

REPORT OF HEAD OF PLANNING

Land South Of 1 Horizon Place, Mellors Way

1 SUMMARY

Application No: 16/01020/PFUL3 for planning permission

Application by: Aspbury Planning Ltd on behalf of WBD, Aldi & Greene King

Proposal: Convenience store (class A1) and pub/restaurant (class A3/A4) with associated access, parking, pedestrian and cycle routes and other related works.

The application is brought to Committee because officers are recommending that the application be granted, which represents a departure from the Development Plan

To meet the Council's Performance Targets this application should be determined by 5th August 2016

2 RECOMMENDATIONS

GRANT PLANNING PERMISSION subject to the indicative conditions substantially in the form of those listed in the draft decision notice.

Power to determine the final details of the conditions to be delegated to the Head of Planning.

3 BACKGROUND

- 3.1 The application site consists of an undeveloped piece of land located within the Nottingham Business Park. The site sits to the north of Chatterley Parkway, the main access road serving the business park and the new residential development to the south. It is bounded by Mellors Way to the east, which leads to the Belfry hotel, and Lawrence Drive to the west, which leads to the premises within the business park. To the south, and under construction, is a residential development of approximately 290 dwellings.
- 3.2 There is a public footpath/cycle path which dissects the site north to south, toward the eastern part of the site. The boundaries of the site have been planted with hedging and/or trees, and the eastern part of the site, between the public right of way and Mellors Way, has been planted with trees in addition to being enclosed by hedges.
- 3.3 In 2000 planning permission was granted for 79,000m² of employment floor space (B1 offices only) including land that forms the application site (application reference 97/02441/POUT). To date 19,956m² of office development has been built on the

northern part of the site, along with a hotel to the north east. To the south of Chatterley Parkway planning permission was granted in 2013 (outline) and 2014 (reserved matters) for a residential development of 290 dwellings, which is now under construction.

4 DETAILS OF THE PROPOSAL

- 4.1 Erection of a retail unit (Class A1) and a pub/restaurant (Class A3/A4) with associated accesses, parking, pedestrian and cycle routes, and other related works. The site is part of the Nottingham Business Park development and is allocated as employment land in the Local Plan.
- 4.2 The retail unit (Aldi) would be located on the eastern section of the site. It would have parking to the front with access from Chatterley Parkway. The store entrance would be to the east elevation. The unit would be single storey with a mono-pitch roof and a mix of metal and terracotta cladding to the elevations, along with glazing to the store windows.
- 4.3 The pub/restaurant (Greene King) would occupy the remainder of the site, on the western section. The building would sit toward the front of the site, with access from Lawrence Drive and parking to the (west) side and (north) rear. The building comprises single and two storey elements with largely gable ended roofs and a variety of other gable features incorporated within the design. It would be built of brick and tile with some limited areas of rendering. Whilst the principle entrances to the pub/restaurant would be to the west and north elevations, the front elevation, facing south, would have a secondary entrance and fenestration appropriate to its prominence in the streetscene.
- 4.4 The Council is in discussion with the developer regarding, as part of the development package, both the developer and subsequent operators delivering local employment and training opportunities during the construction and operation of the development, including a financial contribution towards pre-employment training and recruitment costs. This will be secured through a Section 106 obligation.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

11, 15 to 53 odds inclusive, York Drive
First floor, ground and second floors, 4 Orchard Place
The Nottingham Belfry Hotel Mellors Way
1 Horizon Place Mellors Way
1 and 2 Orchard Place

A site notice and press notice were also posted / published.

Expiry date for consultations 22.06.16

One letter received. General comments which are:

- When do the works plan to start

- How long will the works take to complete
- How will access to Orchard Place be affected
- How will parking be managed at both units

In addition, a public consultation event was carried out by the applicant in March 2016, prior to the planning application being submitted. 2,600 leaflets were distributed to advertise the event, public notices were posted in the area, along with press notices, and a consultation webpage was created. 62 members of the public attended the event, with 51 of those being resident within approximately one mile of the application site, and 7 being employees of businesses within the Nottingham Business Park.

A total of 35 responses were received either on the day or via the consultation webpage, both in support and in objection. Concerns raised included:

- Increase in traffic
- Increase in road noise
- Increase in footfall through the new residential development
- Increase in anti-social behaviour (relating to the pub)
- Increase in noise from outside areas of the pub
- Wrong type of development – not aimed at right kind of demographic, would have negative effect on house prices (in the new development)
- Employment opportunities from development not beneficial to residents of the new residential development
- Enough pubs and supermarkets nearby already
- Concerned about building on any area of open land / land that is Green Belt
- Original planning permission granted subject to no leisure facilities / pubs / hotels / housing etc
- Would be better to have a GP / dentist / health centre as part of the local centre or parade of small shops e.g. hairdresser / takeaway / café etc

Letters of support commented:

- Looking forward to new pub and supermarket in this location
- Good use of land / nice development / good site layout and access / adequate parking spaces
- Great asset to the area
- Will help to create thriving neighbourhood / benefit community socially and economically
- Will complement residential and employment activities across the site
- Within walking distance of housing / will enhance sustainability credentials of the area
- Good layout of pub (children's area separate to dining)

Other comments include:

- What is the construction period for the development
- Would there be any improvement to public transport
- Would like as much landscaping as possible
- Impact on EMAS (East Midlands Ambulance Service) during both construction and operation

Additional consultation letters sent to:

Policy team: Whilst the proposal is a departure from the Local Plan, there are other material considerations. The proposal may assist in meeting local deficiencies in convenience shopping and assist in improving the attractiveness of the remaining business park for employment uses. On balance, and subject to the provision of more information and acceptability of the catchment for the sequential test, the proposal is considered acceptable.

Pollution Control: No objections, subject to a pre-commencement condition regarding Radon protection measures. *Response: A condition is considered unnecessary as this would be covered under Building Regulations. An informative is however recommended, alerting the applicant to the need for Radon Protection Measures.* Additional conditions regarding sound insulation scheme, lighting and electric vehicle charging points.

Highways: No objections subject to conditions relating to construction management plan, maintenance and management of the public right of way, and details of highway improvements.

Drainage: Satisfied with the drainage scheme as submitted.

Archaeology Officer: Whilst the site is within an Archaeological Constraint Area, the development will not have any impact on archaeological remains.

Tree Officer: Satisfied with details in the tree report. Recommend securing details of AMS and landscaping by condition.

Coal Authority: Object, due to lack of information regarding presence of mine shaft on the site.

Biodiversity Officer: Seek to retain hedging where possible.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework

- 6.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies. While planning applications still need to be determined in accordance with the development plan, which are set out in the report, the NPPF is a material consideration in the assessment of this application.
- 6.2 The NPPF advises that there is a presumption in favour of sustainable development and that development which is sustainable should be approved. Paragraph 17 of the NPPF lists the core planning principles that should underpin decision taken on planning applications.
- 6.3 Paragraph 24 requires the application of a sequential assessment for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. The NPPF recognises town centres as the heart of communities and Local Planning Authorities should pursue policies to support their viability and vitality. Local Authorities should promote competitive town centres that provide customer

choice and a diverse retail offer.

- 6.4 Paragraphs 56-64 of the NPPF sets out the approach for achieving good quality design, including responding to local character, creating a strong sense of place and resisting poor design that fails to take opportunities to improve the character and the quality of an area.
- 6.5 Paragraph 96 states that new development should be expected to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.
- 6.6 Paragraph 118 states that local planning authorities should aim to conserve and enhance biodiversity by applying a range of principles including that if significant harm cannot be avoided, mitigated or as a last resort compensated, then permission should be refused.

Aligned Core Strategy

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

Policy 1: Climate Change - development proposals will be expected to mitigate against and adapt to climate change.

Policy 4: Employment Provision and Economic Development - aims to strengthen and diversify the local economy.

Policy 6: Role of Town and Local Centres - aims to maintain and enhance the vitality and viability of all centres.

Policy 10: Design and Enhancing Local Identity - new development should be designed to create an attractive, safe, inclusive and healthy environment.

Policy 12: Local Services and Healthy Lifestyles - supports new, extended or improved community facilities where they meet a local need and are sustainably located.

Policy 17: Biodiversity - seeks to increase biodiversity by, amongst other things, supporting the need for the appropriate management and maintenance of existing and created habitats and by mitigating harm to biodiversity.

Nottingham Local Plan (November 2005):

BE16 - Archaeological Constraints.

CE1 - Community Facilities.

E1 - Prestige Employment Sites.

E3 - Major Business Parks/Industrial estates.

E4 - Previously Used Employment Sites.

NE5 - Trees.

NE9 - Pollution.

NE12 - Derelict and Contaminated Land.

S5 - Retail development, Edge/Outside Centres.

S7 - Food and Drink.

T3 - Car, Cycle and Servicing Parking.

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- (i) Principle of Development
- (ii) Layout and Design
- (iii) Impact on Neighbours
- (iv) Access and Traffic Impact

Issue (i) Principle of Development (ACS Policies 4 and 6, LP Policies CE1, E1, E3, E4, S5 and S7)

- 7.1 The proposed development would be a departure from the Local Plan as the site is allocated for employment development in the form of B1 offices under Policy E1 of the Local Plan. To permit retail and food and drink uses on the site therefore requires an overriding justification to depart from local plan policy that demonstrates why the site may no longer be best suited to office development and why the proposed scheme is an appropriate alternative land use.
- 7.2 The application is supported by a report entitled 'Woodhouse Park Economic Review' produced for the applicant by Regeneris Consulting dated April 2016, which appraises the past and likely future performance of the Business Park, reviewing national and local trends as part of the process. As of April 2016, there was 22,000 square metres of occupied floorspace (out of the 79,000 square metres consented in 2000) on the remaining part of Nottingham Business Park (NBP). The average take up rate since 2003 has been around 1,400 square metres per annum, although this has varied significantly from year to year. Demand was badly affected by the economic downturn, falling to 1,000 square metres per annum between 2008 and 2013.
- 7.3 The report states that although there has been a recent pick-up in demand for floorspace, including 3,000 square metres in the past few months, this has all been for second hand, vacant space which was freed up by previous occupiers vacating that space. The only development of new space since 2003 was built with the support of a public sector grant. Aside from this there has been no speculative or pre-let development at the business park since 2003.
- 7.4 FHP, the marketing agents for the business park, reported that the remaining part of the NBP and the nearby Phoenix Business Park have been the last office areas to see a recovery in demand for space in the city. Although the park benefits from a

high quality landscaped setting, it has not been attractive to the market.

- 7.5 The report states that recent lettings of second-hand space at the remaining part of the business park have been at £12 per square foot. This is some way below the £20 per square foot required for new development on the remaining plots to be viable. Although there are examples of recent deals of £19 per square foot for refurbished space, these have been in central areas where demand recovered earlier. Given the gap between build costs and rental values, the prospects for new development are very limited in the short to medium term.
- 7.6 The Aligned Core Strategy sets a target for delivery of 253,000 sq m of office space over the plan period (2011-2028). This target was based on evidence which is now several years out of date, including two forecasting exercises undertaken in 2007 and 2009. The Nottinghamshire councils have since commissioned a new report from Nathaniel Lichfield and Partners (NLP) which refreshes the evidence base and tests the original target.
- 7.7 NLP's report modelled four scenarios. The Council's preferred scenario is a policy-on scenario, in which a series of interventions planned by the D2N2 Local Enterprise Partnership (LEP) achieved all of their objectives for jobs growth. This results in a need for an additional 245,000 sq m of office space over the plan period. This is very similar to the current target in the Aligned Core Strategy.
- 7.8 Nottingham has a development pipeline of around 250,000 sq m. In quantitative terms, this should be more than sufficient to meet the likely level of demand in Nottingham over the plan period. This is the case even if the more ambitious estimates of demand for 245,000 sq m proved to be accurate.
- 7.9 The Regeneris report submitted with the application sets out the implication for a change of use of land at the business park. Rental values across Nottingham are currently not at a level where speculative development is commercially viable. When rents do recover, as they are likely to do over the next couple of years, new development is initially likely to take place in those areas where demand has been strongest in the past. This includes the city centre, central business parks (such as NG2) and office locations connected to the tram network, including the Enterprise Zones. This is where the vast majority of future supply is located. Although rental values at the remaining part of NBP may recover over the course of the plan period, there are limited prospects for development of new office space in the next ten years. Therefore, permitting a change of use to leisure/retail, with confirmed occupiers in place, would mean the plots are being used to generate jobs rather than sitting idle for ten years or longer.
- 7.10 If new office development did become viable in the future, the remaining area of NBP still has development potential for around 18,500 sq m. This would represent 13 years supply based on take-up of 1,400 sq m per annum. A large proportion of this is in the northern part of the site which may be needed for HS2. In this event, then it may be possible to develop other parts of the site, including some of the landscape areas.
- 7.11 The content and findings of the Regeneris report, as set out above, are broadly accepted and supported. The evidence suggests that the loss of part of the business park is not critical to the overall supply of office floor space and given its' past delivery rates, likely owing to the site's location, it is appropriate to consider other forms of development.

- 7.12 Whilst compliance with Policy E1 may not be achieved through proposing an alternative land use to office development, it is considered that the material considerations of a sufficient office supply over the ACS plan period results in the principle of the proposed retail and food and drink uses being considered acceptable.
- 7.13 A further material consideration in favour of the proposal is that the development could support an average of 205 full time equivalent jobs (FTE's) per annum over a 25 week construction period. In addition, around 110 new jobs will be created by Aldi and Greene King, including full time and part time roles. It is estimated that this is broadly equivalent to around 85 FTE jobs. A large proportion of the jobs created will be in low skilled positions which will be accessible to local unemployed people. Within 2km of the site there are over 600 residents claiming JSA (and therefore out of work). Around 250 of these are seeking work in the types of occupations that will be created through this development, including sales assistants and waiters/bar staff. According to the 2011 Census, around 25% of people working in retail or hospitality occupations commute less than 2km to work compared to around 10% in office based sectors. This means there is a far greater likelihood that the retail and hospitality jobs created at Woodhouse Park would go to local people than if it remained an office development.
- 7.14 The proposed retail use would be out-of-centre in planning terms, with a policy presumption in favour of a centre first approach to site location. Due to the area of floorspace proposed, a Retail Impact Assessment is required and has been submitted as part of the application. The proposed retail unit is aimed at the north and west catchment area of the city, and at a local scale not intended to attract significant car-borne trade from outside this area. The unit would be within walking distance of large residential estates and is on a bus route.
- 7.15 The Retail Statement submitted with the application addresses the sequential test to site selection and potential impacts upon the health of existing centres and major convenience shopping stores within the identified catchment area. Together with the pub/restaurant, the Retail Statement assesses that local centres would be unaffected by the development and that the impact of the redistribution of trade from identified main shopping stores to the proposed Aldi is not significant. The only exception to this is the impact on the Bulwell Aldi which is overtrading and would remain so even after the proposed Aldi is built.
- 7.16 The Retail Statement also sets out the benefits of the proposal as a whole which includes increased choice and competition in the area; potential for linked trips; reduced shopping trip journey lengths; employment generation; catalyst for further investment and development; and the introduction of a local facility (pub/restaurant) into the market place. The content and findings of the Retail Statement are broadly supported and it is concluded that the proposed store and pub / restaurant are acceptable in this location.

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

- 7.17 The layout has been led by the constraints and opportunities of the site; the landscaping/hedging to the site boundaries, the cycle/pedestrian route that runs across the eastern part of the site, and the change in site levels.

- 7.18 The Aldi store would be built in a mix of metal and terracotta cladding with a glazed entrance to the east elevation. The Greene King pub/restaurant is more traditional in style and materials and comprises a principle two storey element with a series of subsidiary wings, offshoots and design features that help to break down its overall mass and create a varied and interesting roofscape. The pub/restaurant would be set forward of the Aldi store to offer some prominence in the street scene and when viewed from the principle point of access to the east.
- 7.19 Although both buildings follow a branded template they have been adapted for the site in terms of their siting, entrance points, some design detailing and the use of appropriate external materials. Consequently they are felt to offer a successful design solution for the site.
- 7.20 Particular attention has been paid to enhancing the public right of way that crosses the site, upgrading this with raised, shared surface materials and highlighting its primacy as a route through the car park. A sizeable area of public realm has been created to the front of the Aldi store that aligns with the public right of way, and also links with the pedestrian route created between the store and pub/restaurant. A deep landscape buffer is retained to the overall site boundaries, following the theme established elsewhere in the Business Park.
- 7.21 Overall this is felt to be well considered approach to the site that appropriately balances the operational requirements of the two businesses with a thorough site and contextual analysis.

Issue (iii) Impact on Neighbours (ACS Policy 10 and LP Policies NE9 and S7)

- 7.22 The nearest residential properties would be to the south of Chatterley Parkway, within the new development. The proposal would not have an adverse impact on the amenities of the occupiers of residential property in terms of loss of light, privacy or overlooking. It should also be borne in mind that the site has an extant permission for office development which would offer a comparable or greater impact on those adjacent residents. In terms of noise and disturbance, again given the distance between the retail/pub and residential, the proposal would not have a significant impact on adjacent residents subject to appropriate control of hours of use, servicing arrangements and ventilation extraction; all of which are to be conditioned.

Issue (iv) Access and Traffic Impact (ACS Policy 10 and LP Policy T3)

- 7.23 Highways are satisfied that the combined development would be acceptable in traffic impact terms. This is particularly so given the highways infrastructure already in place to serve the Business Park, and that there is an extant permission for this site to accommodate office development.
- 7.24 The two premises have separate vehicular accesses but would be linked by a clear and legible pedestrian / cycle route within the site. This has been incorporated into the car park layouts and the entrances to both premises positioned so as to take advantage of this connecting route. Highway improvements are proposed to ensure traffic turning into the site would not have an impact on highway safety. Appropriate upgrading of the public right of way is incorporated within the scheme and would be subject to further conditional approval, along with other design details related to the movement and parking of vehicles.

- 7.25 Each operator would have a management plan for their car parks in order to deter long stay parking by visitors or employees of nearby businesses.

OTHER MATTERS (Local Plan Policies BE16 and NE12)

- 7.26 The Coal Authority have raised an objection on the basis that the Phase II Geo-Environmental Report as submitted does not provide sufficient information to determine whether or not issues of land stability can be satisfactorily addressed. There is an on-going dialogue between the Coal Authority and the applicant to resolve this matter but if it does not prove possible to do so before committee, the issue will be addressed by condition.
- 7.27 Part of the site sits within an Archaeological Constraints Area as allocated in the Local Plan. Notwithstanding this it is considered that the development would not have any impact on archaeological remains.

8. SUSTAINABILITY / BIODIVERSITY (LP Policy NE5)

- 8.1 Some young trees would be lost as part of the development, and some hedges would need to be re-aligned, but these are in part mitigated for by replacement planting. Subject to a condition regarding details of landscaping and the planting of new trees, the proposal is considered to be acceptable in this regard.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

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

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

Working Nottingham: the development will provide local employment opportunities.

14 CRIME AND DISORDER ACT IMPLICATIONS

None.

15 VALUE FOR MONEY

None.

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

1. Application No: 16/01020/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=O6QRDWLYKS100>

2. Comments from Archaeology Officer dated 31.05.16
3. Comments from Coal Authority dated 09.06.16
4. Comments from Drainage dated 20.06.16
5. Comments from Tree Officer dated 03.06.16
6. Comments from Policy Officer dated 13.06.16
7. Comments from local business dated 31.05.16

17 Published documents referred to in compiling this report

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

Contact Officer:

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Key

-  City Boundary
-  Planning Application Polygons

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Description

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My Ref: 16/01020/PFUL3 (PP-05088374)
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Date of decision:

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

Application No: 16/01020/PFUL3 (PP-05088374)
Application by: WBD, Aldi & Greene King
Location: Land South Of 1 Horizon Place, Mellors Way, Nottingham Business Park
Proposal: Convenience store (class A1) and pub/restaurant (class A3/A4) with associated access, parking, pedestrian and cycle routes and other related works.

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

Time limit

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Pre-commencement conditions

(The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)

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

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



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Not for issue

Continued...

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

Reason: To ensure that the development provides safe and secure cycle parking to promote sustainable modes of transport to comply with Policy 10 of the Aligned Core Strategy.

4. The development shall not be commenced until details of the works to the PROW (Public Right of Way footpath number 285) crossing the site have been submitted to and approved in writing by the Local Planning Authority. The submission shall include details of the PROW design, lighting, crossing facilities, materials, landscaping, adjacent parking bays and maintenance arrangements for the upkeep of the PROW.

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

5. The development shall not be commenced until details relating to the layout geometry (with tracking), signing, and lining, 'Swept Path Analysis', visibility splays and stage I/II Safety Audit have been submitted for the access proposals and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

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

6. The development shall not be commenced until details of all hard surface treatments, including the roads, foot/cycle paths and parking areas, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as agreed.

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

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

a) Provision to accommodate all site operatives, visitors and construction vehicles loading, off-loading, parking and turning within the site during the construction period. Vehicles delivering to the site cannot be permitted to wait/park on the highway.

b) Adequate precaution shall be taken during the construction period to prevent the deposit of mud and other similar debris on the adjacent public highways.

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

8. Notwithstanding the details shown on the approved drawings, the development shall not be commenced until details of a landscaping scheme, including the type, height, species and location of the proposed trees and shrubs, including trees within the car parks, have been submitted to and approved in writing by the Local Planning Authority. The submission shall include details of the tree pits / trenches and a maintenance / management plan for the landscaped areas.

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



9. The development shall not be commenced until additional information to demonstrate that the mining shaft cap is suitable for retention, including an engineering assessment which includes traffic loading, or details of a new shaft cap for installation on the site which should be to current specifications and avoids the need for the geo-grid, have been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason: To safeguard the health and safety of the users of the proposed site to comply with Policy NE12 of the Nottingham Local Plan.

10. The development shall not be commenced until details of an environmental noise assessment and sound insulation scheme have been submitted to and approved in writing by the Local Planning Authority.

The environmental noise assessment shall provide sufficient detail to demonstrate that the combined noise from any mechanical services plant or equipment (including any air handling plant) specified to serve the development and running at 100% load shall not exceed a level 10dB below the existing ambient LA90 background noise level, at a point 1 metre from the window of any nearby noise sensitive premises at any time during the relevant operational period of the development.

No items of plant or equipment (either singly or in combination) shall have a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulses (bangs, clicks, clatters, thumps).

Reason: To safeguard the health and residential amenity of the occupants of nearby residential property to comply with Policy NE9 of the Nottingham Local Plan.

11. Prior to the installation of any external lighting, an external lighting assessment for the development shall be submitted to and be approved in writing by the Local Planning Authority.

The external lighting assessment shall specify an appropriate external lighting scheme for the development and shall ensure that:

i. Direct illumination of 'habitable rooms' (i.e. living rooms and bedrooms) does not occur and that any nearby residents are not subjected to glare anywhere within the boundary of their property,

ii. There is no significant increase in existing light levels, attributable to the development, at the boundary of any nearby residential properties.

The submission shall also include the design and configuration specification for the external lighting scheme and a prediction of light levels at the boundary of the nearest affected residential properties (vertical and horizontal isolux plots) attributable to the development.

Thereafter the lighting scheme shall be installed as approved.

Reason: To safeguard the health and residential amenity of the occupants of nearby residential properties to comply with Policy NE9 of the Nottingham Local Plan.

12. The development shall not be commenced until details of an electric vehicle charging scheme has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:



i) Electric vehicle charging points in 5% of parking spaces (to a maximum of 10 electric vehicle charging points). (NB this provision may be phased with 2.5% provision initially and a further 2.5% by agreement) see table in the informative.

ii) Appropriate cable provision for future demand.

The development shall be carried out in accordance with the approved details.

Reason: In the interests of sustainable development to comply with Policy 1 of the Aligned Core Strategy.

Pre-occupation conditions

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

13. No part of the development shall be brought into use until any redundant footway crossings and/or damaged or altered areas of footway or other highway have been reinstated to the satisfaction of the Local Planning Authority.

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

14. No part of the development shall be occupied until the hard landscaped areas pertinent to each use has been carried out in accordance with the details approved by the Local Planning Authority.

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

15. No part of the development shall be occupied until the car parking and servicing areas pertinent to each use has been completed.

Reason: In the interests of highway safety to comply with Policy 10 of the Aligned Core Strategy.

16. The development shall not be brought into use until the sound insulation scheme pertinent to each use has been implemented in accordance with the approved details.

Reason: To safeguard the health and residential amenity of the occupants of nearby residential property to comply with Policy NE9 of the Nottingham Local Plan.

17. The Electric Vehicle Charging Points scheme shall be installed and made available prior to the occupation of each use.

Reason: In the interests of sustainable development to comply with Policy 1 of the Aligned Core Strategy.

Regulatory/ongoing conditions

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

18. Deliveries and / or servicing of both the pub / restaurant and the retail unit shall not take place outside the hours of 6am to 10pm.

Reason: To safeguard the health and residential amenity of the occupants of nearby residential properties to comply with Policy NE9 of the Nottingham Local Plan.



19. The retail unit shall not be open for business outside the hours of 6am to 10pm on any day.

Reason: To safeguard the health and residential amenity of the occupants of nearby residential properties to comply with Policy NE9 of the Nottingham Local Plan.

20. The pub / restaurant shall not be open for business outside the hours of 7am to 1am on any day.

Reason: To safeguard the health and residential amenity of the occupants of nearby residential properties to comply with Policy NE9 of the Nottingham Local Plan.

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

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

Standard condition- scope of permission

S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the forms, drawings and other documents comprising the application as validated by the council on 6 May 2016.

Reason: To determine the scope of this permission.

Informatives

1. The reason for this decision, and a summary of the policies the local planning authority has had regard to are set out in the committee report, enclosed herewith and forming part of this decision.

2. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

3. Radon Gas Contamination

According to the Public Health England (PHE) radon inside buildings is the main source of human exposure to radiation in the UK. Their advice for residential and other properties is that the Action Level for radon concentrations should be 200 Bq m⁻³ and the Target Level should be 100 Bq m⁻³. Some parts of the Nottingham city area fall within Radon Classes 2, 3 or 4 where respectively 1% to <3%, 3% to <5% or 5% to <10% of homes are estimated to be above the Action Level. Areas where more than 1% of homes are estimated to be above the Action Level are termed Radon Affected Areas. Furthermore areas where between 1% and 10% of homes are estimated to be above the Action Level are regarded as intermediate probability radon areas.

This development site is classified as being in a Radon Affected Area (Class 3 or Class 4) and as such between 1% to <3% (Class 3) or 3% to <5% (Class 4) of residential buildings in this area are estimated to have radon levels above the Action Level of 200 Bq m⁻³.

DRAFT ⁵ ONLY

Not for issue

Continued...



Safer, cleaner, ambitious
Nottingham
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Consequently based on Building Regulations Approved Document C, Radon - Guidance on Protective Measures for New Buildings BRE 211 (2015), and the Public Health England (website <http://www.ukradon.org/>) in order to protect the health of future residents or occupiers of this development from the adverse effects of radiation all new buildings, extensions, conversions & refurbishments:

i. Must include basic radon protection measures as a minimum consisting of a well-installed damp-proof membrane, modified and extended to the outer layer of construction to form a radon-proof barrier across the ground floor of the building, in addition,

ii. The domestic Action Level and Target Level should be applied to non-domestic buildings with public occupancy exceeding 2000 hours per years and also to all schools.

The Remediation Strategy must be undertaken and implemented in accordance with Defra and the Environment Agency's guidance 'Model Procedures for the Management of Land Contamination, CLR 11' and other authoritative guidance. The Remediation Strategy must also provide details of how gas precautions will be validated and the Verification Report must provide details of the inspection process.

Following completion of the development, no construction work, landscaping or other activity must be undertaken which may compromise the remediation measures implemented to deal with radon gas contamination of the site.

Any radon gas protection measures included in the original development are designed for the buildings as originally constructed to protect against possible dangers to public health and safety arising from any accumulation of radon and to ensure that the site can be developed and used without health or safety risks to the occupiers of the development and/or adjoining occupiers. These protection measures may be compromised by any future extension of the footprint of the original building or new building structures within the curtilage of the site including the erection of a garage, shed, conservatory or porch or similar structure. Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought should future extension of the footprint of the original building or new building structures within the curtilage of the site be proposed (regardless of whether the proposed construction requires planning permission or building regulation approval).

The responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or the landowner. The developer is required to institute a thorough investigation and assessment of the ground conditions, nature and degree of contamination on the site to ensure that actual or potential risks to public health and safety can be overcome by appropriate remedial, preventive or precautionary measures. The developer shall provide at his own expense such evidence as is required to indicate clearly that the risks associated with ground, groundwater and ground gas contamination of the site has been addressed satisfactorily.

NB: Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought where there are both radon issues and ground gas issues present.

4. The Environmental Health team advise:

Commercial Noise

The environmental noise assessment must be suitable and sufficient and must be undertaken with regard to BS 7445: 2003 Description and Measurement of Environmental Noise.

The environmental noise assessment must include details of the type and model of all mechanical services plant or equipment (including any air handling plant) together with its location, acoustic specification; mitigation measures and relevant calculations to support conclusions.

The mechanical services plant or equipment (including any air handling plant), including any mitigation measures, must be maintained, serviced and operated in accordance with manufacturer's recommendations while the development continues to be occupied.

External Lighting Scheme

The approved external lighting scheme shall be maintained and serviced in accordance with manufacturer's recommendations while the development continues to be occupied.

Electric Vehicle charging points:

A key theme of the National Planning Policy Framework (DCLG 2012) is that developments should enable future occupiers to make green vehicle choices and it explicitly states that low emission vehicle infrastructure, including electric vehicle (EV) charging points, should be provided (paragraph 35).

Indicative EV Charging Point Provision (Commercial / Industrial / Retail):

Provision of EV Charging Points	2.5%	5%
Proposed Parking Spaces		
10	1	2
20	1	2
50	1	3
100	3	5
200+	5	10

5. The Highway team advise:

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

b) Planning consent is not consent to work on the highway. To carry out off-site works associated with the planning consent, approval must first be obtained from the Local Highway Authority. Approval will take the form of a Section 278 Agreement and you should contact Highways Network Management on 0115 8765293 to instigate the process. It is strongly recommended that you make contact at the earliest opportunity to allow time for the process to be completed as you will not be permitted to work on the Highway before it is complete. All associated costs will be borne by the developer. We reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the 6Cs Design Guide which is available at www.leics.gov.uk/htd.

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

d) PROW - please contact John Lee 0115 8765246 to discuss the details for requirements and design for the prowl across the site. All costs associated will be borne by the applicant including future maintenance of any materials used.

e) Please contact our drainage experts Paul Daniels 0115 8765275 or Nick Raycraft 0115 8765279 to discuss drainage.

f) Dropped kerbs and ramps, suitable for wheelchairs and prams, shall be provided at the time of development in the footways at all major pedestrian crossing points, at road junctions, and at footway crossings.

g) Parking areas shall be provided with minimum dimensions of 2.4m x 5.5m with additional transfer space for the disabled bay and shall be retained and not used for any other purpose.

Where a condition specified in this decision notice requires any further details to be submitted for approval, please note that an application fee will be payable at the time such details are submitted to the City Council. A form is available from the City Council for this purpose.

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

RIGHTS OF APPEAL

Application No: 16/01020/PFUL3 (PP-05088374)

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

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

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.