

REPORT OF CHIEF PLANNER

**Site Of Former Hicking Pentecost And Company, Land Between Crocus Street, Summer Leys Lane, And Eugene Street., Nottingham.**

**1 SUMMARY**

Application No: 16/02688/PVAR3

Application by: Jake Crompton on behalf of Cassidy Group Property Ltd

Proposal: Variation of conditions 2, 14 and 15 of 10/01814/PFUL3 (APP/Q3060/A/11/2143439) (design changes and flood risk)

The application is brought to Committee because the planning obligation proposed is substantially less than required by adopted planning policies.

To meet the Council's Performance Targets this application should be determined by 23rd February 2017.

**2 RECOMMENDATIONS**

**2.1 GRANT PLANNING PERMISSION** subject to:

- (a) Prior completion of a S106 planning agreement, which shall include contributions of (i) 389,792 towards affordable housing, (ii) £45,760 towards public open space and (iii) £84,448 towards education.
- (b) Completion of a deed of discharge under S106A of the Town and Country Planning Act 1990 of the S106 obligation in relation to planning permission 10/010814/ PFUL3 (APP/Q3060/A/11/2143439), on completion/occupation of the development subject to planning permission 16/02688/PVAR3
- (c) 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 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.

2.3 that Councillors are satisfied that the section 106 obligation(s) sought that relate to infrastructure would not exceed the permissible number of obligations according to the Regulation 123 (3) Community Infrastructure Levy Regulations 2010.

### **3 BACKGROUND**

- 3.1 The site forms part of the former Hicking Pentecost premises, the main building of which to the north of the Tinkers Leen and fronting Queens Road. This has been converted into 313 apartments and an A3 use on the ground floor. The site is bounded by the Tinkers Leen to the north, Crocus Street to the south, Summer Leys Lane to the west and Eugene Street to the east. It is just outside the Station Conservation Area. Meadows Mill, fronting Queens Road to the northwest, is Grade II Listed.
- 3.2 The site is within the Southside Regeneration Zone and allocated as a mixed use development site in the Local Plan.
- 3.3 Planning permission was granted in 2005 (ref. 04/02843/PFUL3) for the erection of 350 residential units with 12 live/work units, basement car parking (230 spaces) and ancillary works following demolition. The scheme is generally referred to as Hicking Phase II.
- 3.4 The approved scheme was for two separate buildings comprising a large building varying in height between 5 and 8 storeys and a small 5 storey building which in total would provide 12 live work units, 210 x 1 bed apartments, 128 x 2 bed apartments (350 units in total) and basement parking for 230 spaces accessed via Eugene Street. The principal building fronted Crocus Street, Summer Leys Lane and Eugene Street. It was principally 'E' shaped in form, with two internal courtyards opening onto the Tinkers Leen, alongside which would run a private footpath for the development between Summer Leys Lane and London Road. The smaller building was to the east of this at the head of Eugene Street. The courtyards would be on the same level as the proposed footpath alongside the Tinkers Leen.
- 3.5 The buildings were indicated as predominantly of red facing brick construction with small elements of vertical cladding used on the recessed sections. The upper floors were proposed to be recessed and of a more lightweight metal clad construction.
- 3.6 All parking was proposed to be provided at basement level. A Flood Risk Assessment was submitted with the application.
- 3.7 The permission was granted subject to a Section 106 Agreement which secured a financial contribution of £500,000 towards the improvement of public realm and enhancement of community safety within the general locality, and £20,000 towards a signalised crossing at the junction of Queens Road/Summer Leys Lane, to improve pedestrian crossing facilities.
- 3.8 Subsequently, in 2010, a planning application (ref. 10/01814/PFUL3) for the renewal of this permission was submitted. This was considered by the Planning Committee in August 2010 and it was resolved to refuse planning permission for three separate reasons. These related to a lack of a mix of uses, concerns about the layout, scale, design, density and the predominance of one bedroom apartments. The applicant subsequently appealed against the decision and in August 2011 this was allowed with costs awarded against the City Council. A

unilateral undertaking was offered on appeal which mirrored the obligation related to the 2005 permission.

- 3.9 During 2014 the owners lawfully implemented the planning permission ( ref. 10/010814/PFUL3 - APP/Q3060/A/11/2143439) prior to its expiry through a material operation on site which comprised the laying out of part of an approved road within the site off Eugene Street, later confirmed by a Certificate of Lawfulness (ref. 15/00112/PCLE) The effect of this series of events and approvals is that planning application 10/01814/PFUL3 remains extant and could be fully implemented at any point in the future.

#### **4 DETAILS OF THE PROPOSAL**

- 4.1 An application has been submitted to vary conditions 2, 14 and 15 of application ref. 10/01814/PFUL3. Condition 2 is the condition imposed by the Planning Inspector which sets out the list of approved plans. Condition 14 requires the development to be carried out in accordance with the recommendations of the Flood Risk Assessment and an Addendum submitted at the time which set a finished floor level of 26.40m AOD. Condition 15 requires that the business floorspace of the live/work units shall not be used for any purpose other than for purposes within Use Class B1.
- 4.2 The application to vary the conditions of the existing planning permission is made in accordance with s73 of the Town and Country Planning Act 1990. When assessing such an application the local planning authority may only consider the question of the conditions to which planning permission should now be granted, rather than re-visiting the principle of the scheme or amending any other part of the permission.
- 4.3 *Condition 2:* The approved drawings for the Hicking Pentecost Phase II scheme have now been reviewed and a number of changes to the design and layout are proposed.
- 4.4 The extant scheme comprised two buildings and the smaller building which was proposed to be located at the northern end of Eugene Street is now proposed to be omitted. The overall number of units has been maintained at 350 and this has been achieved by rationalisation of the building's vertical circulation, the mix of 1 and 2 bed units, and the apartment layouts. The live/work units which were proposed to be located at ground floor level on the Crocus Street and Summer Leys Lane frontages have now been omitted and replaced with apartments which would all have their own entrances from the street. The proposed mix is now 179 x 1- bed units, 87 x 2 bed - 3 person units and 84 x 2-bed – 4 person units.
- 4.5 It is proposed to omit the 250 space basement car park and in its place to create 106 car parking spaces and 112 cycle parking spaces within an undercroft parking area at ground floor level. This area would also accommodate resident's storage facilities, plant space and an area for refuse storage. This undercroft area would be enclosed by the building on the three street frontages and on the north side, facing the Tinkers Leen, it would be screened by a stainless steel mesh with climbing plants (to be maintained as part of the management of the building). The access point to the parking area from Eugene Street would remain unchanged.
- 4.6 The landscaped areas within the two courtyards would be at first floor level on the roof of the undercroft car parking area. This has necessitated omitting the ground floor apartments which faced into the courtyards.

- 4.7 The footprint of the building is generally the same as the extant scheme, although the position of some of the projections and recesses associated with the location of vertical circulation cores have been amended. The footprints of the 6th and 7th floors have also been amended, primarily with the inclusion of units on the middle finger on these two floors.
- 4.8 A central reception and concierge area has now been included on the ground floor, accessed from the Crocus Street frontage. This will provide a central focus to the building and be the hub of building management activities.
- 4.9 The main external changes to the appearance of the building are as follows:
- Re-working the elevations of the extant scheme, omitting the use of cladding and instead it is proposed to use two contrasting bricks. The windows have also been adjusted to reflect the amended floorplans, increasing their size by removing the non-glazed panels;
  - The omission of the glazed projecting stair towers and in their place it is proposed to have shallow recesses expressed in a contrasting dark brick;
  - The upper storeys retain their step-backs on the street facing elevations, but the step-back facing the courtyard has been omitted;
  - The treatment of the upper storeys has been amended from a glass and glass look-a-like curtain walling system to dark brickwork;
  - The omission of the live-work units on the ground / first floors has necessitated a re-working of the lower elevations. The individual identity of these ground floor units has been retained with each having access directly from the street and the introduction of a 'defensible' space, comprising low level brick walls and planters.
- 4.10 *Condition 14:* As part of the redesign the approved scheme, and particularly in the context of the omission of the basement car park, a new Flood Risk Assessment has been prepared. This has been submitted with the application and concludes that the wording of condition 14 is no longer appropriate and should be amended to:
- “The development shall be carried out in accordance with the recommendations of the Flood Risk Assessment dated 29 September 2016.”
- 4.11 *Condition 15:* This states: “The business floorspace of the live/work units shall not be used for any purpose other than for purposes within Use Class B1 in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.” The revised plans do not incorporate live/work units and the application therefore seeks removal of this condition.
- 4.12 The developer is offering local employment and training opportunities during the construction phase of the development. The mechanisms for providing these benefits will be by way of a S106 unilateral obligation.

## **5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS**

- 5.1 257 neighbour notification letters were sent to nearby occupiers in the Hicking Pentecost Phase I building and on Crocus Street. The application has also been advertised on site and in the press. The period for comment expired on 28.12.2016.

In response nine comments have been received from the adjacent Hicking Phase I building objecting to the application for the following reasons:

- Height of building would reduce daylight, sunlight, privacy and loss of view to the occupiers of the Hicking Phase I south facing flats and one correspondent suggests footprint of the building should be reduced to address this;
- Development would increase the amount of traffic on roads and pressure on parking in the vicinity;
- Development would add to pollution and impact upon air quality;
- Construction would generate noise disturbing to Hicking Pentecost Phase I residents;
- Construction work likely to disturb wildlife in Tinkers Leen;
- There are other sites nearby which could be developed for residential without impact upon existing residents and it maybe that existing Hicking Pentecost Phase I residents move as a result.

### **Additional consultation letters sent to:**

**Highways:** No objection. The main issue from a highways perspective is the removal of the 230 space basement car park and its replacement with a 106 space ground level car park. The proposal will see a 54% reduction in the parking associated with the 350 residential units. In terms of traffic generation, the impact of the development will significantly reduce due to the reduction in on-site car parking provision. The main concern with the reduction in car parking is the pressure it will place on on-street parking provision surrounding the site and it should be noted residents of the Hicking Pentecost Phase II building would not be eligible for a residents parking permit in any scheme located in the vicinity of the site. The car park layout plan is considered satisfactory from a highways perspective. The car parking spaces on site should be allocated to individual apartments and apartments with no car parking provision should be advertised as such and alternative transport choices be promoted to these residents. Therefore recommend that an additional condition be imposed requiring the submission of a Travel Plan.

**Environment Agency:** The new climate change guidance recommends that more vulnerable developments should use the higher central and upper end climate change value. The new 1 in 100 year plus climate change breach flood level is 25.7m AOD and therefore strongly recommend that the internal finished floor level should be set no lower than 26.0m AOD (i.e. 300mm above 25.7m AOD). It is noted that the extant permission requires a finished floor level of 26.40m AOD. The Flood Risk Assessment does not commit to a specific finished floor level and if the applicant is unable or unwilling to set the internal finished floor levels at or above 26.0m AOD then would object to the proposed variation of Condition 14.

## **6 RELEVANT POLICIES AND GUIDANCE**

### **National Planning Policy Framework (March 2012):**

- 6.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies. While planning applications still need to be determined in accordance with the development plan unless material planning considerations indicate otherwise, the NPPF is a material consideration in the assessment of this application.

- 6.2 The NPPF advises that there is a presumption in favour of sustainable development. Paragraph 17 of the NPPF lists the core planning principles that should underpin decision making on planning applications. Of particular 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.
- 6.3 Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development.
- 6.4 Paragraphs 56-64 of the NPPF sets out the approach for achieving good quality design, including responding to local character, creating a strong sense of place and resisting poor design that fails to take opportunities to improve the character and the quality of an area.
- 6.5 Paragraph 111 states that planning decisions should encourage the effective use of land by re-using land that has been previously developed.
- 6.6 Paragraph 118 states that local planning authorities should aim to conserve and enhance biodiversity by applying a range of principles including that if significant harm cannot be avoided, mitigated or as a last resort compensated, then permission should be refused.

**Nottingham Local Plan (November 2005):**

ST1 - Sustainable Communities.

H2 – Density.

BE10 - Development around Listed Buildings.

BE12 - Development in Conservation Areas.

T3 - Car, Cycle and Servicing Parking.

NE9 - Pollution.

NE10 - Water Quality and Flood Protection.

NE12 - Derelict and Contaminated Land.

**Aligned Core Strategy (September 2014):**

Policy A: Presumption in Favour of Sustainable Development.

Policy 1: Climate Change.

Policy 7 - Regeneration

Policy 8: Housing Size, Mix and Choice.

Policy 10: Design and Enhancing Local Identity.

Policy 11: The Historic Environment.

Policy 14: Managing Travel Demand.

Policy 17: Biodiversity.

Policy 19: Developer contributions.

### **Other documents**

Affordable Housing Policy and Developers Contributions Supplementary Planning Guidance

Planning Guidance for the Provision of Open Space Within Developments  
Supplementary Planning Guidance

## **7. APPRAISAL OF PROPOSED DEVELOPMENT**

### **Main issues**

- (i) Principle of the development;
- (ii) External changes, including whether the development would preserve or enhance the character or appearance of the Station Conservation Area and affect on the setting of a listed building;
- (iii) Impact upon neighbouring occupiers;
- (iv) Housing type and density;
- (v) Highway impacts;
- (vi) Flood risk;
- (vii) Planning obligations.

**(i) Principle of the development** (Local Plan policies ST1 and Aligned Core Strategy policy A, ACS Policy 7)

7.1 As mentioned in para. 4.2, when determining a variation of condition application, consideration is limited to the specific question of the conditions to which planning permission should now be granted, rather than to fundamental matters concerning the principle of the scheme. There is an extant planning permission for 350 residential units on this site for which the principle of the residential development is already established. The loss of the 12 live/work units are seen, in the overall context of the development and as a matter of planning judgment, as a minor material amendment; the essence of the residential character of the development has not changed. Local Plan policy ST1 and Aligned Core Strategy policies A and 7 are therefore satisfied.

**(ii) External changes, including whether the development would preserve or enhance the character or appearance of the Station Conservation Area and affect on the setting of a listed building** (Local Plan policies BE10 and BE12 and Aligned Core Strategy policies 10 and 11)

7.2 The external changes to the design and appearance of the scheme are welcomed

and considered to be a significant improvement on the extant scheme. The scheme was first granted planning permission more than 10 years ago and inevitably the design and external appearance of the building previously approved reflects the design approach prevailing at that time.

- 7.3 The revised scheme now under consideration largely maintains the same parameters for the scale, footprint and envelope of the building but the opportunity has been taken to review the treatment of the elevations to produce a scheme which is considered to be of higher quality than the extant scheme. The two contrasting bricks proposed creates a strong aesthetic and will help to break down the mass of the building. The change of material to a dark brick on the top two storeys, together with the set back on the street frontages, will help to make these storeys less dominant from street level. The inclusion of individual entrance doors on the street frontages is particularly welcomed and will help to create a sense of place and introduce activity and casual surveillance to the streets.
- 7.4 The northern edge of the development will be visible from a viewpoint on the road bridge which crosses the Tinkers Leen on Sumer Leys Lane and from the Hicking Pentecost Phase I building. It is therefore important to ensure that the appearance of the undercroft car park is properly addressed. The proposal for a planted stainless steel mesh has the potential to be a successful treatment and full details will be required by condition to ensure that this is the case.
- 7.5 The omission of the small building at the northern end of Eugene Street will enable a more rational development of the sites to the east which front London Road. In the interim, a condition is proposed requiring submission of details of the treatment of this area which it is anticipated would be landscaped.
- 7.6 The site is just outside the Station Conservation Area and Meadows Mill, a Grade II listed building, is also nearby. It is considered that the positive alterations to the design and external appearance of the proposed building would enhance the character and appearance of the Conservation Area and this listed building.
- 7.7 Street trees are proposed along Crocus Street and Eugene Street as part of the associated off-site highways works, the details of which would be secured by condition.
- 7.8 Local Plan policies BE10 and BE12 and Aligned Core Strategy policies 10 and 11 are therefore satisfied.

**(iii) Impact upon neighbouring occupiers (Aligned Core Strategy policy 10)**

- 7.9 The extant planning permission is for a building varying in height from 5 to 8 storeys and the current proposal is for a building of essentially the same footprint and envelope. The exceptions to this are the addition of accommodation on the 6th and 7th floors of the middle projecting finger of the building, omitting the set back on the 6th and 7th floors on the elevations of the building facing the courtyard, and the increase in height by one storey of the inner courtyard area as a result of the introduction of the undercroft courtyard. However, given the overall siting, mass and scale of the extant scheme, these changes would not materially change the impact of the development upon the amenity of the occupiers of the Hicking Pentecost Phase I building, in terms of outlook, daylight or sunlight.



7.10 A number of residents of Hicking Phase I have responded to the consultation process and expressed concern about the general impact of the scale and mass of the proposal and the impact this would have upon their privacy, daylight and sunlight, without appreciating the scope of the extant planning permission. Bearing in mind that the current application does not seek to alter the general scale and mass of the proposal, other than as described in the previous paragraph, the concerns about the impact of the scheme upon their privacy, daylight and sunlight have to be assessed in the context of the proposed minor amendments to the extant permission. Loss of privacy daylight and sunlight in this context are not seen as material. Overall, it is therefore considered Aligned Core Strategy policy 10 is satisfied.

**(iv) Housing type and density** (Local Plan policy H2 and Aligned Core Strategy policy 8)

7.11 The overall number of residential units remains at 350 but the balance between 1 bed and 2 bed units has changed with proportionately more 2 bed units proposed. The scheme now comprises approximately 50% 1 bed and 50% 2 bed units, with approximately half of the 2 bed units capable of accommodating 4 persons. It is noteworthy that the Planning Inspector in his letter allowing the appeal on the 2010 application referred to the 2005 committee report which explained why the appeal site lent itself less to family housing and more to a high density apartment scheme, and that there was nothing at that time to lead to a different conclusion. This remains the case.

7.12 Further, the applicant has advised that the development would be a Private Rented Sector (PRS) scheme and as such it would widen the choice of good quality rented accommodation in Nottingham, which would be attractive to young professionals and help with graduate retention. As a PRS scheme it would also be managed in a way which would ensure the building and its environs are properly maintained in the future, which would help to encourage tenant stability. Overall, therefore, it is considered that the accommodation proposed is an acceptable mix of units which would be a sustainable form of development.

7.13 Local Plan policy H2 and Aligned Core Strategy policy 8 are therefore satisfied.

**(v) Highway impacts** (Local Plan policy T3 and Aligned Core Strategy policy 14)

7.14 The current proposal reduces the number of car parking spaces by 124 to a total of 106. Highways have not raised any objection to this but recommend that a condition be imposed requiring the submission of a Travel Plan to take into account the number of residents without on-site parking provision, and to ensure alternative transport choices are promoted to these residents. This site is located in an accessible location within the City Centre, a short walk to both the tram and the railway station and there is no unrestricted on-street car parking available in the local vicinity. The move to a lower level of parking provision is therefore supported.

7.15 Comments on the application from nearby occupiers have expressed concern about traffic generation. The principle of the development and its highway impacts are already established by the extant planning permission and cannot be re-considered. However, the significant reduction in the number of parking spaces to be provided will mean less traffic being generated by the development than previously anticipated.

**(vi) Flood risk** (Local Plan policy NE10)

- 7.16 The concerns of the Environment Agency with regard to the finished internal floor level have been raised with the agent and will be reported upon further by means of the committee update sheet.

**(vii) Planning obligations** (Local Plan policies ST1, H5, R2 and Aligned Core Strategy policies 8 and 19)

- 7.17 The applicant has submitted a viability appraisal in support of their assertion that the proposed development would not be viable based upon the provision of the full range of S106 developer contributions that the scheme would otherwise require. The policy compliant commuted sum payments would be:

- (i) affordable housing - £2,369,500
- (ii) public open space - £234,093
- (iii) education - £84,448

The total commuted sum contribution would therefore be £2,697,041.

- 7.18 The viability appraisal concludes that the scheme can only afford to meet total contributions of £520,000. This has been assessed by a qualified surveyor within the Council and its assumptions and conclusions are considered to be justified. This level of contribution was accounted for by the current owner when acquiring the site from the receiver, which explains its alignment to the previous S106.

- 7.19 It is proposed that S106 contributions would be allocated as follows:

- (i) affordable housing - £389,792
- (ii) public open space - £45,760
- (iii) education - £84,448

- 7.20 In terms of education, the local primary schools are already experiencing capacity issues and consequently the development is going to increase pressure for school places. The figure above is derived from the Council's established formula for calculating the number of children arising from a residential development, having regard to the number and type of units being proposed, and the cost associated with providing their education. The contribution would be used towards expanding the capacity of primary schools serving the Meadows catchment area, within which the site is located. The figure has not been reduced to account for the viability issues, but rather in this instance education is seen as a priority requirement that is provided in full, in lieu of part of the affordable housing contribution.

- 7.21 The public open space contribution is based on the formula within the Council's Open Space Supplementary Planning Guidance and would be directed to improvements at the Victoria Embankment Memorial Gardens, which are part of the nearest and largest area of public open space that would readily accessible to the residents of this development. This has been reduced proportionately to account for the viability issues.

- 7.22 Given the nature of this PRS apartment scheme it is not considered appropriate to secure on-site affordable housing but rather a contribution for off-site provision.

This has been reduced proportionately to account for the viability issues and also in lieu of the full education contribution being met.

- 7.23 In the circumstances the planning obligations sought are (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.
- 7.24 Officers are satisfied that the S106 obligations sought that relate to infrastructure (public open space and education) would not exceed the permissible number of obligations according to the Regulation 123 (3) Community Infrastructure Levy Regulations 2010. Regulation 123(3) Community Infrastructure Levy Regulations 2010 does not apply to affordable housing.
- 7.25 Subject to completion of a new S106 and the completion/occupation of the development subject to planning permission 16/02688/PVAR3, it would be appropriate to discharge the existing S106 obligation in relation to ref: 10/ 010814/ PFUL3 (APP/Q3060/A/11/2143439) by deed of agreement, as this original permission would no longer be implementable.

**Other matters** (Local Plan policies T3, NE9, NE12 and Aligned Core Strategy policies 1 and 19)

- 7.26 The amendments to the scheme proposed by this application raise no new implications for ground contamination, surface water drainage, vehicular access to the site, biodiversity or sustainability. In these regards the scheme is as previously approved. Conditions have been recommended to ensure that previously approved details are implemented and that other matters which required the submission of further information are covered.

## **8 FINANCIAL IMPLICATIONS**

None.

## **9 LEGAL IMPLICATIONS**

Under s106A (1) (a) of the Town and Country Planning Act 1990 a planning obligation may be discharged by agreement between the Local Planning Authority and persons against whom the obligation is enforceable, if it no longer serves a useful purpose. The direction to discharge a planning obligation must be exercised for planning purposes (R (Batchelor Enterprises Ltd) v North Dorset DC [2003] EWHC 3006 (Admin)).

The restriction on the use of S106 contributions under Regulation 123(3) Community Infrastructure Levy Regulations 2010 does not apply to affordable housing, but does apply to public open space and education infrastructure contributions. In the circumstances, the number of contributions for the funding or provision of specified infrastructure or projects in relation to public open space and education, relating to planning permissions granted for development on or after 6th April 2010, must not exceed 5 in number.

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

**10 EQUALITY AND DIVERSITY IMPLICATIONS**

None.

**11 RISK MANAGEMENT ISSUES**

None.

**12 STRATEGIC PRIORITIES**

Neighbourhood Nottingham – Providing a high quality and sustainable development.

Great City – Supporting a prosperous City.

**13 CRIME AND DISORDER ACT IMPLICATIONS**

None.

**14 VALUE FOR MONEY**

None.

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

1. Application No: 16/02688/PVAR3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OH4WTJLYKGB00>

9 comments received from occupiers of Hicking Pentecost Phase 1 building

Letter from Environment Agency dated 14.12.2016

Highway observations dated 20.12.2016

**16 Published documents referred to in compiling this report**

Nottingham Local Plan (November 2005)

Aligned Core Strategy (September 2014)

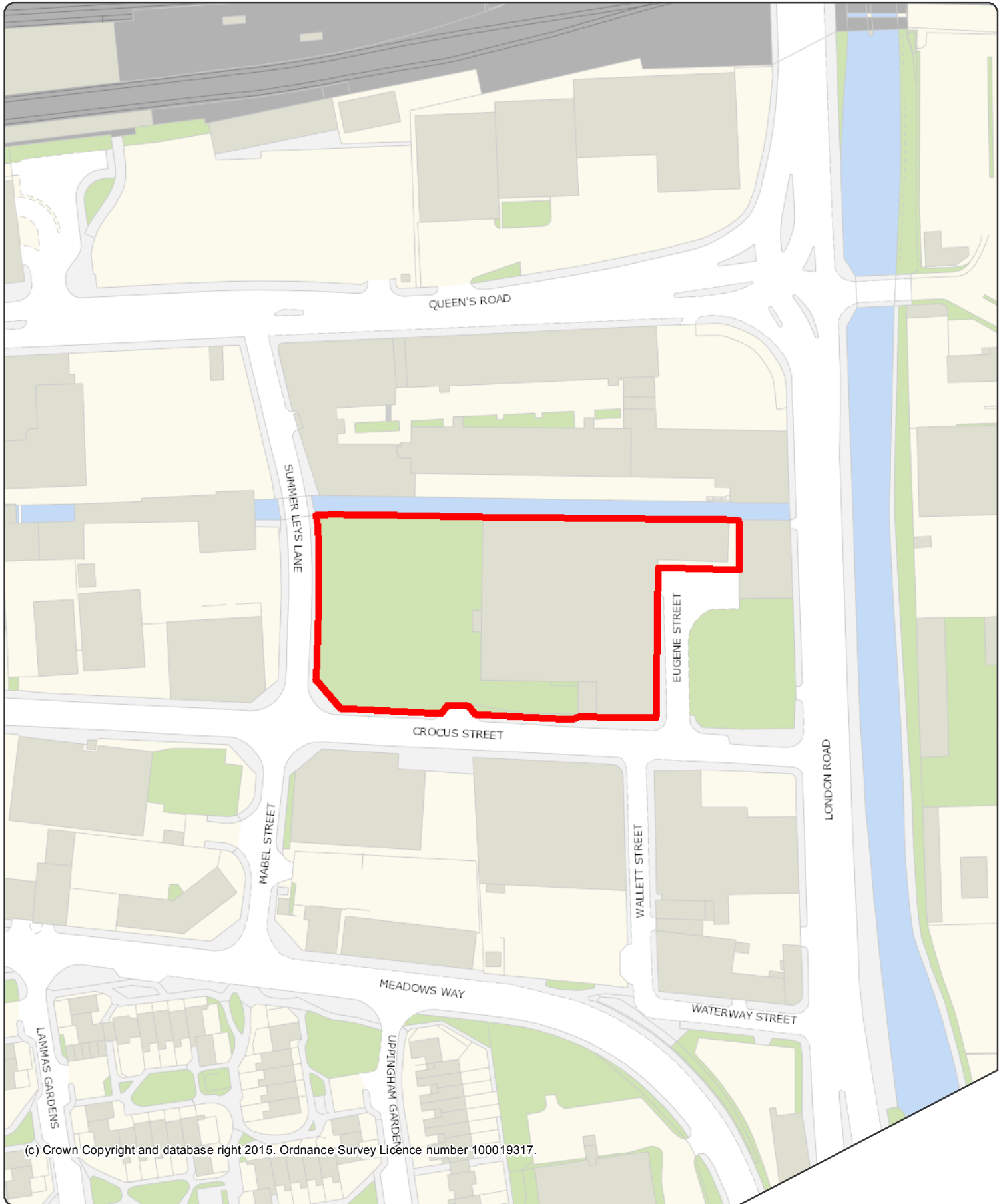
National Planning Policy Framework (March 2012)

**Contact Officer:**

Mrs Janet Keble (Tues,Wed,Thurs), Case Officer, Development Management.

Email: janet.keble@nottinghamcity.gov.uk. Telephone: 0115 8764056

# NOMAD printed map

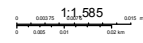


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## Key

 City Boundary

Nomad web map printed by a Nomad user at 09:56, 10/01/2017



## Description

No map description

**My Ref:** 16/02688/PVAR3 (PP-05632781)  
**Your Ref:**  
**Contact:** Mrs Janet Keble (Tues,Wed,Thurs)  
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Date of decision:

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

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Application No: 16/02688/PVAR3 (PP-05632781)  
Application by: Cassidy Group Property Ltd.  
Location: Site Of Former Hicking Pentecost And Company, Land Between Crocus Street,  
Summer Leys Lane, And Eugene Street,, Nottingham,, NG2 3DE  
Proposal: Variation of conditions 2, 14 and 15 of 10/01814/PFUL3  
(APP/Q3060/A/11/2143439) (design changes and flood risk)

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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**

. There are no conditions in this section.

**Pre-commencement conditions**

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

1. The development shall not be commenced until the construction method statement approved under ref. 16/02579/PDS4 has been brought into operation.

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



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**Not for issue**

Continued...

2. Other than operations consisting of site preparation, clearance and demolition work for the purposes of remedial work at the site, no further development shall take place until details of a surface water drainage scheme, based on sustainable drainage principles, have been submitted to and approved in writing by the Local Planning Authority.

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

*Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy NE10 of the Local Plan.*

3. The construction of the buildings hereby permitted shall not proceed above slab level until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority.

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

*Reason: To ensure an appropriate quality of finishes and in the interests of the appearance of the building in accordance with Aligned Core Strategy Policy 10.*

4. The construction of the buildings hereby permitted shall not proceed above slab level until details of windows, doors and balconies have been submitted to and approved in writing by the Local Planning Authority.

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

*Reason: To ensure an appropriate quality of finishes and in the interests of the appearance of the building in accordance with Aligned Core Strategy Policy 10.*



5. The construction of the buildings hereby permitted shall not proceed above slab level until full details of hard and soft landscaping, have been submitted to and approved in writing by the Local Planning Authority.

The details shall include:

- (a) proposed finished levels;
- (b) means of enclosure, including gates; pedestrian access and circulation areas;
- (c) hard surfacing materials; minor artefacts and structures (such as furniture, play equipment, refuse or other storage units, signs and lighting);
- (d) planting plans (including specifications for cultivation and other operations associated with plant and grass establishment); a schedules of plants, (including the treatment of the northern edge of the undercroft car park and the area of land to the north of Eugene Street); a programme of implementation; and a landscape management plan, which shall include long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas;
- (e) treatment of the southern bank edge of the Tinkers Leen.

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

*Reason: To ensure an appropriate quality of finishes and in the interests of the appearance of the development in accordance with Aligned Core Strategy Policy 10.*

6. The construction of the buildings hereby permitted shall not proceed above slab level until full details of the treatment of the footways and street trees abutting the site on Crocus Street, Summer Leys Lane and Eugene Street have been submitted to and approved in writing by the Local Planning Authority.

No dwelling shall be occupied until the works have been implemented in accordance with the approved details.

*Reason: In the interests of the appearance of the development and pedestrian safety in accordance with Policy T3 and Policy 10 of the Aligned Core Strategy.*

7. The construction of the buildings hereby permitted shall not proceed above slab level until details and a timetable showing how at least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources to be achieved, including details of physical works on site, have been submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of providing a sustainable development with a proportion of its energy supplied by way of a renewable source in accordance with Policy 1 of the Aligned Core Strategy and Policy NE14 of the Local Plan.*





8. The construction of the buildings hereby permitted shall not proceed above slab level until full details of cycle parking provision has been submitted to and approved in writing by the Local Planning Authority.

No dwelling shall be occupied until the cycle parking for it has been provided in accordance with the approved details.

*Reason: To ensure that the layout of the development is satisfactory and to ensure that the layout of the development is satisfactory and to promote a sustainable element of travel in accordance with Policy T3 of the Local Plan and Policy 10 of the Aligned Core Strategy.*

9. The construction of the buildings hereby permitted shall not proceed above slab level until full details of refuse storage provision have been submitted to and approved in writing by the Local Planning Authority.

No dwelling shall be occupied until the refuse storage facilities for it have been provided in accordance with the approved details.

*Reason: To ensure that the layout of the development is satisfactory in accordance with Policy 10 of the Aligned Core Strategy.*

### **Pre-occupation conditions**

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

10. No part of the development shall be brought into use until the biodiversity enhancement measures approved under ref. 16/02579/PDS4 have been implemented, unless otherwise agreed in writing by the Local Planning Authority.

*Reason: In the interests of nature conservation in accordance with Policy NE3 of the Local Plan and Policy 17 of the Aligned Core Strategy.*

11. Evidence verifying that all remediation work has been carried out in accordance with the scheme approved under ref. 14/01419/PDS4 shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is first brought into use.

*Reason: In the interests of the health and safety of the occupiers of the development in accordance with Policy NE12 of the Local Plan.*

12. No dwelling shall be occupied until the noise protection measures for that dwelling have been implemented in accordance with the details approved under ref. 16/02579/PDS4.

*Reason: To safeguard the amenities of future occupiers in accordance with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategy.*

13. The development shall not be occupied until the renewable/low carbon energy scheme approved under Condition 7 has been installed and is able to provide renewable/low carbon energy to serve the development.

*Reason: In the interests of providing a sustainable development with a proportion of its energy supplied by way of a renewable source in accordance with Policy 1 of the Aligned Core Strategy and Policy NE14 of the Local Plan.*

14. Within 3 months of the first occupation of the building, a travel plan shall be submitted to the



Local Planning Authority for approval. It shall comprise a package of sustainable transport measures and initiatives that will be carried out at the site. . Once approved, the updated travel plan shall be implemented at all times.

Reason: To promote the use of sustainable means of transport to comply with Policy 10 of the Aligned Core Strategy and Policy T3 of the Local Plan.

### **Regulatory/ongoing conditions**

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

16. Remediation work shall be carried out in accordance with the remediation scheme and programme approved under ref. 14/01419/PDS4. Remediation work on contamination not identified in the initial investigation but found during construction work shall be carried out in accordance with details approved in writing by the Local Planning Authority subsequent to its discovery.

*Reason: In the interests of the health and safety of the occupiers of the development in accordance with Policy NE12 of the Local Plan.*

### **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:

Drawing reference 00110 REV P02  
Drawing reference 00111 REV P02  
Drawing reference 00112 REV P02  
Drawing reference 00113 REV P02  
Drawing reference 00114 REV P02  
Drawing reference 00115 REV P02  
Drawing reference 00116 REV P02  
Drawing reference 00117 REV P02  
Drawing reference 00118 REV P02  
Drawing reference 00120 REV P02  
Drawing reference 00121 REV P02  
Drawing reference 00122 REV P02);  
Other reference FRA 29.06.2016 (BWB)

*Reason: To determine the scope of this permission.*

### **Informatives**

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

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

3. If your building/construction works will have any effect on the footway, road or paved area next to your site you must contact the Council's Highways Team before you start. You can contact the Highways Hotline on 0115 915 2161 (Answerphone outside office hours) or Fax on 0115 915 2103 (anytime).

4. The City Council is responsible for the allocation of street names and property numbers/names. If your proposal will create a new property, through either new build or conversion, you should contact the Address Management section at an early stage of the development, if they have not already made contact. The section details are: Nottingham City Council, Loxley House, Station Street, Nottingham, NG2 3NG; e-mail address.management@nottinghamcity.gov.uk; telephone (0115) 8765012.

They will agree an official address with you and ensure that all relevant parties are notified of it, including the emergency services and Royal Mail. This will ensure the allocation of an official and unique address for each property, avoiding any problems with location or misidentification that can arise through the use of unauthorised addresses.

5. It should be noted that the City Council granted this permission following the signing of an agreement between the Council and the applicant in accordance with the provisions of Section 106 of the Town & Country Planning Act 1990, Section 111 of the Local Government Act 1972 or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982. The terms of the agreement bind successors in the title and assigns and can be enforced against them.

6. The landscaping required by condition 5 shall incorporate native nectar and berry/ nut producing plants to enhance the biodiversity value of the site.

7. Taking into account the reduction of car parking spaces which would be available for residents it is recommended that future occupiers of the building are provided with a travel pack detailing the sustainable transport modes available. A central noticeboard should also be provided for residents to include sustainable transport choices to and from the site including bus information and pedestrian/cycle routes.

8. It is an offence under S148 and S151 of the Highways Act 1980 (as amended) to deposit mud on the Public Highway and as such you should undertake every effort to prevent it occurring.

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: 16/02688/PVAR3 (PP-05632781)

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



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# **DRAFT ONLY**

## **Not for issue**

Continued...

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](http://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.