

**REPORT OF HEAD OF DEVELOPMENT MANAGEMENT AND REGENERATION**

**2 Foxhall Road, Nottingham**

**1 SUMMARY**

Application No: 14/02652/PVAR3

Application by: Mr Khalid Hussain

Proposal: Variation of condition 3 of planning permission 10/00311/PFUL3 to allow opening hours of 9am to 6pm on a Saturday.

The application is brought to Committee at the request of a ward councillor, and because of the level of local interest in response to consultation, including a petition.

To meet the Council's Performance Targets this application should have been determined by 29th December 2014.

**2 RECOMMENDATIONS**

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

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

**3 BACKGROUND**

- 3.1 The site is a car repair garage located within a Primarily Residential Area. The site has common boundaries with 260 Gladstone Street (a party wall with three flats) and 4 Foxhall Road (a party wall with a dwellinghouse). A Certificate of Lawfulness of Existing Development was granted in 1993 for the use of the part of the property adjoining 4 Foxhall Road as a garage for the repair of cars.
- 3.2 Planning permission 10/00311/PFUL3 was granted in 2010 for the change of use of the part of the site adjoining 260 Gladstone Street from B8 storage to a layover space for cars awaiting servicing. Condition 3 of that permission restricted the hours of use of the entire site to between 8:30AM and 6:00PM Mondays to Fridays and 9:00AM and 1:00PM on Saturdays.

**4 DETAILS OF THE PROPOSAL**

- 4.1 The applicant wishes to extend the hours of opening on Saturdays to between 9:00AM and 6:00PM. He wishes to do so in order to carry out repairs to his taxi-driving customers who on occasion require work to be carried out between their busy Friday and Saturday nights.

## **5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS**

### **Adjoining occupiers consulted:**

34 neighbours were notified by letter dated 10<sup>th</sup> November 2014. The consultation period expired on the 3<sup>rd</sup> December 2014. 15 representations have been received, objecting to the proposal for the following reasons:

#### i) Impact on residential amenity

- The area has a residential character that the increased hours would diminish.
- Additional noise.
- Additional car exhaust fumes creating an unhealthy environment.
- Bad language used at the garage at present.
- Existing late night disturbance from the business in breach of existing hours of use limits.

#### ii) Impact on the highway network

- Generation of additional traffic and increased danger to pedestrians including children.
- Loss of on street parking and bad parking of visiting vehicles.

2 representations and a petition with 113 signatures have been received, supporting the proposal.

Councillors Jones and Ibrahim have objected to the proposal on the grounds of loss of parking and noise/disturbance.

### **Additional consultation letters sent to:**

#### **Pollution Control:**

No comments.

#### **Highways:**

No objections.

## **6 RELEVANT POLICIES AND GUIDANCE**

### **Aligned Core Strategy (September 2014)**

Policy A: Presumption in Favour of Sustainable Development - working proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy 14: Managing Travel Demand - seeks to reduce the need to travel, especially by private car, through delivery of sustainable development and transport networks.

### **Nottingham Local Plan (November 2005):**

H7 - Inappropriate Uses in Residential Areas.

NE9 - Pollution.

## **7. APPRAISAL OF PROPOSED DEVELOPMENT**

### **Main Issues**

- i) Impact on residential amenity
- ii) Impact on the highway network

### **Issue i) Impact on residential amenity (Policies A, NE9 and H7)**

- 7.1 The extension of hours would continue the use of the site for car repairs to bring the Saturday closing time into line with that already permitted from Monday to Friday. It would not provide any additional capacity for repairs, or intensify the existing lawful use, but it would allow for a limited amount of additional business to be done on Saturday afternoons. As such, the additional hours would generate some extra vehicle movements. However, it is not considered that the limited additional vehicle movements would create a significant increase in traffic levels or vehicle fumes such that it would be harmful to the character of the area.
- 7.2 The noise insulation required by condition 2 of planning permission 10/0031/PFUL3 has been installed and equipment has been kept away from the wall with 4 Foxhall Road in accordance with condition 5. Whilst some noise breakout is considered to be inevitable, this must be seen within the context of the longstanding commercial use of the site, and the limited additional hours now being sought. It is noted that Pollution Control raises no objections to the extended hours. The allegations of bad language are noted, but this is not an issue that can be controlled through the planning system.
- 7.3 Concern has been expressed that the garage is not compatible with the immediate residential surroundings, and that any increase in hours is therefore inappropriate. It is recognised that the proximity of the garage to residential properties gives rise to some activities and noise that would not typically be expected in a residential area. However, whilst much of the area is residential, many properties on nearby Gladstone Street are in a variety of uses such as shops, places of worship or as small industrial units and the area has a busy character. In this context it is considered that the limited extension of activity into Saturday afternoons have a very limited impact on the residential character of the area and would be unlikely to be materially harmful.

### **Issue ii) Impact on the highway network (Policy 14)**

- 7.4 There is limited parking for vehicles within the premises, and as such it is likely that customers will park on the adjacent highway. It is understood that there have been occasions when customer vehicles are parked temporarily on the highway in between repairs. On road parking on Saturdays in the local area is also affected by classes at the nearby mosque which generates a higher level of vehicle movements than usually found. However, there are no restrictions on parking in the immediate vicinity of the premises, and it is considered that parking can take place safely. The main concern is therefore one of amenity, with vehicle movements and competition for spaces at busy times. It is acknowledged that the operation of a garage in this location could cause significant levels of parking demand, with consequent impact on neighbours, if operated intensively. However, it is considered that the business currently operates at a level where the impact is acceptable within the permitted hours.

7.7 The concerns of residents have been raised with the applicant, who has undertaken that he will inform his customers that they are not to park on Foxhall Road on Saturdays, when local residents are more likely to require on street parking. Whilst this is not directly enforceable, it is considered that the applicant is genuine in his intentions to manage the use in an acceptable manner. If operated in the manner described, it is considered that the impact of the business will be acceptable during the extended opening period. It is therefore considered appropriate to grant permission for the extended hours for a temporary period, to allow the impact of the operation of the business to be reviewed.

**8. SUSTAINABILITY / BIODIVERSITY**

None.

**9 FINANCIAL IMPLICATIONS**

None.

**10 LEGAL IMPLICATIONS**

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

**11 EQUALITY AND DIVERSITY IMPLICATIONS**

None.

**12 RISK MANAGEMENT ISSUES**

None.

**13 STRATEGIC PRIORITIES**

None.

**14 CRIME AND DISORDER ACT IMPLICATIONS**

None.

**15 VALUE FOR MONEY**

None.

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

1. Application No: 14/02652/PVAR3 - link to online case file:  
<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NEIB1ILY00L00>
2. Comments from Nottingham residents.
3. Email from Pollution Control dated 21<sup>st</sup> November 2014.
4. Email from Highways dated 16<sup>th</sup> December 2014.
5. Letter from applicant dated 26<sup>th</sup> January 2015.

**17 Published documents referred to in compiling this report**

Nottingham Local Plan (November 2005)  
Aligned Core Strategy (September 2014)

**Contact Officer:**

Mr Daniel Windwood, Case Officer, Development Management.

Email: [daniel.windwood@nottinghamcity.gov.uk](mailto:daniel.windwood@nottinghamcity.gov.uk) Telephone: 0115 8764075



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**Nottingham**  
City Council

**My Ref:** 14/02652/PVAR3

**Your Ref:**

**Contact:** Mr Daniel Windwood

**Email:** development.management@nottinghamcity.gov.uk



**Nottingham  
City Council**

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

**Tel:** 0115 8764447  
www.nottinghamcity.gov.uk

Mr Khalid Hussain  
24 Jarvis Avenue  
Carlton  
Nottingham  
NG3 7BH

Date of decision:

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

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Application No: 14/02652/PVAR3  
Application by: Mr Khalid Hussain  
Location: 2 Foxhall Road, Nottingham, NG7 6NA  
Proposal: Variation of condition 3 of planning permission 10/00311/PFUL3 to allow opening hours of 9am to 6pm on a Saturday.

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

<b>Time limit</b>
. There are no conditions in this section.
<b>Pre-commencement conditions</b> (The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)
There are no conditions in this section.
<b>Pre-occupation conditions</b> (The conditions in this section must be complied with before the development is occupied)
There are no conditions in this section.
<b>Regulatory/ongoing conditions</b> (Conditions relating to the subsequent use of the development and other regulatory matters)

1. The vehicle maintenance business shall not be operated at any time outside the hours of 0830 hrs to 1800 hrs Monday to Friday.  
The vehicle maintenance business shall not be operated at any time outside the hours of 0900 hrs to 1800 hrs on Saturdays until one year after the grant of permission whereupon the business shall not be operated outside the hours of 0900 hrs to 1300 hrs on Saturdays.  
The premises shall not be open at any time on Sundays or Bank Holidays.

*Reason: To protect the amenities of the occupants of nearby properties to comply with Policy H7 and NE9 of the Nottingham Local Plan.*

2. The roller shutter and external doors shall be kept closed at all times, except for access and egress into the premises.

*Reason: To protect the amenities of the occupants of nearby properties to comply with Policy H7 and NE9 of the Nottingham Local Plan.*

3. No equipment shall be attached to the party wall with 4 Foxhall Road.

*Reason: To protect the amenities of the occupants of nearby properties to comply with Policy H7 and NE9 of the Nottingham 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 details described in the forms, drawings and other documents comprising the application as validated by the council on 3 November 2014.

*Reason: To determine the scope of this permission.*

#### **Informatives**

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: 14/02652/PVAR3

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

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