

**My Ref:** 17/02258/PFUL3

**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: 17/02258/PFUL3  
Application by: William Morrison Supermarket PLC  
Location: Morrisons Supermarket, Green Lane, Nottingham  
Proposal: Mixed use retail (Class A1-A3 and Class A1/A3) and leisure scheme (Class D2) comprising two units adjacent to Green Lane and five units adjacent to the supermarket building

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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)



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

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

*Reason: To safeguard the health and amenity of the occupants of the proposed development to comply with Policy NE9 and NE12 of the Nottingham Local Plan.*

3. No development shall be commenced until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period and shall provide for:
- (a) Management of the highway network;
  - (b) The parking of vehicles of site operatives and visitors;
  - (c) Loading and unloading of plant and materials;
  - (d) Storage of plant and materials used in constructing the development;
  - (e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (f) Wheel wash facilities;
  - (g) Measures to control the emission of dust and dirt during construction;
  - (h) A scheme for recycling/disposing of waste resulting from demolition and construction works.

*Reason: To ensure that the amenity of nearby occupiers is protected during construction of the proposed development and in the interests of highway safety in accordance with Policy T3 of the Local Plan and Policies 10 and 14 of the Aligned Core Strategy.*



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

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

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

*Reason: In the interests of the amenity of nearby residents to comply with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategies.*

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

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

6. The development shall not be commenced until details of all external materials have been submitted to and approved in writing by the Local Planning Authority.

The development shall be implemented in accordance with the approved details.

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

7. The development shall not be commenced until details of the areas to be hard landscaped, which should be of permeable materials where possible, have been submitted to and approved in writing by the Local Planning Authority.

The development shall be implemented in accordance with the approved details.

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



8. The development shall not be commenced until details of lighting in the service yard and along the footpath between the western edge of the site to the service access road have been submitted to and approved in writing by the Local Planning Authority.

The development shall be implemented in accordance with the approved details.

*Reason: To ensure that the appearance of the development is satisfactory and in the interests of the amenity of nearby residents and community safety to comply with Policy 10 of the Aligned Core Strategies.*

9. The development shall not be commenced until details of the means of enclosure of the service yard have been submitted to and approved in writing by the Local Planning Authority.

The development shall be implemented in accordance with the approved details.

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

**Pre-occupation conditions**

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

10. Any approved Class A3 or Class A1/A3 use within the development shall not be brought into use until:

(i) if required, they have been fitted with a fume extraction and ventilation system. The system shall not be installed other than in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

The submission shall include an odour risk assessment, the design configuration, odour abatement technology and specification for the scheme for the ventilation and means of discharging and dispersing fumes from development.

(ii) Verification that the approved scheme for the ventilation and means of discharging and dispersing fumes and prevention of odour nuisance for that unit has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

*Reason: In the interests of the amenity of nearby residents and the visual amenity of the area, in accordance with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategies.*



11. Prior to the occupation of any part of the development a Noise Management Plan shall be submitted to and be approved in writing by the Local Planning Authority.

The Noise Management Plan shall identify the types and locations of operational and other activities which are likely to cause noise disturbance to sensitive receptors and:

(a) Minimise noise arising from operational and other activities by technical and physical means, and through management best practice;

(b) Identify the person responsible for recording, investigating and dealing with complaints from any residents;

(c) Make arrangements for the regular review of the Noise Management Plan.

*Reason: In the interests of the amenity of nearby residents to comply with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategies.*

12. Prior to the occupation of any part of the development written verification shall be submitted to the Local Planning Authority that the approved mechanical services plant or equipment (including any air handling plant) specified to serve the development including any mitigation measures have been implemented.

*Reason: In the interests of the amenity of nearby residents to comply with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategies.*

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

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

*Reason: To safeguard the health and amenity of the occupants of the proposed development to comply with Policy NE9 and NE12 of the Nottingham Local Plan.*

14. No part of the development shall be occupied until details of a landscaping scheme including details of the type, height, height, species and location of proposed trees and shrubs (which shall be of native species), together with details of proposed tree pits and a management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall be provided in accordance with the approved details within the first planting season following the completion of the development.

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

*Reason: To ensure that the appearance of the development be satisfactory to comply with Policy 10 of the Aligned Core Strategies.*



15. No part of the development shall be occupied until the cycle parking has been provided in accordance with the approved plans.

*Reason: In the interests of highway safety and to promote sustainable modes of transport in accordance with Policy 10 of the Aligned Core Strategy.*

16. No part of the development shall be occupied until the hard landscaped areas, lighting and enclosure have been completed in accordance with the details approved by the Local Planning Authority.

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

17. Units C-G shall not be occupied until the improvements to the facilities for pedestrians along the access road, to be in general accordance with the Proposed Site Plan (dwg no. 15-503 SK25 rev D), have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

*Reason: To improve the conditions of pedestrian safety along the access road in accordance with Policy 10 of the Aligned Core Strategies.*

18. No part of the development shall be occupied until the following have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority:

(i) Alterations to the vehicular access to the site from Green Lane and the pedestrian refuge on Green Lane;

(ii) Alterations to the access road to the service yard to provide a segregated footway and a means of enabling vehicles to pass.

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

*Reason: To improve the conditions of pedestrian safety along Green Lane and the access road to the service yard in accordance with Policy 10 of the Aligned Core Strategies.*

19. The development shall not be occupied until the pedestrian route through the car park has been provided in accordance with the approved plans.

*Reason: To improve the conditions of pedestrian safety along the access road in accordance with Policy 10 of the Aligned Core Strategies.*

**Regulatory/ongoing conditions**

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



20. Within 6 months of occupation of the extended facilities, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable, and enforcement mechanism) to promote travel by sustainable modes and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority

Thereafter the Final Travel Plan shall be implemented at all times.

*Reason: In order to promote sustainable modes of travel in accordance with Policy 14 of the Aligned Core Strategies.*

21. The service yard for units C -G and the access road leading to it shall not be used by delivery or waste collection vehicles outside the hours of 08:30 hours - 18:00 hours Monday to Saturday. There shall be no deliveries or waste collection on Sundays and Bank Holidays.

*Reason: In the interests of the amenity of nearby residents to comply with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategies.*

22. Servicing of units A-B, including the waste collection, shall not be undertaken outside the hours of 08:30 hours - 18:00 hours Monday to Saturday and 10:00 hours - 17:00 hours on Sundays.

*Reason: In the interests of the amenity of nearby residents to comply with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategies.*

23. The maximum size of vehicle which shall use the service yard and the access road shall be 12m rigid vehicles.

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

24. Units C- F shall not be amalgamated without the prior consent of the Local Planning Authority.

*Reason: To ensure that the servicing arrangements are satisfactory to comply with Policy 10 of the Aligned Core Strategies.*

25. The development shall be carried out in accordance with the Flood Risk and Drainage Assessment (GHD QL17467/FRDA Rev D).

*Reason: To ensure that the site is properly drained and any flood risk addressed in accordance with Policy NE10 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 forms, drawings and other documents comprising the application as validated by the council on 27 September 2017.

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

#### **Informatives**



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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. Highway related

1. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

2. In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact Liz Hiskens in Highway Network Management in the first instance on 0115 876 5293. All costs shall be borne by the applicant.

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

4. Planning consent is not consent to work on the public highway. Therefore prior to any works commencing on site you must contact Highways Network Management on 0115 876 5293 to ensure all necessary licences and permissions are in place.

5. If the public have enjoyed walking or riding over land for a period of 20 years the presumption is that the landowner has dedicated that land to the public as a highway / public right of way unless there is sufficient evidence that during that period the landowner had no intention to dedicate it, such as a locked gate or a sign stating "no public right of way". This is covered by S31(1) of the Highways Act 1980.

To rebut anyone claiming a public right of way over their land, as well as locking a gate or putting up signs, a landowner may deposit a statutory declaration with the Council's highway authority. The declaration confirms that the landowner has no intention of dedicating any public rights of way over their land (it also acknowledges any existing public rights of way). These declarations do not operate retrospectively so they cannot be used to rebut any public rights of way already created over the land. It's a simple cost effective process available to all landowners who do not mind the public using their land but do not want anyone to claim any permanent rights. The declarations have to be refreshed every twenty years. This is covered by S31(6) of the Highways Act 1980. If the applicant wishes to pursue the rebuttal of future rights of way claims then they should contact John Lee on tel 0115 8765246 for further information.

### 4. Commercial Noise

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



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

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

#### 5. Control of Odour & Provision of Adequate Ventilation

The design of the approved scheme for the ventilation and means of discharging fumes shall have regard to the Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust Systems (Defra, 2005).

The approved scheme shall be designed to provide for ventilation and means of discharging and dispersing fumes, the prevention of odour nuisance and the minimisation of the risk of ducting fires. The approved scheme must be maintained, serviced and operated in accordance with manufacturer's recommendations and other authoritative guidance while the development continues to be occupied.

Fire safety advice for restaurants, fast food outlets and take away shops may be obtained from Nottinghamshire Fire & Rescue Service (email: [fireprotectionsouth@notts-fire.gov.uk](mailto:fireprotectionsouth@notts-fire.gov.uk) ). (NB Cheshire Fire & Rescue Service have useful advice on their website See - <http://www.cheshirefire.gov.uk/business-safety/fire-safety-guidance/restaurants-fast-food-outlets-and-take-away-shops> ).

The approved scheme must be kept under review by the operator and alterations or improvements may be required to prevent odour nuisance where any subsequent significant change to the operation of the development is proposed which may affect the control of odour or risk of fire:

Significant changes to the operation of the development which may affect the control of odour include:

- i. The intensification of use of the kitchen,
- ii. The nature of the food prepared, served or cooked on site
- iii. The method of preparation and cooking of the food served or cooked on site
- iv. The extension of operating times

It is the duty of the operator to design, install and maintain the ventilation system to prevent an odour nuisance. Adequate measures must be taken to prevent nuisance due to odours passing through windows, floors or walls etc. into adjoining properties.

#### Adequate Ventilation

The operator of any cooking appliance must ensure that there is effective and suitable ventilation in order to enable the effective combustion of fuel and the removal of the products of combustion. The specification of a ventilation system shall be determined on the basis of a risk assessment, taking account of factors such as the cooking arrangements taking place and the need to replace extracted air.

The ventilation system must be designed, installed and maintained in accordance with manufacturer's instructions. Guidance on the design specifications of kitchen ventilation systems is contained within "DW/172" produced by the Building and Engineering Services Association (formerly the Heating and Ventilating Contractors Association). Supporting guidance has been published by the Health and Safety Executive (HSE) within Catering Information Sheet 10 (CAIS10), available at <http://www.hse.gov.uk/pubns/cais10.pdf> .

Gas appliances are subject to specific legislation and standards. Newly installed gas appliances should be fitted with an interlock to shut the gas supply off in the event of a failure to the ventilation system. Further guidance on gas safety in catering is available within Catering Information Sheet 23 (CAIS23), available at <http://www.hse.gov.uk/pubns/cais23.pdf> .

The onus for ensuring that the system does not cause odour nuisance or present a risk of fire rests with the operator. If the system is found to be causing an odour nuisance or a risk of fire at any point, then suitable modification works will be required to be carried out and an enforcement notice may be served.

## 6. Noise Management Plan

Noise from the operation of the development must not exceed the following internal noise levels at any nearby noise sensitive premises:

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

The internal noise levels referred to are derived from BS 8233: 2014 Sound Insulation and Noise Reduction for Buildings.

The operator must adhere to the agreed Noise Management Plan while the premises remain operational. The Noise Management Plan must be regularly reviewed. Any significant amendments which may have an impact on noise sensitive receptors shall be agreed in advance with the regulator and communicated to all other stakeholders

7. Noise Control: hours of work and equipment during demolition/construction To assist with project planning, reduce the likelihood of justified complaint and avoid costly restriction and development delays, 'acceptable hours' are detailed below:-

Monday to Friday: 0730-1800 (noisy operations restricted to 0800-1800)

Saturday: 0830-1700 (noisy operations restricted to 0830-1700)

Sunday: at no time

Bank Holidays: at no time

Work outside these hours may be acceptable but must be agreed with Nottingham City Council's Environmental Health and Safer Places section.

## 8. Ground Gas Contamination

The Remediation Strategy (including its component elements) must be undertaken and implemented in accordance with Defra and the Environment Agency's guidance 'Model Procedures for the Management of Land Contamination, CLR 11' and other authoritative guidance. The Remediation Strategy must also provide details of how gas precautions including any radon gas precautions will be validated.

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 gas contamination of the site.

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

It is a requirement of current Building Regulations that basic radon protection measures are installed in all new constructions, extensions conversions & refurbishments on sites which are Radon Class 3 or 4 and full radon protection measure are installed on site which are Radon Class 5 or higher. Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought where there are both radon issues and ground gas issues present.

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

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: 17/02258/PFUL3

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

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