

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT AND REGENERATION

Radford Bridge Allotments, Russell Drive

1 SUMMARY

Application No: 13/03099/POUT for planning permission
Application by: Freeth Cartwright LLP on behalf of Commercial Estates Group
Proposal: Outline application for residential development and regeneration of allotments incorporating new public open space, access, drainage infrastructure and ecological enhancement.

This application is brought to Planning Committee because this is a major development on a prominent site where there are complex land use considerations and the application is considered to be sensitive given the level of public interest.

To meet the Council's Performance Targets this application should be determined by 20 March 2014.

2 RECOMMENDATIONS

The Committee resolves to:

REFUSE PLANNING PERMISSION for the reasons set below:

1. The proposed development would result in the unacceptable loss of allotments and part of the open space network and fails to adequately compensate for these losses. The proposal is not in accordance with Policies R1 and R6 of the Nottingham Local Plan (2005) and Policies 10 and 16 of the Emerging Nottingham Aligned Core Strategy.
2. The proposed development does not adequately integrate with surrounding existing development in regards to permeability, failing to provide satisfactory access to the proposed open space. Accordingly the proposal is contrary to the aims of Policies BE2 and R3 of the Nottingham Local Plan (2005) and Policy 10 of the Emerging Nottingham Aligned Core Strategy.
3. The proposed development fails to include a satisfactory financial contribution towards public open space and is not in accordance with Policy R2 of the Nottingham Local Plan (2005).

3 BACKGROUND

Site and Surroundings

- 3.1 The application site consists of 10.9ha of used and disused allotments which are accessed from Russell Drive. This is a private allotment site managed by The

Radford Bridge Road Garden Holders Association. There are approximately 229 allotment plots on the site of which the Design and Access Statement classifies 133 as unmanaged, overgrown or abandoned. Figure 16 within the Design and Access Statement (Page 22) maps out the rented and overgrown/unmanaged plots in detail. The occupied plots are predominately located to the west and south sections of the site with the northern and eastern areas largely, heavily overgrown. The individual allotments are enclosed by hedgerow and throughout the site there are a variety of outbuildings in the form of sheds and greenhouses. The site generally slopes gently from north to south with a change in levels of approximately 3m. The site contains a wide variety of trees with the predominant species being Sycamore and Ash. There are a small number of Tree Protection Orders on the site and these are located in the north east corner, adjacent to the north and eastern boundaries respectively.

- 3.2 The City Council's Open Space Network covers approximately 66% of the site with the exception being an area of 3.72ha in the northern part that was removed from the Open Space Network within the Nottingham Local Plan, following a legal challenge in 2006.
- 3.3 To the immediate south east of the application site is Martin's Pond and Harrison's Plantation both of which are Local Nature Reserves (LNR). Martin's Pond is a complex mosaic of open water, reed bed, fen, wet and dry woodland habitats. A watercourse, the Bilborough Brook, runs from the north of the site, through the allotments before discharging into Martin's Pond. Harrison's Plantation is an area of woodland to the east of Martin's Pond and both areas contain footpaths as part of the network for the wider area.
- 3.4 The allotment site is bounded on all sides by residential properties. Torvill Drive is situated to the north and in part is significantly higher than the application site. The topographical survey submitted with the application depicts that at its most acute the level difference between the site and Torvill Drive is 4.5m (it is noted that the topographical survey takes the Torvill Drive measurement from the public highway). Reynolds Drive and Rudge Close are to the east of the site and there is a children's playground located adjacent to the north east corner of the site, with access from Lambourne Drive. To the west is Ewell Road and Pembury Road, whilst to the south is Russell Drive. Russell Drive (which forms part of the A609) is a major route, which provides a link to Nottingham City Centre to the east and Ilkeston to the west and benefits from frequent bus services to both destinations.

Planning History

- 3.5 In the early 1990's three separate applications (90/02052/OUT, 91/01719/PFUL3 and 91/01720/PFUL3) were submitted to the Council for residential development on the site and all three were refused. The applications were contained within the northern part of the current application site and all three were refused on the grounds that the development would adversely affect the nature conservation importance of the allotment gardens and Martin's Pond Local Nature Reserve, and that the allotments should be safeguarded for future use. An appeal was submitted in relation to the two 'Full' applications but was dismissed by the Inspector in 1992. The appeal was dismissed on the grounds that the development would adversely affect areas of importance for nature conservation and there was not clear evidence that there was a significant shortfall in demand for allotments.
- 3.6 The consultation draft of the current Local Plan included the entire Radford Bridge Allotments site within the Open Space Network. Agents acting on behalf of the

owners of Radford Bridge Allotments sought to have part of the site allocated for residential development (the northern strip of allotments backing on to the rear of housing on Torvill Drive). At the time, officers concluded that the site was unsuitable for housing and, therefore, should not be included as a development allocation. The site was consequently designated as part of the Open Space Network. The Inspector's report on the Local Plan concluded that part of the site was an appropriate housing site, and should be allocated for that use. However, the Inspector's report was non binding, and the City Council adopted the Local Plan without making any change with regard to this recommendation.

- 3.7 Subsequent to the adoption of the Local Plan, the owners of the site sought a Judicial Review into the designation of part of the land as open space and were successful in their challenge. The Open Space Network designation on part of the site was quashed by the High Court on 20th September 2006. The Judicial Review did not seek to designate this land as a development site. This land is therefore shown as 'white land' with no designation on the City Council Local Plan proposal map.
- 3.8 In 2010 a screening opinion (10/00226/EASCR) was sought as to whether an Environmental Impact Assessment would be required for the development of the land removed from the Open Space Network ('the white land'). It was considered that having regard for the EIA Regulations 1999 that the development of that site would not require an Environmental Impact Assessment.
- 3.9 Notwithstanding this decision, the agent wrote to the Council to confirm that the applicant was exercising their right to submit an Environmental Impact Assessment with the forthcoming application and sought a 'scoping opinion' (12/00677/EASCR). This would become the Environmental Impact Assessment submitted with application 12/01583/POUT and encompassed a larger site than for the screening opinion decision issued in 2010. The purpose of the scoping opinion was to establish the parameters of the Environmental Impact Assessment and a decision was issued in April 2012, with comments on the scope of the topics to be covered.
- 3.10 In December 2012 planning permission was refused (re:12/1583/POUT) for an outline planning application comprising residential development of up 140 dwellings with associated regeneration of allotments, public open space, access, drainage infrastructure and ecological enhancement. The application was refused for five reasons which relate to the following:
- Unacceptable loss of allotments and part of the open space network and failure to adequately compensate for these losses.
 - Absence of key ecological information from the Environmental Impact Assessment
 - The proposed access being inadequate to accommodate the level of traffic projected to be created from the development.
 - The layout of the masterplan, specifically how proposed uses integrate with each other and a failure to capitalise on opportunities relating to enhancement of open space and permeability. The impact on amenity of existing and proposed residents also formed part of this reason for refusal.
 - The absence of a financial contribution towards public open space.
- 3.11 In October 2013 the Council undertook a consultation on the Land and Planning Policies Document – 'Preferred Options'. This document proposes to re-designate the whole of the application site, together with Martin's Pond and Harrison's

Plantation as part of the Open Space Network. It is anticipated that the “publication stage” of this document will be published in Autumn 2014.

- 3.12 The applicant chose to appeal this decision and a Public Inquiry was scheduled to open in November 2013 to consider the proposal. Approximately six weeks before the Inquiry was programmed to open the Appellant submitted amended plans and supporting documentation for consideration at the appeal. The main changes were a reduction in the maximum number of dwellings from 140 to 110 and a change to the position of the public open space within the site.
- 3.13 On the first day of the Inquiry the Inspector concluded that members of the public had insufficient opportunity to comment on the revised proposals due to flaws in the consultation exercise undertaken by the Appellant. The Inquiry was therefore adjourned after the first day to allow further consultation on the revised scheme. The Inquiry is programmed to re-open on 18 March 2014 and to last four days.
- 3.14 In December 2013 a screening opinion (ref:13/02914/EASCR) was sought for a revised scheme of 110 dwellings as to whether the proposed development required an Environment Impact Assessment. As with the 2010 screening request it was concluded that the proposal did not require an Environmental Impact Assessment. The documentation submitted with the current application is detailed in paragraph 4.7.

4 DETAILS OF THE PROPOSAL

- 4.1 The application seeks outline planning permission for residential development of up to 110 dwellings with all matters reserved bar access which is proposed off Russell Drive, following the demolition of 120 Russell Drive. The housing is proposed over approximately 3.72ha of allotment land and is located in the western and north western sections of the site abutting existing residential properties on Pembury Road, Ewell Road and Torvill Drive. The western section of the land proposed for housing (approximately 2ha) is within the Open Space Network.
- 4.2 Should outline permission be forthcoming then the detailed layout and design of the development would be subject to a reserved matters application. However, an illustrative site layout is provided as part of the Masterplan and indicates a total of 106 dwellings, comprising the following mix:

2 bedroom – 10 dwellings
3 bedroom – 64 dwellings
4 bedroom – 23 dwellings
5 bedroom – 9 dwellings

The application indicates that the development will be exclusively two storey dwellings to reflect the character and scale of existing buildings in the surrounding area.

- 4.3 In addition to the residential development the application proposes the regeneration of the existing allotments across the wider site to provide up to a total number of 180 new allotment plots. The new allotments are proposed to be located to the west and north of Martins Pond and the ‘Allotment Delivery Strategy’ accompanying the application advises that plot sizes will be 250m² or 125m². Indicatively this is broken down to 128 sized at 250m² and 51 at 125m²

- 4.4. The Masterplan shows provision of public open space in the centre of the site and this will include a playground. In addition there is also open space proposed to the east of Martin's Pond which eventually is proposed to connect to the existing footpath around the pond and provide a link to the proposed residential area. This area has been identified as a suitable zone for mitigating the loss of habitat arising from the development and therefore is not proposed to be publicly accessible until established.
- 4.5 The development proposals include a series of works designed to enhance Martin's Pond and Harrison's Plantation and include:
- Removing silt from the channels to protect open water habitats
 - Improving water quality in Bilborough Brook and Martin's Pond through creating a Sustainable Urban Drainage System (SUDS) on the site
 - Excavating a settling pond and constructing a reed bed treatment system to remove suspended solids and pollutants from water in the Bilborough Brook before it enters the Martin's Pond
 - Carrying out woodland thinning
 - Creating additional wetland habitats in close proximity to Martin's Pond.
- 4.6 A draft Section 106 Agreement has been submitted with the application which secures obligations in relation to affordable housing, education, highway improvements and enhancements to Martin's Pond and Harrison's Plantation.
- 4.7 Unlike the previous application, this proposal is not accompanied with an Environmental Impact Assessment. However the following technical documents are submitted in support of the application:
- Planning Statement
 - Design and Access Statement
 - Ecological Impact Assessment
 - Ecological Strategy
 - Allotment Delivery Strategy
 - Martins Pond LNR Condition Assessment
 - Townscape and Visual Impact Assessment
 - Transport Assessment
 - Framework Travel Plan
 - Arboricultural Report
 - Flood Risk Assessment and Drainage Strategy
 - Preliminary Infrastructure Assessment
 - Geo-Environmental Ground Investigation
 - Energy Statement
 - Statement of Community Engagement
 - Noise Assessment
 - Air Quality Assessment
- 4.8 In summary the proposals submitted in this application are to all intents and purposes identical to that being considered by appeal. In terms of the masterplan the only differences are the inclusion of the playground within the open space on the site (which the applicant has advised was always the intention), the re-routing of a section of the Bilborough Brook around the play area and the provision of a footpath up to the boundary with Torvill Drive. However, it should be noted that as

with the appeal scheme, there is no proposal to make a physical connection to Torvill Drive as part of this application.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

5.1 **Adjoining occupiers consulted:** The list of local residents consulted on the application is contained within Appendix 1.

5.2 There have been a total of 143 objections to the application from local residents. As with the previous application there were a number of key topics that occurred in the objection letters and these can be summarised as:

- **Loss of Green/Open Space.** Residents are very concerned that the development will result in the loss of valuable green space in an urban area. They submit that the allotments are an important part of the character of the area and this would be destroyed by development.
- **Loss of allotments.** The allotments provide an important function for recreation and have numerous benefits including the production of food and undertaking exercise.
- **Impact on Ecology and Nature Conservation including Martin's Pond.** Both the allotment site and the adjoining Martin's Pond are a haven for local wildlife and the area is of high ecological value. The proposals would have a serious impact on the ecological value of the site.
- **Impact on local schools and other facilities.** The local schools, in particular Fernwood and Middleton schools, are at capacity and further children within the catchment area are going to add further pressure. If school places are lost to residents from within the catchment area as a result of the development this is unfair.
- **Traffic/Access issues.** The objections primarily relate to the additional traffic that would be placed onto Russell Drive, which is already a congested route, particularly at peak periods. A very detailed response in relation to highway matters from a local resident, who is a highway consultant, has also been received and the contents of this are discussed within the appraisal section.
- **Flooding.** The development of the site will increase the likelihood of flooding in an area with a high water table.

5.3 In addition the objection letters also covered the matters listed below, which have been organised into broad subject areas and in some cases are more detailed points in relation to the main topics above.

General/Principle Reasons

- Reduction in houses (compared to the previous scheme) makes no difference
- Brownfield/PDL sites should be considered first. For example: Glaisdale Industrial Estate

- No need for new housing in Wollaton area
- Application is premature. Should go through Development Plan Process
- Improvement of brook shouldn't justify housing
- Process has been confusing with appeal at the same time for same scheme

Allotments

- Allotment uptake has been restricted by developers and site owners
- Existing allotment configuration is unique and dates back to Victorian model
- Perception that existing allotments are not wanted is unfair
- Existing allotment holders would have to start over again. Significant time and effort would be lost. Loss of food produce
- New allotment costs would be quadruple current amount
- There has been a long-standing program of removing allotment holders from the site
- The North Wollaton Residents Association (NWRA) have a record of expressions of interest from 90 people in taking a plot.
- Resident has been on allotment 'waiting list' for 4 years and no response; Allotment Association will not engage with prospective tenants
- Development uncertainty has affected interest in people taking up and maintaining allotments
- Supposition that people with larger gardens do not want/need allotments is flawed
- Why remove existing well used allotments in South West part of the site?
- 'P' Block (located on the western side of the site, containing 37 allotments) as a whole is well used and even plots that are vacant could be brought back into use without much work
- Complete overhaul of allotments is unnecessary
- New allotments plots are much smaller and appear to require much higher rents. Smaller plots proposed to try and convince that more are being proposed
- Model allotments are uniform and so don't offer diversity.
- The offer of 50m² of topsoil for a 250m² allotment is clearly insufficient
- Suspect that remaining allotments would be built on in the future if this development is permitted
- Proposed parking for allotments is insufficient
- Day to day deliveries to future allotments will need to go through the proposed residential area
- Access for emergency vehicles is insufficient
- Loss of trees. The tree survey does not accurately record number of fruit trees on the site.
- Dividing of allotments is not required or welcomed
- Concern about significant loss of hedgerows

Highway/Traffic

- Vehicles speed along Russell Drive so unsuitable access point
- Why isn't access off both Torvill Drive & Russell Drive?
- Increased likelihood of rat running on Torvill Drive and Lambourne Drive
- Torvill Drive should be access point
- Currently when vehicles turn right off Russell Drive onto side roads/drives, vehicles passing choose to mount the pavement. This would be made worse
- Current bus service is at capacity

Layout/Design

- Development does not integrate with existing surrounding area
- Density is higher than surrounding area
- Playground too close to Martin's Pond
- Lack of 'green' environmental qualities to the housing
- Security concerns with regards to the proposed open space and access to the allotments
- Loss of privacy/overbearing onto Torvill Drive

Information

- The allotment survey is flawed in its judgements regarding the status/condition of allotment plots
- The ecological information remains flawed and is not consistent. Surveys do not do justice to ecological value of the site
- No details of finished floor levels

Other

- The financial commitment to Martin's Pond and Harrison's Plantation should be spread over ten years
- Rear fence of eight properties on Rudge Close and Archer Crescent should be relocated into the site so that loss of amenity is not suffered as a result of public accessing land to the rear
- Drainage system will not be able to cope
- Pollutant levels will decrease air quality
- Consultation exercise by Beattie Communications is flawed for several reasons including of the types of questions that were proposed and the low number of responses.

- 5.4 The North Wollaton Residents' Association object to the application on a number of grounds including that the proposal would result in an unacceptable loss of existing allotments; the new open space is insufficient compensation for the loss of well used plots and impact on wildlife; environmental data is inadequate; proposals not sustainable; poor integration with existing community; inadequate parking for new residents and gardeners; splitting allotment sites into two will cause access and parking issues and the site already experiences significant flooding problems.
- 5.5 Councillor Battlemuch strongly objects to the application on the grounds that the allotments should be protected and improved, there is no capacity for children to attend the local schools and traffic congestion on Russell Drive is already a significant issue which a single access will exacerbate.
- 5.6 One letter of support has been received from a local resident who advises that the development would contribute to the Council's housing provision as they do not have a 5 year supply. Other reasons for support include the provision of affordable housing, the site is in a sustainable location with good access to facilities, the new allotments will be more fit for purpose than existing plots, improvements to Martin's Pond and Harrison's Plantation plus the creation of an additional nature reserve in the site and that the owners have no intention to turn the site back into allotments and so the site is best developed.

Additional consultation letters were sent to the following whose responses are listed below:

- 5.7 **NCC Highways:** No objection and confirms that the proposed access is considered acceptable for 110 dwellings. The comments provide advice to state that the detailed design should be undertaken with regard to Manual for Streets and the 6C's Design Guide. General advice is provided with regard to parking and manoeuvrability and the transport section 106 contributions required (and provided for in the draft planning obligation) are set out. A construction traffic management condition is recommended.
- 5.8 **Environment Agency:** No objection subject to conditions which secure the proposed works to the watercourse and cover surface water drainage matters.
- 5.9 **The Council's Park Service:** these comments are broken down into three elements; principle and layout issues, allotment provision and biodiversity.

Principle and Layout

- 5.10 The allotments in the southwest of the site are largely in use and are required for open space use within the network. Therefore compliance with policy R1a is not achieved in this regard.
- 5.11 The public open space is located centrally to the site and is in an appropriate location to serve new residents as well as incorporating an existing valuable landscape feature of the Bilborough Brook. This is an improvement on the previous application, although they query whether pedestrian access will be provided from Torvill Drive.
- 5.12 Open space provision for new residents has been proposed on site. If the cost of creating this new open space does not equate to a standard S106 sum based on a bed space calculation and is below this value, the balance should be paid to the City Council as an offsite contribution.

NCC Allotment Officer

- 5.13 Objects to the proposal to build on existing well used allotments, which are accessible, have a good layout and form part of the City's Open Space Network. The proposal will force longstanding plot holders to travel further and to abandon land that some have been working for many years. Notwithstanding the issues regarding the position of retained/replacement allotments, if any development goes ahead based on improving the allotments, it is important that tight conditions are put on any approval to ensure that the standards suggested in the allotment delivery strategy are adhered to and can be enforced. Furthermore the private land owners must be compelled to allow ordinary citizens equal access and use of the allotment gardens.

NCC Biodiversity

- 5.14 The biodiversity officer confirms that the ecology survey data is sufficiently up-to-date and when considered in combination with the older data for the site is acceptable for understanding the baseline condition of the site at present. However, up-dating of certain protected species surveys would need to be carried out prior to site clearance works, or if the development was not to proceed for some years, to ensure that no legislation pertaining to protected species is contravened. The combined data indicates that the site and its existing habitats are of some value to breeding and wintering birds, aquatic and terrestrial invertebrates, spined loach and

foraging bats, although not at such high activity levels or supporting rare species, or particularly high species diversity that this value, cannot be adequately mitigated for. The mitigation measures outlined in the EclA document are appropriate but there is an expected slight adverse impact on many of the ecological receptors such as breeding birds, terrestrial invertebrates and foraging and roosting bats. However, it is considered that over time, as the mitigation areas develop and are managed appropriately, slight adverse impacts will reduce and benefits increase.

- 5.15 The officer highlights that there is some inconsistency in the information with discrepancies between the EclA and the Ecology Strategy. In addition the EclA fails to consider the re-routing of the Bilborough Brook as shown on the indicative masterplan. Offsite habitat enhancement measures concerning the adjacent LNRs, including woodland thinning of Harrison's Plantation will also need to be agreed in much more detail and covered under the further plans secured by planning conditions/obligation.
- 5.16 **Natural England:** In relation to statutory nature conservation sites, Natural England confirm that they have no objection. With regard to protected species, Natural England require local planning authorities to follow their standing advice, stating that it is a material consideration. The standing advice has been taken into consideration and the need for protected species surveys and the survey methodologies and timings largely conform to the advice
- 5.17 The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.
- 5.18 **NCC Drainage:** It is requested that the submission is updated to take into account the Environment Agency's surface water flood map which was published on 12 December 2013. An overland flood route map should be provided and confirmation that no houses will be built in localised hollows (e.g. confirm all finished floor levels will be higher than overland flood route levels). This request has been forwarded to the applicant and a response has been provided. NCC Drainage are reviewing this response and will comment in due course.
- 5.19 **The Coal Authority:** No objection to the application subject to a condition requiring site investigation works prior to the commencement of development. Should site investigations confirm the need for remedial works to treat the areas of shallow mine workings for the safety of the development, these should be undertaken prior to the commencement of development.
- 5.20 **Severn Trent:** No objection subject to a condition for the disposal of surface water and foul sewage.
- 5.21 **Noise and Pollution Control:** No objections to the application but recommends that conditions are imposed relating to further investigation and the implementation of any necessary remedial measures.
- 5.22 **Tree Officer:** Accepts the tree surveying difficulties on this site but has identified significant individual trees omitted from the survey that should inform layout. It is

encouraging that the demonstration allotment plots set out by the applicant contain numerous mature fruit trees and this should be secured by condition. A further and more thorough tree survey will be required before remediation gets underway. An arboricultural method statement will be required by condition, and this will need to include a drawing showing trees retained and trees removed within the construction envelope. With regard to recommendations within the Ecological Strategy the statement is not accepted (4.2.2) that 95% of Sycamore and Norway maple should be removed over a period of 20 years since Sycamore comprises the bulk of mature trees on site, and the “ecological justification” has not been demonstrated.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework:

- 6.1 The NPPF (paragraph 2) confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations dictate otherwise. The NPPF is a material planning consideration. There is a presumption in favour of sustainable development (paragraph 14) where proposals accord with the development plan and where the development plan is absent, silent or relevant policies are out of date, proposals should be granted permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF taken as whole; or specific policies in the NPPF indicate development should be restricted.
- 6.2 The NPPF sets out the core planning principles in paragraph 17, many of which apply to the proposed development. They include, amongst others, supporting sustainable development, securing high quality design and managing patterns of growth to make the fullest use of public transport, walking and cycling and to focus significant development in locations which are or can be made sustainable.
- 6.3 Paragraph 32, within the ‘promoting sustainable transport’ section of the NPPF, encourages opportunities for sustainable transport modes to be taken up and states that development should only be prevented on transport grounds where the residual cumulative impacts are severe.
- 6.4 Paragraph 49 states that relevant policies for the supply of housing should not be considered up-to date if the local planning authority cannot demonstrate a five year supply of deliverable housing.
- 6.5 Paragraphs 56-68 outline the Government’s approach to design including that good design is a key aspect of sustainable development. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 6.6 The NPPF in paragraph 74 states existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
- 6.7 The Government’s approach to managing the risk of flooding in relation to development is outlined in paragraph 100 with development directed to the area of

least flood risk, wherever possible. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

- 6.8 The NPPF outlines how the planning system should contribute to and enhance the natural and local environment in paragraphs 109-125. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Nottingham Local Plan (November 2005):

- 6.9 The following policies have been saved and are considered to be relevant to assessment of the application. The policies are considered to be consistent with the NPPF and therefore should be attributed full weight in the decision making process.

ST1 – Sustainable Communities.

ST4 – Integration of Planning and Transport Policies.

H2 – Density.

H3 – Appropriate Housing Types.

H5 – Affordable Housing.

R1 – Development of Open Space.

R2 – Open Space in New Development.

R3 – Access to Open Spaces.

R6 – Allotments.

BE1 – Design Context in the Public Realm.

BE2 – Layout and Community Safety.

BE3 – Building Design.

BE4 – Sustainability in Design.

BE5 – Landscape Design.

NE2 – Nature Conservation.

NE3 – Conservation of Species.

NE5 – Trees.

NE6 – Trees Protected by Tree Preservation Orders.

NE9 – Pollution.

NE10 – Water Quality and Flood Protection.

NE12 – Derelict or Contaminated Land.

T2 – Planning Obligations and Conditions.

T3 – Car, Cycles and Servicing Parking.

Regional Spatial Strategy (RSS)

- 6.10 At the time of the decision on the previous application, the RSS formed part of the development plan. The RSS was revoked in April 2013 and therefore is no longer part of the development plan and is not a consideration in this application.

Emerging Greater Nottingham Aligned Core Strategies

- 6.11 Paragraph 216 of Annex 1 of the NPPF states that from the day of publication weight to relevant policies in emerging plans can be given according to the stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the emerging plan policies to the NPPF. The Greater Nottingham Aligned Core Strategies was published in June 2012 (prior to the previous decision but at a time when the RSS still formed part of the development plan). The examination in public into the Aligned Core Strategies concluded in February 2014 and consultations on proposed modifications are due to commence on 17 March 2014. A decision will be made thereafter as to whether the Aligned Core Strategies are considered sound.
- 6.12 The ACS sets out the development framework for the period 2011-2028 including provision for 17,150 dwellings within NCC's administrative boundary. Policies contained within the ACS which are considered to be particularly relevant include:

Policy 2: The Spatial Strategy

Policy 8: Housing Size, Mix and Choice

Policy 10: Design and Enhancing Local Identity

Policy 16: Green Infrastructure, Parks and Open Space

Policy 17: Biodiversity

Policy 19: Developer Contributions

- 6.13 Main Modifications to the ACS are anticipated to be published for representations on 17 March 2014 and this is an advanced stage of preparation. During the course of the hearing sessions and written evidence for the Examination in Public into the ACS, the Inspector has considered all objections into Policy 2 in the light of the evidence submitted, and has not recommended a Main Modification to remove the table in the Policy, therefore objections do not remain unresolved. In not recommending a Main Modification to remove the table the Inspector must have concluded that Policy 2 and the table are consistent with the relevant policies of the NPPF. Accordingly, it is considered that Policy 2 and the other policies listed above the ACS can now be attributed significant weight by decision takers.

Supplementary Planning Guidance

- 6.14 The Supplementary Planning Guidance for the provision of Local Open Space in New Residential Development dated 1997, updated 2011, is the relevant document for calculating the open space contribution required for the development.

Other Material Considerations

- 6.15 The Breathing Space Strategy (2011) is the revised strategy for the management and maintenance of Nottingham City Council's Open and Green Space between 2010 and 2020. It provides the framework for assessing open and green space provision within the City. Within the document is a tool kit for assessing open and green space requirements for proposed development. The original document was adopted in 2007 following the approval of Nottingham City Executive Board and subsequent to a period of public consultation. The 2011 update related to the

Action Plan element of the document pages 34-48 and this update was subject to internal consultation only.

Other Legislation

Wildlife and Countryside Act 1981 (As amended)
Conservation of Habitats and Species Regulations 2010
Natural Environment and Rural Communities Act (2006)

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- (i) Principle of Residential Development and Allotment Re-Provision
- (ii) Ecology and Nature Conservation
- (iii) Transport and Access
- (iv) Flood Risk and Drainage
- (v) Layout/ Urban Design and Amenity
- (vi) Housing Figures and the Presumption in Favour of Sustainable Development
- (vii) Section 106 Matters
- (viii) Conclusion

(i) Principle of Residential development (Policies R1 and R6)

- 7.1 In terms of assessing the principle of residential development, as per the previous application the main considerations are whether the proposal complies with the open space and allotment policies of the Local Plan. The applicant submits that the proposal will result in a more efficient allotment provision, making a greater number of plots available for use and introducing greater public access for the wider community to the open space network. The number of 'new' allotments that are proposed to be provided has indicatively at least increased from a proposed maximum of 164 in the previous application to a maximum of 180. As with the previous proposal this includes a significant number of smaller plots (125m²).
- 7.2 Policy R6, which generally seeks to protect allotment sites, unless certain criteria are met, outlines the tests of considering development on allotment land. The first assessment is whether there is a need for the allotments or if a need is established that compensatory provision is made elsewhere nearby. It is apparent from both the applicant's submission and the objections from local residents (which still remain significant in number and include allotment plot holders) that there is a need for the allotments. The extent of the need is hard to gauge accurately as the site remains severely overgrown in part and the number of allotments that are in use appears to be approximately 60. The extent of the use within these 60 plots varies with approximately two-thirds demonstrating cultivation over 50% of the plot and these are well managed and used. The number of plots in use appears to have reduced even in the comparatively short period since the consideration of the last application, where the Design and Access Statement advised approximately 96 plots were in some sort of use. However, whilst sections of the site remain heavily overgrown (parts of the north and east of the site) and are unlikely to come into use without significant investment, there are approximately 40 plots that could be brought back into use without significant clearance work being required.
- 7.3 Whilst the number of plots in use may have decreased, local residents responding to the consultation have again raised the complaint that when they have enquired about the potential to lease a plot, they have been unable to gain a response from the Radford Bridge Allotments Holders Association. In addition, a message was

displayed on the Radford Bridge Allotments Holders Association's website which confirmed in February 2012 that they would not be accepting any new renters as a result of the development proposals. This message was replaced in December 2013 advising that there were a number of plots available for rent in early 2014 but advised that re-development may be taking place and as such any rental period may be short term and any tenant may be required to be relocated to a different plot. Given the comments from local residents about their inability to engage with the Association, the message displayed on the website from February 2012 and December 2013 and the general uncertainty about the future of the site, this is likely to explain the reduction in worked plots. Strong concerns also continue to be expressed by local residents about the management of the site.

- 7.4 As with the previous application, the area proposed for proposed residential development covers the western and northern sections of the site, though the developable area has been reduced from 4.3ha in the previous application to 3.72ha. Whilst the northern part of the allotment site continues to contain a large percentage of overgrown plots, the western section includes plots which remain amongst the best used and maintained of the site. Before taking account of the proposals for the new allotments, it is considered that the development would therefore have a significant impact on the allotment provision of the site both in terms of quantity and quality of the plots that are proposed to be built upon. This is supported through the comments received from local residents and allotment services.
- 7.5 The compensatory offer for the loss of the allotments is approximately 180 new plots to be provided on the remainder of the application site that is not proposed for housing, public open space or infrastructure. The revised allotment delivery strategy clarifies that each allotment will be 250m², with smaller plots of 125m² offered on request. The allotment strategy indicatively shows 128 plots at 250m² and 51 plots at 125m². It is considered reasonable to include some smaller plots to encourage people who perhaps do not wish to take on the workload associated with the larger sized plots. However, it should be noted that the existing plots to be replaced are significantly larger than 250m², with the plot size averaging approx 370m² within 'P' block (the western block). If existing tenants wanted comparable plot sizes to their current plots then the number of overall plots would be reduced significantly. This could also be the case if the demand for the 250m² plots far exceeded the indicative proportion shown within the allotment strategy. As such the reference to provision of a maximum of 180 allotment plots should be considered with caution. Ultimately, if the scheme is approved the balance between plots is a matter that could be secured by condition.
- 7.6 Policy R6 also requires an assessment as to whether the partial redevelopment of allotments will result in more efficient use, and improvements to the remaining allotments (R6b). It is recognised that the development would bring about the upgrade of disused and overgrown allotments particularly in the eastern part of the site and this in isolation at least, is a benefit of the scheme. However, the loss of the better used and well established allotments on the west side remains a considerable concern and the allotment officer has previously commented that the land in the northern and eastern parts of the site would take many years to build up fertility. Allotment gardening is generally speaking a long term recreational activity that requires work over a prolonged period of time. Unlike perhaps replacing a sports pitch, where the replacement product is the same, if not better from the outset, the loss of a well worked long term allotment plot is far more personal and is going to take years of work to replace, and this is afforded significant weight in

judging the compensation proposals. Whilst some improvements have been made in terms of accessibility to the new plots on the revised indicative masterplan, this fails to convince that the offer suitably compensates for the loss of existing well used allotments.

- 7.7 In response to the strong concern that building on the allotments on the west side of the site is unacceptable, and without prejudice to other issues, the applicant has advised that their proposals are based on a complete overhaul of the allotment site to address a range of deficiencies including choice of size of plot, drainage and access. Therefore no matter where development was proposed, the remaining allotments would be revamped. However, no compelling evidence has been provided to suggest why the housing development cannot be relocated within the site to allow the allotments to the west to remain in situ and that any deficiencies could not be adequately managed.
- 7.8 This approach of analysing the existing quality of the site is supported by emerging policies in the ACS. Policy 16: Green Infrastructure, Parks and Open Space of the emerging ACS states within part 4 of the policy that Open Spaces should be protected from development. Whilst the policy is clear that exceptions may be made, it states that alternative scheme designs that have no or little impact should be considered before development proposals are accepted and mitigation is provided. Furthermore Policy 10 of the emerging ACS states that new development should reinforce valued local characteristics. It is considered that the development proposal actually removes valued local character through the removal of existing well-used allotments. Taking into account all of the above it is considered that the compensation proposals for providing replacement allotments do not outweigh the harm caused by the loss of the existing well used allotments and the proposal is contrary to Policy R6a.
- 7.9 Policy R1 sets out various criteria for assessing development within the Open Space Network. Approximately 2ha of the residential development is proposed within the Open Space Network and this comprises the land to the west of the site that includes an area of well used allotments. It is therefore considered that the proposal does not meet the tests of criterion 'a' of the policy as the land is both used and valued as part of the Open Space Network.
- 7.10 The policy requires an assessment as to whether the development would have a detrimental effect on the open space, environmental, landscape character or wildlife value of the Network as a whole. The loss of this section of the Open Space Network would reduce the length of the green corridor which runs through the allotment site, Martin's Pond and Harrison's Plantation, albeit by a comparatively modest amount. This part of the Network is not publicly accessible but the proposed residential development will erode the amount of green space adjacent to existing residential areas and will result in the loss of well used allotment plots as previously established. The inclusion of publicly accessible open space within the centre of the development is welcomed and represents an improvement from the previous application, but this does not overcome the concerns regarding building on well used allotments and it is considered that the revised proposal remains contrary to Policy R1a and b and R6c of the Local Plan, and also Policies 10 and 16 of the emerging ACS. It is acknowledged that these emerging policies do not yet benefit from full weight in the decision making process, though as stated in paragraph 6.13 the weight should still be considered significant.

(ii) Ecology and Nature Conservation (Policies NE2, NE3, NE5, NE6, R1 and R6)

- 7.11 Although this planning application is not subject to an Environmental Impact Assessment, the requirement to consider the same environmental issues as the previous application nevertheless remains. The refusal of the previous application included the reason that the ecological information submitted was not adequate to enable a full and comprehensive assessment of the proposal. The ecological surveys have subsequently been updated and when considered in combination with the older data for the site are considered acceptable for understanding the baseline condition of the site at present.
- 7.12 The Council's Biodiversity Officer has concluded overall that the surveys have indicated that the site is used by a host of breeding and wintering birds. However there is not sufficient diversity or species of sufficient value to meet the selection criteria and qualify for status as a Site of Importance for Nature Conservation (SINC) quality for birds. Only common and widespread terrestrial invertebrates were recorded and reptiles were again found to be absent during the 2013 survey. Following some scrub clearance to facilitate access into previously unexplored areas of the site, three disused badger setts were located, and 33 buildings or structures were investigated for their suitability to supporting roosting bats. Extensive badger foraging signs were recorded within the site, and one building was found to have low potential for roosting bats.
- 7.13 The mitigation measures required in order for the impacts to be appropriately mitigated are very heavily dependent upon appropriate layout, plant species choices, and the methods and timing of both site clearance works and essential ongoing management of all open spaces, allotments, hedgerows and the nature reserve area. A large part of the mitigation strategy will be contained within the proposed nature reserve area to the east of the site. The Council's Biodiversity Officer is satisfied that these measures can be secured through planning conditions. A detailed habitat creation plan, landscaping plan, detailed method statements for site clearance (including method statement for any works to the Bilborough Brook), as well as securing the production, approval and implementation of management and monitoring plans, would all be essential to ensure that the impacts of the proposed development on ecology and wildlife conservation are appropriately mitigated.
- 7.14 The Biodiversity Officer reports that consideration must be given to the preservation of the existing population of Spined Loach within the Bilborough Brook. It is advised that this is a Species of Principal Importance under the Natural Environment and Rural Communities Act 2006 (NERC). It is also an Annexe 2 listed species under the EC Habitats Directive, which means that member states must take steps to ensure that favourable conservation status of these species is maintained. The Biodiversity Officer is satisfied that the impact on the Spined Loach will be acceptable subject to achieving the necessary balance in the works to de-silt the brook, which forms part of its habitat. This would be secured via condition.
- 7.15 The masterplan shows a partial re-route of the Bilborough Brook, which represents a more significant impact than that outlined in the EclA. The EclA only considers impacts of re-profiling of banks and some de-silting and there is no mention of a complete re-route. The inconsistency between the masterplan and the EclA is disappointing given the previous decision included a reason related to the

inadequacy of the ecological data. However, in this case the impact of this proposal is restricted to a particular part of the site and it is felt reasonable that this could be controlled via condition. Such condition could restrict any deviation in the course of the existing brook until appropriate assessment and if necessary mitigation had been submitted and approved. On balance it is considered that this matter alone is not sufficient to sustain the ecological reason for refusal and that subject to numerous detailed conditions, the ecological impact will be satisfactory in compliance with policies NE2, NE3, R1b and R6d of the Local Plan.

- 7.16 In terms of the impact on trees, the Council's tree officer is satisfied that a further and more thorough tree survey, together with an arboricultural method statement, both secured by condition is sufficient to ensure that compliance with policies NE5 and NE6 is achieved.

(iii) Transport and Access (BE2, ST4 and T2)

- 7.17 The means of access is a matter for detailed consideration within this application. The Transport Assessment concludes that the proposed development is not estimated to have a material impact on the highway network and the increase in traffic flows is likely to be comparable to daily fluctuations in traffic flow on Russell Drive.
- 7.18 In common with the previous application there has been significant objection to the proposed development from local residents on the grounds that Russell Drive is already an extremely busy road and that severe congestion is regular at peak times. In particular one objection from a local resident, with a highway consultant background, goes into significant detail on both the broader issue of traffic on Russell Drive and the specifics of the design of the junction. The objector refers to the application of 6C's Design Guide and specifically quotes that the guidance advises that restrictions on the creation of new accesses will be applied for "roads that are at or near capacity (cannot carry more traffic)". Consequently the objector submits that the access point should not be via Russell Drive and instead, in line with the 6C's Design Guide, it is preferable to have the access via a side or minor road, citing Torvill Drive which has access stubs bordering the site, as a potential alternative.
- 7.19 The principle of having an access off Russell Drive was considered acceptable during the determination of the previous application and it remains the case that there is insufficient evidence to reasonably conclude that Russell Drive is 'at or near capacity'. The Annual Average Daily Traffic (AADT) flows for Russell Drive are approximately 13950 and without prejudice to the acceptability of the junction design, it is not considered that the addition of up to 110 houses would have a material detrimental impact on the flow of traffic along this route.
- 7.20 The ability of the proposed junction to accommodate traffic associated with 140 new dwellings on the previous application resulted in an objection from Highways and consequently formed a reason for refusal. As a result of the reduction of dwellings to a maximum of 110, Highways have confirmed that the proposed junction will be able to accommodate the traffic generated by the development without a requirement for a right turning lane. Whilst the particular local resident referred to in paragraph 7.16 maintains that trip generation of the proposed development still significantly exceeds the guidance for providing right turning lanes (500 vehicles per day - Design Manual for Roads and Bridges (DMRB), TD 42/95) and therefore should still be considered unacceptable, Highways conclude that

exceeding the indicative threshold by the reduced amount (935 trip on original application to 735 on this application) represents a significant improvement and that it would be unreasonable to apply the guidance too rigidly. The application proposals include a contribution towards pedestrian crossing improvements on Russell Drive, which would be secured by a Section 106 Agreement. Based on the above it is considered that this application addresses the previous reason for refusal related to the access and the reduced number of dwellings means that the access design is deemed acceptable.

(iv) Flood Risk and Drainage (Policy NE10)

- 7.21 The applicant submits that the development will bring about benefits in terms of flood risk and drainage, largely as a result of utilising sustainable drainage techniques and improvements to water quality. The Environment Agency are satisfied with the approach adopted in the Flood Risk Assessment and Drainage Strategy, and subject to conditions which require the implementation of the works proposed to the watercourse and that a surface water drainage scheme be submitted, approved and implemented, they consider that the proposal will comply with the requirements of the NPPF. It is considered that the development would be at a low risk of flooding and that appropriate measures are proposed to mitigate the impact of increased run off rates. The implementation of Sustainable Urban Drainage Systems will lead to improved water quality entering Martin's Pond. Having regard for the above the proposal will therefore comply with the requirements of Policy NE10 of the Local Plan.

(v) Layout, Urban Design and Amenity (Policies ST1, H2, H3, R2, R3, BE1, BE2, BE3, BE5 and T3)

- 7.22 The application seeks outline planning permission with layout and design amongst the matters that are reserved for further consideration if the principle of the development is approved. This report has already identified that building on the allotments within the western portion of the site remains an unacceptable approach but notwithstanding the concerns over the principle of the land use, it is considered that in some respects the masterplan is appropriate in urban design terms.
- 7.23 The indicative layout shows that the development could provide a range of house types, including a significant proportion of family houses which accords to objectives of Policies ST1 and H3. The layout demonstrates the potential to achieve areas of character and identity with houses addressing streets and key corners and the integration of the swale within the development. This feature is proposed as multi-functional in that it addresses environmental issues with regard to the contaminated water course, creates a characterful feature within the heart of the residential development and will help connect residents to Martin's Pond. In addition to the swale corridor, the Design and Access Statement identifies zones within the development including residential streets characterised by tree planting, residential squares defined with different materials at key points of the site and small clusters of housing served via private drives incorporating mini swale features and soft landscaping. The proposed layout is based on a good range of house sizes and at a density of approximately 29 dwellings per hectare, is not out of character with surrounding residential areas and is therefore considered to satisfy Policy H2.
- 7.24 The revised position of the proposed public open space represents a significant improvement from the masterplan proposed under the previous application. This

results in a good sized area of open space at the heart of the development which relates well to the proposed housing and Martin's Pond. A criticism levelled at the previous scheme in the 2012 committee report was that the masterplan segregated different proposed land uses and whilst the replacement allotments are divided into two sections, overall there is much better integration between land uses.

- 7.25 In relation to amenity, the masterplan shows some improvements with regard to the relationship with existing properties on Torvill Drive compared to the previous application. It appears that the gardens areas of some of the proposed properties to the rear of 66-74 Torvill Drive have been indicatively extended to approximately 15m in length, although other properties still appear to have rear gardens limited to approx 10m in length. It is considered that the amended indicative layout is an improvement to the original scheme and makes the amenity impact more balanced in terms of compliance with Policies H2 and BE3. Whilst in its present form the layout (as shown on the submitted masterplan) would still be considered unacceptable in relation to amenity impacts, it is accepted that the relationship between existing and proposed dwellings is now capable of being addressed at the reserved matters stage due to the reduction in density of the scheme. Given that the application is not seeking a specific number of units, any detailed layout could be driven by accommodating the amenity constraints of the site. In this regard it is recommended that as a result of the level differences and the change in the character of the site brought about by the proposed development, dwellings sited adjacent to the boundary with Torvill Drive should have a minimum 15m rear garden depth to ensure acceptable levels of amenity for occupiers of both existing and proposed dwellings.
- 7.26 Although a footpath is shown up to the northern boundary of the site with Torvill Drive it remains the case that the applicant is not proposing a connecting route. Consequently it is considered that the proposed development fails to capitalise on the opportunities for enhancing pedestrian permeability from and to the site contrary to the aims of Policy BE2 and emerging Policy 10 of the ACS. It is important to include such a route to increase opportunities for access to Martin's Pond from the north but also to provide an alternative route for future residents of the development to a public transport service to the north. It is acknowledged that the bus service on Torvill Drive is less regular but for the properties located close to the proposed pedestrian link, would be a much more convenient walking distance with a bus stop within approximately 110m of the proposed access to Torvill Drive. This compares to a distance of in excess of 400m for dwellings proposed on the east side of the Bilborough Brook wanting to access the Russell Drive bus services. Without a pedestrian link from Torvill Drive the benefits of the new open space and improvements to Martin's Pond will largely be restricted to residents of the development. Policy R3 states that where open space is provided within proposed development, permission will not be granted where good access is not provided. Whilst access from within the proposed development itself is suitable, access from adjoining residential areas is poor and therefore the proposal is considered to conflict with the aims of Policy R3.
- 7.27 In summary it is considered that many of the aspects that comprised reason for refusal 4 on the previous application have either been satisfied by the revised masterplan or are now sufficiently addressed that they are capable of being fully resolved through the reserved matters application and/or via conditions. Whilst the positioning of housing on the site unequivocally goes to the heart of the masterplanning issues and therefore on this basis the proposal remains unacceptable, it is acknowledged that the amended masterplan satisfies some of

the other aspects of this reason for refusal. However, the issue of permeability has not been satisfactorily addressed and it remains the case that sole access from the south to the site is poor in accessibility terms. The failure to capitalise on the opportunity to enhance permeability and to connect to the north (Torvill Drive) is considered contrary to the aims of Policy BE2 and emerging Policy 10 of the ACS and in regard to providing good access to open space, Policy R3.

(vi) Housing Figures and Presumption in Favour of Sustainable Development.

- 7.28 The National Planning Policy Framework requires local authorities to have 5 years supply of housing plus a buffer of 5% or 20% (20% if the authority has a record of persistent under delivery) . The conclusion on the previous application was that the Council did not have a five year land supply and in that particular case the presumption in favour of sustainable development was triggered. In any event it was considered that the breadth of the concerns with the previous application significantly and demonstrably outweighed the benefits of that development.
- 7.29 At the time of the determination of the previous application the Regional Spatial Strategy formed part of the Development Plan and it was against the Regional Spatial Strategy that housing supply was considered in that case. This has since been revoked and no longer can be a consideration. Due to the advanced stage of the ACS and that this Council's housing provision has a high degree of certainty, it is considered entirely reasonable to apply the ACS in considering housing requirements in terms of paragraph 47 of the NPPF.
- 7.30 The Council is basing its supply on a 5% buffer. The Council's 5 year land supply (2014-19) currently stands at 5,525 dwellings (based on Housing Land Availability Information as at March 2013). The Aligned Core Strategy is based on the housing provision over the plan period being broken down into three, five year tranches. Housing delivery for Nottingham City is anticipated to be lower in the first tranche, increasing in the second tranche, before decreasing slightly in the third tranche. The 5 year housing supply calculation takes account of this anticipated pattern of delivery. Using the Core Strategy phased housing figures (2013-18:4,400 and 2018-23:5,950) with a 5% buffer produces a requirement to have a supply of 4,935 dwellings over 2014-19. Based on this the Council would have a supply figure of 5.60 years and would meet the requirements of the NPPF. Whilst it is recognised that the ACS is not yet adopted, it is at an advanced stage of preparation and as reported above carries significant weight in decision making.

(vii) Section 106 Matters

- 7.31 The proposed development results in the requirement for a number of provisions or financial contributions that would be secured through a Section 106 Agreement. A draft Agreement has been submitted with the application. This will secure 20% of the dwellings being affordable housing, based on 20% of that provision being for affordable rent, 55% social rent and 25% intermediate to buy tenure.
- 7.32 A contribution towards both primary and secondary school education has been agreed on a formula basis. If calculated based on the maximum number of dwellings this would derive a figure of £365,184. It is noted that as with the previous application there has been significant concern from local residents over the impact of the development on capacity of local schools. However, as the applicant has agreed to secure an appropriate contribution to education through a Section 106 Agreement, this is considered to have satisfied this issue.

- 7.33 An off-site highway contribution of £50,000 has been offered in respect of pedestrian crossing improvements on Russell Drive and £40,000 for improvements to two bus stops on Russell Drive. Furthermore each household would be given a free kangaroo travel pass by the applicant to encourage use of public transport. These measures are considered to comply with the requirements of Policy T2 of the Local Plan. In addition the draft Agreement requires the applicant to construct footpath up to the boundary with Torvill Drive, although there is no obligation to make a connection.
- 7.34 A contribution of £150,000 to the Council has been offered by the applicant to enhance Martin's Pond and Harrison's Plantation. The improvements proposed to the Bilborough Brook would be secured by condition in the event of planning permission being granted.
- 7.35 The draft Section 106 Agreement makes no offer with regard to a public open space contribution. The public open space proposed in this application, including the provision of a playground, is considered to be a significant enhancement from the previous scheme where it was poorly located. The Supplementary Planning Guidance for the provision of Local Open Space in New Residential Development dated 1997, updated 2011, is the relevant document for calculating the open space contribution required for the development. Generally the Wollaton area is well served in relation to public open space with the exception of children's play areas, as demonstrated by the Breathing Space Strategy. Any contribution is only justified where it meets the tests of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 in that the planning obligation sought is:
- (a) necessary to make the development acceptable in planning terms,
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development
- 7.36 The applicant considers that the provision of on-site play facilities should be sufficient to address the above requirements and hence no additional financial contribution should be required. Based on the indicative mix of dwellings provided it has been calculated that the development would yield a total of 243 child bed spaces. The SPG applies a cost of £67.53 per m² for an equipped play area and states that 6m² per bed space should be provided. This equates to a contribution of £98,458.74, which is likely to be in excess of the cost of providing the playground on site. It is maintained that it is reasonable to suggest that if the cost of the playground is less than this figure, the applicant makes a contribution for the balance which will be spent off-site. This contribution would be directed towards the upgrade of Wollaton Park Playground which is identified as a City Equipped Play provision scale of facility, one that is designed to attract people from further afield and address different needs than the neighbourhood level facility proposed in the application site. It is considered that this is reasonable as it is contributing to the open space requirements of the future occupiers of the development by enhancing the experience of a visit to such a facility. Whilst any contribution ultimately payable may be relatively small, in the absence of any details as to the on site facility to be provided it is impossible for the Council to be certain that it will satisfy the policy requirement. It would be possible for an obligation to be drafted in such a way to take account of the on site provision in the calculation of the need for and scale of any financial contribution required. However, the lack of a commitment to such an obligation results in future occupiers not receiving the full benefits of the open space requirements as set out in the SPG. It is therefore considered that as with the previous application, this is justified as a reason for

refusal.

- 7.37 The other matter absent from the draft Section 106 Agreement is any reference to future management and maintenance of the replacement allotments. The applicant considers that this matter should be capable of being addressed through planning conditions. However, given that the terms of the management plan will be required to be strictly defined and complex, a planning obligation would provide a more stringent means of enforcement and strongest level of commitment by the applicant to address the wider concerns regarding the past management of the site. It is felt justified therefore to require this as part of the Section 106 package. This matter adds to the overall concern that the compensation measures proposed by the applicant are insufficient to outweigh the harm caused by the loss of the existing allotments.

(vii) Conclusion

- 7.38 As with the previous proposal this application requires the assessment of a range of complex issues to strike a balance between the potential benefits and adverse impacts of the development. It is considered that the two technical reasons for refusal on the previous application relating to ecological and access matters have been sufficiently addressed. Whilst the acceptability of the proposed development on the ecological value of the site still attracts a high level of objection from residents, the updated surveys have demonstrated that subject to a comprehensive mitigation strategy, the ecological impact complies with the requirements of the NPPF and the Local Plan Policies NE2 and NE3. The removal of the objection from Highways on the grounds of reduced dwelling numbers is considered justified and the proposed access is appropriate for a development of the size proposed. Whilst significant concerns remains from objectors about traffic generally, it is not considered that the development would have a material detrimental impact on the highway network.
- 7.39 This application however does not differ significantly from the refused scheme in terms of the impact on existing allotments and the proposed replacement offer. It remains the case that building on the best used allotments on the site is not a satisfactory approach and the compensations proposals do not outweigh the harm caused by the loss of these particular allotments, which are within the Open Space Network. It is therefore considered that this remains a justified reason for refusal of the application.
- 7.40 The significant enhancement in terms of the layout relates to the position of the public open space within the latest masterplan. The masterplan reason for refusal on the previous application largely related to the segregation of uses on the site and the principle issue of building on well used allotments. The re-positioning of the proposed open space addresses the first point to a large degree and it is considered that a separate reason for refusal which refers to the flaw of the masterplan of building on existing well used allotments would be repetitious. Whilst the amenity issues are capable of being resolved at the reserved matters stage, the issue of a lack of permeability has not been satisfactorily addressed and in itself remains sufficient concern to justify a reason for refusal.
- 7.41 Although the masterplanning of the site has been improved from the previous scheme and technical issues regarding ecology and access/transport resolved, the benefits of this do not outweigh the harm caused by the loss of the existing allotments and the other residual matters concerning the public open space

contribution and lack of permeability, as set out in the report. It is therefore recommended that the application be refused for the reasons outlined in the Recommendations.

8 SUSTAINABILITY / BIODIVERSITY

The issues with biodiversity are dealt with comprehensively in paragraphs 7.10-7.14 of the report. The Energy Statement has identified that the most feasible strategy for reducing energy demand and carbon emissions on this development is the introduction of integrated renewable energy systems such as Photovoltaic (PV) panels. It is considered that the scheme can deliver the 10% reduction in carbon emissions required, along with other sustainable design benefits, subject to further details of the scheme being conditioned. The application therefore complies with the aims of Policy BE4 of the Local Plan.

9 FINANCIAL IMPLICATIONS

The refusal of the planning application would mean that the planning obligations normally delivered by a Section 106 Agreement would not be forthcoming.

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

There is the potential to incur cost attributable to additional officer time should planning permission be refused and the applicant appeals the decision, with the potential for costs to be awarded.

13 STRATEGIC PRIORITIES

Neighbourhood Nottingham: requirement to provide a high quality and sustainable residential development

Working Nottingham: requirement to secure training and employment for local citizens through the construction of the development.

Healthy Nottingham – contributing to promoting healthy lifestyles through access to open space and recreational activities.

Safer Nottingham – designing a development that that contributes to a safer and more attractive neighbourhoods

14 CRIME AND DISORDER ACT IMPLICATIONS

The proposed public open space is well overlooked and represents an improvement from the previous scheme. Detailed design of the play area would need to have regard for ‘designing out crime’ criteria.

15 VALUE FOR MONEY

None.

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

1. Application No: 13/03099/POUT - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/onlineapplications/simpleSearchResults.do?sessionId=1F1ED7C5AD16BA154AA1A1F321015AA8?action=firstPage>

2. Highways comments dated 30 January 2014
3. NCC Biodiversity Officer comments dated 04 February 2014
4. Noise and Pollution Control comments dated 05 February 2014
5. Severn Trent Water comments dated 05 February 2014
6. NCC Allotment Officer comments dated 11 February 2014
7. Natural England comments dated 17 January 2014
8. Coal Authority comments dated 27 January 2014
9. Environment Agency comments dated 6 March 2014
10. Councillor Battlemuch comments dated 3 February 2014
11. North Wollaton Residents Association comments dated 23 February 2014
12. Local Residents' comments (x144) between 14 January and 11 February 2014

17 Published documents referred to in compiling this report

1. Nottingham Local Plan (November 2005)
2. National Planning Policy Framework
3. Emerging Greater Nottingham Aligned Core Strategies (Published Version, 2012).

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Appendix 1 – List of Local Residents Consulted

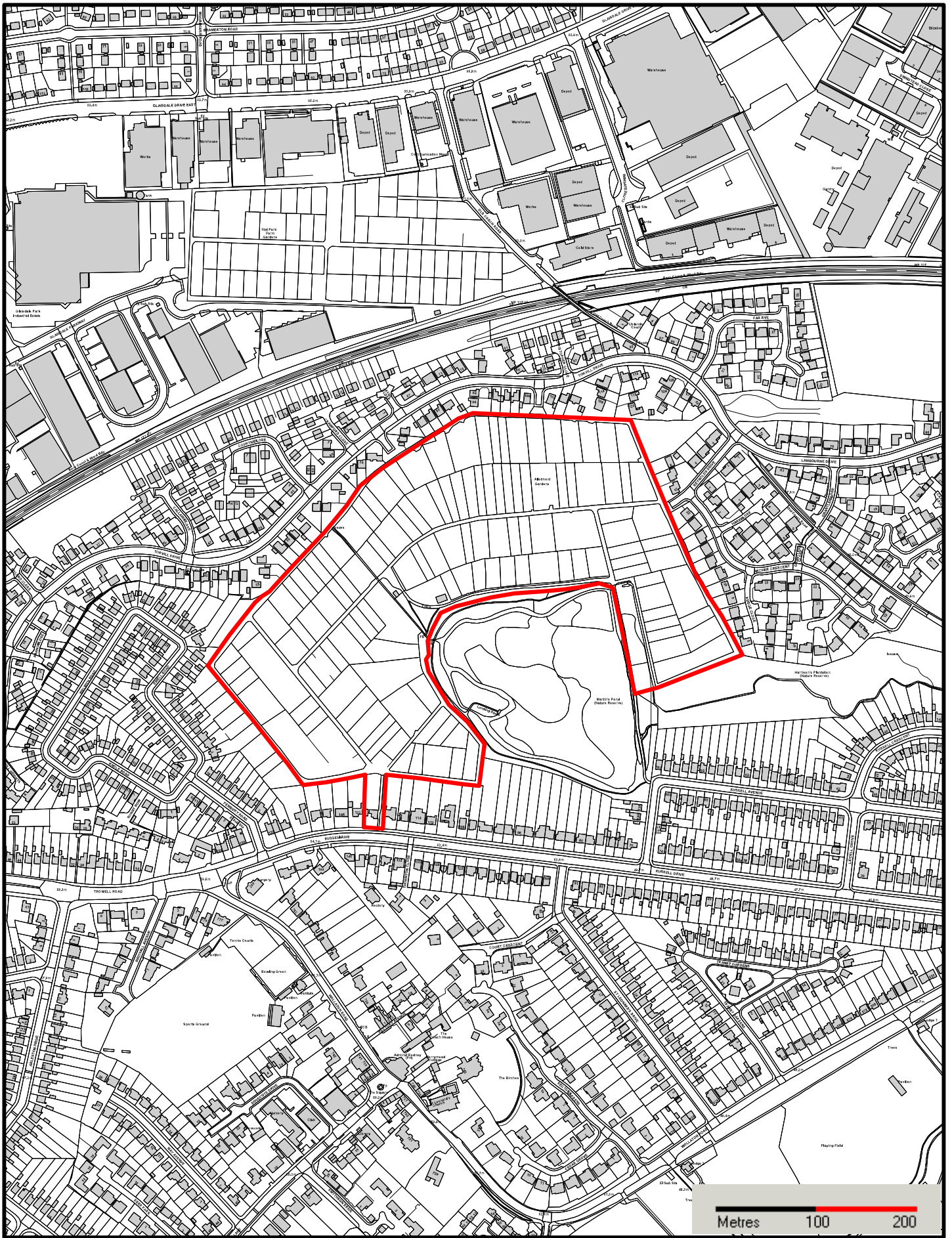
4 Knole Road Nottingham
9 Cedar Grove Nottingham
19 Bramcote Drive Nottingham
20 Arleston Drive Nottingham
17 Grangewood Road Wollaton
1 Renfrew Drive Nottingham
128 Wollaton Vale Nottingham
41 Ewell Road Nottingham
11 Brookhill Drive Nottingham
8 Reynolds Drive Nottingham
62 Torvill Drive Nottingham
9 Coachman's Croft Wollaton
8 Hillsford Close Nottingham
48 Trowell Road Nottingham
36 Trowell Road Nottingham
The Committee Of NWRA 68 Torvill Drive
39 Wollaton Vale Nottingham
5 Arleston Drive Nottingham
2 Jayne Close Nottingham
45 Arleston Drive Nottingham
8 Reynolds Drive Nottingham
777 Wollaton Road Nottingham
29 Caxmere Drive Nottingham
78 Ranelagh Grove Nottingham
19A Brendon Road Nottingham
9 Trowell Road Nottingham
30 Torvill Drive Nottingham
7 Crawford Close Nottingham
Flat 2 325 Woodborough Road
20 Arleston Drive Wollaton
52 Torvill Drive Nottingham
11 Bridge Road Nottingham
101 Runswick Drive Nottingham
1 Deer Park Nottingham
3 Tranby Gardens Nottingham
24 Caxmere Drive Nottingham
57 Torvill Drive Nottingham
7 Welwyn Road Nottingham
88 Russell Drive Nottingham
100 Russell Drive Nottingham
19 Arleston Drive Nottingham
341 Wollaton Road Nottingham
17 Russell Crescent Nottingham
29 Harrow Road Nottingham
6 Caxmere Drive Nottingham
64 Russell Avenue Nottingham
4 Lambourne Drive Nottingham
22 Oakfield Road Nottingham
5 Ranelagh Grove Nottingham
2 Tranby Gardens Nottingham
67 Brendon Road Nottingham
568 Wollaton Road Nottingham
82 Woodbank Drive Nottingham
76-120 Russell Drive Nottingham (evens only)
120 Russell Avenue Nottingham
118 Russell Avenue Nottingham
80-100 Russell Avenue Nottingham (evens only)

75 Russell Avenue Nottingham
1 Liddell Grove Nottingham
38 Russell Drive Nottingham
44 Russell Drive Nottingham
46 Russell Drive Nottingham
48 Russell Drive Nottingham
54-74 Russell Drive Nottingham (evens only)
81-91 Russell Avenue Nottingham (odds only)
95 Russell Avenue Nottingham
60 Russell Drive Nottingham
52 Russell Drive Nottingham
50 Russell Drive Nottingham
42 Russell Drive Nottingham
26 Western Boulevard Nottingham
745 Wollaton Road Nottingham
26 St Leonards Drive Nottingham
36 Torvill Drive Nottingham
76 Lambourne Drive Nottingham
24 Cambridge Road Nottingham
94 Ranelagh Grove Nottingham
52 Dean Close Nottingham
23 Caxmere Drive Nottingham
572 Wollaton Road Nottingham
12 Goodwood Road Nottingham
14 Goodwood Road Nottingham
16 Goodwood Road Nottingham
21 Rosehip Close Fair Oak
76 Torvill Drive Wollaton
16 Ewell Road, Wollaton,
12 Russell Drive Nottingham
9 Hambledon Drive Nottingham
15 Ellwood Crescent Nottingham
173 Harrow Road Nottingham
94 Russell Avenue Nottingham
146 Russell Drive Nottingham
7 St. Leonards Drive Wollaton
20 Trowell Avenue Nottingham
5 Mapledene Crescent Nottingham
35 Mapledene Crescent Nottingham
82 Elvaston Road Nottingham
107 Ranelagh Grove Nottingham
Lodge 2 Wollaton Park Wollaton Road
230 Charlbury Road Nottingham
30 Far Rye Nottingham
6 Deer Park Nottingham
35 Lambourne Drive Nottingham
39 Ashchurch Drive Nottingham
3 Wheat Close Nottingham
4 Tonbridge Mount Nottingham
141 Bramerton Road Nottingham
1 Babbington Court NG9 5BT
35 Russell Crescent Nottingham
2 Ewell Road Nottingham
66 Lambourne Drive Nottingham
22 Welwyn Road Nottingham
17 Caxmere Drive Nottingham
1 Uplands Court Lambourne Drive
2 Ewell Road Nottingham
78 Lambourne Drive Nottingham

12 Cambridge Road Nottingham
40 Russell Drive Nottingham
105 Russell Avenue Nottingham
103 Russell Avenue Nottingham
102 Russell Avenue Nottingham
101 Russell Avenue Nottingham
99 Russell Avenue Nottingham
97 Russell Avenue Nottingham
93 Russell Avenue Nottingham
87 Russell Avenue Nottingham
61-79 Russell Avenue Nottingham
32 Archer Crescent Nottingham
5-8 Rudge Close Nottingham
2-12 Reynolds Drive Nottingham (evens only)
29-35 Archer Crescent Nottingham
42 Torvill Drive Nottingham
40 Ewell Road Nottingham
38 Ewell Road Nottingham
36 Ewell Road Nottingham
199 Russell Drive Nottingham
90 Torvill Drive Nottingham
92 Torvill Drive Nottingham
98 Torvill Drive Nottingham
108 Torvill Drive Nottingham
112 Torvill Drive Nottingham
65 Lambourne Drive Nottingham
126 Torvill Drive Nottingham
124 Torvill Drive Nottingham
122 Torvill Drive Nottingham
120 Torvill Drive Nottingham
78 Lambourne Drive Nottingham
24 Welwyn Road Nottingham
26 St Leonards Drive Nottingham
3 Beckford Close Tisbury
2 Ewell Road Nottingham
116 Russell Drive Nottingham
22 Welwyn Road Nottingham
66 Lambourne Drive Nottingham
36 Torvill Drive Nottingham
10 Deepdale Road Nottingham
22 Russell Crescent Nottingham
24 Torvill Drive Nottingham
6 Wollaton Paddocks Nottingham
45 Brendon Road Nottingham
20 Far Rye Nottingham
4 Grantleigh Close Nottingham
2 Grantleigh Close Nottingham
24 St. Leonards Drive Wollaton
66 Lambourne Drive Nottingham
22 St. Leonards Drive Wollaton
24 St. Leonards Drive Wollaton
44 Arleston Drive Nottingham
43 Charlecote Drive Nottingham
85 Torvill Drive Nottingham
2 May Avenue Nottingham
45 Brendon Road Nottingham
9 Tom Blower Close Nottingham
104 Dunkirk Road Nottingham
12 Spean Court Wollaton Road

3 Rectory Gardens Nottingham
27 Tom Blower Close Nottingham
94 Ranelagh Grove Nottingham
23 Forester Road Mapperley
145 Russell Drive Nottingham
17 Grangewood Road Nottingham
4 Barbrook Close Nottingham
82 Russell Drive Nottingham
31 Ewell Road Nottingham
16 Ellwood Crescent Nottingham
2 Torvill Heights Nottingham
1 Thornton Close Nottingham
8 Eton Grove Nottingham
26 Wollaton Vale Nottingham
9 Tidworth Close Nottingham
19 Finsbury Road Bramcote
12 Beaurepaire Crescent Belper
23 Caxmere Drive Nottingham
46-118 Torvill Drive Nottingham (evens only)
2-34 Ewell Road Nottingham
Apartment B 201 Russell Drive
Apartment A 201 Russell Drive
Ground Floor Flat 201 Russell Drive
156A Russell Drive Nottingham
154A Russell Drive Nottingham
205 Russell Drive Nottingham
156 Russell Drive Nottingham
154 Russell Drive Nottingham
203 Russell Drive Nottingham
152 Russell Drive Nottingham
2-18 Pembury Road Nottingham
109-145 Russell Drive Nottingham (odds only)
35-91 Russell Drive Nottingham (odds only)
96-102 Russell Drive Nottingham
144-150 Russell Drive, Nottingham
15 Goodwood Road Nottingham
109 Harrow Road Nottingham
2 Thornton Close Nottingham
9 Ancaster Gardens Nottingham
140 Trowell Road Nottingham
14 Deepdale Road Nottingham
14 Cambridge Road Nottingham
20 Russell Drive Nottingham
72 Runswick Drive Nottingham
2 Courtney Close Nottingham
70 Lambourne Drive Nottingham
136 Parkside Nottingham
191 Wollaton Road Nottingham
58 Ranelagh Grove Nottingham
19 Finsbury Road Bramcote
28 Runswick Drive Nottingham
94 Russell Drive Nottingham
28 Runswick Drive Nottingham
22 Tom Blower Close Nottingham
18 Corbiere Avenue Watnall
118 Russell Avenue Nottingham
15 Crawford Close Nottingham
25 Caxmere Drive Nottingham
9 Ewell Road Nottingham

131 Russell Drive Nottingham
46 Ewell Road Nottingham
85 Russell Avenue Nottingham
20 St Leonards Drive Nottingham
5 Ashford Rise Nottingham
28 Ewell Road Nottingham
11 Burnbreck Gardens Nottingham
6 Rudge Close Nottingham
5 Far Rye Nottingham
12 Pembury Road Wollaton
63 Russell Drive Wollaton
7 Coachman's Croft Wollaton
1 Calloway Close Martin's Field
61 Trowell Road Wollaton
8 Pembury Road Nottingham
17 Grangewood Road Nottingham
82 Elvaston Road Nottingham
41 Bramcote Lane Nottingham
1 Sunny Row Nottingham
3A Rectory Avenue Nottingham
15 Dean Close Nottingham
44 St. Leonard's Drive Wollaton
37 St. Leonard's Drive Wollaton
3 Cambridge Road Nottingham
19 Finsbury Road Bramcote
23 Caxmere Drive Nottingham
43 Russell Avenue Nottingham
18 Russell Crescent Nottingham
58 Brendon Road Nottingham
67 Torvill Drive Nottingham
114 Torvill Drive Nottingham
72 Torvill Drive Nottingham
44 Brookhill Drive Nottingham
10 Tranby Gardens Nottingham
2 Birdsall Avenue Nottingham
12 Russell Avenue Nottingham
12 Pembury Road Nottingham
12 Meadow View Southwell
11 Yeoman's Court Clumber Road West
31 Burnbreck Gardens Nottingham
Additional residents also consulted by email.



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Nottingham
City Council

My Ref: 13/03099/POUT

Your Ref:

Contact: Mr Mark Bassett

Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
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Nottingham
NG2 3NG

Tel: 0115 8764447
www.nottinghamcity.gov.uk

Freeth Cartwright LLP
FAO Mr Shaun Cuggy
Cumberland Court
80 Mount Street
Nottingham
NG1 6HH

Date of decision:

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

Application No: 13/03099/POUT
Application by: Commercial Estates Group
Location: Radford Bridge Allotments, Wollaton, Nottingham
Proposal: Outline application for residential development and regeneration of allotments incorporating new public open space, access, drainage infrastructure and ecological enhancement.

Nottingham City Council as Local Planning Authority hereby **REFUSES OUTLINE PLANNING PERMISSION** for the development described in the above application for the following reason(s):-

1. The proposed development would result in the unacceptable loss of allotments and part of the open space network and fails to adequately compensate for these losses. The proposal is not in accordance with Policies R1 and R6 of the Nottingham Local Plan (2005) and Policies 10 and 16 of the Emerging Nottingham Aligned Core Strategy.
2. The proposed development does not adequately integrate with surrounding existing development in regards to permeability, failing to provide satisfactory access to the proposed open space. Accordingly the proposal is contrary to the aims of Policies BE2 and R3 of the Nottingham Local Plan (2005) and Policy 10 of the Emerging Nottingham Aligned Core Strategy.
3. The proposed development fails to include a satisfactory financial contribution towards public open space and is not in accordance with Policy R2 of the Nottingham Local Plan (2005).

Notes

Your attention is drawn to the rights of appeal set out on the attached sheet.



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RIGHTS OF APPEAL

Application No: 13/03099/POUT

If the applicant is aggrieved by the decision of the City Council to refuse 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.

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.



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