

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

**Mirage Venues , Redfield Way**

**1 SUMMARY**

Application No: 15/02636/PFUL3 for planning permission

Application by: DLA Architecture Limited on behalf of Oakgate Retail Limited And James FarhadEftekhar-Khonssar

Proposal: Erection of six A3 units and associated works following demolition of existing nightclub.

The application is brought to Committee because it is a major application on a prominent site where there are important land use and design considerations.

To meet the Council's Performance Targets this application should be determined by 19th January 2016

**2 RECOMMENDATIONS**

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

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

**3 BACKGROUND**

3.1 The site is known as the former Black Orchid/ISIS nightclub site, which is located to the west side of Redfield Way, at its junction of Redfield Road.

3.2 Within the site there is a large detached building, formerly the nightclub, to the west, set at an angle to the site boundaries. Car parking surrounds the building, with vehicular access from a service road to the north of the site, off Redfield Way. This service road also gives access to a casino to the north. The site has landscaping to the road frontages. There is a gas compound to the corner of the site, close to the junction.

3.3 To the north west of the site there is a casino (Dusk til Dawn), to the south west is a lorry park (accessed from Redfield Road) and to the south east, opposite the site, there is a trade cash and carry warehouse. It is noted that the lorry park operation would cease once the recent planning permission for gas fired power plant (planning references 14/01655/PFUL3 and 15/02545/PFUL3) has been implemented.

- 3.4 To the north east, on the opposite side of Redfield Way, there are a range of uses including a multiplex cinema, three restaurants and a bowling alley, all which share a large parking area, and beyond this there is a car dealership.
- 3.5 Aside from the neighbouring leisure and food and drink uses, the area generally is of a commercial and industrial character.

#### **4 DETAILS OF THE PROPOSAL**

- 4.1 Erection of six A3 units and associated works following the demolition of the existing nightclub building. The units would be arranged with three units to the south west of the site, facing north east, with the other three to the north east of the site facing Redfield Road. All units would overlook a centrally positioned car parking area, which would be accessed from a new entrance off Redfield Way. Servicing would be to the rear of each unit and accessed from the existing service road to the north.
- 4.2 The units would be single storey with space for outdoor seating to the front of each unit. Two of the units would have an internal area of 2200 square feet (205 square metres) with the other four being 4000 square feet (372 square metres).
- 4.3 Details of employment and training opportunities are currently being finalised and it is expected that a unilateral Undertaking will be offered by the developer to promote the use of local labour in the construction *and /or* operational phases of the development.

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

##### **Adjoining occupiers consulted:**

Vauxhall Car Dealership and Makro Self Service, Redfield Road  
Chiquitos, Nandos, Frankie and Bennys, GX Superbowl, Showcase Cinema and Dusk til Dawn Ltd, Redfield Way

A site notice and a press notice have been published. Overall expiry date for consultations was 19<sup>th</sup> November 2015. No comments have been received.

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

**Planning Policy:** No objections.

**Pollution Control:** No objections subject to pre-commencement condition relating to remediation strategy.

**Highways:** No objections subject to conditions regarding construction method statement, access and tracking, highway improvements and a transport statement.

**Highways Agency:** No objections

**Others:**

**Drainage Section:** Require further details in regard to SuDS.

**Tree Officer:** No objections subject to pre-commencement conditions in regard to Arboricultural Method statement and details of landscaping.

## **6 RELEVANT POLICIES AND GUIDANCE**

### **National Planning Policy Framework**

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 taken on planning applications. Of particular relevance to this application is the approach to the location of key town centre uses, e.g. by a sequential test, and the need to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

### **Aligned Core Strategy**

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 1: Climate Change

Policy 6: Role of Town and Local Centres

Policy 10: Design and Enhancing Local Identity

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

NE10 - Water Quality and Flood Protection

NE9 - Pollution

S5 - Retail development, Edge/Outside Centres

S6 - Non Retail Uses, City/Town/Local Centres

S7 - Food and Drink

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

### **Main Issues**

- (i) Principle of development
- (ii) Layout and Design

**Issue (i)** Principle of Development (ACS Policy 6 and LP Policies S5, S6 and S7)

- 7.1 A nightclub is ordinarily classed as a town centre use. The nightclub has a floorspace of 1280 square metres on the ground floor with an additional 1120 square metres on the mezzanine floors above, giving a total of 2400 square metres. The proposed total floorspace of the 6 restaurant units would be approximately 1900 square metres. Given that there would be an overall reduction in floorspace compared to the former nightclub and following a sequential test which has been submitted as part of the application, it is considered that the proposed A3 units

would not have a significant detrimental impact on the vitality and viability of the City Centre, or other nearby shopping areas.

- 7.2 Once operational it is anticipated that there would be a potential to create up to 140 full and part time posts, with a range of permanent and casual positions and with varying skills requirements. Therefore the proposal would have a positive economic benefit to the local area in terms of job creation.

**Issue (ii) Layout and Design (ACS Policy 10)**

- 7.3 The layout has been designed in order that the units face the public domain and create an active frontage, currently something that is distinctly lacking in this leisure area. The elevations of the nightclub building have no openings aside from the main entrance and some fire escape/service doors. As such the current building presents no active frontage to the road, being in essence a large 'shed' of industrial appearance which is lacking in any architectural features. Landscaped areas both within the site and to the back edge of the highway would further improve the appearance of the site. The proposed units would be a considerable improvement on the visual amenity of the area, providing visual interest and activity at this prominent entrance to the wider leisure area.
- 7.4 The servicing would all be contained at the back of house. The units would have glazed and timber cladding facades and a roof which would overhang to provide a canopy. This would shade diners both inside and out, and provide a covered way for pedestrians. The rear elevations would be of metal cladding panels.
- 7.5 Bin storage and plant would be housed in enclosed areas between each unit. Areas surrounding the units and parking would be landscaped.

**8. SUSTAINABILITY / BIODIVERSITY**

- 8.1 It is proposed that air source heat pumps together with heat recovery ventilation and gas fired water heating would be installed which would reduce carbon emissions by a minimum of 10%.
- 8.2 The drainage on the site would be achieved through sustainable drainage system, the details of which would be secured through a condition.

**9 FINANCIAL IMPLICATIONS**

None.

**10 LEGAL IMPLICATIONS**

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

**11 EQUALITY AND DIVERSITY IMPLICATIONS**

None.

**12 RISK MANAGEMENT ISSUES**

None.

**13 STRATEGIC PRIORITIES**

Neighbourhood Nottingham: Providing a high quality development that would significantly enhance the character, appearance and leisure offer of the area.

Working Nottingham: Securing training and employment for local citizens through the construction and operation of 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 No: 15/02636/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NW77IILYCB000>

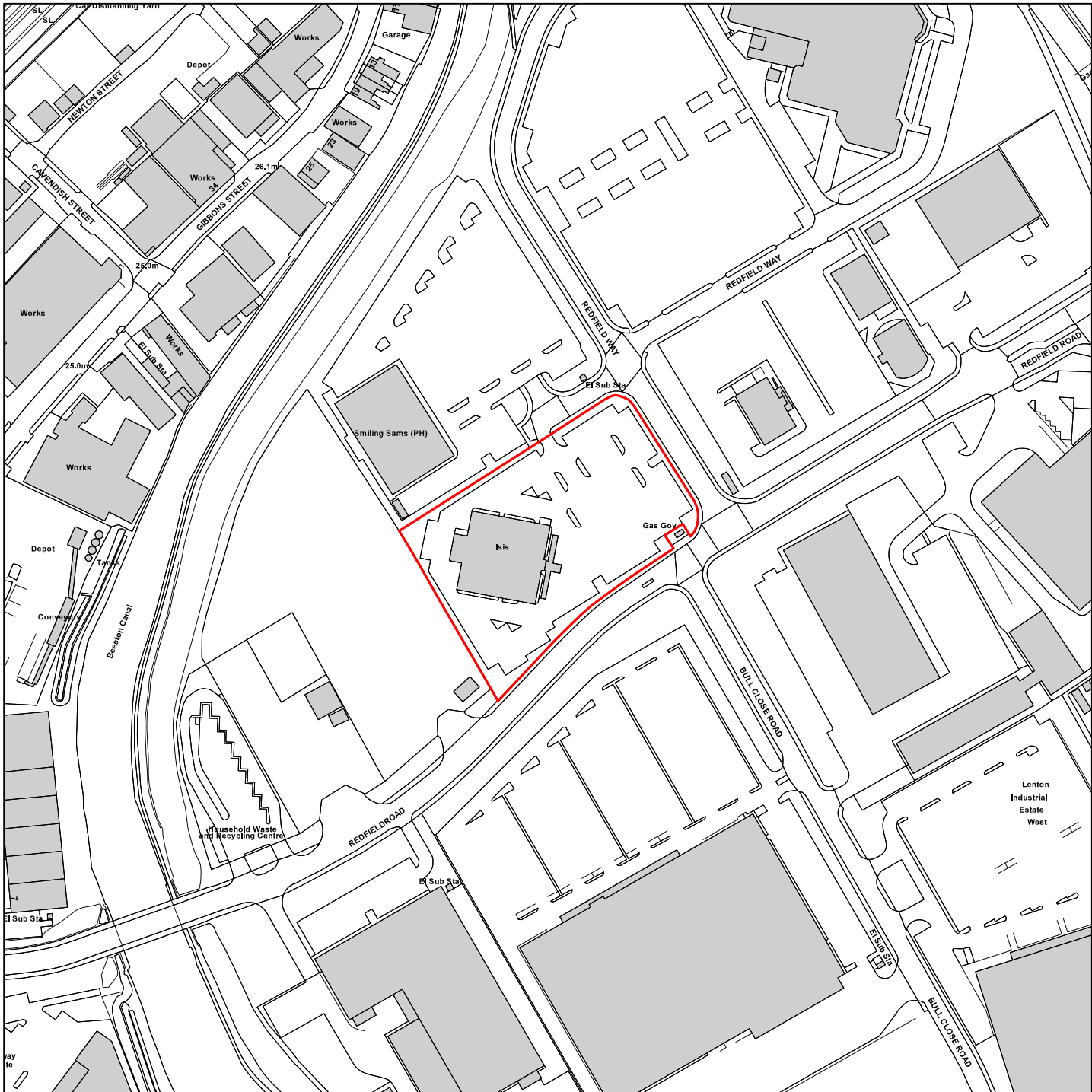
**17 Published documents referred to in compiling this report**

Nottingham Local Plan (November 2005)

**Contact Officer:**

Mrs Sue Davis, Case Officer, Development Management.

Email: sue.davis@nottinghamcity.gov.uk. Telephone: 0115 8764046



**My Ref:** 15/02636/PFUL3 (PP-04546702)  
**Your Ref:**  
**Contact:** Mrs Sue Davis  
**Email:** development.management@nottinghamcity.gov.uk



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City Council**

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DLA Architecture Limited  
Mr Mike Taylor  
No 55 St Pauls Street  
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LS1 2TE

Date of decision:

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

Application No: 15/02636/PFUL3 (PP-04546702)  
Application by: Oakgate Retail Limited And James Farhad Eftekhar-Khonssar...  
Location: Mirage Venues , Redfield Way, Nottingham  
Proposal: Erection of six A3 units and associated works following demolition of existing nightclub.

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 all external materials including cladding and roofing of the buildings, and the hard surfacing treatment of the site, have been submitted to and approved in writing by the Local Planning Authority.

*Reason: To ensure that the appearance of the development is satisfactory to comply with Policy 10 of the Aligned Core Strategy.*

3. The development shall not be commenced until details of all boundary enclosures have been submitted to and approved in writing by the Local Planning Authority.

*Reason: To ensure that the appearance of the development is satisfactory to comply with Policy 10 of the Aligned Core Strategy.*

4. The development shall not be commenced until details of a landscaping scheme, including the type, height, species and location of the proposed trees and shrubs, have been submitted to and approved in writing by the Local Planning Authority.

*Reason: In order that the appearance of the development be satisfactory to comply with Policy 10 of the Aligned Core Strategy.*

5. The development shall not be commenced until a Remediation Strategy that includes the following components to deal with the risks associated with ground, groundwater and ground gas contamination of the site has been submitted to and approved in writing by the Local Planning Authority:

a) A Remediation Plan, based on the Combined Stage 1 & 2 Report carried out by ARP GEOTECHNICAL LTD (Ref OKR/01r1 and letter OKR/01/JBW), 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).

b) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in a) 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: To safeguard the health and amenity of the users of the proposed development to comply with Policy NE9 of the Nottingham Local Plan.*

6. No equipment, machinery or materials shall be brought onto the site in connection with the development until an arboricultural method statement (AMS) detailing tree protection measures in accordance with BS 5837:2012 [Trees in relation to design, demolition and construction: Recommendations] has been submitted to and approved by the Local Planning Authority. The AMS shall address not only tree protection but also the method of working and the detail of construction within the root protection area (RPA) of retained trees. Tree protection shall remain in place for the duration of the development and shall not be removed until all equipment, machinery and surplus materials have been removed from the site.

*Reason: To ensure that existing trees are safeguarded during construction in accordance with Policy NE5 of the Local Plan.*

7. The development shall not be commenced until details of a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

*Reason: In the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategy.*



8. The development shall not be commenced until details of a swept path analysis for the access proposals have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- layout geometry with tracking, signing, lining and alterations
- visibility splays
- stage I/II and III Safety Audits

*Reason: In the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategy.*

9. The development shall not be commenced until details of a scheme in regard to dropped kerbs within the public highway have been submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategy.*

10. The development hereby permitted shall not be commenced until details of sustainable drainage plans for the disposal of surface water have been submitted to and approved in writing by the Local Planning Authority. The information shall seek to demonstrate, as a minimum, details of how they will reduce the run-off rates by 30% by use of SuDS techniques which can include swales, attenuation tanks, green roofs.

*Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to comply with Policy NE10 of the Nottingham Local Plan.*

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

11. The development shall not be brought into use until the following has been submitted to be approved in writing by the Local Planning Authority:

A Verification Report, which shall include the data referred to in the Verification Plan, to demonstrate that the approved Remediation Strategy to deal with ground gas contamination of the site has been fully implemented and completed.

*Reason: To safeguard the health and amenity of the users of the proposed development to comply with Policy NE9 of the Nottingham Local Plan.*

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

*Reason: To ensure that the appearance of the development is satisfactory to comply with Policy 10 of the Aligned Core Strategy.*

13. The development shall not be occupied until any redundant footway crossings and/or damaged or altered areas of footway or other highway have been reinstated to the satisfaction of the Local Planning Authority.

*Reason: In the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategy.*

14. Within 3 months of the commencement of the development a Travel Plan and Transport Statement shall be submitted and approved in writing by the Local Planning Authority.

*Reason: In the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategy.*

#### **Regulatory/ongoing conditions**

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

15. No construction work, landscaping or other activity shall be undertaken which may compromise the remediation measures implemented to deal with ground and groundwater contamination of the site.

*Reason: To safeguard the health and amenity of the users of the proposed development to comply with Policy NE9 of the Nottingham Local Plan.*

16. The sight lines provided to either side of the access shall be retained for the life of the development.

*Reason: In the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategy.*

#### **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 following drawings/documents:

Plan reference 202, received 19 October 2015

Plan reference 204, received 19 October 2015

Plan reference 201, received 19 October 2015

Plan reference 203, received 19 October 2015

Planning Layout reference 101 revision F, received 3 November 2015

Landscaping reference 110 revision B, received 3 November 2015

General reference 210 revision B, received 3 November 2015

General reference 211 revision B, received 3 November 2015

Elevations reference 220 revision C, received 3 November 2015

Elevations reference 221 revision B, received 3 November 2015

General reference 810, received 3 November 2015

*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. 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.

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

The 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 Environmental Health Team regarding appropriate gas protection measures must 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).

4. Replacement trees for those removed should be at a ratio of at least 1:1.

5. Our Highway team advise:

- All parking spaces shall have minimum dimensions of 2.4m x 5.5m.

- It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring. If the development works will have any impact on the public highway, please contact Highways Network Management on 0115 876 5238 or by email at [highway.management@nottinghamcity.gov.uk](mailto:highway.management@nottinghamcity.gov.uk). All associated costs will be the responsibility of the developer.

- The Highways Network Management team at Loxley House must be notified regarding when the works will be carried out as disturbance to the highway will be occurring and licences may be required. Please contact them on 0115 8765238. All costs shall be borne by the applicant.

- Planning consent is not consent to work on the highway. To carry out off-site works associated with the planning consent, approval must first be obtained from the Local Highway Authority. Approval will take the form of a Section 278 Agreement and you should contact Highways Network Management on 0115 8765293 to instigate the process. It is strongly recommended that you make contact at the earliest opportunity to allow time for the process to be completed as you will not be permitted to work on the Highway before it is complete. All associated costs will be borne by the developer. We reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory

functioning of the highway. For further information please refer to the 6Cs Design Guide which is available at [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd).

- The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. Any trees to be planted on highway will be subject to commuted sum payments for their maintenance. The commuted sum for a street tree is £938.61 per tree which is in line with the 6Cs Regional Design Guide. For further information regarding the collection of commuted sums the applicant should contact Network Management on 0115 876 5293.
- For Travel Plans please contact Kerry Peruzza for further support and information 0115 8763947.

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: 15/02636/PFUL3 (PP-04546702)

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/pcs](http://www.planningportal.gov.uk/pcs).

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.