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**Nottingham
City Council**

Additional / To Follow Agenda Items

This is a supplement to the original agenda and includes reports that are additional to the original agenda or which were marked 'to follow'.

Nottingham City Council Planning Committee

Date: Wednesday, 21 December 2022

Time: 2.30 pm

Place: Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG

Governance Officer: Phil Wye **Direct Dial:** 0115 876 4637

Agenda

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PLANNING COMMITTEE

UPDATE SHEET

(List of additional information, amendments and changes to items since publication of the agenda)

21 December 2022

4a) Former Chronos Richardson site- Lidl (22/00709/PFUL3)

Following publication of the Committee report, 2 further letters have been received from MRPP on behalf of Tesco Stores Ltd.

The first letter, dated 14th December 2022, suggests that this item should be withdrawn from the Committee agenda due to non-disclosure of information on the Council's website, namely, 2 letters from WSP on behalf of the applicant, in response to earlier objections from MRPP.

The second letter, dated 19th December 2022, sets out further representations in relation to the proposed development, in response to further work carried out in relation to the Sequential Test and Retail Impact Assessment and in response to the published Committee report. The letter can be summarised as follows:

- (i) In their assessment of the Sequential Test, Applied Planning (retail Consultant) suggested a minimum site search area of 0.65ha. MRPP on behalf of Tesco Stores Limited suggested that a 0.3ha minimum site size should be adopted. They suggest this lower threshold reflects recent discounter schemes that have promoted a standard format but over two floors i.e., ground floor sales with warehousing over. MRPP therefore conclude that Applied Planning are wrong in asserting that this *"would only be capable of delivering a 2-storey 'Metropolitan' store business model"*. MRPP on behalf of Tesco Stores maintain their view that a search area of 0.3ha should be used and suggest that examples can be found in respect of recent planning applications at Orpington and Thames Ditton. They make no further responses to the retail impact recommendations that have now been made to the Council on the basis of full health checks having been carried out together with appropriate sensitivity analysis relating to trade draw from larger supermarkets and local shops. However, they maintain that the 0.3ha sequential site threshold should be adopted as it does not relate to a wholly different format, rather it provides a flexible approach to delivering discounter retailers' standard store format.
- (ii) The regrading of the site that is required to facilitate the level floorplate and car park required by the retail development would have significant environmental impacts, namely impact upon the amenities of residential properties and diminution of an effective and appropriate residential environment for the future residential occupiers of dwellings on the adjoining allocated land.
- (iii) The development also requires the removal of 11 trees and 3 groups of trees. Policy EN7 states *"Planning permission for development proposals affecting trees will only be granted where existing high-value trees are retained and protected, along with other trees and landscaping where possible"*.

- (iv) Policy EN6 states *“development proposals on, or affecting, ... non-designated sites ... with biodiversity value will only be permitted where it can be demonstrated that the need for the development outweighs any harm caused by the development and that adequate mitigation measures are put in place*
- (v) The policy is clear. Adverse proposals will only be permitted where the need for the development outweighs the harm caused. The appropriateness of adequate mitigation only arises if need has outweighed harm. There is no evidence of this within the application.
- (vi) Trees have already been removed which deprives the local planning authority from being unable to exercise its mind effectively on the application of policies EN6 and EN7 in decision-making on the application.
- (vii) Delivery of the allocation as a whole, i.e., for an overall site-wide residential proposal, would have not have any requirement to regrade the significant area necessary to accommodate the supermarket. It would have been able to retain all of the trees having merit whether within the required ‘open space provisions’ or otherwise.
- (viii) A residential scheme, in maintaining current site levels, would enable relationships with existing neighbouring properties to be positively designed and managed.
- (ix) The impact from the need to re-grade the site causes significant level differences between any proposed residential development and the external plant area to the south of the neighbouring proposed store and its HGV delivery stand. This results in the need for a 4 m high noise barrier around that area (as recommended in the applicant’s Noise Assessment).
- (x) Noise from the store’s access and car park endure until 11pm at night. This activity would impact on residents in homes to be developed. That would appear to expose occupiers to unnecessary noise nuisance.
- (xi) All of the identified issues arise as a direct consequence of seeking to accommodate the application proposal on a site that is unsuitable to accommodate it.
- (xii) The Report, in its Summary, reconfirms that the proposal *“...is a major development that represents a departure from the Local Plan.”* However, the report does not effectively articulate a balancing exercise between the breach of planning policy, particularly with regard to Policy SA1 and other considerations. Furthermore the recommendation does not include referral to the Secretary of State under the relevant Directions.

Comments

The 'undisclosed documents' that MRPP refer to were published on the website in conjunction with the publication of the Committee report. It is considered that statutory requirements for publicity of the application, consultation and the publishing of background papers have been met and that there are no grounds for deferral of consideration of the application.

The issues raised within the latter dated 19th December 2022 are addressed as follows:

- (i) Applied Planning have appraised the Sequential Test and provided justification for the use of a 0.6ha site area. The Council accept this justification and consider that the Sequential Test is met, as set out within the Committee report.**
- (ii) The Council consider that the operational works and regarding of the site are acceptable in terms of the resulting relationship between the retail store and the neighbouring residential properties. A Noise Assessment has been provided and reviewed by the Council's Environmental Health Team and is considered satisfactory.**
- (iii) (iv) and (v) The proposal delivers redevelopment of a brownfield site, an affordable housing scheme and a retail development to serve the locality. It is therefore consider that the benefits of the development outweigh the harm. An Ecology appraisal and Tree report have been provided. The scheme has been reviewed by the Council's Biodiversity Officer and appropriate mitigation in the form of replanting and a financial contribution for off-site biodiversity gain have been agreed.**
- (vi) The trees that have been removed did not benefit from any statutory protection. As such consent for their removal was not required.**
- (vii) and (viii) The Council have considered the applications to subdivide the site on their merits and, for the reasons outlined within the reports, consider the development to be acceptable and compliant with relevant Policies as set out.**
- ix) The relationship between the developments is considered acceptable as set out within the report. The Noise Assessment and sound insulation measures have been assessed by the Council's Environmental Health Team and are considered acceptable.**
- x) As above**
- xi) The application has been comprehensively assessed and the development of a retail store on the site is considered to be acceptable as set out within the report.**
- xii) Whilst the proposal represents a departure from the Local Plan in that it seeks to provide retail development on part of a site allocated for housing, it is considered alongside an application for residential development which delivers a scheme of affordable housing and the required s106 contributions towards Open Space, Education, Biodiversity and Employment and Training. The retail element has been fully justified in the submitted Sequential Test and Impact Assessment.**

As set out within the report, the loss of land that could otherwise be developed for housing is acknowledged, but the number of dwellings to be provided on the remainder of the LAPP allocation (62) is considered to be acceptable compared to the LAPP range of 63-87 in the LAPP. The number of homes is included in an appendix rather a LAPP policy, and so the range is indicative, and does not have the weight of Policy.

Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.

Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken.

In recommending the application as a departure from the Development Plan, officers have had regard to the matters set out in the report and consider that the material considerations support such a decision. In particular, regard has been had to the significant employment benefits provided by the scheme, the benefit of a new retail development in a location that serves existing and future local residents, and, together with the accompanying residential application will regenerate a long-standing brownfield site. Regard has also been had to the Council's current position in relation housing land supply, and the homes and other benefits provided by the related application for residential development as part of the comprehensive redevelopment of the site. Overall it is considered that these benefits are significant material considerations that taken together support the granting of planning permission which is a departure from the residential allocation in the LAPP.

As a departure from the Development Plan, the development falls below the relevant thresholds for the decision to be referred to the Secretary of State.

(Additional Background papers: Letter from MRPP dated 14.12.22. Letter from MRPP dated 19.12.22)

4b) Former Chronos Richardson site- MyPad (22/00675/PFUL3)

- i) A query has been raised regarding opportunities for play within the development. With appropriate attention to detailed design and landscaping, the open space that links the residential development to the retail development can be used for informal play. Furthermore, the applicant has confirmed that although described as a 'pond', the attenuation pond will be dry for the majority of the year and can be used during this time as informal play space. A condition requiring details of the layout of the linking open space and the attenuation pond and surrounding area is recommended.
- ii) Further consideration has been given to the use of knee rail fencing to the attenuation pond area and it is recommended that the condition referred to under point (i) above, also requires the submission of details of the means of enclosure.

iii) The exact contribution towards Education, as referred to in the s106 Agreement, is £338, 874.94.

4c Units 1- 4 Queens Road

Further representations received in response to re-consultation on revised scheme:

Nottingham Civic Society: Continue to object to the proposed 12 storey student accommodation building sited on the boundary with the Grade II* listed Station complex.

Since NCS's comments on this aspect of the original application have been omitted from the Committee Report, it is expected that the following comments will be included in the Update Sheet to inform Members of the Civic Society's continued concern.

NCS objects to the height and bulk of the student building which would overwhelm the setting of the listed building with a long, tall, regimented elevation which fails to enhance the setting of the Station. The Local List status Hicking Building opposite the application site (but as yet not assessed for inclusion on the List), is an undesignated heritage asset which makes a positive contribution to the character and appearance of the Station Conservation Area and characterises the scale of traditional buildings in the conservation area. The Station Conservation Area Appraisal and Management Plan advised that new buildings infilling gap sites should respect the scale of traditional buildings. The Hicking Building would still be overwhelmed by the scale of the student block alone thus failing to preserve or enhance the appearance of the Station Conservation Area.

Health and Safety Executive (Tall Buildings): The HSE have reviewed the revised plans and are satisfied with the fire safety design to the extent which it effects land use planning.

Drainage Team: The drainage strategy will need to be amended to reflect the delivery of the overall scheme in 2 phases. As per their original comments, conditions are recommended relating to the management of surface water during construction, final design details of the drainage strategy, and verification that drainage system has been installed as approved.

Comments

1. The impact of the PBSA building on the setting of the listed Nottingham Station and the Station Conservation Area has been fully addressed in the main report. The scale of the PBSA would be commensurate with the height, scale and form of development on adjacent sites on Queens Road and is set well back into the site away from the Queens Road frontage and the Hicking Building opposite. It is acknowledged that careful consideration will be required in ensuring that buildings which may come forward on the remaining

undeveloped part of the site, share an acceptable relationship with the Hicking Building in terms of their scale and mass.

2. The conditions recommended by the Drainage Team have been included on the draft decision notice

4d) Site of Oakdene, 10 Woodborough Road (22/00676/PFUL3)

- i)** Further information has been supplied in relation to pre-application public consultation carried out by the applicant. The applicant has advised that the consultation was carried out in 2021. Questions were raised about site traffic and parking. NCH committed to parking within the site boundary during the heavier construction works (more operatives on-site), and delivering to site during hours where the roads would not be as busy (earlier mornings and evening deliveries). The site was also questioned around its Eco status – NCH has created an enhanced Eco specification off the back of this which will be integrated within the contract with the Main Contractor, which will assist with Carbon Footprint and energy bills moving forward.

- ii)** A query has been raised about the naming of the building. This is a separate process and is not a material planning consideration. However, NCH have advised that they can engage with the local community to get some ideas relating to the history of the area or Councillors can provide feedback from residents. This was the approach adopted for the naming of Kieron Hill Court in Clifton.