

REPORT OF CHIEF PLANNER

Unit 2B, Millennium Way East

1 SUMMARY

Application No: 16/00843/PFUL3 for planning permission

Application by: New West Ltd on behalf of Barbae Limited

Proposal: Change of use from offices to indoor climbing experience with ancillary soft play and cafe (Class D2).

The application is brought to Committee because if approved, the decision would result in a significant departure from the policies of the Development Plan.

To meet the Council's Performance Targets this application should have been determined by 26th May 2016

2 RECOMMENDATIONS

1. Grant permission subject to the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Chief Planner.

3 BACKGROUND

3.1 The application site is an industrial unit that is located at the end of Millennium Way East. It is one of two linked units, the other being Unit 2A. Both units are currently vacant. There is a sizable forecourt car parking area and a barrier controlled entrance off Millennium Way East. There are similar industrial units to the south and west. To the south-east is Phoenix House, which is an office business centre. To the east and north are residential properties at The Cliff and Donbas Close.

3.2 Phoenix Park, to which the application unit belongs, is a modern business park having been developed from the mid-1990s onwards. It benefits from excellent transport connections, including the Phoenix Park tram terminus and park & ride and proximate to Junction 26 of the M1.

4 DETAILS OF THE PROPOSAL

4.1 Permission is sought to change the use of the premises to an 'indoor climbing experience' with ancillary soft play and café. The use falls within Class D2 of the Use Classes Order. No changes to the exterior of the building are proposed.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

Units 1, 2A & 3 Millennium Way East
19 – 33(o) Donbas Close
Flats 1 & 2, 5 The Cliff
6A – F Cliff Cottages, The Cliff

The application has also been advertised as a departure to the Local Plan by press and site notices.

Additional consultation letters sent to:

Policy: No objection. Had initially recommend refusal on the basis that the employment unit is high quality, modern and in an excellent location near the strategic road network and the tram terminus and that its loss should be resisted in accordance with the Local Plan and the ACS.

Supplementary marketing information and a sequential test has now been provided by the applicant. The applicant has now provided sufficient evidence of how the property has been marketed. Together with the fact that the unit has been vacant and marketed for 10 years, it is sufficient to consider that an appropriate non Class B use would be acceptable, particularly given the relatively small scale of the unit.

The sequential test has been reviewed and resubmitted. Officers are now satisfied with the sequential test. Although some of the conclusions regarding transport connectivity/ attractiveness are not agreed, there are other valid reasons for the rejection of other available premises, with the indoor height requirements for a climbing centre being particularly relevant.

Highways: No objection subject to conditions. Road Safety colleagues have a number of concerns and have requested that stage 1, 2 and 3 safety audits be undertaken at a cost of 1,500 (+VAT) to be funded by the Applicant. This will highlight where pedestrian improvements are required. This will ensure the safety of the customers to and from the new facility. Subsequently any reasonable measures that are highlighted in the safety audit process should be implemented, with I costs to be borne by the Applicant. Given that there will be 10 full-time and 4 part-time members of staff, we would ask that a Staff Travel Plan be provided by the applicant, to encourage staff to use sustainable modes of transport.

Pollution Control: No objection.

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 Paragraph 22 states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.
- 6.3 Paragraph 24 states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. 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. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

Nottingham Local Plan (November 2005):

E3 - Major Business Parks/Industrial estates. Aims to protect the City's existing major business and employment areas from changes to non-employment uses.

Aligned Core Strategy 2014

Policy 4: Employment Provision and Economic Development

Policy 6: Role of Town and Local Centres

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

Whether the development will:

- (i) Impact upon employment provision at the Phoenix Park employment site
- (ii) Impact upon the role of town and local centres.

Issue (i) Impact upon employment provision at the Phoenix Park employment site (Policies E3 and 4)

- 7.1 Policy E3 of the Local Plan states, "Within the major business parks/industrial estates as defined on the Proposals Map, employment sites or employment premises will not be granted planning permission for uses other than employment uses, except for ancillary development necessary to serve the development." This is justified as being "essential to recognise the importance of protecting the major business parks/industrial estates" and "to ensure they continue to provide a sound basis for economic growth and an adequate supply of employment land."
- 7.2 Policy 4h) of the Aligned Core Strategies also states that the economy of the area will be strengthened and diversified by "(i) ensuring the allocations most attractive to the employment market remain available for employment uses", and "(ii) retaining good quality existing employment sites (including strategic employment areas) that are an important source of jobs."

- 7.3 On the basis of the limited original application submission and initial consultation response from the Policy team, it had been initially intended to refuse this planning application under delegated powers in accordance with the above policies. The applicant had, however, requested the opportunity to provide further information in relation to the marketing of the unit and sequential test in relation to the proposed leisure use.
- 7.4 The applicant's further information states that, despite marketing since 2006, the unit has now been vacant for 10 years. Whilst being surprising given the age of building, car parking, and its accessibility, this is supported with information including reduced rental levels and incentives that have all failed to attract a tenant. It is, therefore, concluded that there is no reasonable prospect of the unit being let for Class B1/2/8 employment uses and that sufficient evidence has been provided to justify the consideration of an alternative use.
- 7.5 Therefore, despite remaining reservations regarding the loss of a Class B1 use within Phoenix Park, in the interests of securing the use of this long-standing vacant unit, it is considered that the proposed development accords with Policy E3 of the Local Plan and Policy 4 of the Aligned Core Strategies.

Issue (ii) Impact upon the role of town and local centres. (Policy 6)

- 7.6 The sequential test also submitted and updated by the applicant provides a thorough review and analysis of available alternative premises and justification on why these have been rejected as being unsuitable for the proposed use, particularly in relation to the internal height requirements for the proposed climbing centre use. The Policy team have reviewed the document and support its conclusions with the exception of the statements regarding transport connectivity and attractiveness of the location. It is, therefore, considered that the sequential test requirements have been met in relation to the proposed climbing centre use with the condition that it be used only as a climbing centre within Class D2 in accordance with the sequential test information provided. It is, therefore, considered that the proposal accords with Policy 6 of the Aligned Core Strategies.

Other Material Considerations

- 7.7 Highways request in relation to a safety audit is considered to be appropriate as an advisory informative of consent. It is not considered that the location or likely level of staff would justify the need for condition to require the submission of a staff travel plan and this is also recommended as an advisory informative of consent.

8. SUSTAINABILITY / BIODIVERSITY

None.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

None.

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

Ensuring Nottingham's workforce is skilled.

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: 16/00843/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=O5NZ86LY00L00>

2. Pollution Control, 26.4.16

3. Highways, 25.5.16

4. Policy, 4.7.16 & 9.8.16

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

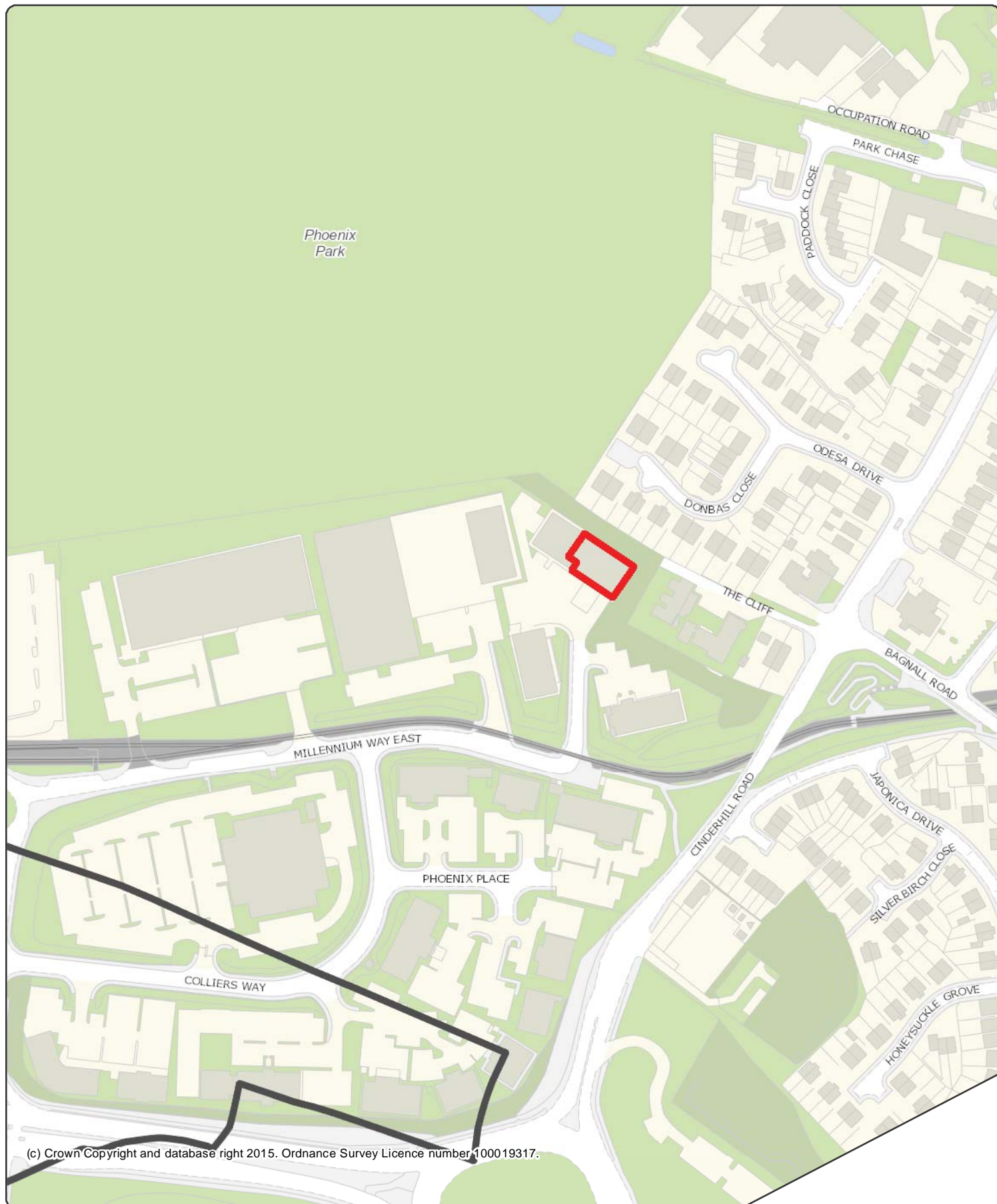
Aligned Core Strategies (September 2014)

Contact Officer:

Mr Jim Rae, Case Officer, Development Management.

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NOMAD printed map

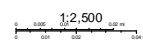


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Key

 City Boundary

Nomad web map printed by a Nomad user at 09:03, 13/09/2016



Description

No map description

My Ref: 16/00843/PFUL3

Your Ref:

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Date of decision:

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

Application No: 16/00843/PFUL3
Application by: Barbae Limited
Location: Unit 2B, Millennium Way East, Nottingham
Proposal: Change of use from offices to indoor climbing experience with ancillary soft play and cafe (Class D2).

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)

There are no conditions in this section.

Pre-occupation conditions

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

There are no conditions in this section.

Regulatory/ongoing conditions

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

2. Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to "permitted development", the application unit shall only be used as an indoor



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Not for issue

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climbing centre with ancillary soft play and cafe within Class D2 unless with the further written consent of the Local Planning Authority.

Reason: In order to ensure that the approved use remains as an exception to Policy E3 of the Nottingham Local Plan (2005) and Policies 4 and 6 of the Aligned Core Strategies (2014).

Standard condition- scope of permission

S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the following drawings/documents: Other reference INFORMATION & SEQUENTIAL TEST, received 29 July 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 officer's delegated 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. The Highways Road Safety team recommend that stage 1,2 and 3 safety audits are undertaken at a cost of 1,500 (+VAT) to highlight where pedestrian improvements are required and to ensure the safety of the customers to and from the new facility. The cost of providing any reasonable measures that are highlighted in the safety audit process would also need to be borne by the applicant.

4. The Highways team recommend that a Staff Travel Plan be developed to encourage staff to use sustainable modes of transport.

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: 16/00843/PFUL3

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.



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