

REPORT OF HEAD OF PLANNING

79 Holgate Road, Nottingham

1 SUMMARY

Application No: 15/02486/PFUL3 for planning permission

Application by: Ashton King on behalf of Mr Amar Ali

Proposal: Change of use to children's learning centre.

The application is brought to Committee given the level of public interest.

To meet the Council's Performance Targets this application should be determined by 20th June 2016.

2 RECOMMENDATIONS

REFUSE PLANNING PERMISSION for the reasons set out in the draft decision notice at the end of this report.

3 BACKGROUND

- 3.1 The application site is a three storey end terrace property located at the corner of Holgate Road and Woolmer Road in the Meadows. It is currently vacant. The authorised use is as a corner shop with living accommodation at the rear on the ground floor and on the upper floors.
- 3.2 In 2013 a complaint was received that the ground floor of the property was being used as a children's learning centre. Subsequently an application ref 13/02891/PFUL3 for retrospective planning permission to use the ground floor as a children's learning centre was submitted in late 2013. This application was eventually withdrawn by the applicant in 2015. During the intervening period the unauthorised use of the ground floor continued for a period and at some point during 2014 the use ceased and the property has remained vacant since. The applicant has advised that the use is currently operating from Queens Walk Community Centre.
- 3.3 The surrounding area is primarily residential comprising terrace properties with no off street parking. It is defined as a Primarily Residential Area in the Local Plan.

4 DETAILS OF THE PROPOSAL

- 4.1 A planning application has now been submitted seeking planning permission for the use of the property as a children's learning centre. The application as originally submitted also included reference to the use of the property for prayers but this element has been withdrawn. The applicant has advised that the children's learning centre will operate from 4.15 pm to 7.30 pm and two sessions would be run within

this period with 30 to 45 students at each session. In a supporting statement the applicant has provided information, based upon the children who are currently attending classes at Queens Walk Community Centre, which concludes that most live within a short walk of 79 Holgate Road. This also advises that the owner of Jasup's Convenience Store, 59 Wilford Grove has agreed that parents could park in the car parking area at the rear of his premises whilst they are dropping off and collecting their children.

- 4.2 Layout plans have been submitted with the application which show the former shop and living area on the ground floor as one classroom, with the existing ground floor kitchen converted to an accessible WC. On the first floor would be a further classroom.
- 4.3 The application site is in Flood Zone 3 and a Flood Risk Assessment has been submitted with the application.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

A site notice was posted and the following notified of the application (note this includes respondents to the previous withdrawn planning application and the consultation was on the basis of a change of use to a children's learning centre and prayers):

18 Middle Furlong Gardens, 2 Eckington Terrace, 7 Healey Close, 39 Worwood Drive, West Bridgford, 5, 25, 55 and 70 Wilford Crescent East, 106 Beauvale Road, 56 Beauvale Road, 84 Wilford Grove, , 67 and 69 Glapton Road, 22 Kirkby Gardens, 70 Woolmer Road, 19 Eugene Gardens, 54 Wilford Crescent West, 101 Bathley Street, 1 Barnsley Terrace, 21, 49, 65, 67, 80 and 84 Woolmer Road, 73, 75, 77, 81 and 83 Holgate Road.

116 responses have been received, of which 68 are supportive of the proposal and 46 are objections. An objection has been received on behalf of the Old Meadows Tenants and Residents Association with all comments from individuals, primarily living in the Meadows.

Comments made by those **supporting** the application are summarised as follows:

- Parking will not be an issue as the facility will be within walking distance for its users and concerns of the objectors are over stated and previous use as a shop generated traffic;
- Any vehicular traffic generated by parents delivering and collecting children would be short-lived and as such would not be an issue to local residents;
- Would provide a much needed local and safe facility for local children run by qualified and accredited teachers, helping children to become good members of the community;
- Would provide a choice of children's learning facilities;
- Concern that some of the comments from those opposing the application are fictitious.

Comments made by those **opposing** the application are summarised as follows

- Will create further parking issues in an area where there is already congestion and limited parking space as was demonstrated when the learning centre was in use approximately two years ago;
- Would create noise and disturbance as a result of the people coming and going from the premises, and prayers can be very early in the morning and late at night in summer;
- Were incidents of anti-social behaviour when the centre was last in use whilst children were waiting to be collected;
- Already two learning centres nearby which can accommodate children from the Meadows and another is not required;
- Likely to be other larger religious events in addition to teaching and prayers which would result in more people attending the premises;
- Best use of the property would be as residential accommodation;
- Facilities are not adequate for the number of children who would be attending the learning centre and query whether the means of escape in event of fire would be acceptable;
- Light from the shop windows is bright and disturbing to local residents;
- Question whether the building suitable for disabled people to access and use;
- Concern that some of the comments in support are from family and friends of the applicant.

Comments have also been received concerning the nature of the religious organisation who would use the premises, but this is not a material planning consideration.

Additional consultation letters sent to:

Pollution Control: Recommend that the hours of use of the property should be 08.00am to 08.00pm Monday to Friday and 09.00am to 06.00pm Saturday and Sunday.

Highways: Site visits were conducted in January 2014 when the use was previously active. At the time no complaints had been made to Highways regarding parking outside the centre and it was concluded that the majority of attendees to the centre were observed to arrive on foot. There was a small level of on-street parking generated by the centre, however this was observed to not cause any problems on the highway and left available on-street parking space for other users. The removal of the prayer element from the application is welcomed; being quite short visits to the centre there is a greater possibility of cars being parked for the duration of these. It is noted from the additional information provided that 31 of the 75 pupils attending live within a 10 minute

walk of the site, however it is difficult to ascertain where the remaining 44 would travel from and by which mode.

There is currently no TRO in the close proximity; it recognised that the area is heavily parked and that children living outside the area are likely to be dropped off by car. There is no plan currently to introduce a residents' parking scheme but this may be necessary if additional vehicles cause problems for local residents. As such, investigations need to be made as to whether there is a need for a TRO. A survey is required prior to occupation and 6 months post occupation to understand the impact. The applicant would also be required to provide a Car Park Management Plan, including details of how they will manage on-street parking. A robust Travel Plan will be required and it would also be beneficial for the use of the available car park on Wilford Grove to be secured via legal agreement.

In conclusion, Highways do not object subject to a number of conditions to cover the matters referred to above.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework

- 6.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies. While planning applications still need to be determined in accordance with the development plan unless material planning considerations indicate otherwise, the NPPF is a material consideration in the assessment of this application.
- 6.2 The NPPF advises that there is a presumption in favour of sustainable development and that development which is sustainable should be approved. Paragraph 17 of the NPPF lists the core planning principles that should underpin decision taken on planning applications. Of relevance to this application is the need to secure high quality design, a good standard of amenity for all existing and future occupants of land and buildings and encouraging the effective use of brownfield land.

Nottingham Local Plan (November 2005):

H7: Inappropriate uses in residential areas

CE1: Community facilities

NE9: Pollution

NE10: Water quality and flood protection

T3: Car, cycles and servicing parking

Aligned Core Strategy (2014)

Policy 10: Design and Enhancing Local Identity

Policy 12: Local Services and Healthy Lifestyles

7. **APPRAISAL OF PROPOSED DEVELOPMENT**

Main issues

- (i) Suitability of the building and its' location;
- (ii) Impact upon amenity of nearby occupiers;
- (iii) Highways and parking.

- (i) **Suitability of the building and its location** (Local Plan policy CE1 and Aligned Core Strategy policy 12)

- 7.1 This proposal has generated a significant amount of comment, both for and against the proposal and therefore needs to be carefully assessed against the relevant Development Plan policies. It should be noted that the consultation responses were received on the basis of the application as originally submitted, which was for a children's learning centre and prayers. Local Plan policy CE1 encourages the provision of community facilities subject to criteria, including whether the facility would be available by a choice of means of transport; is well located with regard to the community it would serve; whether it would be compatible with adjoining and nearby uses; whether it would cause congestion; and whether it would impact upon the living conditions of nearby residents, especially in the Primarily Residential Areas.
- 7.2 A key issue to be considered is whether the property itself and its location are suitable for the proposed use. The application site is currently vacant and its last use was a small one room corner shop with living accommodation. In terms of size it is no different to the nearby properties.
- 7.3 Layout plans have been submitted with the application indicating that it is proposed to use both the ground and first floor as a children's learning centre. These plans also show that the existing ground floor kitchen would be converted to an accessible WC. In addition to the use requiring planning permission the internal alterations would also require approval under Building Regulations. However, it is evident on the basis of the information already submitted, that to satisfy Building Regulations a number of alterations would be required which indicate that the property is not well suited to the use proposed. Using the provision of an accessible WC as an example, although the space proposed for this is large enough, the approach to it is not satisfactory and a wheelchair user would not be able to access the room. It would also remove the only kitchen in the property. This issue is indicative of a general concern that the property is not suited to the intensity and nature of use proposed.
- 7.4 With regard to the location of the property relative to the community which the use would serve, additional information has been submitted during the life of the application which indicates that a significant proportion of the children attending the centre (although less than 50%), based upon those currently attending classes at Queens Walk Community Centre, would generally be local to the area. This is also borne out by those who have written in support of the use.
- 7.5 Local Plan policy CE1 and Aligned Core Strategy 12 are therefore only partly satisfied in this regard.

(ii) **Impact upon amenity of nearby occupiers** (Local Plan policies CE1, H7 and NE9 and Aligned Core Strategy policy 10)

- 7.6 The application site is located within a dense residential area of terraced houses and it is physically adjoined to the adjacent property. The prayers element has now been omitted and this removes some of the concerns about noise and disturbance in the early morning and late evening. However, concerns remain that the proposed use as a children's learning centre would be likely to result in noise and disturbance to nearby residents which would have an adverse effect on residential amenity. This would primarily be as a result of the comings and goings to and from the property at the level of intensity proposed. It is also considered that there would be disturbance to the adjoining occupier from the use within the building, particularly on the first floor. This would be contrary to Local Plan policies CE1 (in part), H7 and NE9 and Aligned Core Strategy policy 10.

(iii) **Highways and parking** (Local Plan policy T3 and ACS policy10)

- 7.7 Additional information has been provided by the applicant providing details of the addresses of the children currently attending the classes at the Queens Walk Community Centre, with a significant number, but less than 50%, living within walking distance. However, there is a concern that the proposed use would inevitably result in some children attending classes at the learning centre arriving by car. The tight grained residential character of the area, with properties having no off-street parking, is such that it is not felt appropriate to introduce a use which would further add to existing on-street parking. The problems previously experienced by neighbours in this regard, when the use was previously active at this property, are reflected in a large number of the objections received. The proposal to use a car park adjacent to a shop at 59 Wilford Grove is noted but this is not being offered with any security in planning terms, ie. by way of a legal agreement, and is not considered to be sufficiently convenient to overcome the potential issue of additional vehicular activity which would be likely to be generated by the use. It is noted that Highways do not object to the proposal but they do recognise that there is the potential for the use to exacerbate on-street parking pressures and are therefore recommending that if approved, the proposal should be subject to a number of conditions, including one that could lead to the introduction of a residents parking scheme. Whilst it is recognised that there are insufficient grounds to resist the proposal in highway safety terms, the issue of on-street parking is felt to be one that would add to the adverse impact that the proposal would have on the amenities of neighbours within the immediate vicinity. The proposal would therefore be contrary to Local Plan policy T3 and Aligned Core Strategy policy 10.

Other matters (Local Plan policy NE10)

- 7.8 It should be noted that the issues which have been raised by both supporters and those opposed to the application regarding the need for the proposed use and the nature of the religious organisation, are not material planning considerations that can be taken into account when assessing this application.
- 7.9 The application site is within Flood Zone 3 and Flood Risk Assessment has been submitted with the application. This need to be assessed in the context of the Environment Agency's standing advice and it is considered to be acceptable. Local Plan policy NE10 is therefore satisfied.

8 FINANCIAL IMPLICATIONS

None.

9 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.

10 EQUALITY AND DIVERSITY IMPLICATIONS

None.

11 RISK MANAGEMENT ISSUES

None.

12 STRATEGIC PRIORITIES

Improving life chances for young people.

13 CRIME AND DISORDER ACT IMPLICATIONS

None.

14 VALUE FOR MONEY

None.

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

1. Application No: 15/02486/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Nv6E3TLy00L00>

Email from Noise and Pollution Control dated 18.05.2016

Highway observations dated 25.05.2016 and 2.06.2016

116 letters and emails from residents and citizens

16 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

Aligned Core Strategy (2014)

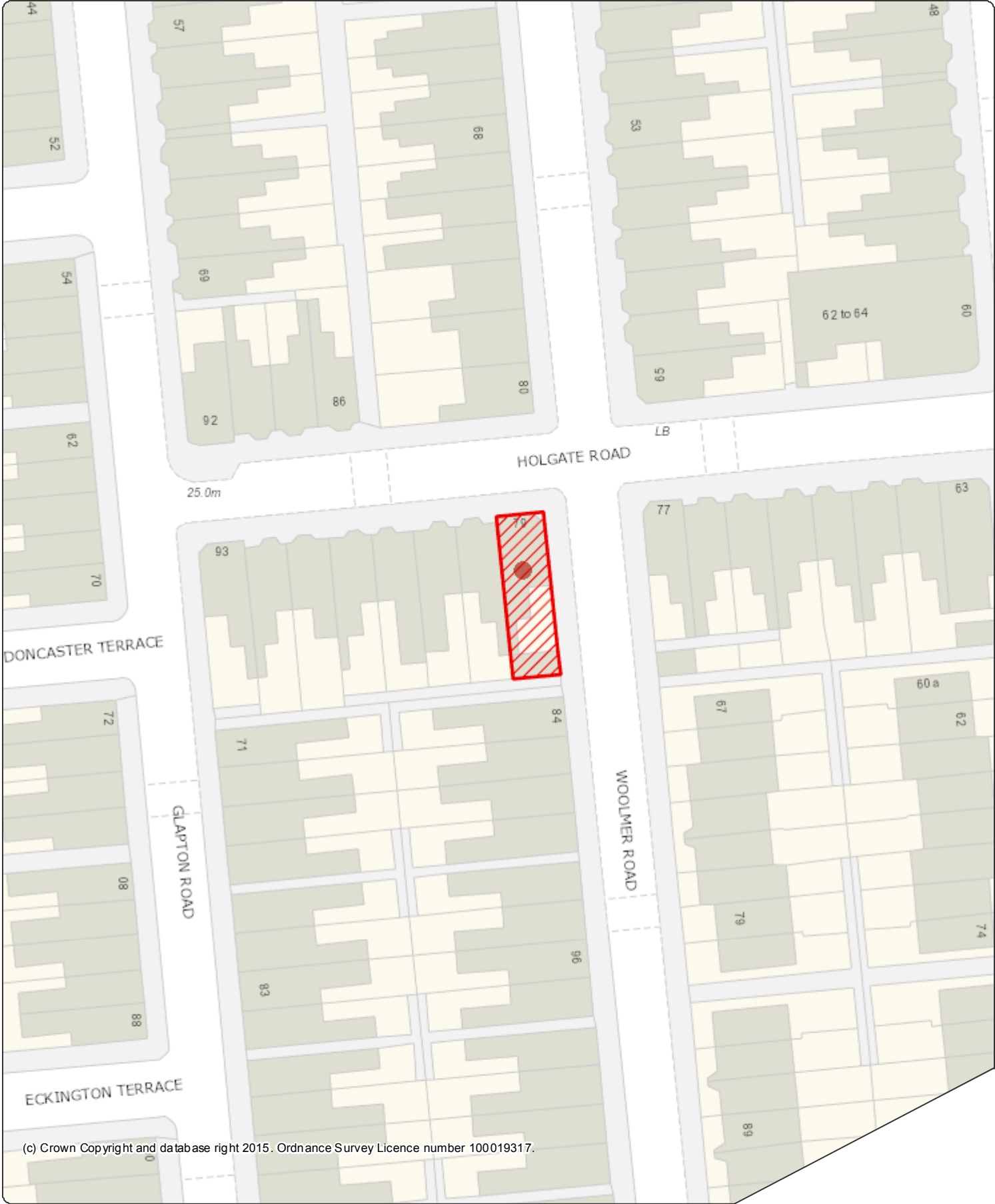
National Planning Policy Framework

Contact Officer:

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NOMAD printed map



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Key

-  City Boundary
-  Planning Application Polygons

Description
No map description

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My Ref: 15/02486/PFUL3

Your Ref:

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Date of decision:

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

Application No: 15/02486/PFUL3
Application by: Mr Amar Ali
Location: 79 Holgate Road, Nottingham, NG2 2EU
Proposal: Change of use to childrens learning centre

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

1. The proposed use, by reason of the noise, disturbance and on-street parking pressures that it would generate in this tight-grained, primarily residential area, would adversely affect the amenities of nearby residents contrary to Nottingham Local Plan policies CE1, H7, NE9 and T3 and Greater Nottingham Aligned Core Strategy policy 10.

Notes

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

RIGHTS OF APPEAL

Application No: 15/02486/PFUL3

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.