

## **REPORT OF CHIEF PLANNER**

### **Land Bounded By Main Street, Jennison Street And Linby Street , Nottingham**

#### **1 SUMMARY**

Application No: 16/01552/PFUL3 for planning permission

Application by: Plan A (North West) Limited on behalf of Lidl UK GmbH

Proposal: Erection of Class A1 retail store, car park and servicing areas, access and associated works following demolition of existing buildings and structures

The application is brought to Committee because it is a major application on a prominent site where there are important land-use considerations.

To meet the Council's Performance Targets this application should have been determined by 3rd October 2016. An extension of time has been agreed until 30<sup>th</sup> March 2017.

#### **2 RECOMMENDATIONS**

- 2.1 Subject to there being no additional material matters arising from the response of the Environment Agency, the power to grant planning permission subject to the indicative conditions listed in the draft decision notice at the end of this report (including any further conditions arising from the comments of the Environment Agency) be delegated to the Chief Planner;
- 2.2 In the event of additional material matters arising from the response of the Environment Agency, the power to determine the planning application be delegated to the Chief Planner in consultation with the Chair, Vice Chair and Opposition Spokesperson; and
- 2.3 Power to determine the final details of the conditions to be delegated to the Chief Planner

#### **3 BACKGROUND**

- 3.1 The site is located to the east of Main Street, between Jennison and Linby Street with the River Leen forming the eastern boundary. The site comprises building associated with its former use as a car showroom, hardstandings and a terrace of five vacant dwellings. The site lies immediately north of Bulwell Town Centre and therefore designated as 'edge of centre'. It also lies in an area of flood risk.

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

- 4.1 The proposal is for the construction of a foodstore of 1,927 square metres on the ground floor. The building would be located on the northwest boundary of the site, adjacent to Main Street, the car park being to the south accessed from Jennison

Street. Disabled, family and cycle spaces would be located adjacent to the building entrance, with a total of 102 parking spaces provided.

- 4.2 The proposed building would have a monopitched roof, and the elevation to Main Street would contain full height glazing with the store entrance also on this corner, facing the car park. The remaining elevations would comprise silver cladding and render.
- 4.3 Pedestrian access would be from Main Street. The car park boundaries to Main Street and Jennison Street would comprise a Bulwell stone wall with metal railings above. Gabions are proposed to strengthen the Leen riverbank with a paladin fence above these. Tree planting is proposed within the car park.

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

### **Adjoining occupiers consulted:**

Sixteen neighbours notified by letter dated 26.07.2016. Site notice displayed 18.07.2016. Press advertisement published 20.07.2016. The consultation period expired on 10.08.2016. No responses have been received.

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

**Pollution Control:** No objection subject to recommendations in submitted reports regarding contamination, ground gas, ground water and noise being implemented.

**Highways:** The submitted Traffic Assessment shows that the junction between Main Street and Jennison Street is already over-capacity but it is known that there are no junction improvements which can be carried out to mitigate this. It is accepted that, whilst the proposed Lidl store will make the situation worse, there are no junction improvements which the developer can make to mitigate the additional traffic created by the development.

No objection subject to provision of improved cycle parking and a Travel Plan. Also request that the operator investigates provision of a Traffic Regulation Order to help avoid on-street parking.

**Environment Agency:** the EA is in receipt of updated Flood Risk Assessment and flooding models and expects to respond formally by the 24th March.

**Policy:** Agree that there are no alternative appropriate sequentially preferable sites and that the sequential has therefore been met.

**Biodiversity Officer:** Notes that the ecology report supplied was written in December 2014, and is now out of date and requires updating. The report highlighted the need for additional survey work including bat activity survey work during May – September and water vole/ otter/ white clawed crayfish surveys of the adjacent River Leen. Requests an updated extended Phase 1 assessment and protected species survey. Also requests a condition to confirm the final design of the section of the development adjacent to the River Leen in order to protect, maintain and enhance the nature conservation interest of the River Leen in accordance with Policy 16 of the Aligned Core Strategies.

**Ward Councillors:** The application is supported by the 3 local councillors. This derelict site has been a blight for Bulwell for many years and not a good impression if entering the town from the north. We are concerned that if the development is refused this will be the last chance for the site. We also understand that there are highway issues but these are part of existing problems in Bulwell and should not factor in this application. The citizens of Bulwell are anxious for the store to have a presence.

Support the comments of the Town Centre Manager and would like to emphasise the urgency to redevelop this site as soon as possible.

This derelict site has created more negative comments than anywhere else in Bulwell. It is essential that we collaborate with potential development partners to regenerate this eyesore and restore Bulwell to a fully functional retail experience for the north of the city.

**Bulwell Town Centre Coordinator:** I fully support the approval of the planning application as this site has stood empty for 15+ years and with my interactions with businesses and the wider community in the area it generates a substantial amount of discussion. From all sectors there is overwhelming support for getting the site redeveloped as it is having a detrimental impact on the town centre and also the image of the wider Bulwell area. There is popular support for a national discount retail like Lidl to open in the town to add to the current retail mix, give greater choice and increase footfall which will also benefit all businesses in the area.

The site currently attracts regular vandalism and anti-social behaviour and has had parts set on fire several times over the past couple of years and as a result has required the regular services of Nottinghamshire Fire & Rescue Service, Police, Environmental Protection and Community Protection teams in the Bulwell area.

I have put a substantial amount of effort in to proactive positive partnership working with Asda Supermarkets as the current major land owner as well as Lidl Supermarkets, Metropolitan Housing Trust and Nottingham City Homes to help rehouse the remaining two tenants of the residential properties to better accommodation and also complete a compulsory purchase order (CPO) to help assemble the complete site for redevelopment.

I strong believe this is potentially the only chance of getting this site redeveloped. If this current redevelopment opportunity is lost I feel we will still be dealing with this site in the next 15+ years.

It is currently the single most important development opportunity in Bulwell that will a positive impact on the image, feel of the town and retail centre when complete.

## **6 RELEVANT POLICIES AND GUIDANCE**

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

- 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 development plan policies, which are set out in the report, the NPPF is a material consideration in the assessment of this application.

- 6.2 Paragraph 24 requires the application of a sequential assessment for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. The NPPF recognises town centres as the heart of communities and Local Planning Authorities should pursue policies to support their viability and vitality. Local Authorities should promote competitive town centres that provide customer choice and a diverse retail offer.
- 6.3 Paragraph 56 states that great importance is attached to the design of the built environment, with paragraph 61 advising this not just limited to architectural appearance but wider design issues such as integration and connectivity.
- 6.4 Paragraph 96 states that new development should be expected to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

#### **CLG Planning for Town Centres Practice Guide on Need, Impact and the Sequential Approach (2009)**

- 6.5 The CLG Practice Guide was prepared to help those involved in preparing or reviewing retail assessments. The guidance reinforces that town centre sites are likely to be the most readily accessible locations for retail uses, reducing the need to travel and increasing choice and competition to encourage linked trips.

#### **Aligned Core Strategy (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 6: Role of Town and Local Centres - aims to maintain and enhance the vitality and viability of all centres.

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

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

ST1 – Sustainable Communities.

E4 – Previously used employment sites.

S5 – New Retail Development, on the Edge of or Outside Existing Centres.

NE3 – Conservation of Species

NE9 - Pollution.

NE10 - Water Quality and Flood protection.

NE12 – Derelict and Contaminated Land.

T3 - Car, Cycle and Servicing Parking.

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

### **Main Issues**

- i) Sustainability, employment and economic considerations
- ii) Retail policy analysis
- iii) Highway impact
- iv) Urban design considerations
- v) Amenity issues
- vi) Highways issues
- vii) Flood risk
- viii) Biodiversity

### **i) Sustainability, employment and economic considerations (Aligned Core Strategy Policy A, Policy 4 and Local Plan Policies ST1, E4, NPPF)**

- 7.1 The site is an unallocated site in the adopted Local Plan and therefore its use for retail purposes does not conflict with any strategic designation.
- 7.2 Policy ST1 advises that planning applications should be considered against various criteria, including the need to promote mixed uses, the scheme's contribution to strengthening and diversifying the economic base of the city and access to local employment opportunities (particularly to disadvantaged groups). ST1 also encourages the use of previously developed land and buildings and the efficient use of land.
- 7.3 The site was formerly in employment use but has been out of use for a number of years. Policy E4 of the Local Plan allows for the redevelopment of unallocated former employment land where it can be demonstrated that there is sufficient supply of employment sites and premises available, where the proposed development is comprehensive and will benefit the wider area, subject to the inclusion within the new development of job generating uses, and subject to the new use not inhibiting or prejudicing the activities of neighbouring occupiers or businesses. It is considered that there is sufficient employment land in the area, and that the proposed retail store will bring an undeveloped area of brownfield land into use, providing benefits to the local and wider area. The retail use can be accommodated without inhibiting the activity of nearby business, and although not strictly an employment generating use, local job opportunities would be created through both the construction and operational phases of the development. The applicant is working with the council to ensure provision of appropriate job opportunities.
- 7.4 The site is accessible from surrounding residential areas where a reasonable amount of custom is likely to come from residents. The site is located on a busy road where there are frequent buses providing good public transport links and is also close to Bulwell Town Centre, allowing for multi-purpose trips. In principle, the

scheme substantially complies with Aligned Core Strategy, Policy A, Policy 4 and Local Plan Policies E4 and ST1.

**ii) Retail Policy Analysis (Aligned Core Strategy Policy 4 and Local Plan Policy S5, NPPF and CLG Town Centres Practice Guide)**

- 7.5 Paragraph 24 of the NPPF states that “Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date local plan. They should require applications for main town centres uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered”. Policy S5 of the Local Plan states that planning permission for new retail development outside existing centres will only be granted where no other suitable sites are available within existing centres. Policy S5 prioritises retail development on sites that firstly fall within the City Centre or Town Centre, or secondly on the edge of the City Centre or Town Centre or within Local Centres. This approach is also continued in Policy 6 (Role of Town and Local Centres) of the Aligned Core Strategy. Whilst Policy S5 states that new retail development in out of centre locations will only be given permission “where the need for the development has been demonstrated”, the requirement to provide evidence of need has been removed in the NPPF, which supersedes Policy S5 in framing the policy approach to edge of centre retail. In addition, the proposed store is less than the NPPF’s threshold of 2,500 square metres, which suggests that it can be considered as serving a local need.
- 7.6 The application site is located immediately adjacent to but outside Bulwell Town Centre and is therefore an out-of-centre location when considering government guidance and Policy S5 regarding edge of centre retail development.
- 7.7 The applicant has undertaken a sequential test for suitable alternative sites, focussing on Bulwell Town Centre. The area of search adopted for the sequential test is arguably limited, as it does not include other centres in this part of the city although the applicant’s conclusion that no suitable alternative sites are available in Bulwell Town Centre is accepted.
- 7.8 Policy S5 advises that where there are no suitable in-centre sites, this proposal should be considered with regard to the other stated criteria, including the impact upon the vitality and viability of existing centres. There is, however, no local threshold for Retail Impact Assessments, and in such absence the NPPF threshold of 2,500 square metres is applicable. As the gross floorspace of the proposal falls below the NPPF threshold the applicant has concluded that an impact assessment is unnecessary. In this regard, the scheme does not conflict with Policy S5.
- 7.9 Policy S5(b) requires that consideration be given to the extent to which the site is, or can be made, accessible by a choice of means of transport and whether the proposal would add to the overall number and length of car trips. There are regular bus services on Main Street with bus stops nearby on both sides of the road. The scheme proposes cycle parking facilities and the site is accessible to pedestrians from nearby residential as well as Bulwell Town Centre. While it is anticipated that many customers would travel by car as is evidenced by the proposed number of parking spaces, people wishing to travel by other means could have that option. In this regard, the proposal complies with Policy S5(b). The site is vacant and previously used. Whilst the proposal would not specifically facilitate wider redevelopment, the use provides the opportunity to improve the site’s unsightly

appearance. The principle of redeveloping the site therefore does not conflict with the aims of policy S5(c) enabling the wider redevelopment of brownfield sites.

#### **iv) Urban Design Considerations (Aligned Core Strategy Policy 10 and NPPF)**

- 7.10 Policy 10 requires, amongst other things, that the development will make a positive contribution to the public realm and sense of place and create an attractive, safe, inclusive and healthy environment. Raising standards in design is supported by the NPPF which requires that high quality design is secured through the planning process.
- 7.11 The building would have a pitched roof and be wall clad with full glazing to the elevation facing Main Street. Improvements to the layout have been negotiated, including elevational improvements, the building moving closer to Linby Street, Bulwell stone walls and railings to the Main Street and Jennison Street boundaries, a footpath within the site along the Main Street frontage, gabions on the bank of the Leen and tree planting in the car park. The proposal is considered to comply with Policy 10.

#### **v) Amenity Issues (Aligned Core Strategy Policy 10 and Local Plan Policy NE9, NPPF)**

- 7.12 It is not considered that there are any material issues regarding amenities of neighbouring residents.

#### **vi) Highways Issues (Aligned Core Strategy Policy 10 and Local Plan Policy T3)**

- 7.13 The site is located in an edge-of-centre location where it is anticipated that a reasonable proportion of customers would travel from the local area. The nature of the use is such that even people travelling locally may drive to the site in order to transport shopping. The edge-of-centre location encourages shared trips to other in-centre shops and local facilities and the site is on a good bus route linking the city centre to the north east, with bus stops close to the site.
- 7.14 The submitted Traffic Assessment indicates that the junction between Main Street and Jennison Street is already over-capacity but it is known that there are no junction improvements which can be carried out to mitigate this. It is accepted that, whilst the proposed Lidl store has the potential to increase delays, there are no junction improvements which the developer can make to mitigate the additional traffic created by the development.
- 7.15 It is thought that some of the traffic passing through this junction is through traffic, with destinations further afield than Bulwell Town Centre. Any increase in traffic by virtue of the proposed development, creating further delays at this junction, may make this a less desirable route for through traffic with the result that vehicles will start to divert and use the A6002 Woodhouse Way (which is the signed route to Hucknall) to avoid the town centre and the congestion caused by these signals. It is considered, on balance, that the benefits of securing redevelopment of a derelict and problem site adjacent to the town centre, and the provision of additional retail floorspace in a sustainable location, outweigh the harm that may arise through the potential for additional congestion.

- 7.16 The proposed parking provision is lower than recommended, which may result in on street parking. Highways have therefore requested conditions that the applicant investigates the provision of a Traffic Regulation Order, improved cycle parking and a Travel Plan. Whilst the latter are considered to be appropriate, a condition requiring the investigation of a Traffic Regulation Order is not considered to pass the tests of planning conditions contained in Circular 11/95 in that it would not be enforceable or precise. Should it become evident that the store, once operating, is leading to on-street parking to the detriment of nearby businesses and residents, a Traffic Regulation Order could be pursued by the council.

#### **vii) Flood Risk (Local Plan Policy NE10)**

- 7.17 The application site falls within Flood Zone 3, at risk of flooding from the River Leen, and the application is accompanied by a Flood Risk Assessment (FRA). The Environment Agency (EA) has been discussing the details of the FRA with the applicant, and further work has been undertaken to model the impact of the development on flood water capacity and flow. The EA had previously indicated that they would be able to provide their conclusions on this work in time for the meeting of the Planning Committee on 22 March, but they have now advised that they are unable to verify the accuracy of the revised FRA in time for this deadline.
- 7.18 Whilst the EA has yet to provide their formal comments, their officers have advised verbally that the revised modelling indicates that, following flood mitigation works as part of the Lidl development, flooding would increase in the adjacent Tesco car park by approximately 2 - 5cm. The NPPF (paragraph 103) advises that development of one site should not increase flood risk elsewhere. Nevertheless, the NPPF also encourages development that provides wider sustainability benefits to the community that outweigh flood risk and that development should be safe for its lifetime.
- 7.19 The adjacent Tesco site was developed in the light of a FRA which accepted that flooding would occur in its car park. An increase in the level of flooding of up to 5cm is not considered to materially affect the safety of car park users or the overall development. The proposed Lidl development has taken into account and sought to mitigate flood risk overall and the wider benefits of the new development have been noted elsewhere in this report. It is therefore recommended that permission is granted subject to the receipt of satisfactory comments from the Environment Agency which reflect the above and subject to the imposition of any further conditions requested by the Environment Agency.

#### **viii) Biodiversity (Local Plan Policy NE3)**

- 7.20 Paragraph 118 of the NPPF notes that local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles. The following are relevant to this application:
- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
  - Opportunities to incorporate biodiversity in and around developments should be encouraged; and



- Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss.
- 7.21 Policy NE3 of the Local Plan seeks to restricts development which would adversely impact on species or habitats protected by law, or of special importance, unless there is an overriding need for the development.
- 7.22 The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.
- 7.23 Natural England provides standing advice for planning authorities assessing planning applications affecting protected species. This advice recommends that surveys are carried out, at an appropriate time of year, to establish whether or not protected species are present, and how they use the site. Where surveys are not provided, a local planning authority may refuse planning permission. However, it is noted that it may be acceptable to require further surveys be carried out by planning condition, in the context of multi-phase developments.

### **Bats**

- 7.24 Initial survey work, submitted as part of the ecological report accompanying the application, has established that the building has potential to provide bat roosts. The ecological report advises that further survey work is necessary to confirm whether or not the building is actually providing a habitat. These surveys have not been undertaken, and the optimal time for them to take place is between May and September.
- 7.25 Whilst the applicant has agreed to undertake further survey work, the timing is not ideal and there are practical difficulties arranging access to the building.
- 7.26 It is considered that there is potential for the buildings to provide bat roosts, due to the high number of potential access points, and the proximity of the site to the River Leen. The full extent and nature of any habitat will require further survey work to establish, and such surveys should ideally be undertaken after May.
- 7.27 Delaying consideration of the planning application until after these surveys are carried out would cause significant programme difficulties for the operator. They have advised that a delay until after May means it is likely that the scheme would need further internal approval. The site does not meet their current operational requirements for new sites and there is a possibility that they would be unable to proceed with the development.
- 7.28 After discussion with Biodiversity officers, it is considered that the 'worst case' scenario is that the building is providing a habitat for bats that would be lost through demolition. Whilst this has not been fully established by survey work, in view of the applicant's programme it is considered appropriate to assess the application on the working assumption that it provides a habitat that would be lost as a result of the development.
- 7.29 In accordance with paragraph 118 of the NPPF it is necessary to assess whether harm cannot be avoided, adequately mitigated or compensated.

- 7.30 The existing buildings on the site are unsuitable for adaptation or retention, since they do not meet the requirements of the operator. In particular, the site consists of a collection of individual buildings that have evolved to meet the needs of the former garage operation. It is considered that they are incapable of adaptation to meet Lidl's needs and that there is therefore no realistic alternative other than complete demolition if Lidl is to be accommodated on the site.
- 7.31 It is therefore appropriate to assess whether or not the loss of habitat can be adequately mitigated. The extent of mitigation that is necessary can only be established through further survey work, since this will confirm the extent and value of what is potentially being lost. Whilst the standing advice from Natural England is that such work should normally be undertaken prior to a decision being taken, the operator has indicated that they are happy to accept planning conditions relating to further survey work and any mitigation necessary. Having regard to their programme concerns, and the possibility that the development may not proceed if there is further delay before a planning permission is issued, it is considered reasonable to determine the application on this basis.
- 7.32 After consultation with the council's Biodiversity officers, it is considered that planning conditions requiring further survey work to establish the exact nature of any bat activity in the buildings should be undertaken prior to any demolition taking place. The results of the survey will inform the method of demolition, precautionary measures to be taken, and the extent of any mitigation measures to be incorporated into the development upon completion. Whilst it is recognised that this approach departs from national guidance, it is considered that it is consistent with paragraph 118 of the NPPF, and that it will ensure that the favourable conservation status of any affected species is maintained.

### **Crayfish, Water Voles and Otters**

- 7.33 The ecology report identifies that the River Leen and its banks have the potential to provide habitat for the above species, but that further survey work is required to establish their existence on and the nature of their use of the site. After consultation with Biodiversity officers it is considered that any potential impact on these species can be satisfactorily addressed by a condition restricting development within 5 metres of the bank until such time as surveys have been carried out, and a scheme of mitigation measures designed and incorporated into the development.

### **Biodiversity Conclusions**

- 7.34 It is considered that any potentially harmful impacts on protected species can be mitigated through conditions and that the development therefore accords with paragraph 118 of the NPPF and Policy NE3 of the local plan.

## **8. SUSTAINABILITY**

Whilst no specific features have been highlighted in the planning application, the building would need to incorporate appropriate energy/water conservation measures in order to comply with current Building Regulations. It is considered that this is sufficient to satisfy the requirements of Policy 1.

## **9 FINANCIAL IMPLICATIONS**

None.

## **10 LEGAL IMPLICATIONS**

- 10.1 The planning authority has a duty under the Conservation of Habitats and Species Regulations 2010 to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of the authority's functions. A number of species (termed "European Protected Species") are given protection under the Habitats Directive by prohibiting, amongst other things, the deterioration or destruction of their breeding sites and resting places and the deliberate disturbance of the species, particularly during the period of breeding, rearing, hibernation and migration (Article 12).
- 10.2 Such activities affecting European Protected Species are criminal offences unless they have been licensed by Natural England under a separate regime. Recent case law has established that planning permission should ordinarily be granted except where the planning authority concludes that the proposed development would be both likely to infringe Article 12 and be unlikely to be licensed by Natural England.

## **11 EQUALITY AND DIVERSITY IMPLICATIONS**

None.

## **12 RISK MANAGEMENT ISSUES**

None.

## **13 STRATEGIC PRIORITIES**

Working Nottingham: the development will provide local employment opportunities.

## **14 CRIME AND DISORDER ACT IMPLICATIONS**

None.

## **15 VALUE FOR MONEY**

None.

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

1. Application No: 16/01552/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=O9OBE0LYLWH00>

## **17 Published documents referred to in compiling this report**

Nottingham Local Plan (November 2005)  
Planning for Town Centres: Practice Guidance on Need, Impact and the Sequential Approach (CLG – 2009)  
Aligned Core Strategy (2014)  
Nottingham Local Plan (2005)

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Date of decision:

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

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**Application No:** 16/01552/PFUL3 (PP-05285581)  
**Application by:** Lidl UK GmbH  
**Location:** Land Bounded By Main Street, Jennison Street And Linby Street , Nottingham,  
**Proposal:** Erection of Class A1 retail store, car park and servicing areas, access and associated works following demolition of existing buildings and structures

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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**

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. Prior to any demolition or site clearance works taking place, further survey work shall be undertaken, by suitability qualified persons, to establish the presence or absence of protected species on or adjacent to the site, and any habitats used by them. The results of the survey shall be submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of the protection of species in accordance with Policy NE3 of the Local Plan.*



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**Not for issue**

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3. Prior to any demolition or site clearance works taking place, an appropriate mitigation strategy detailing proposals for the avoidance of harm, necessary protection, timing of works and method statement, for any such species present on the site or affected by the development shall be undertaken. The approved strategy will be approved by in writing by the Local Planning Authority and implemented in accordance with the timescales of the strategy.

*Reason: In the interests of the protection of species in accordance with Policy NE3 of the Local Plan.*

4. Notwithstanding the details shown on the submitted plans, no demolition, site clearance or operational work shall take place within 8 metres of the edge of the River Leen until a scheme for protecting, maintaining and enhancing the nature conservation interest of the River Leen, including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be informed by the survey work undertaken under Condition 5 above. The development shall be carried out in accordance with the approved details and timetable.

*Reason: In the interests of the nature conservation interest of the River Leen in accordance with Policy 16 of the Aligned Core Strategies.*

5. Prior to the commencement of building work for the new store, a scheme for the provision of new habitats for protected and other species on the buildings and surrounding area, along with a programme for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the timescales set out in the approved programme.

*Reason: In the interests of the protection of species in accordance with Policy NE3 of the Local Plan.*

6. The development shall not be commenced until a construction traffic management plan detailing how the development works are to be carried out, including details of the type, size and frequency of vehicles arriving at and leaving the site, site access details, contractor staff parking provision, traffic management, haul routes and a phasing programme, has been submitted to and approved in writing by the Local Planning Authority. This shall also include details of wheel washing facilities and measures to prevent the deposit of debris onto the highway.

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

7. The development shall not be commenced until details of arrangements for the disposal of surface water have been submitted and approved in writing by the Local Planning Authority. As a minimum this shall include sizes of tanks, discharge rates, control devices, details of how the system will be maintained, and incorporate Sustainable Drainage methods where possible. The development shall not be carried out other than in accordance with the approved details.

*Reason: To reduce the risk of flooding in the interest of sustainable development in accordance with Policy NE10 of the Nottingham Local Plan.*

8. Notwithstanding the details shown on the submitted plans, the development shall not be commenced until details of cycle storage have been submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of sustainable travel in accordance with Policies 1 and 10 of the Aligned Core Strategy.*

<p><b>Pre-occupation conditions</b> (The conditions in this section must be complied with before the development is occupied)</p>
<p>9. The store shall not be used until remedial, precautionary and mitigation measures required to deal with ground contamination, gaseous emissions, surface water and noise have been carried out as recommended in the submitted reports (Noise Assessment dated July 2016; Land Contamination dated January 2015)</p> <p><i>Reason: In the interest of the living conditions of nearby residents and public health and safety in accordance with Policies NE9 and NE12 of the Local Plan.</i></p>
<p>10. The store shall not be used until the car park and cycle storage have been provided and surfaced with porous or permeable materials and individual spaces marked out in accordance with the approved plans.</p> <p><i>Reason: In the interests of highway safety and sustainable transport in accordance with Policies 1 and 10 of the Aligned Core Strategy.</i></p>
<p>11. The store shall not be used until the agreed flood risk mitigation measures have been implemented.</p> <p><i>Reason: To reduce the risk of flooding in accordance with Policy NE10 of the Local Plan.</i></p>
<p>12. The store shall not be used until the approved boundary enclosures have been implemented.</p> <p><i>Reason: To ensure that the appearance of the development is satisfactory in accordance with Policy 10 of the Aligned Core Strategies.</i></p>
<p><b>Regulatory/ongoing conditions</b> (Conditions relating to the subsequent use of the development and other regulatory matters)</p>
<p>13. A landscaping and planting scheme shall be provided for the development. In particular;</p> <ul style="list-style-type: none"> <li>a) the store shall not be used until a detailed landscaping scheme, indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved in writing by the Local Planning Authority;</li> <li>b) the approved landscaping scheme shall be carried out in the first planting and seeding seasons following its occupation; and</li> <li>c) any trees or plants which die, are removed or become seriously damaged or diseased within a period of five years shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.</li> </ul> <p><i>Reason: To ensure that the appearance of the development will be satisfactory in accordance with Policy 10 of the Aligned Core Strategy.</i></p>
<p>14. Within three months of the opening of the store, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be adhered to for the life of the development.</p> <p><i>Reason: In the interests of sustainable travel in accordance with Policies 1 and 10 of the Aligned Core Strategy.</i></p>
<p><b>Standard condition- scope of permission</b></p>
<p>S1. Except as may be modified by the conditions listed above, the development shall be carried</p>



out in complete accordance with the details described in the following drawings/documents:  
Planning Layout reference 1950-P400 revision F dated 30 November 2016, received 30 November 2016  
Elevations reference 1950-P200 revision F dated 2 November 2016, received 30 November 2016

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

## **Informatives**

1. 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.

2. 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.

3. 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.

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 Pollution Control 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 Pollution Control 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.

4. Planning consent is not consent to work on the highway. To carry out the off site works (add basic description and location) associated with the planning consent, approval must first be obtained from the Local Highway Authority. Approval will take the form of a Section 278 Agreement and you should contact Highways Network Management on 0115 8765293 to instigate the process. It is strongly recommended that you make contact at the earliest opportunity to allow time for the process to be completed as you will not be permitted to work on the Highway before it is complete. All associated costs will be borne by the developer.

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.



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**Not for issue**

Continued...

## **RIGHTS OF APPEAL**

Application No: 16/01552/PFUL3 (PP-05285581)

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/pes](http://www.planningportal.gov.uk/pes).

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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# **DRAFT ONLY**

## **Not for issue**