

REPORT OF THE CHIEF PLANNER

Lace Market Self Serve, London Road

1 SUMMARY

Application No: 16/01352/PFUL3 for planning permission

Application by: Levitate Architecture on behalf of Monk Estates

Proposal: Residential development of 85 apartments including communal facilities, basement parking and a commercial unit.

The application is brought to Committee because it relates to a major application on a prominent site, where there are important design and heritage considerations and because the application is recommended for approval but the planning obligation proposed is substantially less than required by adopted planning policies.

To meet the Council's Performance Targets this application with the agreement to an extension of time with the applicant, should be determined by 21st October 2016.

2 RECOMMENDATIONS

2.1 Grant permission subject to:

- (a) Prior completion of a planning obligation which shall include an off-site contribution towards affordable housing in the sum of £100,000
- (b) The indicative conditions substantially in the form of those listed in the draft decision notice at the end of this report

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

2.2 That Councillors are satisfied that Regulation 122(2) Community Infrastructure Levy Regulations 2010 is complied with, in that the planning obligation sought is (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.

3 BACKGROUND

3.1 The application site is bounded by London Road, Plumtre Square and Pemberton Street and lies to the north west of the London Road roundabout on land that sits below the Lace Market Cliff. The site is formed by two parcels of land; one is

occupied by a former petrol filling station and forecourt that is now used as a car wash facility, the second, to the rear of this, is a cleared site currently used for car parking. To the north of the site is Seeley House which has previously provided student accommodation. Along Malin Hill, that runs along the Cliff edge is Trivett House which contains residential properties and office accommodation at ground floor. The site lies in an area that comprises a mix of residential and commercial uses.

- 3.2 Within the vicinity of the site are the following Conservation Areas; The Lace Market, Old Market Square, Station and Sneinton Market. There are also a number of listed buildings in the area, the most notable of which is St Mary's Church (Grade I). Opposite the site, to the east, is Plumpton Hospital, which is a Grade II listed building.

4 DETAILS OF THE PROPOSAL

- 4.1 Permission is sought for a development of 85 apartments, which would be provided within a complex of three buildings that would be sited around a central courtyard. The development would provide 37 x 2 bedroomed flats and 48 x 1 bedroomed flats.
- 4.2 The building to the London Road frontage would be finished in brick, to its outer facing elevations on the ground floor would be a commercial unit that would be accessed from the corner of Pemberton Street with London Road. It would contain 20 apartments over 4 floors. The building would be 'L' shaped having a maximum height of 13m.
- 4.3 The building to the Pemberton Street (north) frontage is also proposed to be finished in brick to its outer facing elevations; it would contain a communal gym and cinema room at ground floor, together with 4 apartments, with 29 other apartments provided over the four upper floors. The building would have a maximum height of 16.6m.
- 4.4 The final building would be sited to the corner of Pemberton Street/Plumpton Square and London Road; it would primarily be finished in a bronze aluminium cladding and would have horizontal bands of lace effect panelling enclosing its balconies and to its roof line. This building would contain a lobby area, meeting room and office, which would be accessed off Plumpton Square. A total of 36 apartments would be provided over the upper 9 floors. From the Plumpton Street side the building would be 32m in height, whilst from Pemberton Street the building height would be 33m.
- 4.5 A basement level is also proposed that would provide 34 car parking spaces, which would be accessed from Pemberton Street. The area would also house storage lockers, a plant room and bin storage areas.
- 4.6 The site is located within Flood Zone 2 and within an air quality management zone.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

92 neighbour notification letters were sent out to properties along Malin Hill, Poplar Street, London Road and Cliff Road. A site notice and press notice were also published. The notification period expired on the 10th August 2016. 21 letters of representation have been received as a result of this publicity; 13 letters have been in support and 8 letters have been objections. The comments are summarised below:-

Letters of Support:-

- Regeneration of a brownfield site and a stimulus for the southern gateway of Nottingham
- Job creation and provide support for local businesses
- The design considers and protects views and right to light
- The scheme delivers much needed housing in the city
- The design is visionary, sympathetic to its surroundings and of a high quality
- The development would improve the appearance of the area and the general impression of Nottingham
- The scheme will assist in attracting and retaining young professionals in Nottingham

Letters of Objection:-

- The close proximity of the development to Trivett Square is of concern in terms of negative impact upon residents by way of light obstruction, plus the negative impact to residents during the construction phase
- Increase in noise and air pollution by extra traffic generated by the development and during construction
- Impact on living standards due to increase noise from new residents
- No engagement with local residents from the developers
- Loss of outlook, view and sense of openness
- Scale of the proposed corner building dwarfs existing buildings in the area
- Impact on the unique view of the Lace Market Cliff and St Mary's Church

Nottingham Civic Society: -

The Nottingham Civic Society objects to the proposed ten storey tower to be positioned in front of the Lace Market Cliff. The applicant's Heritage Impact Assessment has misjudged the significance of St Mary's Church in its dominating position atop the Lace Market Cliff. The medieval church visible today stands upon the site of the tenth century church which was at the heart of the Saxon Burgh - the centre of Nottingham's original settlement. St Mary's Church, a Grade I listed building, is symbolic of Nottingham's ancient urban foundations and its prominent tower has been deferred to in all the developments that have taken place since. Later buildings, particularly towards the eastern end have tailed off in height away from St Mary's Church. Siting such a tall building at the eastern end of the Lace Market Cliff would challenge this symbolic pre-eminence and diminish its presence, compromising the significance of the listed building to its detriment.

In addition, the tall building detracts from setting of Lace Market Conservation Area to the north of the application site. Because of the sensitivity of the Lace Market Cliff in close up, medium and long-range views, the City Centre Urban Design Guide (adopted by the Council in 2009 and still in use - see Nottingham's Heritage Strategy) sets out 'Tall Building Zones' where taller buildings might be sited without undue damage to Nottingham's historic core. The London Road Petrol Station Site

is outside these Tall Building Zones and as such, has already been adjudged to be unsuitable because of its sensitive townscape and the danger of 'burying' important views behind tall buildings. Damage to the Lace Market Conservation Area would include the looming presence of the tower over Malin Hill as seen from Commerce Square, over the route of Long Stairs from the same position, over Short Stairs and Cardiac Walk - all historic alleyways intrinsic to the Lace Market's medieval character. The applicant correctly identifies the conservation area's character as a series of built layers, which are seen crowding into view above the exposed cliff west of the application site and fronted by redeveloped buildings behind it. The tower would have the effect of masking all the older buildings behind, destroying the 'layered' tumbling informality altogether.

In addition to damaging the appearance of the Lace Market Cliff from a number of vantage points safeguarded as Key Views in the City Centre Urban Design Guide, the tall building proposed would also interrupt a Key View from Nottingham Castle towards Colwick Woods - which links together as related topographical features the rock outcrops of the Castle Rock, the Lace Market Cliff and the Colwick Woods escarpment - all features which make Nottingham city centre distinctive and unusual.

The development would also have a severely detrimental effect on the setting of Plumtree Hospital; a 19th century listed building (Grade II). This two storey building of domestic character would be completely overwhelmed and over-shadowed by the 10 storied tower. Furthermore, the tower would overwhelm and over-shadow Plumtree Square which is intended to have its townscape greatly improved by the traffic-calming measures consequent upon the alterations at London Road. From the sun path evidence supplied, the damaging impact of the tall building on the environment of any outdoor seating envisaged to humanise the square is evident. There is no objection to the massing or design of the four storey element of the scheme; however the blank wall to London Road should be reconsidered and enlivened to ensure an appropriate human-scaled treatment facing passing pedestrians at this point.

Therefore the tower proposed is contrary to Local Plan policies relating to listed buildings, Conservation Areas and in terms of its urban design and community safety and should be removed. The scheme is also contrary to the tenets of Nottingham's Heritage Strategy which specifically identifies the unique and special character of the Lace Market Cliff which should be safeguarded.

Additional consultation letters sent to:

Environmental Health: No objections to the proposed development subject to the inclusion of conditions requiring details of a remediation strategy, an environmental noise assessment and an air quality management scheme.

Highways: No objections to the proposed development, although they asked for clarification in regard to the boundary of the development and have requested that doors open inwards, appropriate sight lines are provided to the car parking entrance and that redundant vehicular accesses are reinstated.

English Heritage: Object to the scheme. The application site is located within the City Centre and occupies a prominent, strategic position fronting London Road - the southern gateway route into the centre. The site is overlooked by the dramatic cliff face of the Lace Market with numerous listed buildings including the Grade I listed

St Mary's Church, visible on the skyline and forming prominent landmarks within the conservation area.

The proposal for the former petrol station site is for redevelopment into 85 residential units, including ancillary uses, small shop, communal garden and basement parking. In principle we support the redevelopment of the site and the benefits of provision of housing in a city centre location. The scheme proposes a substantial development comprised of a 5 storey block with 10 storey tower at the eastern end.

Our advice is given in line with the Principle Act, Government policy guidance contained within the NPPF, the Planning Practice Guide and the Historic Environment Good Practice in Planning Notes 1-3.

We believe there is a significant opportunity here to create development of high quality which responds positively to its context, enhancing and revealing the historic townscape of Nottingham. This we believe requires a partnership approach with your authority and a clear long term vision for the area - maximising development opportunities with the desired removal of the roundabout and reinstatement of the historic highways layout and block structure.

On the basis of the submitted concept proposals, we are very concerned by the proposed tower element of the scheme, which we consider harmful to the significance of a number of designated heritage assets, including the Grade I listed St Mary's Church, and the Lace Market Conservation Area. We believe the amount of accommodation required presents a difficult design challenge and we do not consider the proposal is a convincing and appropriate urban design response to this important site. For the reasons set out in this advice letter, we do not believe this scheme can be deemed sustainable under the NPPF and therefore we do not support the proposal.

The Shell Site is located immediately south of the Lace Market Conservation Area and approx. 200m to the north of the Station Conservation Area. The site is located at the eastern end of the Lace Market Cliff - as one of the two hills on which the centre of Nottingham developed and expanded, the prominence of the Lace Market Cliff with the rich townscape of warehouses, town dwellings and the landmark churches of St Peter's and St Mary's, is one of the iconic and evocative views of Nottingham. From arriving at the city by station and travelling towards the centre, it reveals both the natural topography of the city centre and its historic and architectural development - the latter reflected in a large number of listed buildings within the conservation area. St Mary's, reputed to be the largest parish church in the county after Newark, is a Grade I listed building of outstanding national significance and one of Nottingham's most important city landmarks with the tower crowned by battlements and eight pinnacles. One of the key views of the cliff is from London Road where the prospect of this part of the city centre is strikingly revealed. The application site is clearly within this important view. The late 20th century residential blocks clustered within the immediate vicinity of the site and stepping down towards London Road, work reasonably well and do not detract substantially from the appreciation of the historic townscape and understanding of topography.

The former petrol station 'Shell site', does not contribute positively to surrounding townscape, which is exacerbated by the 20C highway infrastructure. Historically the site formed part of the 18C and 19C intensive industrial and residential

development of the southern area when the River Leen was canalised, and significantly, the creation in the 19C of London Road as a key route from the south towards Plumtree Square. Surviving from this period of expansion, to the east of the site is the former almshouses and adjoining master's house, listed Grade II and dated 1823, by Edward Staveley, Surveyor to the Nottingham Corporation. It is an attractive two storey neo-gothic building, which has now lost some of its townscape context through fragmentation caused by the 20C highway infrastructure and development.

As part of the southern gateway to the city throughout its recorded history, we agree with the submitted Heritage Assessment that the site is likely to have high archaeological potential.

The proposal is for an eastern tower block of 10 floors (32m high from ground level) and a lower element stretching across the site of five floors plus basement level. This will accommodate 85 flats with associated facilities including small corner shop, enclosed communal gardens and bike/parking facilities.

The principle of providing residential development within the city centre with private amenity space, is beneficial, and appears sustainable in its location within walking distance of public transport and local amenities. The site itself presents a significant opportunity to better reveal and enhance the southern gateway into the city centre, retaining views of the Lace Market Cliff and enhancing its appreciation and that of the conservation area. The opportunity to create a new piece of townscape and high quality design cannot be underestimated and we believe this opportunity should not be considered in isolation. In this immediate area, highways land is substantial and with a clear vision for this southern area, we believe there is potential to extend beyond the application site to achieve urban design solutions, including remodelling of the highway, which may maximise development opportunities.

In assessing this application, fundamentally the proposal requires a significant amount of accommodation which does not seem achievable without intensive development. The massing studies and analysis clearly show the difficulty in trying to accommodate such development and create an integrated urban design response on what is a restricted site. Beyond the land use, there are benefits to this scheme with the provision of active frontages onto Plumtree Square and Pemberton Street. It will be important to ensure such frontages are well designed and legible and to ensure any new design enhances the route and experience towards the city centre, including along Malin Hill, one of the earliest routes into the city. Less successful is the limited active frontage onto London Road - where the development at ground level proposes a blank wall to act as a barrier against the hostile environment of the major road junction. Though this is understandable, it restricts future opportunities to work towards breaking down the barriers of the road network and creating a townscape which is permeable and less fragmented.

The submitted plans and modelling show the five storey element of the scheme, retaining views of the Cliff and conservation area. We recognise that much thought has been given to retaining direct views of St Mary's along London Road, which has influenced both the positioning of the tower element and its narrow footprint. Though the tower will not obscure this immediate view of St Mary's, it will compete with it and create a very prominent new development breaking the skyline. It will have significant visual impacts both in immediate and wider views on the townscape, including on approach from the east, and in relation to the Lace Market

Conservation Area and designated heritage assets within. This will restrict views of the Cliff, permanently compromising the character and appearance of the Lace Market Conservation Area. Of concern is the cumulative impact of the scheme - in reality, the experience of the Cliff will be fundamentally changed and blocked by new development, which will dominate rather than enhance the appreciation of the historic land form and development at this key junction into the city. Such intensity in our view will result in harm to the historic townscape and has the potential to fragment this area of townscape further.

The archaeological potential of this site requires full consideration and we recommend further advice is sought from your archaeological adviser at this stage.

This application we believe will affect the significance of designated heritage assets - Grade II listed buildings and conservation areas, focusing on the Lace Market Conservation Area. As such, the statutory requirement to have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses, and the character and appearance of the conservation area (sections 66(2) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990) must be taken into account by your authority when making its decisions. This is a high test and needs to be given the appropriate weight in determining these applications. As the NPPF states, great weight should be given to the conservation of heritage assets (paragraph 132). All harm requires 'clear and convincing justification'.

Your authority should aim to achieve the objective of sustainable development, which in this context means guiding development towards a solution that achieves economic, social and environmental gains jointly and simultaneously (paragraph 8, NPPF).

We refer you to paragraph 131 of the NPPF- in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness

Similarly, we would refer you to paragraphs 63-65, which are concerned with raising standards of design, and paragraph 137 concerned with conservation areas.

Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

We support the redevelopment of this site and recognise the benefits of residential development within this city centre location. We believe there is an opportunity here to create development of high quality which seeks to respond positively to its context, enhancing and revealing the historic townscape of Nottingham - which is fundamental to your city's identity and character. However, the amount of development proposed and resultant tower block design will result in harm to the significance of a number of designated heritage assets, and in our view, is not a

convincing and appropriate urban design response to this important site.

We strongly believe there is an opportunity here to create development of high quality which responds positively to its context, enhancing and revealing the historic townscape of Nottingham. This we consider requires a clear vision and partnership approach with the potential to achieve this through maximising development opportunities and reinstatement of the historic highways layout and block structure.

In line with relevant paragraphs of the NPPF it will be for your authority to consider the justification put forward for this scheme in the form proposed, and to balance all planning matters, including public benefit afforded by this proposal, and affording the required weight to heritage matters as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 Act and the NPPF. Though we recognise there are other planning matters to consider, we do not believe special regard has been given in line with the Principle Act, nor with the tests within the NPPF. Therefore we cannot support this application.

Environment Agency: No objections to the scheme subject to conditions requiring details of a remediation strategy and to prevent the infiltration of surface water into the ground.

Local Lead Flood Authority: No objections to the scheme subject to conditions requiring the scheme to be carried out in accordance with the Flood Risk Assessment submitted.

City Archaeologist: The proposed development has a high potential impact upon archaeological remains, which will warrant the production of a Desk based Assessment in the first instance, with the potential for archaeological fieldwork thereafter.

The site lies within an area of the historic medieval town, which was located immediately north of the former course of the River Leen. A medieval bridge once existed on the site; an arch of the bridge was partially excavated in 1880. A second portion of the bridge was found immediately south of the site, more recently, in 1969. It is possible that there are further remains of this bridge.

Also within the site boundary a substantial length of apparent medieval wall, thought to be part of a mill, was excavated in 1954. Lying in close proximity to former river channels of the River Leen it is possible that remains of buildings relating to industries that utilised the river may survive.

Caves exist approximately 15m north of the site. It is possible that caves also exist within the boundaries of the proposed development site.

Although the site has been developed, particularly during the late 19th and early 20th centuries, there still remains the potential for archaeological remains surviving within the site boundary and these may be encountered due to the depths of any excavations for basement parking.

For these reasons it is recommended that a Desk Based Assessment be produced to assess the known and potential archaeological remains on the site. In producing the Desk based Assessment the archaeologist should consult the Acting City Archaeologist and the Historic Environment Record.

Ecologist: Ecological enhancements should be sought as part of this application. A detailed landscaping plan and management plan for the area should be secured through condition.

Conservation Officer: When considering the acceptability of the development of the Lace Market Self Serve site there are a number of relevant tests set by section 12 of the NPPF:

- Paragraph 128 – *Does the information included adequately describe the significance of the heritage affected. Does the application allow the full impact of the scheme to be properly assessed?*
- Paragraph 131 – *Does the new development make a positive contribution to local character and distinctiveness?*
- Paragraph 132 – *Does the development have a harmful impact on the setting of designated heritage assets? Is this harm clearly and convincingly justified by the applicant?*
- Paragraph 134 – *The development is considered to lead to less than substantial harm under the NPPF's definition as it would not result in the destructive loss of a designated heritage asset. Does the application weigh the impact of the development against its public benefits. Does it secure the optimum viable use of the site?*
- Paragraph 137 – *Does the development enhance or better reveal the significance of heritage assets (including Conservation Areas)?*

Original Submission

It is felt that the application documents have certain shortcomings that should be addressed. The Heritage Statement does not provide an adequate conclusion on the overall impact that the scheme will have on the historic environment. The dramatic topography and skyline created by the Lace Market Cliff and Narrow Marsh are a collective asset to the City of Nottingham which should be viewed holistically. While the Heritage Impact Assessment addresses the impact of the scheme on individual historic buildings, views, conservation areas, historic alleyways and archaeological sites, it does not adequately acknowledge the harm to the collective historic environment in the vicinity.

The visuals included in the application, rather than providing a 180 degree assessment of the scheme's impact on views from the east, west and south, pick out a select few vantage points, some of which are aerial views of the building. Perspective images in the Design and Access statement of the most sensitive views from the south side of the London Road Island are limited to a single CGI and a 3D block massing image (vista B on page 55). Vista B is perhaps the most demonstrative of the scheme's impact, but this has not been provided as a photo realistic image. The CGI, whilst useful in picturing the building's design is taken from a point further to the west. Unfortunately the images do not allow the full impact of the proposal on this highly sensitive context to be thoroughly explored and assessed.

Following revised & additional documentation/images:-

The revised Heritage Impact Assessment provided by Lathams has better addressed the cumulative impact of the scheme and provides a suitable conclusion that the scheme will, on balance, have a neutral to positive impact on the special character of the surrounding area. I am comfortable with this

assessment.

Also provided were some additional 3D visuals placing the new buildings in the context of the much talked about 'Vista B'. It is clear from these that the scheme will not encroach directly on this vista as set out in the City Centre Design Guide, but will be visible in wider views from this vantage point. The tower in particular makes a strong visual statement and will break the skyline created by the buildings on the edge of the cliff behind. However, the tower's position forward of the cliff edge and slender profile mean that it will be seen as a new layer in the townscape, beyond which the topography will still be readable.

For these reasons the application documents are now considered to create a more robust justification for the scheme and to comply fully with the requirements set out in section 12 of the NPPF.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework (March 2012):

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 and a good standard of amenity for all existing and future occupants of land and buildings, and to contribute to conserving and enhancing the natural environment and support the transition to a low carbon future. Also of particular relevance is section 12 which relates to conserving and enhancing the historic environment.

Nottingham Local Plan (November 2005):

MU1 - Regeneration- The City Centre. Seeks to encourage the redevelopment of specified sites. The site is identified as MU1.15 on the Proposals Map of the Local Plan.

ST1 - Sustainable Communities. Seeks to ensure that all new development contributes to the creation and maintenance of sustainable communities, particularly by the provision of a balanced mix of housing size, type and affordability, particularly promoting housing for families with children and appropriate dwellings which allow older and disabled people to stay in their local community. The policy encourages appropriate mixed use development in appropriate locations, developments which strengthen the economic base of the City and provide local employment opportunities, especially for disadvantaged communities, and promotes the use of previously developed land wherever possible. Development should minimise adverse impacts whilst maximising benefits to the local and wider community.

H2 - Density. Aims to achieve as high a density on development sites as is compatible with characteristics of the site and its surroundings, the need to safeguard living conditions and with regard to public transport accessibility.

BE8 - City Skyline and Tall Buildings. Establishes criteria for the consideration of

proposals for buildings rising above surrounding structures or prominent on the skyline. The criteria relate to landmark design, scale, effect on existing views and climatic conditions.

BE10 - Development Around Listed Buildings. Seeks to resist development that would be harmful to the character, appearance or setting of a listed building.

BE12 - Development in Conservation Areas. Seeks to preserve or enhance the character and/or appearance of conservation areas.

BE16 - Archaeological Constraints. Seeks to ensure that development is not granted on sites within the archaeological constraints areas unless accompanied by an archaeological assessment. Where remains exist a field evaluation will be required.

T3 - Car, Cycle and Servicing Parking. Seeks to minimise car parking levels on new development sites subject to criteria on neighbour amenity, public transport provision, generation of extra traffic, land use and likely levels of car ownership.

NE9 - Pollution. Seeks to resist development where air, noise or light pollution would cause significant detriment to users of the development or adjoining land, and seeks to ensure that the effects of pollution are minimised to an acceptable level.

NE12 - Derelict and Contaminated Land. Seeks to ensure that development only takes place on sites that are contaminated or derelict where it can be demonstrated that they can be developed without health or safety risks to the occupiers of the development and or adjoining occupiers.

NE10 - Water Quality and Flood Protection. Seeks to resist development which would damage surface water or groundwater, be at or increase the risk of flooding or compromise access to a watercourse for maintenance or flood defence purposes.

Aligned Core Strategy (September 2014):

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 8: Housing Size, Mix and Choice - Residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. Within Nottingham City there should be an emphasis on providing family housing, including larger family housing.

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

Policy 11: The Historic Environment - seeks to conserve and/or enhance the historic environment and heritage assets in line with their interest and significance.

Policy 14: Managing Travel Demand - seeks to reduce the need to travel, especially by private car, through delivery of sustainable development and transport networks.

Other Relevant Documents:

Nottingham City Centre Urban Design Guide 2009

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- (i) Principle of Development
- (ii) Design Response to Local Context
- (iii) Impact on Setting of Listed Building and Conservation Area
- (iv) Impact on Residential Amenity
- (v) Air Quality, Flood Risk and Contamination
- (vi) Highways
- (vii) Archaeology
- (viii) Reduction of section 106 Obligation

Issue (i) Principle of Development (Policies MU1, ST1, 4, 8 and H2)

- 7.1 The site is located an area covered by policy MU1 of the Local Plan which encourages mixed use developments. The proposal which comprises residential but also incorporates a commercial element in the form of a retail unit accords with this aim.
- 7.2 Policy ST1 seeks to ensure that all new development contributes to the creation and maintenance of sustainable communities. It seeks to ensure that an appropriate mix of development is proposed, that contributes to a balanced mix of housing and helps to support the local economic base and, where possible, re-uses previously developed land. Policy 4 seeks to strengthen and diversify the local economy. Policy 8 also seeks to achieve a sustainable mix of house types.
- 7.3 In this city centre location, the scale and type of residential units proposed and inclusion of a small ground floor commercial unit sit comfortably with this policy context. The applicant has advised that the residential units would be provided as part of a Private Rented Scheme that would be marketed at young professionals. Such housing could assist in retaining and attracting graduates into Nottingham and generally would support growth of the local economy. It is positive that the proposal also involves the re-use of a previously developed brownfield site.
- 7.4 Policy H2 supports high density developments that are within the city centre, providing that the proposal is compatible with the characteristics of the surrounding area and that living conditions in the development are safeguarded. In principle the proposal is considered to be acceptable in this regard providing that it also meets the requirements of all other relevant policies of the development plan.

Issue (ii) Design Response to Local Context (Policies BE8, H2 and 10, and the

Nottingham City Centre Urban Design Guide 2009 (UDG))

- 7.5 The site is adjacent to the following height zones and regeneration areas defined in the UDG; City Centre height zone; East and Waterside height zone, Tall Building zone; and Eastside Regeneration zone. The site lies within the Southside height zone, whilst this envisages mainly 5 storey buildings; it does recognise that opportunities may exist for taller buildings outside of the Station Street Conservation Area.
- 7.6 The UDG also provides guidance in relation to how street widths and function should be used to determine suitable building height. The guide suggests that for London Road sites buildings of at least 30m tall may be capable of being accommodated within the urban form, whilst for Pemberton Street which would be classed as a minor street, a building of 8m may sit comfortably within the streetscape. The site is considered to be suitable for a landmark building as it terminates a vista along London Road. The UDG suggests that landmark buildings may be taller than otherwise prescribed within the document.
- 7.7 The proximity of the site to the various identified height zones of the UDG and its location within the Southside height zone on London Road; do suggest that the site from an urban form perspective could accommodate a building of some height.
- 7.8 Policy BE8 requires consideration of the impact of tall buildings on the skyline of the City. The policy only permits tall buildings where the landmark enhances the skyline and surrounding roof scape and does not detract from existing views of landmark buildings. Policy 10 also requires assessment of the impact of development on important views and vistas.
- 7.9 Both policy BE8 and the UDG recognise the Lace Market Cliff and Castle Rock as being key skyline considerations. The distance orientation of the site from the Castle Rock does mean that a tall building on this site would not impact on views of this key landmark to Nottingham's skyline.
- 7.10 Analysis submitted as part of the application considers the effect of the proposal on vistas of the Lace Market Cliff. The UDG does identify a key view of the Lace Market Cliff that is known as 'Vista B'; a view point on London Road that gives the widest view of the Cliff and the sense and form of the Lace Market. The site sits to the right of this identified vista and will not affect this specific view. However, it is acknowledged that a building on the site will frame other vistas of the Cliff moving northward along London Road. The tallest element of the development has been sited to the right hand side of the site which from an urban form perspective is considered to be the correct approach.
- 7.11 It is felt that the approach taken to the massing, scale and grain of the proposed buildings does reflect existing buildings in the Lace Market and will add a further sense of layering to the foot of the Cliff, which would enhance views on entering the City Centre.
- 7.12 The positioning of the tall element to the right hand side of the site would ensure that it would not interfere with the view of St Mary's Church and wider Lace Market Cliff that creates its setting.
- 7.13 The proposed materials, architectural style and detailing are also considered to be acceptable. The two lower buildings, which would be seen as being closer to the

Lace Market Cliff, have been designed to reflect typical buildings of the area, having curves or chamfered corners and being built of brick. The elevations are also articulated with stone courses. A different approach has been taken with regard to the taller building; this is felt to be suitable given that it sits at the end of a vista along London Road and in a context with a number of tall buildings some of which use more modern materials.

- 7.14 Active frontages are proposed to Pemberton Street and Plumptre Square and whilst the buildings would be raised off London Road, the commercial unit is positioned at ground level and elsewhere there is still likely to be a sense of activity as a result of the windows situated only half a level above the ground.
- 7.15 The proposed height, scale, massing and grain of the development are considered to be appropriate from an urban design perspective and in this regard the development will comply with policies BE8, H2 and 10. The proposed materials, architectural style, detailing and relationship to surrounding streets are also considered to be appropriate. The analysis submitted with the application shows that the proposal is a considered design that it has followed the advice contained within the UDG.

Issue (iii) Impact on the Setting of Listed Buildings and Conservation Area (Policies BE10, BE12, 11 and paragraphs 132 to 140 of the NPPF)

- 7.16 Policies BE10, BE12 and 11 do not support proposals that would adversely affect the setting of listed buildings or conservation areas. Paragraph 132 of the NPPF requires consideration to be given to the significance of the listed buildings and conservation areas and the harm that would be caused by a development. Where a development would lead to substantial harm, permission should be refused unless substantial public benefits outweigh the harm. Policy 11 and the NPPF also require consideration to be given to undesignated heritage assets.
- 7.17 There are a number of listed buildings located in proximity to the site. The buildings that have the most direct visual connection are St Mary's Church (Grade I), the warehouses of Trivett Square (Grade II), 54 and 56 High Pavement (Grade II), Kings Court (Grade II), Plumptre Hospital (Grade II) and the former Unitarian Chapel (Grade II). Another notable listed building within in the Lace Market is Shire Hall (Galleries of Justice) (Grade II*).
- 7.18 Information has been supplied that considers the impact of the development on each of the listed buildings noted above, and also on Nottingham Castle (Grade 1 and Scheduled Ancient Monument), Green's Mill (Grade II) and St Stephen's Church Sneinton (Grade II).
- 7.19 The information submitted indicates that the proposal would not impact upon the setting of the Galleries of Justice or the Unitarian Chapel. The scheme would alter views of Kings Court, 54 and 56 High Pavement, the Trivett Square Warehouses from the south and east; however the impact is not considered to be significant. The development would be seen in distant views from the Castle towards Sneinton and views of Green's Mill and St Stephen's Church; but again the impact would not be significant and would be no greater than the impact that existing tall buildings in the area have on this view from the Castle.
- 7.20 Southern and western views of St Mary's Church would be affected by the tower element of the scheme; however the Church is already affected by 20th century

residential buildings that have been built along Malin Hill and the tower of Trivett Square. Given the distance from St Mary's Church and the position of the tower to the eastern end of the Cliff, it is not considered that the tower would challenge or compete with the Church. As indicated in paragraph 7.9 the tower element will frame the view of the Church from the Vista B vantage point; however this should not be taken to equate to causing visual harm. On the views from the east the tower will provide a positive addition to the townscape and enhance the eastern fringe of the Lace Market Cliff, which collectively forms a setting for the Church. The impact on this setting is considered to be less than substantial.

- 7.21 The tower will affect certain views of Plumpton Hospital and affect its setting. However, this impact needs to be considered in relation to the local context. The setting of this building has been significantly affected by highway alterations and also the construction of new buildings over time. Given this context the impact of the proposed development is considered to be less than substantial.
- 7.22 As indicated in paragraph 3.2 the site is adjacent to a number of conservation areas. With regard to the Castle Conservation Area and the Old Sneniton Conservation Area, the development would be visible in distant views of both but would not have an adverse impact on their settings. It is not felt that there is sufficient visual connection with the Station Conservation Area for the proposed development to have an impact on its setting. The tower building would be visible in views along London Road as the Station Conservation Area is passed, but it is considered that the view looking north would be enhanced by the proposal.
- 7.23 The development, and particularly the tower, would have an impact on the setting of the Lace Market Conservation Area. As described above the tower would frame the view of the Lace Market Cliff from 'Vista B' on London Road, but from this perspective the harm would be less than substantial. The development would be visible in views out of the Conservation Area, looking east and south. There will be glimpses of the development through alleyways and over the tops of buildings, however such glimpses are not considered to have a harmful impact on the setting of the Conservation Area. The main impact on views out of Conservation Area will be from the Malin Hill walkway that runs along the edge of the Lace Market Cliff, from where the top five storeys of the tower will be clearly visible looking east. It is not felt that the impact would be oppressive and whilst this setting to the Lace Market Conservation Area will change, the lower brick buildings within the scheme assist in enabling the tower to blend into and be a feature of the townscape, which comprises other taller buildings to the east. Overall the impact on the Lace Market Conservation Area is considered to be less than substantial.
- 7.24 The area dates back to medieval times and there are remnants of historic routes and passages that still survive. The proposal does not physically affect these historic routes although it would impact on some of their settings as discussed in preceding paragraphs. It is considered that the form of the development would assist in reinstating the old routes of Pemberton Street and Plumpton Square, and would therefore have a positive impact on the historic street pattern of the area.
- 7.25 The submitted information also considers the impact on non-designated buildings and features. The most notable of these are the Poplar Street Warehouses (located to the east of the site), the former Police Station at 6 London Road (located to the west of the site) and the Pemberton Street Caves (located to the north west of the site). The development will affect the setting of these features, however the impact is considered to be less than substantial.

- 7.26 The NPPF and policy 11 require consideration as to whether any less than substantial impact on both designated and non-designated heritage assets is outweighed by substantial public benefits. In this instance it is considered that the less than substantial harm is outweighed by the public benefits of bringing forward a high quality development on a previously developed site that would create new and appropriate townscape to enhance an area that is currently of poor quality in this regard. The proposal will therefore accord with the NPPF and policy 11.
- 7.27 Overall, in assessing this proposal the statutory requirement to have special regard to preserving the setting of listed buildings, and to preserving or enhancing the character or appearance of conservation areas, has been undertaken. The scheme has resulted from an extensive, iterative design process that has been informed by a thorough understanding of the site context as evidenced by the information submitted with the application. The conclusion is that the proposal represents a sustainable development of high design quality that would bring positive townscape and regenerative benefits, whilst also being respectful of its sensitive heritage context.

Issue (iv) Impact on Residential Amenity (Policies H2 and 10)

- 7.28 The closest residential properties to the site are those located within Seeley House, Trivett Square, and residential blocks off Plumtre Square.
- 7.29 Seeley House would be located opposite the proposed building that would front onto Pemberton Street, at distances ranging between 10.6m and 8.5m. The relationship between the proposal and Seeley House would be similar to the relationship between Seeley House and Trivett Square. Analysis undertaken indicates that the environment along Pemberton Street after the completion of the development would be akin to Kings Walk/ St Mary's Gate within the Lace Market. As the proposed building fronting onto Pemberton Street is raised up by half a level, and set back with its windows offset from those in Seeley House the potential for overlooking between the two buildings has been carefully considered in the design.
- 7.30 Shading analysis undertaken does indicate that Seeley House would be in shade in the morning and at noon in winter. In the evening the property would be in shade as a result of its position rather than the proposed scheme. With regard to impact on daylight within Seeley House, the ground level of the Pemberton Street side of the property is already compromised as a result of it having small windows and having had screening applied to increase privacy. The impact on Seeley House from the new development is therefore considered to be acceptable.
- 7.31 The tower element of the proposed scheme would sit slightly offset from the eastern end of Seeley House, and would be mainly opposite a blank elevation. However, having reviewed plans of the original Seeley House scheme (reference 95/00836/PFUL3) daylight to secondary windows serving a living area within the first and second floors in Seeley House would be affected, and at third and fourth floor windows serving a bathroom and a secondary living area window would also be affected by the tower. However the impact is on secondary windows and non-habitable rooms and as such is considered to be acceptable. It is also noted that these windows are additional to those originally approved.
- 7.32 The distance between habitable rooms between Trivett Square and the proposed

scheme would be 30m and at this distance there would be no significant overlooking between the properties. At such a distance there would be negligible impact on daylight to Trivett Square. Shading analysis submitted indicates that the proposal would cause some shading to the western end of Trivett Square during the early morning. There would also be some impact on the lower parts of Trivett Square at noon in winter, but this area is already likely to be impact on by Seeley House. Trivett Square is already in shade in the evening. Overall, it is not considered that the proposal would adversely affect occupants of Trivett Square.

- 7.33 It is noted, that views out Trivett Square would be affected by the tower. However only part of the view would be interrupted, particularly given the relatively slim profile of the tower, and it should also be borne in mind that it is not the role of planning to safeguard private views out of properties.
- 7.33 Overall, having regard to the design, scale, location and outlook, and the relationship with surrounding properties the proposal would have an acceptable impact on neighbouring properties. The proposal therefore complies with policies H2 and 10.

Issue (v) Air Quality, Flood Risk and Contamination (Policies NE9, NE10 and NE12)

- 7.34 The proposed development is within an air quality management zone and flood zone 2. The site is also previously developed and may have some contamination that needs addressing. Conditions are recommended to require details of a remediation strategy, an environmental noise assessment and an air quality management scheme. Conditions are also recommended to ensure that the development is completed in accordance with the Flood Risk Assessment submitted. Through the use of these conditions the proposal will comply with policies NE9, NE10 and NE12.

Issue (vi) Highways (Policy 10, 14 and T3)

- 7.35 The amount of car parking to be provided as part of the development is considered to be acceptable, particularly given its City Centre location. It is not felt that the proposal would give rise to an unacceptable additional level of traffic to and from the site. Conditions can be used to require doors to open inwards, appropriate sight lines to be provided for the car parking entrance and to ensure that redundant vehicular accesses are reinstated. Through the use of conditions the proposal will comply with policies 10, 14 and T3.

Issue (vii) Archaeology (Policy BE16)

- 7.36 As indicated in the response from the City Archaeologist, there are likely to be some archaeological interest on the site. In line with policy BE16 it is recommended that conditions are used to secure a Desk Based Assessment to assess the known and potential archaeological remains on the site, and for a strategy to be prepared should any archaeological remains be found.

Issue (viii) Reduction of Planning Obligations (Policy ST1 and Policy 19)

- 7.37 The applicant has provided a viability appraisal with the application which demonstrates that the development could not meet the entire s106 requirement.

The total contribution that would normally be sought in this instant would be £639,110, comprising the following contributions:

- Public Open Space £94,239
- Affordable Housing £532,525
- Education £12,346

7.38 The appraisal, which makes allowance for a £100,000 s106 contribution, has been independently assessed by the District Valuer; they consider its assumptions and conclusions to be justified. Furthermore, the District Valuer has concluded that the s106 contribution can only be supported due of the precise circumstances of the scheme; this is to be a PRS were the developer is to retain the site after completion and to manage the lettings themselves. Had this not been the case, they consider that the development would be marginally unviable. Given the site location and nature of the development, in this instance it is recommended that the s106 contribution be directed towards the provision of off-site affordable housing.

8. SUSTAINABILITY / BIODIVERSITY

8.1 An energy statement has been submitted with the application this looks at a number of options that could be utilised within the scheme to reduce carbon emissions. Conditions can be used to secure precise details of the measures to be employed. Conditions can also be used to enhance the biodiversity of the site in line with comments made by the NCC ecologist.

8.2 Overall the proposal will deliver a highly sustainable city centre development on a previously developed brownfield site.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

The restriction on the use of section 106 contributions under Regulation 123(3) Community Infrastructure Levy Regulations 2010, which has led to project-based contributions in many cases, does not apply to affordable housing, and therefore there is no legal requirement to specify how the contribution will be applied.

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

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

Neighbourhood Nottingham – Providing a high quality and sustainable development
Great City – Supporting a prosperous City

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: 16/01352/PFUL3 - link to online case file:
<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=O8GASBLYM4400>

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

Aligned Core Strategy (September 2014)

National Planning Policy Framework (March 2012)

Nottingham City Centre Urban Design Guide 2009

Contact Officer:

Miss Jennifer Cole, Case Officer, Development Management.

Email: jenny.cole@nottinghamcity.gov.uk Telephone: 0115 8764027

NOMAD printed map

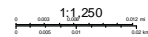


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Key

 City Boundary

Nomad web map printed by a Nomad user at 09:10, 13/09/2016



Description

No map description



My Ref: 16/01352/PFUL3 (PP-04917135)
Your Ref:
Contact: Miss Jennifer Cole
Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
City Planning
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Levitate Architecture
FAO: Mr Spencer Guy
26 Lloyd Baker Street
London
WC1X 9AW

Date of decision:

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

Application No: 16/01352/PFUL3 (PP-04917135)
Application by: Monk Estates
Location: Lace Market Self Serve, London Road, Nottingham
Proposal: Residential development of 85 apartments including communal facilities, basement parking and a commercial unit.

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

Time limit

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

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

Pre-commencement conditions

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

2. The development shall not commence until the details of the external materials to be used in the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and in the interests of visual amenity of the area to accord with Policy 10 of the Aligned Core Strategy.



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3. Prior to the commencement of the development, a Remediation Strategy that includes the following components to deal with the risks associated with ground, groundwater and ground gas contamination of the site shall be submitted to and be approved in writing by the Local Planning Authority:
- a) A Preliminary Risk Assessment which has identified:
 - i) all previous site uses
 - ii) the nature and extent of potential contaminants associated with those uses
 - iii) the underlying geology of the site
 - iv) a conceptual model of the site indicating sources, pathways and receptors
 - v) potentially unacceptable risks arising from ground, groundwater and ground gas contamination at the site.
 - b) A Site Investigation, based on a) above, and a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A Remediation Plan, based on a) and b) above, giving full details of the remediation measures required and how they are to be undertaken (including a contingency plan for dealing with any unexpected contamination not previously identified in the Site Investigation).
 - d) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in c) above are complete.

The Remediation Strategy shall be carried out in accordance with the approved details unless varied with the express written approval of the Local Planning Authority.

Reason: To ensure that the site is remediated appropriately in accordance with Policy NE9 and NE12 of the Local Plan.

4. Prior to the commencement of the development, an air quality management scheme shall be submitted to and be approved in writing by the Local Planning Authority.

The scheme shall include design techniques and/or other physical measures which reduce the exposure of future residents to poor air quality. Measures shall include a whole building ventilation scheme and may also include.

- (i) Non-residential development of the ground floor.
- (ii) Placing non-habitable rooms on the façade of developments facing the primary source of poor air quality.

The air quality management scheme shall be carried out in accordance with the approved details unless varied with the express written approval of the Local Planning Authority.

Reason: To ensure that appropriate measures are taken to prevent future occupants being adversely affected by poor air quality to accord with Policy NE9 of the Local Plan.



5. No development involving the breaking of ground shall take place, until an archaeological Written Scheme of Investigation, covering the area where it is proposed to excavate below existing ground or basement levels, has first been submitted to and approved in writing by the Local Planning Authority. The Written Scheme of Investigation and works shall include:
- a) an archaeological evaluation of the site;
 - b) arrangements, supported by the conclusions of an archaeological evaluation, for the excavation of the affected areas, and the implementation of a watching brief during the course of the development;
 - c) arrangements for the recording of any finds made during the investigation and for the preparation of a final report;
 - d) arrangements for the deposition of the records of finds, and any significant finds, capable of removal from the site, in a registered museum; and
 - e) arrangements for the publication of a summary of the final report in an appropriate journal.

The archaeological investigation and works approved under this condition shall be carried out in accordance with the Written Scheme of Investigation.

Reason: to ensure that any archaeological remains of significance are safeguarded in accordance with Policies BE16 of the Local Plan and Policy 11 of the Aligned Core Strategy

6. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- a) The parking of vehicles of site operatives and visitors.
 - b) Loading and unloading of plant and materials.
 - c) Storage of plant and materials used in constructing and development.
 - e) Wheel washing facilities.
 - f) Measures to control the emission of dust and dirt during construction.
 - g) A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To avoid prejudice to traffic conditions within the vicinity of the site and to safeguard the amenities of neighbouring residents in accordance with Aligned Core Strategies Policy 10 and Local Plan Policy T3.

7. Prior to the commencement of development, details of the visibility splays to be provided to the vehicular access to the basement car park from Pemberton Street shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To avoid prejudice to traffic conditions in accordance Aligned Core Strategies Policy 10 and Local Plan Policy T3.

8. Prior to the commencement of any development a scheme to achieve a 10% reduction in carbon emissions over and above the Building Regulations Approved Document L2A Conservation of Fuel and Power 2013 shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the sustainable development of the site in accordance 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)



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9. Prior to the installation of any mechanical services plant or equipment (including any air handling plant), an environmental noise assessment and sound insulation scheme shall be submitted to and approved in writing by the Local Planning Authority.

The environmental noise assessment shall include the impact of any transportation noise, noise from people on the street and be carried out whilst any premises and/or activities in the vicinity that are likely to have an adverse effect on noise levels are operating. In addition it shall include predicted noise levels for any plant and equipment which will form part of the development, octave band analysis and all assumptions made (e.g. glazing and façade areas).

The sound insulation scheme shall include the specification and acoustic data sheets for glazed areas of the development and any complementary acoustical ventilation scheme and be designed to achieve the following internal noise levels:

- i. Not exceeding 30dB LAeq(1 hour) and not exceeding NR 25 in bedrooms for any hour between 23.00 and 07.00,
- ii. Not exceeding 35dB LAeq(1 hour) and not exceeding NR 30 for bedrooms and living rooms for any hour between 07.00 and 23.00,
- iii. Not more than 45dB L_{Amax}(5 min) in bedrooms (measured with F time weighting) between the hours of 23.00 and 07.00,
- iv. Not more than 50dB LAeq(1 hour) for garden areas (including garden areas associated with residential homes or similar properties).

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

Reason: To ensure that the amenity of the occupiers of nearby properties is protected in accordance with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategy.

10. Prior to first occupation of the development, verification that the approved sound insulation scheme has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

Reason: To ensure that the amenity of the occupiers of nearby properties is protected in accordance with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategy.

11. Prior to the development being first brought into use, details of a landscaping scheme including details of hard surfacing, boundary treatments and the type, height, height, species and location of proposed trees and shrubs shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be provided in accordance with the approved details within the first planting season following the completion of the development.

Reason: To ensure that the appearance of the development is satisfactory and in the interests of visual amenity of the area in accordance with Policy 10 of the Aligned Core Strategy.

12. Prior to the first occupation of the development, a scheme to enhance biodiversity at the site, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be carried out in accordance with the agreed timetable.

Reason: To enhance biodiversity at the site to accord with policy 17 of the Aligned Core Strategy.

13. Prior to first occupation of the development, the following shall be submitted to and be approved in writing by the Local Planning Authority:

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

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

Reason: To ensure that the site is remediated appropriately in accordance with Policy NE9 and NE12 of the Local Plan.

14. Prior to first occupation of the development, verification that the approved air quality management scheme has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

Reason: To ensure that the approved measures to prevent future occupants being adversely affected by poor air quality have been undertaken to accord with Policy NE9 of the Local Plan.

15. Prior to the first occupation of the development a travel plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the travel plan shall be implemented in accordance with the approved details.

Reason: To assist in managing the demand for travel generated by future occupants of the development to accord with Policy 14 of the Aligned Core Strategy.

16. Any redundant vehicular accesses shall be made good prior to the development being first brought into use.

Reason: To avoid prejudice to traffic conditions in accordance Aligned Core Strategies Policy 10 and Local Plan Policy T3.

17. Prior to the first occupation of the development, an electric vehicle charging scheme shall be implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

(i) 1 electric vehicle charging point per domestic unit (i.e. dwelling with dedicated off street parking), and,

(ii) 1 electric vehicle charging point per 10 parking spaces (unallocated parking)

To prepare for increased demand in future years, appropriate cable provision shall be included in the scheme design and installed as part of the development in agreement with the Local Planning Authority.

Reason: To encourage more sustainable forms of motor vehicles in order to support improvement in air quality and to accord with policy NE9 of the Local Plan.

Regulatory/ongoing conditions
(Conditions relating to the subsequent use of the development and other regulatory matters)

18. Any trees or plants provided as part of the approved landscaping scheme which die or are removed or become seriously damaged or diseased within five years of being planted shall be replaced in the next planting season with other plants of a similar size and species, unless otherwise prior agreed in writing by the Local Planning Authority.

Reason: To ensure that the appearance of the development is satisfactory and in the interests of visual amenity of the area in accordance with Policy 10 of the Aligned Core Strategy.

19. The proposed development shall be carried out in accordance with the details set out in section 3.0 and 4.0 of the Flood Risk Assessment dated June 2016 reference LRN-BWB-EWE-XX-RP-EN-0001_FRA and section 2.0 and 3.0 of the Sustainable Drainage Statement June 2016 LRN-BWB-HDG-XX-RP-PD-0001_SDS.

Reason: To ensure that the development will not cause increased flood risk and that appropriate measures are undertaken to mitigate the impact should flooding occur to accord with Policy NE10 of the Local Plan.

20. All external doors/gates of the development shall open inwards.

Reason: To ensure that external doors/gates of the development do not affect the flow of traffic or impede pedestrian movement to accord with Aligned Core Strategies Policy 10 and Local Plan Policy T3.

21. No drainage system for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect the underlying secondary A and principal aquifers from contamination and to accord with policy NE10 of the Local Plan.

22. For the avoidance the doubt, permission is hereby granted for the commercial unit to be used for Retail (A1) uses.

Reason: For the avoidance of doubt and to clarify the scope of the permission.

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 14 June 2016.

Reason: To determine the scope of this permission.

Informatives

1. Contaminated Land, Ground Gas & Groundwater

The Remediation Strategy (including its component elements) 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:

'Cut and fill' operations on site



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How trees retained on site will be dealt with

How gas precautions including any radon gas precautions will be validated

Any asbestos surveys carried out, the method statement for removal of asbestos and subsequent validation of air and soil following asbestos removal and demolition.

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

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

It is a requirement of current Building Regulations that basic radon protection measures are installed in all new constructions, extensions conversions & refurbishments on sites which are Radon Class 3 or 4 and full radon protection measure are installed on site which are Radon Class 5 or higher. 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.

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.

Environmental Noise Assessment

The environmental noise assessment shall be suitable and sufficient, where appropriate shall consider the impact of vibration, and shall be undertaken by a competent person having regard to BS 7445: 2003 Description and Measurement of Environmental Noise and any other appropriate British Standards. The internal noise levels referred to are derived from BS 8233: 2014 Sound Insulation and Noise Reduction for Buildings.

The approved sound insulation scheme must be maintained &, in the case of mechanical ventilation, must be maintained, serviced and operated in accordance with manufacturer's recommendations.

Air Quality

The development is located either within or on the boundary of an Air Quality Management Area declared under the provisions of Part IV of the Environment Act 1995. Air Quality Management Areas are designated where the air quality objectives as set out in the Air Quality (England) Regulations 2000 (as amended) [the Regulations] are not being achieved.



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In this context an area of poor air quality means that the air quality objectives for nitrogen dioxide, as set out in the Regulations, are not being met.

While no air quality assessment is required in this situation, an air quality assessment using an appropriate methodology (eg atmospheric dispersion modelling or DMRB screening) will be required to establish which floors of a multi-storey building do not require an appropriate ventilation scheme.

The air quality management scheme shall include the design and configuration specification of the whole building ventilation scheme and ensure that:

Exposure of sensitive receptors to poor air quality shall be reduced as far as practicable;

The location of clean air intakes for the scheme shall be located so as to maximise the vertical and horizontal distance between the clean air intakes and the primary source of poor air quality / air pollution;

The discharge of ventilation air shall be from the building façade facing the primary source of poor air quality;

The approved whole building ventilation scheme [including any additional mitigation measures], shall be maintained, serviced and operated in accordance with manufacturer's recommendations while the development continues to be occupied.

Consideration will also be given to alternative equivalent measures to reduce exposure to poor air quality. However these may require the support of an air quality assessment to demonstrate their effectiveness.

The combined noise from the whole building ventilation scheme, any other environmental noise and noise from plant and equipment must not exceed NR 25 in bedrooms between the hours of 23.00 and 07.00 or NR 30 for living rooms and bedrooms between the hours of 07.00 and 23.00.

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).

The London Road Heat Station operated by Enviroenergy is located approximately 100m to the south of the proposed development. The bulk of air emissions from the Enviroenergy combustion activity is through an elevated stack on site. The emissions are generally compliant with the site's environmental permit. There are occasional steam releases from the site which can be locally noisy when in progress and can give rise to a visible plume, both of which might be discernible at the proposed development site.

Highway matters

There are redundant existing accesses on all sides of the site and some areas that do not currently have a kerblineline. These all need reinstating and suitable kerblines installing. These works will require a S278 Agreement.

2. Highways

No work shall commence on the excavation of those parts of the basement that are adjacent to highways without prior approval of the highway authority. Please contact Chris Capewell on 0115 8765277 regarding both the design of the permanent basement walls, and the temporary works

proposed (if different). Please be advised that technical approval of the basement walls in accordance with BD2/12 will be required.

Landscaping plans produced in relation to the site shall include detail to appropriately demarcate the boundary with the public highway.

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: 16/01352/PFUL3 (PP-04917135)

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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Not for issue