Investigation).
 - c) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in b) above are complete.

The Remediation Strategy shall be carried out in accordance with the approved details unless varied with the express written approval of the Local Planning Authority.

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

6. No development shall commence until a construction management plan detailing how the development works are to be carried out, including details of the type, size and frequency of vehicles arriving at and leaving the site, site access details, contractor staff parking provision, traffic management, haul routes and a phasing programme, has been submitted to and approved in writing by the Local Planning Authority. This shall also include details of wheel washing facilities and measures to prevent the deposit of debris onto the highway.

In the interests of highway safety and amenity and in accordance with the aims of Policy 10 of the Aligned Core Strategy.

7. Notwithstanding the submitted Energy Statement, the development shall not be commenced until the renewable energy scheme outlined in principle in the Energy Statement has been installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Thereafter the renewable/low carbon energy scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of providing a sustainable development and in accordance with Policy 1 of the Aligned Core Strategy.

Pre-occupation conditions

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

8. Notwithstanding the submitted details, no part of the development shall be brought into use until a landscaping and planting scheme has carried out in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type, height, species (with a focus on the use of native species) and location of the proposed trees and hedges, the tree pits/trenches and aeration pipes. The scheme shall also include the structured planting shown in principle on drawing number GL0231 02C. 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 a 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 Policy 10 of the Aligned Core Strategy and Policy NE5 of the Local Plan.

9. Prior to the first occupation of the development, a Verification Report which shall include the data referred to in the Verification Plan (pursuant to condition 5), to demonstrate that the approved Remediation Strategy to deal with ground gas contamination of the site has been fully implemented and completed, shall be submitted to and approved in writing by the Local Planning Authority.

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

10. No building permitted shall be occupied until the hard surfacing and parking areas associated with that building and the internal access road have been installed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the layout and appearance of the development will be satisfactory and that appropriate parking provision is made in accordance with Policy 10 of the Aligned Core Strategy and Policy T3 of the Local Plan.



11. No building permitted shall be occupied until cycle shelters associated with that building have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable travel and in accordance with the aims of Policy 14 of the Aligned Core Strategy and Policy T3 of the Local Plan.

12. The development shall not be occupied until all means of enclosure for the site have been installed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the layout and appearance of the development will be satisfactory in accordance with Policy 10 of the Aligned Core Strategy.

13. Within 6 months of the first occupation of the development, a Travel Plan for any occupied development, based on the Framework Travel Plan approved as part of the application, shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include proposals and a timetable for its on-going monitoring and review with the Local Planning Authority and shall appoint a Travel Plan Co-Ordinator. Thereafter the Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: [In the interests of promoting the use of sustainable transport modes by the occupants of the development in accordance with Policy T2 of the Local Plan.

Regulatory/ongoing conditions

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

14. Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to "permitted development, the retail unit hereby approved shall not be subdivided and the unit shall be limited to the retail of furniture, fabric and household textiles, soft and hard furnishings, carpets and floor coverings, household goods and home ware (including kitchenware), decorative products, DIY goods, electrical and domestic appliances, and ancillary goods.

Reason: In the interests of protecting the vitality and viability of the City Centre and the Meadows Local Centre in accordance with Policy 6 of the Aligned Core Strategy and Policy S5 of the Local Plan.

15. The development permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (14012: FRA/DS, Revision B: September 2014) and the following mitigation measures detailed within the FRA:

1. Finished floor levels must be set no lower than 25.88mAOD as specified in the Drainage Strategy Drawing (Drawing Number 14012-FRA-220, Revision B).
2. Sensitive equipment located outside the proposed buildings should be set at a minimum of 25.44mAOD, or where this is not possible it should be constructed to be resilient to flood waters.
3. Prospective occupants of each unit should register to receive flood warnings from the Environment Agency and have in place an evacuation plan.
4. The access roads should be designed to provide flow routes for any flood waters.

5. Attenuation should be provided, as necessary, to ensure that discharge from the site shall at all times, provide a 30% reduction over the pre-development rates.

Reason To reduce the risk of flooding to the proposed development and future users, and to prevent the increased risk of flooding to others in accordance with the aims of Policy 1 of the Aligned Core Strategy and Policy NE10 of the Local Plan.

Standard condition- scope of permission

S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the application as amended by the following drawing: Planning Layout reference 8662-003-P003 revision F, received 29 October 2014

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.

3. Ground Gas Contamination

The Remediation Strategy (including its component elements) must be undertaken and implemented in accordance with Defra and the Environment Agency's guidance 'Model Procedures for the Management of Land Contamination, CLR 11' and other authoritative guidance. Following completion of the development, no construction work, landscaping or other activity must be undertaken which may compromise the remediation measures implemented to deal with ground gas contamination of the site. Any ground gas protection measures included in the original development are designed for the buildings as originally constructed to protect against possible dangers to public health and safety arising from any accumulation of methane, carbon dioxide or other gas and to ensure that the site can be developed and used without health or safety risks to the occupiers of the development and/or adjoining occupiers. These protection measures may be compromised by any future extension of the footprint of the original building or new building structures within the curtilage of the site including the erection of a garage, shed, conservatory or porch or similar structure. Advice from the Council's Pollution Control Team regarding appropriate gas protection measures should be sought should future extension of the footprint of the original building or new building structures within the curtilage of the site be proposed (regardless of whether the proposed construction requires planning permission or building regulation approval). 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 required 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 shall provide at his own expense such evidence as is required to indicate



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Not for issue

Continued...

clearly that the risks associated with ground, groundwater and ground gas contamination of the site has been addressed satisfactorily.

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: 14/02061/PFUL3 (PP-03588573)

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.