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**Nottingham
City Council**

Nottingham City Council Planning Committee

Date: Wednesday, 19 July 2023

Time: 2.00 pm

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

Councillors are requested to attend the above meeting to transact the following business

Director for Legal and Governance

Governance Officer: James Lavender

Direct Dial: 0115 876 4643

- 1 Apologies for Absence**
- 2 Declarations of Interests**
- 3 Minutes** 3 - 8
To confirm the minutes of the meeting held on 21 June 2023
- 4 Planning Applications: Reports of the Director of Planning and Regeneration**
 - a Land West Of Speedo House Unit 6, Enterprise Way, Nottingham** 9 - 30
 - b Former Apollo Hotel, 170 Hucknall Lane, Nottingham NG6 8AJ** 31 - 52
 - c Former Site Of Chronos Richardson Ltd, Wyton Close, Nottingham, NG5 5GW** 53 - 96

If you need any advice on declaring an interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting

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Nottingham City Council

Planning Committee

Minutes of the meeting held at Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 21 June 2023 from 2.05 pm - 3.24 pm

Membership

Present

Councillor AJ Matsiko (Chair)
Councillor Sam Lux (Vice Chair)
Councillor Graham Chapman
Councillor Kevin Clarke
Councillor Faith Gakanje-Ajala (Items 1-6 and 8)
Councillor Sam Harris
Councillor Imran Jalil
Councillor Kirsty L Jones
Councillor Anwar Khan
Councillor Gul Nawaz Khan
Councillor Pavlos Kotsonis (Items 1-6)
Councillor Ethan Radford
Councillor Samina Riaz
Councillor Naim Salim

Absent

Colleagues, partners and others in attendance:

James Lavender	- Governance Officer
Mark Lowe	- Head of Regeneration and Housing Delivery
Rachel Mottram	- Head of Development Management
Rob Percival	- Area Planning Manager
Martin Poole	- Area Planning Manager
Paul Seddon	- Director of Planning and Transport
Nigel Turpin	- Heritage and Urban Design Manager
Tamazin Wilson	- Solicitor, Legal Services

1 Minute's silence

A minute's silence was held in remembrance of Barnaby Webber, Grace O'Malley Kumar and Ian Coates who tragically died in Nottingham on 13 June 2023.

2 Appointment of Vice Chair

Resolved to appoint Councillor Sam Lux as Vice Chair of Planning Committee for the municipal year 2023/24.

3 Apologies for Absence

None.

4 Declarations of Interests

Councillor Pavlos Kotsonis declared a non-pecuniary interest in agenda item 5b, Playing fields to south and located west of Westbury School, Chingford Road, Nottingham (Minute 80), and declared his intention to withdraw from the meeting during consideration of this item.

5 Minutes

The minutes of the meeting held on 19 April 2023 were confirmed as a true record and signed by the Chair.

6 Former Apollo Hotel, 170 Hucknall Lane, Nottingham, NG6 8AJ

Martin Poole, Area Planning Manager, presented planning application 23/00120/PFUL3 for full planning permission for the construction of a mixed-use development comprising a UCO (Classes E(a) and (b) unit with a drive-thru facility, and two Use Class E(a), E(b), E(c) and Sui Generis (tanning salon) units, located at the site of the former Apollo Hotel on 170 Hucknall Lane, Bulwell. The development will include associated parking, electric charging points, minor alterations to vehicular access and landscaping.

The following points were highlighted:

- (a) the site has an established commercial use as a car wash and a public house/hotel;
- (b) site photographs demonstrated the street scene in which the development will be sited;
- (c) CGI images showed the Committee what the final development will look like;
- (d) a fence screens the site from neighbouring properties to the rear. Other commercial properties lay to the south of the site;
- (e) it is proposed that Greggs will occupy the drive-thru unit whilst it is proposed that Subway and a local tanning salon will occupy the other two units;
- (f) access to the site will come from Hucknall Lane and from the north-eastern corner of the site. The road layout is designed to take car usage at peak times;
- (g) further acoustic fencing will be installed to reduce the impact to the housing adjacent to the site and tree landscaping will run along Hucknall Lane;
- (h) there will be an access route into the site for pedestrians;
- (i) six Electric Vehicle (EV) charging points will be included on the eastern edge of the site;

- (j) the site passed the sequential test as no other suitable alternative sites could be identified;
- (k) there are objections from the public on the grounds of noise, air pollution from stationary vehicles and vehicles caught in traffic, opening hours and the increased risk of anti-social behaviour;
- (l) the Applicant originally proposed opening hours of 6:30am – 11:00pm (Monday – Saturday) and 8:00am – 8:00pm (Sunday and Bank Holiday), but these were revised to 7:00am – 10:00pm (Monday – Saturday). The Sunday and Bank Holiday opening hours remain the same;
- (m) a Noise Management Plan will be included as a condition of the planning permission;

Members of the Committee made the following comments:

- (n) the increased number of drive-thru restaurant developments is at odds with the city's Clean Air Policy;
- (o) stationary vehicles waiting for food will keep their engines running and add to the air pollution;
- (p) the drive-thru building is of a poor design quality and more aesthetically pleasing drive-thru buildings have been constructed elsewhere in Nottingham;
- (q) the parking spaces do not take staff parking arrangements into consideration;
- (r) a vehicle gate could reduce the levels of anti-social behaviour resulting from this development;
- (s) there are concerns around the levels of traffic build-up on Hucknall Lane during peak hours;
- (t) more could be done to create a sustainable building, such as the inclusion of solar panels;
- (u) in terms of site usage, car washes and public houses/hotels do not generate the same amount of car usage as a drive-thru restaurant;
- (v) the application should be deferred by Planning Committee for consideration of a more architecturally appealing and sustainable building and for more information about the local air quality impacts for residents and occupiers of the site resulting from this development;

The following responses were provided by Officers:

- (w) the Council's Environmental Health Team raised no concerns around the air quality resulting from the development;

- (x) the site has established use as a commercial site with regular vehicles passing and parking there to use the car wash and the public house/hotel when they were in operation;
- (y) people in vehicles do turn their engines off whilst waiting and in modern vehicles, the engine often turns off automatically. The Site Management Plan can also encourage people in cars to turn their engines off whilst stationary;
- (z) the drive-thru building is typical of a Greggs drive-thru restaurant. It is lower within the landscape to give it less visual impact. The size of the building also considers the logistics of food preparation and delivery;
- (aa) staff working at the development have the options to travel in by bus, bicycle or foot;
- (bb) the Highways Team have deemed the access to be safe;
- (cc) the Local Plan and National Planning Policy Framework is used to assess all planning applications and there is no grounds for rejecting the application based on the criteria within these policies;
- (dd) the Government sets air quality standards for cities and Nottingham has not failed in those standards;
- (ee) planning conditions can be included to manage anti-social behaviour in this site through the use of bollards and CCTV;
- (ff) features of the building such as the use of solar panels are determined through building regulations, but negotiations can take place with the Applicant to include them where agreed.

The Committee felt that it was unable to take a decision on this application until further information regarding the local air quality impacts for residents and occupiers of the site resulting from this development. The Committee also requested that the applicant is approached to see if a more architecturally appealing and sustainable building design for the drive-thru restaurant can be proposed as a part of the application.

Resolved to defer the application to a future meeting.

7 Playing Fields To South Located West Of Westbury School, Chingford Road, Nottingham

Rob Percival, Area Planning Manager, and Mark Lowe, Head of Regeneration and Housing Delivery, presented a report seeking a variation of the resolution concerning Affordable Housing provision agreed at Planning Committee on 19 April 2023 in respect of planning application 22/02157/PFUL3 (residential development of 130 new homes alongside associated site infrastructure, open space, and landscaping located on the playing fields to the south and west of Westbury School on Chingford Road).

The following points were highlighted:

- (a) this planning application was approved by the Committee at the meeting of 19 April 2023;
- (b) as part of the S106 agreement, 20% affordable housing was offered comprising of 26 units, however subsequent negotiations between the Applicant and the Council's Housing and Regeneration Team identified a greater need for more affordable rental properties, which prioritised people on housing lists. The revised proposals included 16.5% affordable housing comprising of 21 units;
- (c) as indicated in the update sheet, the revised proposals are lower than the policy compliant 20% and is therefore considered as a 'departure' application. The proposal has been advertised in accordance with the legislative requirements and the advertisement period will end on 14 July 2023, so a decision can therefore only be issued after this date, subject to any additional comments received being appropriately addressed.

Resolved to:

(1) grant planning permission, subject to:

- a) **no material issues arising from publicity of the planning application as a departure from the Development Plan until 14 July 2023, that have not already been addressed in either this report or the report concerning the same application that was considered at the Planning Committee on 19 April 2023;**
- b) **prior completion of a Section 111 Agreement to secure a section 106 planning obligation to provide for:**
 - (i) **an on-site provision of 20% affordable housing or for an on-site provision of a lower % of affordable housing subject to that lower provision and tenure mix (including the proportion of affordable housing for rent and in particular social rent to be provided) being approved by the Local Planning Authority;**
 - (ii) **a financial contribution of £63,885 towards employment and training together with the provision of employment and training opportunities during the construction phase;**
 - (iii) **a financial contribution of £390,427 towards secondary school provision;**
- (c) **the indicative conditions substantially in the form of those listed in the draft decision notice at the end of the report for the same item approved at the 19 April 2023 Planning Committee, and associated update sheet;**

- (2) power to determine the final details of the planning obligation (including affordable housing provision and tenure mix) and conditions of planning permission be delegated to the Director of Planning and Regeneration subject to him being satisfied that Regulation 122(2) Community**

Infrastructure Levy Regulations 2010 is complied with, in that the planning obligation sought at paragraph 2.1(a)(i) above is (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development;

(3) the Committee is satisfied that Regulation 122(2) Community Infrastructure Levy Regulations 2010 is complied with, in that the planning obligations sought at paragraph 2.1(a) above are (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.

8 Dates of future meetings

The Chair of the Committee agreed that this item, although not on the agenda, could be considered as a matter of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972, because it will enable the committee to agree its future meeting dates.

Resolved to meet on the following dates at 2:00pm:

- **19 July 2023**
- **23 August 2023**
- **20 September 2023**
- **18 October 2023**
- **22 November 2023**
- **20 December 2023**
- **17 January 2024**
- **21 February 2024**
- **20 March 2024**
- **17 April 2024**

Wards Affected: Meadows

Item No:

**Planning Committee
19 July 2023**

Report of Director of Planning and Transport

Land West Of Speedo House Unit 6, Enterprise Way, Nottingham

1 Summary

- Application No: 22/02486/PFUL3 for planning permission
- Application by: SRA Architects on behalf of Marshall Motor Group Ltd / March Property Developments Ltd
- Proposal: Erection of a new Volvo car showroom and workshop, offices, storage, spare parts and MOT bay, with separate valeting accommodation and associated parking and landscaping.

The application is brought to Committee because it is a departure from the Local Plan.

To meet the Council's Performance Targets this application should have been determined by 24th April 2023. An extension of time will be sought with the applicant to cover the extended period of negotiation and completion of the S106 obligations.

2 Recommendations

2.1 GRANT PLANNING PERMISSION subject to:

- a) No adverse, material comments being received by the 28th July 2023 which arise from further publicity and consist of issues other than those already addressed by this report.
- b) Prior completion of a planning obligation which shall include:
 - (i) a financial contribution of £14,209 towards local employment and training together with the provision of employment and training opportunities during the construction phase.

2.2 Power to determine the final details of the planning obligation and conditions of planning permission to be delegated to the Director of Planning and Regeneration.

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

3 Background

3.1 The application site is an undeveloped brownfield site along Enterprise Way within the NG2 Business Park (hereby referred to as 'NG2'). To the east of the site is a

three-storey office building currently occupied by Speedo. To the south is Enterprise Way which is lined with trees protected by Tree Preservation Orders (TPOs) and along which the NET line runs. Further to the south are various two storey office buildings. To the west of the site is another undeveloped brownfield site, which is currently used as an unauthorised, temporary carpark. To the north is the mainline railway with the Lenton Triangle Local Wildlife Site beyond.

- 3.2 NG2 is an allocated business park within the Local Plan (Policy EE2) and the site forms part of an allocated Development Site for employment (B1a/b use) (site reference SR41). The application site was also included within the outline planning permission (16/00526/POUT) where it was identified for office use within the masterplan.
- 3.3 The site is within Flood Zone 2 and is underlain by a principal aquifer. Prior to the construction of NG2, the application site was formerly an ordnance factory (creation of military weapons and ammunition) with associated fuel storage.
- 3.3. In terms of similar uses, there are three other car dealerships within NG2 (Jaguar Landrover, Mercedes-Benz and CarShop Nottingham). Although these are outside of the allocated business park designation.

4 Details of the proposal

- 4.1 The proposal is for the erection of a new Volvo car showroom and workshop, offices, storage, spare parts and MOT bay, with separate valeting accommodation and associated parking and landscaping. There would be seven bays in the workshop and one bay for MOTs. There would be a total of 220 parking spaces, 67 of which are display parking spaces and 20 for customers (including 2 accessible spaces), located front of house. There would be 120 back of house parking spaces and 13 demonstrator spaces. As a car dealership the proposal is classified as a 'Sui Generis' use, ie. one that does not fall within any of the use classes.
- 4.2 The proposed building is two-storey and of contemporary design with a flat roof and curtain wall glazing (etched glass) to its frontage that also wraps around onto its side elevations. The remainder of the building is to be finished in a largely dark grey rainscreen cladding. The front and sides of the site would be used for vehicle storage and customer parking, with the valet and service area to the rear of the building. The building would create 1897 square metres of floorspace over the two storeys.

5 Consultations and observations of other officers

Adjoining occupiers consulted:

5 neighbouring office buildings were notified of the proposed development by letters dated 24th January 2023.

The application was publicised as a major development through a site notice (posted 27th January 2023) and a press notice (published 2nd February 2023). The application was also publicised as a departure from the local plan through a site notice (posted 3rd July 2023) and a press notice (published 6th July 2023).

No representations have been received as of the date of this report.

Biodiversity: recommend conditions for the landscape and planting plan and landscape management plan, to ensure newly created habitats will be managed to ensure they thrive. Initially raised concern that no green/brown roofs or green walls had been provided on at least 25% of the roof space. Accept principle of landscaped area being increased to compensate, providing high quality habitats are created.

Drainage: recommend conditions that no development shall take place until details in relation to the management of surface water on site during construction has been submitted. Also, that prior to commencement of construction, details of surface water drainage shall be submitted and, due to contaminants on the site, that surface water shall not be disposed of via infiltration or soakaways.

Environment Agency: will not be making any formal flood risk comments on this submission. However, would object to the proposal without a number of conditions relating to water pollution being included. Previous use of the site as an ordnance factory and the location of the site on a Principal aquifer means there is a medium/high risk of contamination that could be mobilised during construction to pollute controlled waters. Applicant's site investigation concludes the site does not present a risk to controlled waters. Recommend various conditions regarding; if contamination is found then no further development should take place until a remediation strategy has been submitted; no infiltration of surface water shall be permitted by soakaway or infiltration unless it has been demonstrated that there is no resultant unacceptable risk to controlled waters; and, that piling or other foundation designs using penetrative methods shall not be permitted unless it has been demonstrated that there is no resultant unacceptable risk to groundwater.

Environmental Health: prior to occupation, a Verification Report shall be submitted to demonstrate that the findings of the applicant's contamination report have been fully implemented and completed.

Highways: raise concern that car transporters entering the site would conflict with vehicles exiting the site and oncoming traffic, and that car transporter exiting the site would enter the swept path of trams approaching from the opposite direction. There is insufficient space for a transporter to manoeuvre within the site without conflicting with other vehicles or obstructing vehicles entering the site.

Network Rail: no objection in principle, subject to several conditions. These relate to; submitting a construction methodology to demonstrate consultation with Network Rail and that construction work can be undertaken without impact to railway safety; drainage details that demonstrate surface water will flow away from the railway; a requirement for trespass proof fencing; and, that landscaping includes planting that would not impact railway safety.

Nottingham Express Transit (Trams): not satisfied that sufficient information has been provided with regards to transporter vehicle deliveries. Transporters delivering during customer hours could lead to conflicts with customer access. Also concern that unfamiliar visitors to the site would miss the entrance or turn right out of the site and would continue on to the 'tram only' section of track on Lenton Lane bridge. Measures to prevent vehicle incursions have not been successful at Lenton Lane bridge and evidence from previous incursions onto the bridge are that they are result of those visitors unfamiliar with the area. The proposal would increase the number of visitors unfamiliar with the area and could lead to further incidents. These incidents cause thousands of pounds worth of damage and financial

penalties for NET due to significant delays.

Have requested a traffic incident review and a review of the junction timings and road layout at Queens Drive/ Enterprise Way junction. The existing approach signage needs to be reviewed and new signage may need to be installed, as well as other measures to provide visual prompts to drivers to prevent incursions onto the Lenton Lane bridge. Recommend the exit of the site should have a sign to warn visitors of trams on exit.

Also need to see a construction traffic plan to ensure how construction would be managed to prevent debris and damage to the tramway and overhead lines. Lighting column to the west of the entrance needs to be positioned to not be a hazard to tram drivers.

Nottingham Jobs: have provided an Employment and Training Plan including the requirement for a financial contribution of £14,209 towards delivering the local employment and jobs services.

Tree Officer: acceptable now that the proposal no longer includes the removal of the TPOd trees along Enterprise Way.

6 Relevant policies and guidance

National Planning Policy Framework (2019)

The NPPF advises that there is a presumption in favour of sustainable development and that applications for sustainable development should be approved where possible.

Paragraph 47 states planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 81 notes planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Paragraph 126 notes that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development.

Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments:

(a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

(e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

(f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Aligned Core Strategy (September 2014):

Policy A - Presumption in Favour of Sustainable Development

Policy 1 - Climate Change

Policy 4 - Employment Provision and Economic Development

Policy 10 - Design and Enhancing Local Identity

Policy 17 - Biodiversity

Policy 19 - Developer Contributions

Land and Local Planning Policies (LAPP) (Local Plan Part 2 Document)

Policy CC1: Sustainable Design and Construction

Policy CC3: Water

Policy EE1: Providing a Range of Employment Sites

Policy EE2: Safeguarding Existing Business Parks / Industrial Estates

Policy EE4: Local Employment and Training Opportunities

Policy DE1: Building Design and Use

Policy DE2: Context and Place making

Policy TR1: Parking and Travel Planning

Policy TR2: The Transport Network

Policy EN6: Biodiversity

Policy EN7: Trees

Policy IN2: Land Contamination, Instability and Pollution

Policy IN4: Developer Contributions

Policy SA1: Site Allocations

Supplementary Planning Documents

Biodiversity (2020)

7. Appraisal of proposed development

Main Issues:

(i) Principle of Development

(ii) Layout, Design and Appearance

(iii) Highways and Access

(iv) Flood Risk and Contamination

(v) Trees, Biodiversity and Sustainability

(vi) Planning Obligations

Issue (i) Principle of the Development (Policies 1 and 4 of the ACS, Policies EE1 and EE2 of the LAPP)

- 7.1 Policy EE1 of the LAPP states that provision will be made across the City for a minimum of 253,000 square metres of office floorspace (B1 (a & b)), and around 25 hectares for other employment uses (B1 (c), B2 and B8). This includes sites outlined in Appendix 4 of the LAPP for employment delivery, of which the application site is included as Site SR41 (NG2 West – Enterprise Way). This is allocated for class B1 a (office) and b (research & development) uses. The Use Classes Order has been amended since the adoption of the LAPP and both of these now fall within class E, which also incorporates a wide variety of alternative uses, including retail.
- 7.2 Policy EE2 of the LAPP states that within major business parks, permission will only be granted for employment uses. The definition of employment uses within the glossary of the LAPP is ‘Encompasses B1, B2 and B8 Use classes, (B1 Business, B2 General industrial Use, B8 Storage or distribution), together with ‘sui generis’ uses (uses that stand alone, and do not fall within any of the use classes) of a similar nature which are suitably located on employment sites. Examples of sui generis uses which may be appropriate include sorting offices, waste management development etc. The nature of the site, whether office or industrial and warehouse orientated, will determine the appropriateness of the particular sui generis use.
- 7.3 The proposal, which is a vehicle showroom with associated workshop, is a sui generis use. Given the site allocation for B1 a & b uses, the proposal is therefore a departure from the Local Plan.
- 7.4 In terms of the three existing car dealerships within NG2, the site of the Jaguar Landrover dealership was included as a car dealership in the 2016 outline planning permission (16/00526/POUT), establishing its use in principle. The Mercedes-Benz dealership was granted permission in 2004 (04/00768/PFUL3); part of the case for justifying its suitability at that time looked at the component elements of the use, with the office (B1) and workshop (B2) elements comprising the majority of floorspace within the scheme. Furthermore, it was recognised that car dealerships are compatible with high quality business parks, where they are often found, and are in general terms considered to be supportive of business park activity and attractiveness. The CarShop was granted permission for a showroom with MOT facility in 2019 (19/00189/PFUL3). This was granted on the basis that the previous use of the site was retail (Homebase) rather than an office, and because the applicants provided sufficient evidence that the use would enhance the role and vitality of NG2.
- 7.5 Although the site has good public transport connections due to the tram, the site is outside of the City Centre boundary where it is recognised that the demand for office use has been in decline for many years, with a preference for the accessibility and multiple facilities that City Centre locations offer. This has resulted in out of centre business parks such as the Nottingham Business park near Junction 26 and NG2 seeing no new office buildings for at least 10-15 years, a trend that is not expected to be reversed in the future.
- 7.6 As with considerations concerning the Mercedes-Benz dealership, the largely B class nature of the use and its compatibility with the NG2 offer is again acknowledged. The proposed dealership is to relocate from current premises on

Valley Road, with all staff being transferred, along with an anticipated 40 new FTE jobs being created.

- 7.7 Taking all of the above factors into account, it is considered the car dealership and associated workshop is acceptable in this location, as a departure from Policies 1 and 4 of the ACS, Policies EE1 and EE2 of the LAPP.

Issue (ii) Layout, design and appearance (Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP)

- 7.8 The proposed building's two storey scale and simple, contemporary design, with a mix of curtain wall glazing (etched opaque glass) and dark grey rainscreen cladding, are considered appropriate for the site and its NG2 context. The front elevation is to be set back 17m from Enterprise Way and the existing TPOd trees along the frontage of the site are to be retained. Details of the external materials can be conditioned to ensure that they are of an appropriately high-quality finish. The proposal therefore complies with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.

Issue (iii) Highways and Access (Policies TR1 and TR2 of the LAPP)

- 7.9 Access to the site will be directly from Enterprise Way, which is used by both vehicles and trams. The site is close to the tram stop for NG2. A Transport Assessment and details of transporter movements entering and exiting the site have been provided. Concerns have been raised from Highways and NET regarding vehicles entering and exiting the site, as well as transporter movements within the site curtilage.
- 7.10 When transporters enter the site, they will have to block access to customer parking temporarily whilst manoeuvring. Concern was raised this would lead to a backlog of vehicles on Enterprise Way which would disrupt the tram network. However, it is felt that this would be self-regulating because if a vehicle approached the site and the entrance was temporarily blocked by a transporter vehicle, the vehicle could continue along Enterprise Way rather than block a tram.
- 7.11 Concern was also raised that a car transporter exiting the site would enter the path of trams approaching from the opposite direction. Again, it is felt that this would be self-regulating and that transporter drivers would check for vehicles and trams approaching in both directions before exiting the site. In addition, car transporters exiting the nearby Jaguar Landrover dealership currently have to make a similar manoeuvre and therefore it would be unreasonable to require a different arrangement in this instance. No issues with the existing arrangement at Jaguar Landrover have been reported as part of this application.
- 7.12 A further concern was raised regarding the increased usage of the Queen's Drive junction. However, given the site allocation for development and that the outline planning permission has previously established the principle of the site as an office building with associated car parking, this is not considered to be a basis on which the scheme could be resisted.
- 7.13 A pre-commencement condition can be included to require details of a construction traffic management plan in order to prevent damage to the tram power lines, road and tram tracks. Pre-occupation conditions would be included requiring details of measures to warn visitors exiting the site of tram movements, and also ensuring that lighting at the site does not result in a distraction to tram drivers.

7.14 It is therefore considered that the proposal complies with Policy TR1 and TR2 of the LAPP.

Issue (iv) Flood Risk and Contamination (Policy 1 of the ACS and Policies CC3 and IN2 of the LAPP)

7.15 The application site is within Flood Zone 2. However, it is also located on a Principal aquifer within a source protection zone 3. Prior to the construction of NG2 the site was an ordnance factory (construction of military weapons and ammunition) with associated fuel storage. The site therefore presents a medium/high risk of contamination which could be mobilised during construction.

7.16 The applicant's site investigation states the site does not present a risk to controlled waters. However, the Environment Agency have advised this needs to be explored further and have recommended a number of conditions relating to drainage and contamination.

7.17 Subject to the necessary conditions, it is considered the proposal complies with Policy 1 of the ACS and Policies CC3 and IN2 of the LAPP.

Issue (v) Trees, Biodiversity and Sustainability (Policies 1 and 17 of the ACS and Policies CC1, EN6 and EN7 of the LAPP and Biodiversity SPD)

7.18 The scheme proposes to compensate for the 25% ground cover lost to the building (320sqm) with an additional 400sqm of planting at the site. The Council's Biodiversity and Greenspace Policy Officer states that this is acceptable in principle, providing the species and selection of landscape practices is beneficial to pollinators, birds and small mammals. A pre-commencement condition for a landscape and planting plan can be included, as well as a landscape management plan.

7.19 The southern edge of the site, along Enterprise Way, is lined with TPO protected trees. Originally the proposal was to remove these trees and replace them with fewer, smaller trees, for improved site visibility and to prevent detritus falling onto vehicles. However, in response to officer concern in this regard, they are now to be retained. An Arboricultural method statement outlining measures to be put in place to protect the trees during construction can be conditioned.

7.20 Given the intervening railway line, it is considered the proposed lighting would not have a negative impact on the Lenton Triangle Local Wildlife Site beyond.

7.21 In terms of sustainability, carbon emissions would be reduced using passive measures and high efficiency building services. To minimise heat gain in summer and heat loss in winter, thermal transmittance (U-Values) for external walls and the roof are proposed to exceed Building Regulations standards. The showroom would have a large expense of glazing which would be opaque but also double glazed with an argon filled cavity and low transmittance (G-Value). Solar panel arrays and VFR heat pump system are also to be used.

7.22 It is considered the proposal is in accordance with Policies 1 and 17 of the ACS and Policies CC1, EN6 and EN7 of the LAPP.

Issue (vi) Planning Obligations (Policy 19 of the Aligned Core Strategies and Policies EE4 and IN4 of the LAPP)

7.23 In order to comply with development plan policy, the proposed development attracts the following S106 obligation:

- a financial contribution of £14,209 towards local employment and training together with the provision of employment and training opportunities during the construction phase.

8 Financial Implications

None.

9 Legal Implications

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

10 Equality and Diversity Implications

None.

11 Risk Management Issues

None.

12 Strategic Priorities

Neighbourhood Nottingham: Redevelopment of an allocated brownfield site for employment development

Working Nottingham: An employment generating use with additional opportunity to secure training and employment for local citizens through the construction of the development

Safer Nottingham: The development is designed to contribute to a safer and more attractive, environment

13 Crime and Disorder Act implications

None.

14 Value for money

None.

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

1. Application No: 22/02486/PFUL3 - link to online case file:
<https://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RNC62MLYH5000>

16 Published documents referred to in compiling this report

Aligned Core Strategies – Local Plan Part 1 (2014)

Land and Planning Policies – Local Plan Part 2 (2020)

NPPF (2021)

Biodiversity SPD (2020)

Contact Officer:

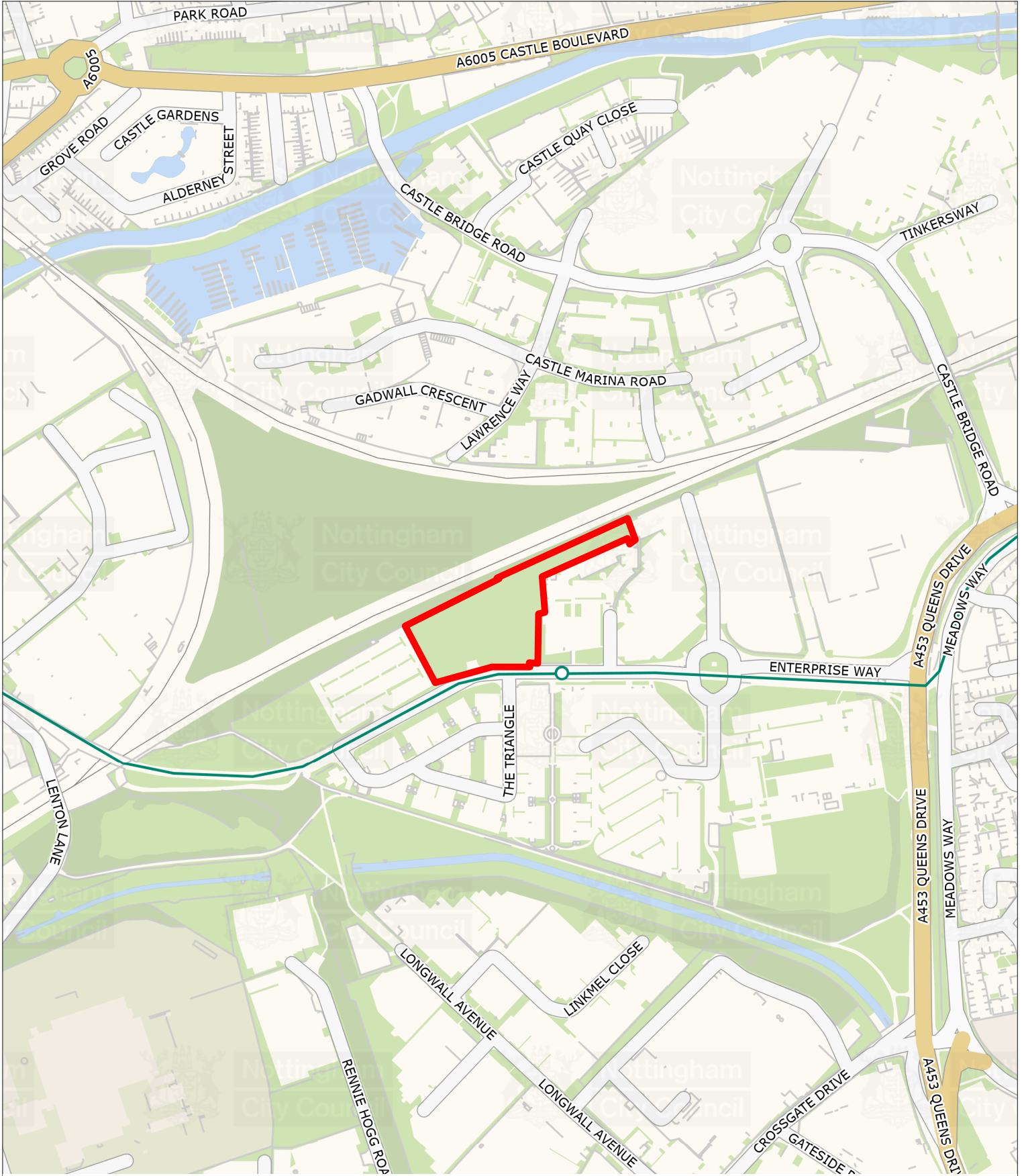
Ms Katherine Lowe, Case Officer, Development Management.

Email: katherine.lowe@nottinghamcity.gov.uk Telephone: 0115 8762435

Site Location Plan
(Not to scale)



Nomad printed map



Nottingham City Council, Crown copyright and database rights 2023 OS 100019317. Use of this data is subject to terms and conditions.

0 0,1 0,2 km



Key

 City Boundary

Printed map generated by a Nomad user on 10/07/2023. This map is not suitable for publishing, for high quality maps please contact gi@nottinghamcity.gov.uk.

Description

A map printed from Nomad.

My Ref: 22/02486/PFUL3 (PP-11498818)
Your Ref:
Contact: Miss Katherine Lowe
Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
City Planning
Loxley House
Station Street
Nottingham
NG2 3NG

Tel: 0115 8764447
www.nottinghamcity.gov.uk

SRA Architects
Station House
Ashley Avenue
Bath
BA1 3DS
United Kingdom

Date of decision:

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

Application No: 22/02486/PFUL3 (PP-11498818)
Application by: Marshall Motor Group Ltd / March Property Developments Lt...
Location: Land West Of Speedo House Unit 6, Enterprise Way, Nottingham
Proposal: Erection of a new Volvo car showroom and workshop, offices, storage, spare parts and MOT bay, with separate valeting accommodation and associated parking and landscaping.

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 the commencement of above ground construction, details of the external materials (including plant) and hard surfacing to be used in the development, including arrangement and fixings of the rainscreen cladding, shall be submitted to and be approved in writing to Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To secure a development of satisfactory appearance that complies with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.



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Continued...

3. The development shall not be commenced until an Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. The Arboricultural Method Statement shall specify measures to be put in place for the duration of construction operations to protect the existing TPO trees along the southern boundary with Enterprise Way that are shown to be retained on the approved plans.

Reason: To ensure that existing trees are safeguarded during construction in accordance with Policy EN7 of the LAPP.

4. Prior to the commencement of development a construction traffic management plan shall be submitted to and agreed in writing with the Local Planning Authority. Provision shall be made to accommodate all site operatives, visitors and construction vehicles during the construction period. 'Goalposts' on construction traffic exits shall be detailed and installed in order to ensure vehicles are below safe height of the tramway lines. Vehicles delivering to the site cannot be permitted to wait/park on the highway or tramway. The Construction Traffic Management Plan shall also include a construction traffic routing agreement and strategy for managing mud or similar debris on the adjacent public highways and tramway.

Reason: To ensure that the construction of the development has no adverse impact on the local highway and tramway network and has no significant impact on neighbouring properties to accord with policy TR1 of the LAPP.

5. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, to prevent damage to the final surface water management systems through the entire development construction phase, to control risk of contamination to controlled water and to accord with policy CC3 of the LAPP.

6. Development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Planning Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure development can be undertaken safely and without impact to operational railway safety in accordance with Policy TR2 of the LAPP.

7. Prior to the commencement of construction, details of the surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority. Due to contaminants on site, surface water shall not be disposed of via infiltration or soakaways other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

The scheme shall demonstrate that surface water flows away from the railway, that there is no ponding of water adjacent to the boundary with the railway.

Where a sustainable drainage scheme is to be provided the submitted details shall:

- i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface sewers;

- ii) Include a timetable for its implementation; and
- iii) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure operation of the scheme throughout its lifetime.

Prior to the occupation of the building hereby approved the surface water drainage works shall be carried out and the sustainable drainage system shall thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site. To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development and to accord with policy CC3 of the LAPP.

Pre-occupation conditions

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

- 8. The development hereby permitted shall not be brought into use until a detailed landscaping and planting scheme indicating the type, height, species and location of all new trees and shrubs, comprising native species and plants attractive to pollinators, has been submitted to and approved in writing by the Local Planning Authority. Planting near the railway boundary should comply with Network Rail's 'Recommended Planting Species' (2015).

The scheme shall include a timetable for phasing and implementation and a landscape management plan.

The approved landscaping scheme (hard and soft) shall be carried out in accordance with the approved timetable for implementation and 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.

Reason: To ensure that the appearance of the development is satisfactory and in the interests of biodiversity in accordance with Policies 10 and 17 of the ACS and Policies DE1, DE2 and EN6 of the LAPP.

- 9. Prior to the occupation of the site, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements such as but not restricted to (surface water attenuation devices/areas, flow restriction devices, outfalls).

Reason: To ensure the Drainage system is constructed to the National Non-Statutory Technical Standards for SuDS and to accord with policy CC3 of the LAPP.



10. Prior to first occupation of the development a Verification Report, based on the findings and recommendation within the Phase 1 & 2 contamination report by Eastwood & Partners, report number 46649 dated 3rd October 2022 which shall include the data referred to in the Verification Plan, to demonstrate that the approved Remediation Strategy to deal with ground gas contamination of the site has been fully implemented and completed.

Reason: In the interests of public health and safety and in accordance with the aims of Policy 10 of the ACS and Policy IN2 of the LAPP.

11. Prior to the development hereby approved being first brought into use, details and the location of signage, road markings and other measures to warn drivers of trams when exiting the application site shall be submitted to the the Local Planning Authority. The approved scheme shall be retained for the lifetime of the development.

Reason: To minimise the risk of disruption to the tramway network from vehicles exiting the site in accordance with Policy TR2 of the LAPP.

Regulatory/ongoing conditions

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

12. If, during development, contamination not previously identified in the Phase 1 & 2 Geotechnical and Geo-Environmental Site Investigation (by Eastwood & Partners dated 3 October 2022) is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Strategy shall be implemented as approved.

Reason: In the interests of public health and safety and in accordance with the aims of Policy 10 of the ACS and Policy IN2 of the LAPP. To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the National Planning Policy Framework.

13. During construction, piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure construction does not risk polluting or mobilising contamination which would impact groundwater (including aquifers) in accordance with Policy 10 of the ACS, Policy IN2 of the LAPP and paragraph 174 of the NPPF.

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 23 January 2023.

Reason: To determine the scope of this permission.

Informatives



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Continued...

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. 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 0830-1300)

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 Pollution Control Section (Tel: 0115 9152020).

Equipment

All equipment shall be properly maintained, serviced and operated in accordance with the manufacturer's recommendations and with appropriate noise suppression/silencers.

Dust/Grit and other fugitive emissions

Construction and demolition work invariably generates grit and dust, which can be carried offsite and cause a Statutory Nuisance, and have a detrimental effect on local air quality.

Contractors are expected to use appropriate methods to minimise fugitive emissions, reduce the likelihood of justified complaint and avoid costly restriction and development delays. Appropriate methods include:-

Flexible plastic sheeting

Water sprays/damping down of spoil and demolition waste

Wheel washing

Periodic road cleaning

4. The Remediation Strategy (including its component elements) must be undertaken and implemented in accordance with the Environment Agency's Land Contamination Risk Management guidance published at <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>, CIRIA C735 Good Practice on the Testing & Verification of Protection Systems for Buildings Against Hazardous Ground Gases (2014) 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.

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.

5. Network Rail Standard Drainage Requirements

We ask that all surface and foul water drainage from the development area be directed away from Network Rail's retained land and structures into suitable drainage systems, the details of which are to be approved by Network Rail before construction starts on site.

Water must not be caused to pond on or near railway land either during or after any construction-related activity.

Any attenuation scheme within 30m of the railway boundary must be approved by Network Rail in advance. There must be no connection to existing railway drainage assets without prior agreement with Network Rail.

The construction of soakaways for storm or surface water drainage should not take place within 20m of the Network Rail boundary. Any new drains are to be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment.

The construction of soakaways within any lease area is not permitted.

The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 20m of the Network Rail boundary where these systems are proposed to be below existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 30m of the Network Rail boundary where these systems are proposed to be above existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

If a Network Rail-owned underline structure (such as a culvert, pipe or drain) is intended to act as a means of conveying surface water within or away from the development, then all parties must work together to ensure that the structure is fit for purpose and able to take the proposed flows without risk to the safety of the railway or the surrounding land.

Wayleaves and or easements for underline drainage assets

The position of any underline drainage asset shall not be within 5m of drainage assets, sensitive operational equipment such as switches and crossings, track joints, welds, overhead line stanchions and line side equipment, and not within 15m of bridges, culverts, retaining walls and other structures supporting railway live loading.

Protection of existing railway drainage assets within a clearance area

There are likely to be existing railway drainage assets in the vicinity of the proposed works. Please proceed with caution.

No connection of drainage shall be made to these assets without Network Rail's prior consent to detailed proposals. Any works within 5m of the assets will require prior consent.

There must be no interfering with existing drainage assets/systems without Network Rail's written permission.

The developer is asked to ascertain with Network Rail the existence of any existing railway drainage assets or systems in the vicinity of the development area before work starts on site.

Please contact Asset Protection (assetprotectioneastern@networkrail.co.uk) for further information and assistance.

6. All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.

7. All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

8. Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

9. Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

10. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

11. Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

12. Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem. If required there may be a need to fit bridge protection barriers which may be at the developer's expense.

13. From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges and level crossings). We would have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Asset Protection Project Manager to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

14. Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus reducing the probability of provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

15. The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail airspace and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or airspace is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

16. All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

17. Land contamination risk assessments should be written in accordance with the Environment Agency's online guidance Land Contamination: Risk Management, which can be viewed via the following link: <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>

18. Infiltration methods on contaminated land carries groundwater pollution risks and may not work in areas with a high water table. Where the intention is to dispose to soakaway, these should be shown to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365.

19. Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

- o Position statement on the Definition of Waste: Development Industry Code of Practice and;
- o website at <https://www.gov.uk/government/organisations/environment-agency>

20. Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- o Duty of Care Regulations 1991
- o Hazardous Waste (England and Wales) Regulations 2005
- o Environmental Permitting (England and Wales) Regulations 2010
- o The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standards BS EN 14899:2005 'Characterisation of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency>

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: 22/02486/PFUL3 (PP-11498818)

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 Planning Inspectorate website at <https://www.gov.uk/appeal-planning-decision>.

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.

STREET NAMING AND NUMBERING

Nottingham City Council has a statutory responsibility for agreeing and registering addresses. If the development will create one or more new addresses or streets (for example a new build or conversion) please contact address.management@nottinghamcity.gov.uk as soon as possible, quoting your planning application reference. Any addresses assigned outside of this process will not be officially recognised and may result in difficulties with service delivery.



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Wards Affected: Bulwell

Item No:

**Planning Committee
19 July 2023**

Report of Director of Planning and Transport

Former Apollo Hotel, 170 Hucknall Lane

1 Summary

Application No: 23/00120/PFUL3 for planning permission

Application by: Mr Andrew Pettifor on behalf of Mersenne Developments Ltd

Proposal: Construction of a mixed-use development comprising a UCO Classes E(a) and (b) unit with drive-thru and two number Use Class E(a), E(b), E(c) and Sui Generis (tanning salon) units, with associated parking, Electric Vehicle Charging points, minor alterations to the vehicular access, and landscaping.

This application was deferred at the June meeting and is returned to Committee because it is considered to raise sensitive issues having regard to the history and previous decisions of the Planning Committee

To meet the Council's Performance Targets this application should have been determined by 21st March 2023

2 Recommendations

1. Grant permission subject to the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Director of Planning and Transport.

3 Background

3.1 The attached report on the proposed development was made to Planning Committee on 21 June. In deferring a decision on the application the draft minute of this Committee states that:

“The Committee felt that it was unable to take a decision on this application until further information regarding the local air quality impacts for residents and occupiers of the site resulting from this development. The Committee also requested that the applicant is approached to see if a more architecturally appealing and sustainable building design for the drive-thru restaurant can be proposed as a part of the application.”

The following further information and proposed design amendments have been received.

3.2 (i) Air Quality Impacts

The applicant has commissioned an air quality assessment and has provided a report, which concludes that the development-generated traffic emissions will not have a significant impact on local air quality and that further mitigation measures are not required. Environmental Health have reviewed the report and have confirmed that they accept its findings. It is therefore considered that the proposed development will not significantly impact upon local air quality in accordance with LAPP Policy IN2.

(ii) Building Design and Sustainability

The applicant has agreed to make a number of changes to the building design.

Greggs Unit:

- Cladding changed to brickwork on North and West elevations facing the car park & Hucknall Lane, respectively.
- Blue corner feature and blue side feature blue cladding extended in height.
- PV array area included on the roof.

Retail Units:

- Cladding changed to brickwork on South, East and West elevations facing Hucknall Lane and parking areas.

Site Plan:

- Increased number of trees.
- Railings added to Hucknall Lane boundary wall.

The applicant has also advised that they are willing to accept a condition to require the submission and approval of details to control/protection of out-of-hours access to the site.

It is considered that the applicant has responded positively to Committee's request and it is considered that the proposed amendments are appropriate to the appearance and sustainability of the proposed development. The proposed amendments will be presented to Committee.

4 Consultations and observations of other officers

Environmental Health: The findings of the Air Quality Assessment Report that the impact on this development on Air Quality is likely to be insignificant are accepted.

Wards Affected: Bulwell

Item No:

Planning Committee 21 June 2023

Report of Director of Planning and Transport

Former Apollo Hotel, 170 Hucknall Lane

1 Summary

Application No: 23/00120/PFUL3 for planning permission

Application by: Aspbury Planning Ltd on behalf of Mersenne Developments Ltd

Proposal: Construction of a mixed-use development comprising; a UCO Classes E(a) and (b) unit with 'Drive-thru;' and, Two number Use Class E(a), E(b), E(c) and Sui Generis (tanning salon) units; with associated parking; Electric Vehicle Charging points: minor alterations to the vehicular access; and, landscaping.

The application is brought to Committee because it is considered to raise sensitive issues having regard to the history and previous decisions of the planning committee.

To meet the Council's Performance Targets this application should have been determined by 21st March 2023

2 Recommendations

GRANT PLANNING PERMISSION subject to the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Director of Planning and Transport.

3 Background

3.1 The application site is the site of the former Apollo Hotel and public house on Hucknall Lane.

3.2 There are residential properties on Ventura Drive to the north and adjoining the east/rear boundary of the site. There is a tyre centre and electrical factors businesses to the south of the site on Saxondale Court.

3.3 Planning permission for the use of part of the application site as a hand car wash was initially granted temporary consent (13/01074/PFUL3) and renewed on two occasions. Planning permission was subsequently granted on 15 January 2021 (20/02230/PFUL3) for the permanent retention of the hand car wash and hot food unit with limiting planning conditions.

3.4 The car wash operations have recently ceased and the site has been vacated.

4 Details of the proposal

- 4.1 The application proposes the construction of a new mixed-use development comprising a drive thru restaurant and a separate building containing two retail units. The application description has been recently amended, removing the previous reference to hot food take away use (sui generis) from all three proposed units. The applicant has also confirmed the proposed first occupiers as Greggs for the drive thru, and Subway and Indigo Sun (tanning salon) being for the other two retail units.
- 4.2 The drive thru restaurant building would be located centrally proximate to the southern boundary of the site, with the two retail units occupying a similar position proximate to the sites' northern boundary. Vehicle access would be from Hucknall Lane and from the north eastern corner of the site. There would be a loop road around the proposed drive thru restaurant building, with menu boards and an order point. There would be a separate pedestrian access midway along the Hucknall Road boundary, at a point adjacent to an existing bus stop. Customer car parking (including EV parking) is arranged around the proposed buildings, with landscaping proposed around the perimeter of the site.
- 4.3 The applicant has recently amended their proposed hours of operation from 06:30 to 23:00 Monday-Saturday, to 07:00 to 22:00 Monday-Saturday. Sundays/Bank holidays are unchanged, being proposed as 08:00 to 20:00.

5 Consultations and observations of other officers

Adjoining occupiers consulted:

181-199(o) Hucknall Lane
1, 7, 9, 11, 15, 17, 12-22 Ventura Drive
2, 3 Saxondale Court

Neighbour: On a previous occasion I notified you of risks regarding rodent infestation emanating from the River Leen, drawn towards open air food outlets installed on the car wash site. It is the Springfields Estate that pays the cost of rodent invasions infesting their gardens by rats lodging under sheds and seeking entry to our residences. I therefore reiterate that the further pursuit of food outlets on this site exacerbates the rodent problem as it affects the residents of Springfields Estate, and we the residents require more deference towards our unaddressed fears and unintended consequences of rodent infestation. This is not good enough.

Neighbour (x2): We object to the proposed development. The opening hours of the development are not appropriate for a site that shares a direct boundary with residential properties, and will have an impact on our quality of life, through noise caused by staff and deliveries accessing and leaving the site earlier and later than the specified opening hours, as well as cars and associated noise such as music, modified cars with loud exhausts, etc, groups of people gathering, etc.

The location of the drive thru is wholly inappropriate behind 3 residential properties and the food order points and outside customer seating being directly behind our back gardens (the 'acoustic' fence installed on the site does nothing to minimise the noise generated on the site, which will only increase with the increased number of visitors to the site). The order points at McDonalds can be heard at our properties in

the evening, throughout the night, and early morning when the roads are quiet, so there is no doubt that the location of these will cause significant disturbance.

Idling cars going through the drive thru will have an impact on air pollution so close to residential properties where young children and vulnerable adults are residing. There will be increased pollution resulting from the increase in traffic to the site and cars idling so close to the rear boundary of the gardens.

The development will result in an increase in anti-social behaviour in the area, as is proven by the number of incidents that take place in the vicinity of McDonalds nearby.

Food sold on the site previously led to an increase in rats in the area that, as we share a direct boundary with the site, often appeared in our gardens, which is not safe.

We can see from the site plan that there is the intention to install a CCTV pole. Given the proximity of this to our properties, it appears that this will infringe on our privacy when we are inside our properties, as well as outside in the garden.

We cannot see the lighting details but, as it appears that the site will not be gated off when it is not operating, it can be assumed that any lighting would be kept on all night, which will cause light pollution issues for our bedrooms which look out on to the site.

The increase in traffic in and out of the site will have a negative impact on Hucknall Lane which is already significantly congested during peak travel times.

The development is not an appropriate use for a site of this nature at all, but should there be a recommendation to approve it, the proposed layout would have to be turned 180 degrees so that the drive thru is located on the opposite side of the site which does not share a direct boundary with any residential properties. The opening hours (and hours for staff and delivery access) would also need to be significantly reduced to minimise the impact on the residential dwellings that share a boundary.

Additional consultation letters sent to:

Nottingham Local Access Forum: We query the assumption that cycle parking will be dependent on staff demand. There should instead be some provision in the layout plans at the outset in accordance with the current local plan Part 2 Appendix 1. It follows therefore that current relevant layout plans should not be referenced in a decision notice to approve. The Framework Travel Plan states (section 5) that the recommended annual Travel Plan Review Report will be submitted to the local authority, but it must state an officer post recipient. That post should probably sit within the Transport department.

Environment Agency: The development falls within flood zone 2 and therefore the LPA should apply national flood risk standing advice.

Flood Management Team: No objection subject to conditions relating to detailed drainage design, the management of surface water on site during construction, and verification drainage system has been constructed as per the agreed scheme.

Policy: No objection. Main town centre uses in an out of centre location are to be reviewed having regard to Policy SH4 of the Land and Planning Policies Local Plan. It is considered that the applicant has demonstrated the absence of any suitable/available alternative sites in more appropriate locations. The sequential test is therefore considered to be satisfied.

Environmental Health: No objection subject to conditions relating to commercial plant noise; noise and dust management during construction; odour and ventilation; ground gas contamination remediation; a noise management plan to address any instances of noise complaints from the operation of the proposed development; and operating hours control.

Highways: No objection subject to conditions and informatives. Please ensure any boundary treatment to Hucknall Lane prevents headlight infiltration from the drive thru onto traffic movements and distraction.

6 Relevant policies and guidance

Aligned Core Strategies (ACS)

Policy 1 - Climate Change
Policy 6: Role of Town and Local Centres
Policy 10 - Design and Enhancing Local Identity
Policy 14 - Managing Travel Demand

Land and Planning Policies (LAPP)

Policy CC3: Water
Policy DE1: Building Design and Use
Policy SH4: Development of Main Town Centre Uses in Edge of Centre and Out of Centre Locations
Policy IN2: Land Contamination, Instability and Pollution
Policy TR1: Parking and Travel Planning

NPPF (2021):

Paragraph 87 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

7. Appraisal of proposed development

Main Issues

Issue (i) Location and Use

- 7.1 The proposed development includes main town centre retail uses on a site that is defined as being in an out-of-centre location, with the nearest main town centre being Bulwell Town Centre. Paragraph 87 of the NPPF, ACS Policy 6 and LAPP Policy SH4 states that planning permission for development of main town centre uses in edge of centre and out of centre locations will be subject to the sequential

test for site selection, with proposals for development being required to satisfactorily demonstrate that there are no sequentially preferable sites available.

- 7.2 The applicant has submitted a sequential test report, which has been reviewed by the Policy Team. The submitted assessment concludes that there are no suitable alternative sites where the proposed development could be located. The majority are identified as being too small, with others either not being available or at locations that are sequentially less preferable than the application site. It is therefore considered that the proposed drive-thru and other uses are sequentially located on the most appropriate and available site.
- 7.3 The site's position is within a short travel distance of the Bulwell Town Centre where it can be expected that a proportion of customer trips will be linked to those visiting the centre. Whilst it must be anticipated that the higher proportion of trips to the proposed development will be made by car, it is also likely that many of these trips would occur already, either as linked trips to the centre or as commuter trips using Hucknall Road as a primary traffic route into and out of the city. The site is located on a bus route with a bus stop immediately adjacent to the site's boundary with Hucknall Road. On-site cycle parking facilities can be secured via a planning condition.
- 7.4 The site remains predominantly vacant and the proposed development will therefore enable the development of a brownfield land and provides the opportunity to improve its overall appearance.
- 7.5 Accordingly, it is not considered that the proposed development would conflict with ACS Policy 6 and LAPP Policy SH4.

Issue (ii) Layout and Design

- 7.6 The format of a drive-thru is not particularly flexible, with vehicle movement being required around the building. The proposed layout therefore provides for access off Hucknall Road and a loop road, with drivers menu boards and an order point prior to the building collection hatch.
- 7.7 It is noted that the applicant has positioned the drive-thru off from the rear boundary of the site and therefore at a distance from the nearest residential properties to the rear on Ventura Drive. The impact upon the residential amenity of those properties is discussed below but, in terms of the internal layout of the site, the position of the drive-thru building is considered to be appropriate as part of the layout of the proposed development.
- 7.8 The additional separate building containing two retail units reflects the position of the drive-thru building and is also generally of the same size. This building is orientated to face the drive-thru and therefore has its side elevation facing towards Hucknall Road and its rear elevation towards the boundary with Ventura Drive. Whilst it would generally be more appropriate for retail units to be orientated towards the principal frontage, in this instance it is considered that there is greater merit in recognising the a cross-site relationship with the proposed drive-thru building and where activity would be focussed towards the centre of the site.
- 7.9 It is therefore considered that the layout and design of the proposed development accords with ACS Policy 10 and LAPP Policy DE1.

Issue (iii) Residential Amenity

- 7.10 The application site is adjoined to the east by residential properties on Ventura Drive. The residential amenity of these properties are acknowledged as being sensitive to noise from activities from within the site, which has been a particular consideration in the determination of planning applications for the existing car wash use.
- 7.11 Activity from the proposed development including vehicle movements and engine noise, speaker noise from the drive-thru ordering point, and deliveries are reviewed within the Noise Assessment report that has been submitted with the application. The report notes that a 2.8m high acoustic fence is proposed to replace the existing acoustic fence that is offset from the eastern boundary of the site and that this replacement fence would extend further across this boundary to the rear of the proposed EV charging points. The fence would therefore effectively screen the proposed development from the ground floor and gardens of those neighbouring properties. The application also indicates that landscaping is proposed on either side of the proposed acoustic fence and further details have been provided to ensure the quality of the proposed treatment across the site. The existing close-boarded timber fence to the northern boundary of the site is proposed to be retained, screening the site from facing properties across Ventura Drive.
- 7.12 The Noise Assessment has been reviewed by Environmental Health, who have considered this to be acceptable subject to planning conditions that are consistent with the conclusions of the report. It is therefore considered that the proposed development accords with LAPP Policies DE1 and IN2 in this respect.
- 7.13 The applicant's revised proposed hours of opening have also been reviewed by Environmental Health and are considered to be acceptable subject to on-going regulation by planning condition.
- 7.14 The comments the neighbours regarding potential privacy infringements arising from the proposed CCTV camera are noted but is not a planning matter, falling under the General Data Protection Regulation and Data Protection Act and it is expected that the applicant will incorporate sufficient measures to avoid this potential conflict.
- 7.15 The comments of the neighbours regarding potential light pollution is a matter that is controlled under the Environmental Protection Act as a 'statutory nuisance' and it is expected that the applicant will incorporate sufficient measures to avoid this potential conflict.
- 7.16 The comments of neighbours relating to rat/rodent issues in the area is not a planning matter and would be regulated under the Environmental Health food safety and hygiene regulations.

Issue (iv) Highways

- 7.17 The application site is currently served by two vehicle access points off Hucknall Road. It is proposed that the southern access is closed and that the northern access proximate to Ventura Drive is developed as an entry/exit point for vehicles. The existing bus stop midway along the site's boundary with Hucknall Road is to be retained and a separate pedestrian access into the site is also proposed at this point.

- 7.18 The application submission also includes a Transport Assessment, which concludes that the traffic impact of the proposed development will be negligible, with a large proportion of trips being made to the site already being present on the road network. The report also concludes that the car park will operate within capacity at peak demand and that service arrangements will accommodate delivery traffic.
- 7.19 The Transport Assessment and application details have been reviewed by Highways, who have advised that the proposed development is acceptable subject to planning conditions. Highways comment in relation to preventing headlight distraction to vehicles using Hucknall Lane is also being addressed under the landscaping boundary wall details that have now been provided. Whilst cycle parking has not been indicated on the proposed layout plan, it is considered that appropriate on-site provision can be secured via a planning condition. It is therefore considered that the proposed development accords with ACS Policy 14 and LAPP Policies DE1 and TR1 in this respect.

Other

- 7.20 The applicant has updated their Flood Risk Assessment, which has been reviewed and confirmed as acceptable by the Flood Risk Management team subject to conditions. The proposed development is therefore considered to accord with AC Policy 1 and LAPP Policy CC3.

8. Sustainability / Biodiversity

The provision of six dedicated EV car parking spaces is a positive aspect of the proposed development. The details and quality of the proposed landscaping across the site has also been improved.

9 Financial Implications

None.

10 Legal Implications

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

11 Equality and Diversity Implications

None.

12 Risk Management Issues

None.

13 Strategic Priorities

None.

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: 23/00120/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ROZA9MLYLQ000>

17 Published documents referred to in compiling this report

Aligned Core Strategies – Local Plan Part 1 (2014)

Land and Planning Policies – Local Plan Part 2 (2020)

Contact Officer:

Mr Jim Rae, Case Officer, Development Management.

Email: jim.rae@nottinghamcity.gov.uk. Telephone: 0115 8764074

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0 0.03 0.05 km

Key
 City Boundary

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Description
A map printed from Nomad.

My Ref: 23/00120/PFUL3 (PP-11812437)
Your Ref:
Contact: Mr Jim Rae
Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
City Planning
Loxley House
Station Street
Nottingham
NG2 3NG

Tel: 0115 8764447
www.nottinghamcity.gov.uk

Mr Andrew Pettifor
Aspbury Planning Ltd
20 Park Lane Business Centre
Park Lane
Nottingham
NG6 0DW

Date of decision:

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

Application No: 23/00120/PFUL3 (PP-11812437)
Application by: Mersenne Developments Ltd
Location: Former Apollo Hotel, 170 Hucknall Lane, Nottingham
Proposal: Construction of a mixed-use development comprising a UCO Classes E(a) and (b) unit with drive-thru and two number Use Class E(a), E(b), E(c) and Sui Generis (tanning salon) units, with associated parking, Electric Vehicle Charging points, minor alterations to the vehicular access, and landscaping.

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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DRAFT ONLY
Not for issue

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Continued...

2. Prior to the commencement of the development, a noise report shall be submitted to and be approved in writing by the Local Planning Authority.

The report 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 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).

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

Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

3. Prior to the commencement of the development a detailed 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 construction / demolition & other activities which are likely to cause noise disturbance to sensitive receptors and:

1. Minimise noise arising from construction / demolition & other activities by technical and physical means, and through management best practice e.g.:

- i. Provide an electrical supply for plant & equipment to avoid the use for generators
- ii. Provide acoustic shielding for works where there is a direct line of sight to noise sensitive receptors
- iii. Minimise the noise impact from the depositing of waste into skips
- iv. Minimise the noise impact of the collections from and deliveries to the site

2. Identify (and make stakeholders aware of) the person responsible for recording, investigating & dealing with complaints from residents.

3. Set out a communication strategy to keep regulators, resident and other stakeholders advised well in advance of specific works which are likely to cause a noise disturbance.

Development works shall thereafter be carried out in accordance with the approved Noise Management Plan.

Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

4. Prior to the commencement of the development, a scheme for the ventilation and means of discharging and dispersing fumes and the prevention of nuisance caused by odour from the development shall be submitted to and be 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.

Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience odour nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

5. Prior to the commencement of the development, a Remediation Strategy that includes the following components to deal with the risks associated with ground gas contamination of the site shall be submitted to and be approved in writing by the Local Planning Authority:

a) The Site Investigation, shall be finalised, and risk assessment completed.

b) A Remediation Plan, based on the above risk assessment addressing the gas related risks, giving full details of the remediation measures required and how they are to be undertaken.

c) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in c) above are complete.

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

6. Prior to the commencement of construction, detailed design of the surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority.

Where a sustainable drainage scheme is to be provided the submitted details shall:

i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface sewers;

ii) Include a timetable for its implementation; and

iii) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure operation of the scheme throughout its lifetime. Prior to the occupation of the buildings hereby approved the surface water drainage works shall be carried out and the sustainable drainage system shall thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site. To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development. In accordance with Policy CC3 of the Land and Planning Policies Development Plan Document.



7. No development shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy CC3 of the Land and Planning Policies Development Plan Document.

Pre-occupation conditions

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

8. Prior to first occupation of the development, verification that the approved mechanical services plant or equipment (including any air handling plant) specified to serve the development including any mitigation measures has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

9. Prior to first occupation of the development, verification that the approved scheme for the ventilation and means of discharging and dispersing fumes and prevention of odour nuisance has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience odour nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

10. Prior to the first occupation of the development, a verification report demonstrating that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), providing the details of any management company and stating the national grid reference of any key drainage elements such as but not restricted to (surface water attenuation devices/areas, flow restriction devices, outfalls) shall be submitted to and approved by the Local Planning Authority

Reason: To ensure the drainage system is constructed to the National Non-Statutory Technical Standards for SuDS in accordance with Policy CC3 of the Land and Planning Policies Development Plan Document.

11. The approved development shall not be first occupied until the existing vehicle access on Hucknall Road, which will be made redundant as a consequence of the implementation of the approved development, has been reinstated with full height kerbs and footways.

Reason: In the interests of ensuring that these works are carried out in association with the approved redevelopment of the site and in the interests of highway safety and amenity in accordance with Policy DE1 of the Land and Planning Policies Development Plan Document.



12. Prior to the first occupation of the drive-thru unit, a detailed Noise Management Plan for that element of the approved development 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 activities which are likely to cause noise disturbance to sensitive receptors, including customers playing music in their waiting vehicles and the communications at the order point and:

- How management will control and minimise noise arising from operational activities by technical and physical means.
- Identify (and make stakeholders aware of) the person responsible for recording, investigating & dealing with complaints from any residents
- Annually review the Noise Management Plan.

The operators shall thereafter adhere to the approved Noise Management Plan unless this has been varied with the further written consent of the Local Planning Authority.

Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

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 gas contamination of the site has been fully implemented and completed.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.

14. The approved development shall not be first occupied until details of a minimum provision of 16 on-site cycle parking spaces have been submitted to and approved by the Local Planning Authority. The approved details shall thereafter be implemented prior to the first occupation the unit within the approved development to which that provision relates.

Reason: In the interests of ensuring the appropriate provision of cycle parking facilities within the site in accordance with Policy TR1 of the Land and Planning Policies Development Plan Document.

Regulatory/ongoing conditions

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

15. The approved drive thru restaurant use shall not be open to customers outside of the following hours unless with the prior written consent of the Local Planning Authority:

07:00 to 22:00 Monday to Saturday
08:00 to 20:00 Sundays and Bank Holidays

Reason; In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies and Policy IN2 of the Land and Planning Policies Development Plan Document.



16. The approved drive thru restaurant shall not be operated unless an acoustic fence of the same specification as approved (position, height and construction) remains in place between the rear of the drive thru restaurant area and the rear and side boundaries of the adjoining residential properties on Ventura Drive.

Reason: In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies and Policy IN2 of the Land and Planning Policies Development Plan Document.

17. No deliveries or servicing shall be carried out to any unit within the approved development outside of the following hours unless with the prior written consent of the Local Planning Authority:

07:00 to 22:00 Monday to Saturday
08:00 to 20:00 Sundays and Bank Holidays

Reason; In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies and Policy IN2 of the Land and Planning Policies Development Plan Document.

18. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation or the completion of the development whichever is the sooner, and any trees 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.

Reason: To ensure that the appearance of the development will be satisfactory in accordance with Policy 10 of the Adopted Core Strategy and Policy DE1 of the Land and Planning Policies Development Plan Document.

Standard condition- scope of permission

S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the following drawings/documents:
Drawing reference 18232-112 revision Rev S
Drawing reference 18232-113 revision Rev B
Drawing reference 18232-114 revision Rev A
Drawing reference 18232-115 revision Rev F
Drawing reference 18232-116 revision Rev A
Drawing reference 18232-117
Drawing reference 18232-118 revision Rev N
Drawing reference 18232-VL_L01 revision Rev L

Reason: To determine the scope of this permission.

Informatives

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

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



other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

3. Commercial Noise

The objective of this condition is to prevent background noise creep in the vicinity of the development. 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.

4. Noise Management Plan

The operator must adhere to the agreed Noise Management Plan while the construction / refurbishment work continue. 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

5. Construction & Demolition - Noise Control: Hours of Work

The acceptable hours for demolition or construction work (including deliveries to & from the site) are detailed below; -

Monday to Friday:	07.30 hrs - 18.00 hrs (noisy operations restricted to 08.00 hrs -18.00 hrs)
Saturday:	08.30 hrs - 17.00 hrs (noisy operations restricted to 09.00 hrs - 13.00 hrs)
Sunday:	at no time
Bank Holidays:	at no time

Work outside these hours may be acceptable in exceptional circumstances but must be agreed with Nottingham City Council's Environmental Health Team (email: pollution.control@nottinghamcity.gov.uk)

6. Ground Gas Contamination

The Remediation Strategy (including its component elements) must be undertaken and implemented in accordance with the Environment Agency's Land Contamination Risk Management guidance published at <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>, CIRIA C735 Good Practice on the Testing & Verification of Protection Systems for Buildings Against Hazardous Ground Gases (2014) 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.

7. 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 (EMAQ, 2018).

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). (NB Cheshire Fire & Rescue Service have useful advice on their website See - <https://www.cheshirefire.gov.uk/business-safety/fire-safety-advice-for-businesses/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.

8. 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 (EMAQ, 2018).

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). (NB Cheshire Fire & Rescue Service have useful advice on their website See - <https://www.cheshirefire.gov.uk/business-safety/fire-safety-advice-for-businesses/restaurants-fast-food-outlets-and-take-away-shops>).

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- 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
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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: 23/00120/PFUL3 (PP-11812437)

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 Planning Inspectorate website at <https://www.gov.uk/appeal-planning-decision>.

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.

STREET NAMING AND NUMBERING

Nottingham City Council has a statutory responsibility for agreeing and registering addresses. If the development will create one or more new addresses or streets (for example a new build or conversion) please contact address.management@nottinghamcity.gov.uk as soon as possible, quoting your planning application reference. Any addresses assigned outside of this process will not be officially recognised and may result in difficulties with service delivery.



DRAFT ONLY

Not for issue

Wards Affected: Bestwood (May 2019)

Item No:

Planning Committee

Report of Director of Planning and Transport

Former Site Of Chronos Richardson Ltd, Belconnen Road

1 Summary

1. Application No: 22/00675/PFUL3 for planning permission

Application by: Ms Julie White on behalf of Mypad 2020 Ltd
Proposal: Development of 62 dwellings, with access from Wyton Close and Belconnen Road, landscaping, drainage and open space

AND

2. Application No: 22/00709/PFUL3 for planning permission

Application by: Ms Julie White on behalf of Lidl GB Ltd.

Proposal: Development of food store with car park, landscaping, plant and associated works and access from Belconnen Road

The applications are brought back to Committee due to a material change in circumstances since the Committee last considered the applications.

To meet the Council's Performance Targets these applications should have been determined by 4th July 2022.

2 Recommendations

Further to resolutions 48 and 49 of Planning Committee on 21 December 2022 to grant planning permission for both applications subject to the prior completion of Section 106 agreements and subject to conditions, the Committee resolves:

1. To **grant planning permission** for application 22/00709/PFUL3 (Lidl GB Ltd) in accordance with resolution 49 of the 21 December 2022 Committee only in the event that planning permission for application 22/00675/PFUL3 (MyPad 2020 Ltd) has first been granted in accordance with resolution 48 of that Committee.
2. In the event that it is not possible to determine application 22/00675/PFUL3 by 20 October 2023 (either because the required Section 106 Agreement has not been completed, or because the application is withdrawn,) the Director of Planning and Transport be delegated power to **refuse planning permission** for both applications as being contrary to the policies of the development plan, for the reasons set out in this report.

3 Background

- 3.1 The two applications which are subject of this report relate to land within the former site of Chronos Richardson (the "Land"). The Land is a former industrial site which

has since been cleared and remains vacant. Part of the Land is currently owned by the Council and the remainder by a third party. The Land has been marketed for sale as a single development site

- 3.2 The Land is allocated under site allocation reference SR13 within Policy SA1 of the LAPP. The appendix to Policy SA1 sets out an anticipated delivery of 63-87 dwellings on the Land.
- 3.3 Application references 22/00675/PFUL3 and 22/00709/PFUL3 which propose a residential scheme of 62 dwellings and a food store respectively, were brought to Committee in December 2022. The applications, although separate, were always considered as a comprehensive package for development of the Land, with the same consultant acting as agent for both applicants and applications and with each application cross referring and being considered integral to the other. In accordance with the Officer recommendations at the time, the Committee resolved to grant planning permission for both schemes, subject to the prior completion of Planning Obligations for each of the applications, securing Policy compliant contributions for Affordable Housing, off site Open Space, off site Biodiversity Gain, Education and Employment and Training.
- 3.4 The previous Committee reports for applications 22/00675/PFUL3 and 22/00709/PFUL3 form appendices to this current report and provide a detailed description and analysis of the developments proposed. This current report provides additional information in relation to a material change in circumstances which has led to the change in recommendations. The applications are therefore brought back to Committee to update members on the change in circumstances and seek delegated authority for the Director of Planning and Transport to refuse the applications in the event that it is not possible to progress and grant 22/00675/PFUL3 in a reasonable period of time.

4 Details of the proposal

- 4.1 As detailed above, there has been a change in circumstances, which is considered to be material in the context of the applications and the way in which they have previously been reported to and considered by the Planning Committee in December 2022.
- 4.2 As detailed within the December report for application 22/00709/PFUL3, the approval of a retail store on the Land, (which is allocated within the LAPP for housing (Policy SA1)), represents a departure from the Local Plan. However, this was substantially justified by the concurrent application to provide 62 dwellings on the remaining part of the Land. Overall, it was considered that the delivery of a residential development on the remainder of the Land, in accordance with the policies of the Development Plan, was a material consideration which carried sufficient weight to tip the planning balance in favour of allowing the development of a retail store as a departure from Local Plan Policies.
- 4.3 Although the 2 applications were not explicitly linked, they were submitted concurrently by the same agent and as indicated above each application cross referred the other and the wider development of the Land. As such, at the time the applications were considered by Committee, there was no foreseeable prospect that the 2 applications would not progress simultaneously and be delivered as a

comprehensive development for the entirety of the Land (SR13).

- 4.4 Following the Committee's December resolutions, some progress was made with the negotiation of each of the Section 106 agreements. However, since then, MyPad have advised the council that for commercial reasons they are no longer in a position to progress or complete the Section 106 Agreement that is necessary to make the residential development acceptable in planning terms nor to implement the permission if granted.
- 4.5 Without the Section 106 Agreement, the proposed housing development would fail to provide the agreed contributions towards Affordable Housing, Open Space, Education, Biodiversity gain and Employment and Training Opportunities. The development would therefore fail to comply with policy 19 of the ACS and policies EE4, EN2, EN6, IO4, HO3 and SA1 of the LAPP. Furthermore, the planning balance justification for a departure from the development plan for the retail store is negatively affected by the removal of the residential element from the comprehensive scheme provided by the two applications. It is considered that these factors therefore amount to a material change in circumstances since the Committee originally considered the applications which warrants further consideration by the Committee.
- 4.6 Whilst it is possible that an alternative housing application could come forward in place of the previously considered scheme, this would need to be considered on its own merits and would be subject to fresh consultation and negotiations. There is no guarantee that an alternative provider would be able to deliver the policy compliant Section 106 contributions that have been negotiated through the current application and thus in the absence of permission being granted for 22/00675/PFUL3 the retail scheme and consequential departure from Local plan policy, can no longer be justified.

5 Consultations and observations of other officers

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

6 Relevant policies and guidance

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

7. Appraisal

- 7.1 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.
- 7.2 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.
- 7.3 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

Application 22/00675/PFUL3- the “Residential Development”

- 7.4 The Committee resolution to grant planning permission was subject to prior completion of a Section 106 agreement that is, as noted in that resolution, necessary to make the development acceptable in planning terms. A failure to complete the Section 106 Agreement means that the proposed housing development would fail to provide contributions towards Affordable Housing, Open Space, Education, Biodiversity gain and Employment and Training Opportunities. The development would therefore fail to comply with policy 19 of the ACS and policies EE4, EN2, EN6, IN4, HO3 and SA1 of the LAPP.

Application 22/00709/PFUL3- the “Retail Development”

- 7.5 As noted above, the retail store is a departure from policy SA1 of the development plan. The Update Sheet that accompanied the December Committee meeting set out the following summary of the relevant planning considerations that, taken together, were considered to justify a departure from the provisions of the development plan.

"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."

- 7.6 Following the change in circumstances outlined above, officers have reviewed the weight and balance of material planning considerations and the extent to which a departure from the development plan is now justified. Whilst the employment and retail benefits are still recognised, the Retail Development in isolation would see at best a partial regeneration of a brownfield site. Regeneration of the remainder of the Land for the allocated purpose would be dependent on an application coming forward in the future and can no longer be regarded with sufficient certainty as to carry weight as a material planning consideration. It is considered that the Retail Development in isolation would at best not facilitate regeneration of the remaining land and at worst has the potential to be a barrier to it.
- 7.7 Whilst it is possible that an alternative housing scheme could come forward in place of the Residential Development, this would need to be considered on its own merits and would be subject to fresh consultation and negotiations. There is no guarantee that an alternative provider would be able to deliver the policy compliant Section 106 contributions that have been negotiated through the current application.
- 7.8 Taking all the above into consideration, in the absence of a permission for the Residential Development it is considered that the balance of considerations no

longer weighs in favour of granting planning permission for the Retail Development contrary to the development plan, and that planning permission should be refused, being contrary to Policy SA1 (site SR13) of the LAPP.

Conclusion and justification for recommendation

- 7.9 This is an unusual set of circumstances, and as such the new recommendations have been drafted with flexibility and in order to facilitate development where possible. It remains the case that the combined scheme, across the two applications, is acceptable as per the previous resolutions of the Committee. However MyPad's expressed inability to be able to progress and/or conclude the Section 106 Agreement to secure the planning permission for the Residential Development has planning consequences for both applications, it is considered appropriate to allow a period of time for that decision to be reviewed, and for further negotiations to take place if the applicants are minded to do so.
- 7.10 In the event that it is not possible to get to a point where the planning permission for the Residential Development can be issued, either because of
- the withdrawal of application 22/00709/PFUL3; or
 - the passing of a reasonable period of time (2 months) without significant progress being made on the associated Section 106 Agreement;

Delegated authority is sought to refuse planning permission for one or both applications for the reasons detailed above.

8. Sustainability / Biodiversity

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

9 Financial Implications

None.

10 Legal Implications

A planning permission is not granted until the actual decision notice is issued. Where, as in this case, there is a material change of circumstances which affects material planning considerations and/or the weight which may be applied to them which arises after Committee has resolved to grant permission but before the permission is issued then it is appropriate to bring the application (s) back to Committee. The issues raised in this report however remain primarily ones of planning judgement and should legal considerations arise these will be addressed at the meeting.

11 Equality and Diversity Implications

None.

12 Risk Management Issues

None.

13 Strategic Priorities

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

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: 22/00709/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9SWP6LYK5800>

2. Application No: 22/00675/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/onlineapplications/applicationDetails.do?activeTab=summary&keyVal=R9HSXNLYJBB00>

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

Contact Officer:

Mrs Zoe Kyle, Case Officer, Development Management.

Email: zoe.kyle@nottinghamcity.gov.uk Telephone: 0115 8764059

Wards Affected: Bestwood

Item No:

Planning Committee
21 December 2022

Report of Director of Planning and Transport

Former Site of Chronos Richardson Ltd, Wyton Close

1 Summary

Application No: 22/00675/PFUL3 for planning permission

Application by: Ms Julie White on behalf of MyPad 2020 Ltd

Proposal: Development of 62 dwellings, with access from Wyton Close and Belconnen Road, landscaping, drainage and open space.

The application is brought to Committee because it relates to a major development with important land use and design considerations.

To meet the Council's Performance Targets this application should have been determined by 28th June 2022.

2 Recommendations

2.1 GRANT PLANNING PERMISSION subject to:

Prior completion of a planning obligation which shall include:

- (i) a financial contribution of £151,110.69 towards off-site Open Space
- (ii) a financial contribution of £52,546.44 towards off-site Biodiversity gain
- (iii) a financial contribution of £338,875 towards Education Provision
- (iv) provision of local employment and training including a financial contribution of £19,128 towards its delivery.
- (v) Provision of 20% Affordable Housing of which 10% is to be affordable ownership

2.2 Power to determine the final details of the planning obligation and conditions of planning permission to be delegated to the Director of Planning and Regeneration.

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

3 Background

- 3.1 The application relates to approximately 1.6ha of land within the former site of Chronos Richardson. It is a former industrial site which has since been cleared and remains vacant. Part of the site is currently owned by the Council and part is owned by an external party. It is proposed that the land to which this application relates, together with the adjoining land which forms the wider Chronos Richardson site, are sold as one development site.
- 3.2 The application site, together with the remaining portion of land within the former site of Chronos Richardson, make up site allocation reference SR13, as defined within Policy SA1 of the LAPP. The appendix to Policy SA1 sets out an anticipated delivery of 63-87 dwellings on the site.
- 3.3 The site is bound to the north by Arnold Road, to the south by a public footpath, beyond which is Nottingham University Hospital. To the east of the site lies Arnside Road, Wyton Close and residential development. To the west of the site is Belconnen Road and further residential development. The application site lies predominantly on the eastern side of the wider Chronos Richardson site and wraps around the remaining 1ha of land which forms the development site of a proposed Lidl store (application reference 22/00709/PFUL3).
- 3.4 The site slopes from north to south with an approximate level difference across the site of 3m. An existing public footpath runs from east to west alongside the southern boundary of the site (outside of the redline boundary). The site has substantial scrub cover, much of which is self-set following the demolition of the previous industrial buildings and structures. There are also some mature trees within the site, particularly along the western periphery on Belconnen Road.
- 3.5 The site falls within Flood Zone 1.

4 Details of the proposal

- 4.1 The application seeks permission for a residential development of 62 dwellings arranged in a series of cul-de-sacs. On the east side of the site, there will be 50 houses with vehicular access off Wyton Close. To the west side of the site, there will be 12 flats, arranged in three, two storey blocks with vehicular access off Belconnen Road.
- 4.2 All of the dwellings will be affordable dwellings, available as shared ownership or for social rent and a mix of 1, 2, 3 and 4 bed units will be provided, the 1 bedroom units being provided as flats. Pedestrian access between both parts of the development will be provided along the southern edge of the site. Pedestrian links to the proposed Lidl site are also incorporated in the scheme.
- 4.3 At the southern edge of the site, two attenuation ponds are proposed. Whilst this is a form of open space, it is not useable as recreational space and as such a contribution towards the provision of off-site open space is sought.
- 4.4 Off street parking is provided throughout the development, with all one and two bed units having at least one off street space and 3 and 4 bed units having 2 spaces. Additional on-street visitor parking is also indicated.

5 Consultations and observations of other officers

Adjoining occupiers consulted:

110 neighbouring properties were notified of the proposed development by letters dated 13th April 2022.

This notification included properties on the following neighbouring streets: Belconnen Road, Wyton Close, Embley Road, The Green Mews, Williamson Row, Arnside Road and Arnold Road.

The application was also publicised through a site and a press notice.

1 representation from Nottingham Local Access Forum was received, raising the following objections to the development;

- There is no cycle storage included for the housing development
- The quality of cycle storage proposed for the apartments is insufficient.
- It is recommended that a condition requiring details of cycle storage be requested.

Further notification letters were sent to the same addresses on 18th August 2022. The response date for representations was 9th September 2022 and no further representations have been received.

Environmental Health and Safer places: No objection, subject to conditions relating to ground gas contamination protection and noise.

Highways: The layout, as amended, is considered to be satisfactory.

Drainage: No objection. A drainage strategy has been submitted and reviewed by the Drainage Team (Lead Local Flood Authority). Following a request for additional information, the Drainage Team are satisfied with the proposed strategy, subject to conditions requiring further details of surface water drainage works and maintenance.

Planning Policy: No objection. It is recognised that the number of houses to be provided will be one less than that envisaged by the site allocation. However, it is also recognised that the applicants will be meeting a valid and important housing need in the City by providing an affordable housing scheme and therefore, on balance there are no policy objections to the above proposal subject to the satisfaction of Officers that the proposed development is acceptable in regard to design, layout, scale, massing and appearance of the development in the context of Policies DE1 and DE2 of the LAPP.

Biodiversity and Greenspace Officer: No objection subject to s106 contribution to offsite Biodiversity Gain. The Biodiversity and Greenspace Officer has confirmed that the money will be placed in a ringfenced financial revenue account and will be used when needed for the creation of the habitats.

Education: The proposed development generates 10.5 primary pupils and 7.5 secondary pupils. Contributions to the Provision of Primary and Secondary Education are required, totalling £338, 875.

Nottingham Jobs: An employment and training plan is recommended, including a proposed contribution of £19,128 to support the services provided by the Jobs Hub.

6 Relevant policies and guidance

National Planning Policy Framework (2019)

The NPPF advises that there is a presumption in favour of sustainable development and that applications for sustainable development should be approved where possible. Paragraph 126 notes that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development.

Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments:

(a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

(e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

(f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil,

air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 states that when determining planning applications, local planning authorities should support development whose primary objective is to conserve or enhance biodiversity while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Aligned Core Strategy (September 2014):

Policy A - Presumption in Favour of Sustainable Development

Policy 1 - Climate Change

Policy 8 – Housing Size, Mix and Choice

Policy 10 – Design and Enhancing Local Identity

Policy 17: Biodiversity

Policy 19: Developer Contributions.

Land and Local Planning Policies (LAPP) (Local Plan Part 2 Document)

Policy CC1: Sustainable Design and Construction

Policy CC3: Water

Policy EE4: Local Employment and Training Opportunities

Policy DE1: Building Design and Use

Policy DE2: Context and Place making

Policy TR1: Parking and Travel Planning

Policy EN2: Open Space in Development

Policy EN6: Biodiversity

Policy EN7: Trees

Policy IN2: Land Contamination, Instability and Pollution

Policy IN4: Developer Contributions

Policy SA1: Site Allocations

Policy HO1: Housing Mix

Policy HO3: Affordable Housing

Supplementary Planning Documents

The provision of Open Space in New Residential and Commercial Development (2019)

Biodiversity (2020)

7. Appraisal of proposed development

Main Issues:

- (i) Principle of Development
- (ii) Layout, design and appearance
- (iii) Residential amenity
- (iv) Highways and access
- (v) Biodiversity and trees

(vi) Planning Obligations

Issue (i) Principle of the Development (Policies 1 and 8 of the ACS, Policies HO1, HO3 and SA1 of the LAPP)

- 7.1 The site is a vacant former industrial site that has been cleared. The reuse of brownfield sites is actively encouraged and supported by the national and local planning policy.
- 7.2 The application site is part of a wider site allocated as a development site by the Local Plan Part 2 (site ref. SR13) and is anticipated to deliver 63-87 dwellings. The site has been subdivided with the portion of land outside of this application site, being subject of an application for a Lidl Food Store. The remaining 1.6ha of land forms the subject of this application for residential development of 62 dwellings. The loss of residential land is acknowledged, but the number of dwellings to be provided on the remainder of the LAPP allocation (62) is 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. Para 6.32 of the LAPP states “The Development Principles set out the range of acceptable uses for each site. Whilst the precise quantum of development will be subject to review during the development management.”
- 7.3 Although the provision is one dwelling less than that sought under the site allocation, it is recognised that the scheme is seeking to provide a wholly affordable scheme, exceeding the 20% required by Policy HO3. It would provide a mix of house types contributing to the creation of a balanced and sustainable community, thus complying with the aims of Policy 8 of the ACS and Policy HO1 of the LAPP. Taking account of these factors, the loss of one dwelling from the provision is not considered to be of any significant consequence. The Council’s Policy Officers have reviewed the proposals in the context of the Housing Land Supply and raise no objection. Officers recognise that the scheme will meet an identified demand for Affordable Housing and on this basis do not object to the reduction (by one unit) in the number of dwellings to the provided as detailed within Policy SA1 of the LAPP.
- 7.4 Policy HO1 of the LAPP encourages development of sites for family housing. It does not set targets nor is it prescriptive about the level of family housing, this being a matter of judgment based on the characteristics of the site, as set out in Para 4.14 of the LAPP. The scheme is for 100% affordable housing, which satisfies 2d of HO1 by meeting other aims of the City Council, as evidenced by Greater Nottingham & Ashfield Housing Needs Assessment, October 2020. The proposed development would therefore comply with Policies 1 and 8 of the Aligned Core Strategies and Policies HO1, HO3 and SA1 of the LAPP.
- 7.5 An assessment of the suitability of the remaining 1ha of land for retail development is provided within the appraisal of the requisite planning application (ref. 22/00709/PFUL3) and this includes a Sequential Test and Retail Impact Assessment.

Issue (ii) Layout, design and appearance (Policy 10 of the ACS and Policies DE1, DE2, EN2 and IN4 of the LAPP)

- 7.6 The site layout has evolved in response to consultee feedback, particularly that from the Highway Authority and the resulting road layout which comprises a primary carriageway with footways either side, transitioning to a shared surface, is

acceptable in principle. Technical details relating to the transitions and materials are under review and it is anticipated that the final details will be agreed by condition. Any additional information provided will be relayed to Committee by way of an Update Sheet.

- 7.7 The points of vehicular access off Belconnen Road and Wyton Close are acceptable to the Highway Authority. Pedestrian access through the site and the links to the retail store and existing footpath to the south have been improved through the design evolution and are considered to be acceptable, contributing to a legible, cohesive design overall.
- 7.8 The proposed development of two storey, semi-detached properties is in keeping with the scale and massing of surrounding residential development. The use of pitched tiled roofs and traditional brick elevations is appropriate to the local vernacular and the use of two types of brick and tile and the inclusion of feature brickwork panels will add sufficient aesthetic interest to the properties.
- 7.9 Boundary treatments have been amended to reflect the best practice guidance within the Design Quality Framework, comprising walls to rear/side boundaries where they have a public interface and timber fences otherwise. Front boundaries are to be enclosed with low level brick and railing above which is acceptable and will assist in providing clear definitions between public and private/defensible space.
- 7.10 There is ongoing discussion in relation to bin storage and how best to place this to ensure that storage is used effectively. This is likely to include some bin storage being relocated to front gardens. It is recommended that a condition be imposed to agree final details in relation to bin storage.
- 7.11 A landscaping plan has been provided with the application and includes tree planting, shrubbery and grassed areas within front and rear gardens. There are a number of areas of landscaping that fall outside of the boundaries of individual plots and these are to be maintained by a Management Company. These areas have been highlighted on a plan and an appropriate condition to ensure this is regulated, is recommended.
- 7.12 Although a degree of public greenspace is provided throughout the development in the form of footpath links and the area around the attenuation pond, this is not considered to be useable open space. As such, a financial contribution of £151,110.69 towards the provision of off-site Open Space is sought through a s106 Agreement. This is in accordance with Policies EN2 and IN4 of the LAPP and the associated SPD on Open Space.
- 7.13 As amended, it is considered that the proposal would create a sustainable and well connected development, resulting in a quality living environment for future occupiers. All units would comply with Nationally Described Space Standards and would benefit from off street parking. It is therefore considered that the proposed development accords with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.

Issue (iii) Residential Amenity (Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP)

- 7.14 The development provides a mix of 1, 2, 3 and 4 bedroom properties, all of which meet minimum Space standards. The layout allows for adequate light within and outlook from habitable rooms. Sufficient distances are provided between properties, including back to back distances, to avoid any significant overlooking or loss of privacy for future occupiers. The development is located sufficiently far away from nearby residential properties to avoid any significant impact upon the amenity of existing occupiers.
- 7.15 Plots 21, 25, 26, 27 and 28 will have shared boundaries with the proposed Lidl store. However, the store has been stepped away from the boundary and all deliveries and plant equipment are sited away from this shared boundary to minimise any noise or disturbance. Acoustic fencing is proposed within the Lidl site and the boundaries will be further screened with planting. These measures are considered sufficient to avoid any significant adverse impact upon the residential amenity of future occupiers of the proposed properties.
- 7.16 All properties benefit from a private rear garden and have access to areas of public realm within the development as well as links to existing footpaths beyond the site boundary, ensuring all residents will have access to adequate outdoor amenity space and greenspace.
- 7.17 In view of the above, it is considered that the proposed development would provide a satisfactory living environment for future occupiers and would avoid any significant impact upon the amenity of existing residential properties in the area. It would therefore comply with Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP.

Issue (iv) Highways, Access and Parking (Policy 10 of the ACS, Policies DE1, DE2 and TR1 of the LAPP)

- 7.18 The Highway layout has been through a series of amendments in order to achieve the best possible design for the development. The resulting layout with a primary road into the housing site, transitioning to shared surface is considered to provide the safest and most legible routes for pedestrians whilst ensuring adequate carriageway width and turning space for vehicles. As described above, the final details of the transitions and surfacing are under review and a condition is recommended to secure the agreement of these details prior to commencement.
- 7.19 Access to the flats off Belconnen Road is provided in the form of two private drives, which is considered to be acceptable. Final details of the parking layout are to be requested by condition together with tracking details.
- 7.20 The level of parking proposed is in compliance with the requirements set out by Policy TR1 of the LAPP, namely 1.5 per dwelling. This translates to a minimum of 1 space per dwelling for the smaller units (1 and 2 bed) and 2 spaces for the larger (3 bed and 4 bed) units and this is considered to be acceptable. Local Ward Councillors, during pre-application discussions with the developer, expressed concern about the potential resulting impacts upon parking for surrounding streets and requested some on street parking. Additional on-street parking provision is indicated at appropriate points across the development. The final tracking exercises are underway and as such the final layout of on-street parking is to be requested by

condition. It is noted that there is a need to balance the demand for on-street parking for residents and visitors to the properties within the development, with the need to prevent parking by visitors to the City hospital, which has been a problem on surrounding streets in the area. Ultimately, the use of TROs may be an option in the future but this would need to be agreed with the Highway Authority through the appropriate mechanism. In summary, the development is considered to comply with Policy 10 of the ACS and Policies DE1, DE2 and TR1 of the LAPP in respect the Highways, access and parking issues.

Issue (v) Trees and Biodiversity (Policies 17 and 19 of ACS, Policies EN6, EN7 and IN4 of the LAPP)

- 7.21 Policy EN6 states that development will only be permitted where significant harmful ecological impacts are avoided. Where harmful impacts cannot be avoided they should be mitigated through the design, layout and detailing of the development, or as a last resort compensated for, which may include off-site measures. The Biodiversity SPD further supports this.
- 7.22 The application is accompanied by an Ecological Appraisal, Ecological enhancement scheme and Biodiversity Net Gain Assessment. The site comprises areas of established Woodland and grassland, much of which is proposed to be removed to facilitate the development. Whilst a comprehensive scheme of tree replanting and Ecological enhancements (including bird and bat boxes, sensitive lighting and hedgehog connectivity) has been submitted, this is not sufficient to offset the loss of habitats and the Biodiversity Net Gain Assessment demonstrates an overall loss in Biodiversity rather than a gain.
- 7.23 The proposals for the removal of woodland and grassland have been reconsidered by the developer but it is not possible to increase the retention due to the harm arising from the disturbance of the adjacent areas of grassland/woodland. As such, the developer proposes a contribution towards off-site Biodiversity Gain as additional mitigation in order to achieve an overall gain. The Biodiversity Officer has assessed the proposals and provided calculations for a contribution towards off-site Biodiversity Gain based upon figure per unit for both grassland and woodland. This amounts to a figure of £52,546.44 which is to be requested through the s106 Agreement. This money will be placed in a ringfenced financial revenue account which will be used when needed for the creation of the habitats. This is in accordance with Policies 17 and 19 of the LAPP, Policies EN6 and IN4 of the LAPP and the adopted Biodiversity SPD.
- 7.24 Policy EN7 of the LAPP relates to Trees and seeks to protect trees of importance and secure adequate mitigation/replanting for the loss of trees. A tree survey and Arboricultural Impact Assessment have been submitted with the application which concludes that none of the trees on the site are category A trees. The lowest value trees will be removed during site clearance. Every effort has been made to retain as many of the higher grade trees as possible and incorporate them into the layout and this includes a band of mature trees along the western edge of the site. It is acknowledged that some mature trees have already been removed. However, these trees did not benefit from any statutory protection and as such consent was not required from the local planning authority for their removal.
- 7.25 Where it is not possible to retain trees, mitigation in the form of replanting is proposed. The landscape proposals for the site includes new trees around the residential dwellings combined with a variety of other landscaping. This approach is considered to reach an acceptable balance between the loss of the trees and the

viable redevelopment which will provide significant onsite mitigation. It is considered that the development in this regard, complies with Policy EN7 of the LAPP.

Issue (vi) Planning Obligations (Policies 17 and 19 of the Aligned Core Strategies and Policies HO3, EN2, EN6 and EE4 of the LAPP, and the Open Space and Biodiversity SPDs.)

- 7.26 The application site comprises land which is partly in the Council's ownership and partly owned by a third party. As the Council cannot enter into an agreement with itself it is proposed that the planning obligation required to enable this permission to be granted will initially only be secured against the land which is in third party ownership. However, on completion of the land transfer it is proposed that the planning obligation subsequently be varied to ensure that it binds the remainder of the application site.
- 7.27 A policy compliant development would be expected to provide the following planning obligations:
- A minimum 20% on site affordable Housing
 - On site public open space/public realm or a contribution towards off-site provision of ££151,110.69
 - A contribution of £338,875 towards Education provision (£199,224 for Primary and £139,651 for Secondary)
 - A contribution of £52,546.44 towards off-site Biodiversity Gain.
 - Local employment and training opportunities, including a financial contribution of £19,128 towards their delivery

The total contribution is therefore £561,660.13

- 7.28 The applicant has committed to the above Policy compliant contributions, with the scheme exceeding the Affordable Housing Provision requirement. To conclude, the contributions satisfy Policies 17 and 19 of the Aligned Core Strategies and Policies HO3, EN2, EN6 and EE4 of the LAPP, and the Open Space and Biodiversity SPDs.

8. Sustainability (Policy 1 of the ACS and Policies CC1 and CC3 of the LAPP)

- 8.1 All dwellings within the development will be provided with increased insulation within the fabric of the building and either photovoltaic panels or Air Source Heat pumps. As the Registered Providers will likely want some input into this decision, these details are to be requested by condition, prior to commencement.
- 8.2 The site is in a sustainable location within walking distance of well served bus routes and will be well connected to existing pedestrian and cycle routes. Cycle racks are indicated for the flats. However, notwithstanding this, a condition requiring details of secure, covered and well-lit cycle storage for the whole development, is recommended.
- 8.3 The site falls within Flood zone 1 and as such is at the lowest risk of flooding. The development includes the use of SUDs in the form of two attenuation ponds at the southern edge of the site. This has been reviewed by the Drainage Team and is considered satisfactory. This will also contribute to Biodiversity enhancement for the development. A condition requiring details of Surface Water drainage proposals and maintenance is recommended.

8.4 All dwellings will be provided with electric vehicle charging points and a condition is recommended to secure these prior to occupation. In summary, it is considered that overall the scheme will comply with Policy 1 of the ACS and Policies CC1 and CC3 of the LAPP.

9 Financial Implications

None.

10 Legal Implications

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

11 Equality and Diversity Implications

None.

12 Risk Management Issues

None.

13 Strategic Priorities

Neighbourhood Nottingham: Redevelopment of a cleared brownfield site with a high quality, sustainable development.

Safer Nottingham: The development enhances the pedestrian Connectivity ,contributing to a safer and more attractive neighbourhood

Ensuring Nottingham's workforce is skilled through Local Employment and Training 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: 22/00675/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9HSXNLYJBB00>

17 Published documents referred to in compiling this report

Aligned Core Strategies – Local Plan Part 1 (2014)

Land and Planning Policies – Local Plan Part 2 (2020)

NPPF (2021)

Biodiversity SPD 2020

Open Space SPD 2019

Affordable Housing SPD 2021

Greater Nottingham & Ashfield Housing Needs Assessment, October 2020.

Contact Officer:

Mrs Zoe Kyle, Case Officer, Development Management.

Email: zoe.kyle@nottinghamcity.gov.uk Telephone: 0115 8764059

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0 0.03 0.06 km



Key



City Boundary

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Description

A map printed from Nomad.



Wards Affected: Bestwood

Item No:

**Planning Committee
21 December 2022**

Report of Director of Planning and Transport

Former Site of Chronos Richardson Ltd, Belconnen Road

1 Summary

Application No: 22/00709/PFUL3 for planning permission

Application by: Ms Julie White on behalf of Lidl GB Ltd

Proposal: Development of food store with car park, landscaping, plant and associated works and access from Belconnen Road

The application is brought to Committee because it is a major development that represents a departure from the Local Plan.

To meet the Council's Performance Targets this application should have been determined by 4th July 2022.

2 Recommendations

2.1 GRANT PLANNING PERMISSION subject to:

Prior completion of a planning obligation which shall include:

- (i) a financial contribution of £35,503.57 towards off-site Biodiversity Net Gain
- (ii) provision of local employment and training including a financial contribution of £10,660 towards its delivery.

2.2 Power to determine the final details of the planning obligation and conditions of planning permission to be delegated to the Director of Planning and Regeneration.

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

3 Background

3.1 The application relates to approximately 1ha of land within the western portion of the former site of Chronos Richardson. It is a former industrial site which has since been cleared and remains vacant. Part of the site is currently owned by the Council and part is owned by an external party. It is proposed that the land to which this application relates, together with the adjoining land which forms the wider Chronos Richardson site, are sold as one development site.

- 3.2 The application site, together with the remaining portion of land within the former site of Chronos Richardson, make up site allocation reference SR13, as defined within Policy SA1 of the LAPP. The site allocation requires the delivery of 63-87 dwellings. The site has been subdivided to form two application sites, this application for a Lidl food store, and a concurrent application for residential development.
- 3.3 The site is bound to the north by Arnold Road and the rear boundaries of properties on The Green Mews, to the south by the remainder of the vacant industrial site beyond which there is a public footpath running east / west and connecting to Nottingham University Hospital to the south. To the east of the site lies part of the vacant industrial site, beyond which is Arnside Road and Wyton Close. To the east of the site is Belconnen Road and further residential development.
- 3.4 The site levels drop down below that on Arnold Road and fall away to the south although the area of the previously demolished buildings is generally level. There are existing trees and mature landscaping within the site, particularly on its frontage to Arnold Road.
- 3.5 The site falls within Flood zone 1.

4 Details of the proposal

- 4.1 The application seeks permission for the development of a Lidl food store (Use Class E) with car park and associated plant and landscaping with access off Belconnen Road, on an out of town centre site. The proposals for the store have been amended, resulting in a slight decrease in the floor area of the store. As amended, the store would have a gross internal area of 1,895sqm with a net sales area of 1,251sqm.
- 4.2 The layout, as amended, shows the store adjacent to the eastern boundary of the site with car parking to the north and west. Landscaping is proposed to the north and eastern boundaries and along parts of the western and southern boundaries. The car park would provide 100 standard spaces, 4 disabled, 9 parent and child and 4 with Electric Vehicle Charging points. 20% of the spaces will be fitted with the infrastructure required to introduce additional charging points in the future.
- 4.3 The Lidl store would be single storey with a pitched roof. The building would comprise a steel frame structure with a combination of metal cladding for the roof and cladding panels on the elevations and a powder coated aluminium and glazed shopfront.
- 4.4 The site would be enclosed by brick faced retaining walls where it adjoins the existing pavement and acoustic or timber fencing to rear/internal boundaries.
- 4.5 Vehicular access will be via Belconnen Road. The geometry of the access has been revised slightly in response to Highways requirements. The vehicle access would lead customers to the car park and delivery vehicles to the HGV service dock to the south of the store. External plant would be contained within an area to the south of the building and all refuse would be stored within the store.

- 4.6 It is estimated that the store will create 40 Full time equivalent jobs.
- 4.7 As referenced above, the remainder of the site (reference SR13) is subject of a concurrent planning application for residential development of 62 dwellings (planning application reference 22/00675/PFUL3).

5 Consultations and observations of other officers

Adjoining occupiers consulted:

109 neighbouring properties were notified of the proposed development by letters dated 13th April 2022.

Following changes to the proposal further notification letters were sent to the same addresses on 18th August 2022. The response date for representations was 9th September 2022. No further representations were received to the second round of notification letters.

Notification included properties on the following neighbouring streets: Belconnen Road, Wyton Close, Embley Road, The Green Mews, Williamson Row, Arnside Road and Arnold Road.

The application was also publicised through a site and a press notice.

The application was advertised as a departure application.

Responses

10 representations from 9 individuals were received in response to this publicity, of which 9 were in support of the proposed development, citing the following reasons why the development will be welcomed;

- The long term vacant site will be brought back into use, reducing the opportunity for vandalism and misuse.
- The retail store will provide a much needed local supermarket for the Bestwood area
- The accompanying development will bring new houses
- The development will create employment opportunities

One letter of objection was received, although this expressed support for the development in principle. The points of objection were as follows:

- Loss of trees/flowers/shrubs, will these be replanted?
- Concern that the retail store will result in a parking 'free for all' on surrounding streets
- Concern that customers will leave engines running whilst parked.

This application was published on the agenda for September Planning Committee 2022. Prior to Committee, two objections from Martin Robeson Planning Practice (MRPP) on behalf of a competitor supermarket (Tesco Stores Limited) were received, setting out the following points of objection:

- The critical lack of any 'Health Check' analysis of nearby town centres in order to inform retail impact assessment,
- Lack of credibility in some of the retail impact assessment's outputs,
- Failure to have proper and effective regard to the application of flexibility in the sequential testing of preferable opportunities,
- Failure of the sequential test in not confirming a preferable opportunity as 'suitable'
- Loss of allocated housing land,
- The environmental effects that arise from the unsuitability of the site for the proposed retail purpose, and
- The proposal is an unsustainable form of retail development when sited in this out-of-centre location
- The proposal is not in a sustainable location in terms of transport and accessibility,
- The proposal fails the sequential test since there is a more accessible, preferable opportunity
- Lack of credibility in the assessment of retail impact,
- Non-disclosure of the removal of mature trees and its impact on the assessment of application against policy,
- Misinterpretation of policy relating to biodiversity,
- Incorrect calculation of the loss in delivery of housing units,
- A misleading visual of the proposed development, and
- Lack of balancing exercise to address the proposal's departure from the Local Plan

Following receipt of the two letters, WSP, on behalf of the applicant, issued a response which can be summarised as follows;

- The objection was submitted some 6 months after the validation date of the application and 3 working days before Committee. It is assumed that the timing of the objection is for commercial reasons. A delay would be beneficial to any competitor but also places undue pressure on the Local Planning Authority and public funds.
- The impact of such actions inevitably effects other work Local Planning Authorities (LPAs) are engaged with. Slowing down decision making has an economic impact for a Council area. It slows down the delivery of an Authority's wider strategic objectives, which particularly at this time of a cost of living crisis, is something we would have hoped all commercial organisations would be cognisant of.
- At the time of submission it was not considered necessary to carry out Health checks based on an assumption that trade draw would be limited
- Customers seeking to shop in a discount supermarket have several options to choose from in the locality and will have already made their decision to shop in an Aldi or Lidl regardless of the application proposals coming forwards. Therefore, the trade drawn from existing locations is concentrated on the existing discount supermarkets.
- The scope of the retail assessment, including the level of flexibility required to be demonstrated, was agreed with the Local Planning Authority (the LPA) in accordance with paragraph 017 Reference ID: 2b-017-20190722 of

NPPG. The levels of flexibility required are not prescribed by the NPPF or the NPPG. It is a matter for professional judgement and agreement with the LPA.

- No sequential sites have been identified within or to the edge of district or local centres within the catchment area by either the Council or MRPP. The alternative site at Gala Way raised by MRPP (which is out of centre and not sequentially preferable), has been reopened by Buzz Bingo since the assessment was initially undertaken and is no longer available. The sequential test has therefore been satisfied.
- The Lidl application proposals have been developed in conjunction with the residential proposals on the adjacent site. All of the proposed residential development will be affordable dwellings and the number, mix and type of dwellings proposed on the allocated site is considered acceptable by officers
- The application site is clearly suitable for the development proposed and an acceptable engineering solution has been found to enable the development to progress. Officers have assessed the proposal and found it to be acceptable. The officers should not be expected to assess a hypothetical scenario as suggested by MRPP.
- It is common ground that there are no in-centre or edge of centre locations capable of accommodating the proposals. The site is located within a residential community and the proposals therefore provide a destination that is accessible by a range of modes of transport, including customers arriving on foot.

Additional consultation letters sent to:

Environmental Health and Safer places: No objection, subject to conditions relating to ground gas contamination protection and commercial plant noise.

Highways: No objection. Following a series of amendments to the access and car park, the Highway Authority are satisfied with the layout, subject to conditions relating to construction traffic management, electric vehicle charging, cycle parking, tracking and refuse collection.

Drainage: No objection. A drainage strategy has been submitted and reviewed by the Drainage Team (Lead Local Flood Authority). Following a request for additional information, the Drainage Team are satisfied with the proposed strategy, subject to conditions requiring further details of surface water drainage works and maintenance.

Planning Policy: No objection. Additional information and analysis has been provided by the applicant in support of the Sequential Test and Retail Impact Assessment. A comprehensive appraisal of this information and analysis has been undertaken by a Retail Planning Consultant. The Council is satisfied with the conclusions reached within the submitted information and within the appraisal undertaken by the Retail Planning Consultant. The proposal is considered to be in accordance with Aligned Core Strategy (2014) Policy 6 and Land & Planning Policies Development Plan Document (Local Plan Part 2) Policy SH4. Loss of residential land is acknowledged, but the number of dwellings to be provided on the remainder of the LAPP allocation (62) is 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. Para 6.32 of the LAPP states “The Development Principles set out the range of acceptable uses for each site”. The remainder of the site is to be developed in compliance with Policy SR13 of the LAPP.

Nottingham Jobs: An employment and training plan is recommended, including a proposed contribution of £10,660 to support the services provided by the Jobs Hub.

Biodiversity and Greenspace Officer: No objection subject to s106 contribution to offsite Biodiversity Gain. The funds will be used for the creation of habitats.

Carbon Neutral Policy Team: Consideration should be given to additional planting to compensate the loss. There is no indication of the extent of PV panels or consideration of alternatives to the ASHP and PV panels. There is no evidence that SUDS will be combined with natural planted areas and further consideration to on site mitigation should be given to avoid off site compensation.

6 Relevant policies and guidance

National Planning Policy Framework

The NPPF advises that there is a presumption in favour of sustainable development and that applications for sustainable development should be approved where possible. Paragraph 126 notes that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development.

Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments:

(a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

(e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

(f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Section 7 of the NPPF relates to the vitality of Town Centres.

Paragraphs 87-89 require the sequential approach to site selection to be applied to all development proposals for main town centre uses that are not in an identified centre and not in accordance with an up-to-date Development Plan. It states that Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 90 requires all retail, leisure and office development outside of town centres to be subject to a retail impact assessment if over a proportionate, locally set threshold. Where no local threshold exists the default is 2,500sqm. Impact assessments should include assessment of:

- Impact of the proposed on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Where a development fails the sequential test or will have a significant adverse impact on one or more of the above considerations it should be refused in accordance with paragraph 91.

Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 180(d) states that when determining planning applications, local planning authorities should support development whose primary objective is to conserve or enhance biodiversity while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Aligned Core Strategy (September 2014):

Policy A: Presumption in Favour of Sustainable Development

Policy 1: Climate Change

Policy 4: Employment Provision and Economic Development

Policy 6: Role of Town and Local Centres

Policy 10: Design and Enhancing Local Identity

Policy 14: Managing Travel Demand

Policy 17: Biodiversity

Policy 19: Developer Contributions.

Land and Local Planning Policies (LAPP) (Local Plan Part 2 Document)

Policy CC1: Sustainable Design and Construction

Policy CC3: Water

Policy EE4: Local Employment and Training Opportunities

Policy DE1: Building Design and Use

Policy DE2: Context and Place making

Policy SH4: Development of Main Town Centre Uses in Edge of Centre and Out of Centre Locations

Policy TR1: Parking and Travel Planning

Policy EN6: Biodiversity

Policy EN7: Trees

Policy IN2: Land Contamination, Instability and Pollution

Policy IN4: Developer Contributions

Policy SA1: Site Allocations

Supplementary Planning Documents

Biodiversity (2020)

7. Appraisal of proposed development

Main Issues:

- (i) Principle of Development
- (ii) Suitability of Retail use in this out of centre location
- (iii) Layout, design and appearance
- (iv) Residential amenity
- (v) Highways and access
- (vi) Biodiversity and trees
- (vii) Planning Obligations

Issue (i) Principle of the development (Policies 4, and 6 of the ACS and Policies EE4, SH4 and SA1 of the LAPP)

- 7.1 The site is a vacant former industrial site that has been cleared. The reuse of brownfield sites is actively encouraged and supported by national and local planning policy.
- 7.2 The application site is part of a wider site allocated as a development site by Policy SA1 of The Local Plan Part 2 (site ref. SR13). Policy SA1 states that the sites are “allocated and protected to meet the development needs of Nottingham to 2028”. The main purpose of the allocation is to ensure an adequate supply of land to meet the needs of the city. The appendix to Policy SA1 sets out an anticipated delivery of

63-87 dwellings on the site. The application is accompanied by a concurrent planning application for residential development (22/00675/PFUL3) for 62 dwellings.

- 7.3 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. The shortfall relative to this indicative range is considered to have an insignificant impact on the city's ability to meet its housing needs, and in this context it should be noted that there is a housing land supply that is currently in excess of six years, against a five year requirement. Para 6.32 of the LAPP states "The Development Principles set out the range of acceptable uses for each site. Whilst the precise quantum of development will be subject to review during the development management process, appendices three, four and five set out the broad number of residential units". The LAPP therefore provides a degree of flexibility in terms of numbers of homes on LAPP sites. The proposed development would comprise 100% affordable dwellings, providing a mix of house types and sizes, thus contributing to the creation of a balanced community. The requirement within the Development Principles for the creation of new open space, is in the context of a 100% housing site. Para 6.29 of the LAPP "The Development Principles give an indication of key issues relating to each site but are not intended to be comprehensive development briefs." Policy EN2 of the LAPP provides for developer contributions to enhance existing areas of open space or additional open space in the area. The part of SR13 for which a planning application for residential development is under consideration is anticipated to provide a policy compliant level of open space contribution through a S106 agreement.
- 7.4 Policy HO1 of the LAPP encourages development of sites for family housing. It does not set targets nor is it prescriptive about the level of family housing, this being a matter of judgment based on the characteristics of the site, as set out in Para 4.14 of the LAPP. The scheme is for 100% affordable housing, which satisfies 2d of HO1 by meeting other aims of the City Council, as evidenced by Greater Nottingham & Ashfield Housing Needs Assessment, October 2020.
- 7.5 Taking account of these factors, the proposed loss of housing land within the allocated site is considered to be acceptable, and there is no objection in principle to the delivery of retail development in addition to the residential development.
- 7.6 Notwithstanding the above, National and Local Planning Policies require a sequential Test and Retail Impact Assessment to be carried out for Out of Town Retail development of this scale. Paragraph 90 of the NPPF requires all retail, leisure and office development outside of town centres to be subject to a retail impact assessment if over a proportionate, locally set threshold. Policy 6 of the ACS requires the Sequential Test to be satisfied for Out of Town retail development and Policy SH4 of the LAPP requires an Impact Assessment for retail development greater than 1,000 square metres or greater of new (gross) floorspace on the edge of or outside an existing Centre. The NPPF para 90 states that Impact assessments should include assessment of:
- Impact of the proposed on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and

- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

7.7 These assessments have been provided with the application and updated as appropriate. Following concerns raised in the objection from MRPP on behalf of Tesco stores limited, WSP, on behalf of the applicant, has undertaken further analysis in support of the Sequential Test and has provided an updated Planning Retail Statement together with a response to the Tesco objection.

7.8 Acknowledging the comments made on behalf of Tesco in relation to credibility of the assessment of retail impact and given the technical and specialist nature of these issues, The Council has instructed an independent appraisal of the Planning Retail Statement and the applicant's response to the objection made on behalf of Tesco. Officers have taken independent advice from Applied Planning, a retail planning consultancy. The Preliminary analysis of the submitted information, as undertaken by Applied Planning, identified several areas of concern as follows;

Sequential Test

- The submitted Planning Retail Statement set a minimum site search area in the sequential test of 0.87ha. The Council's Consultants considered that this represented insufficient flexibility and that a 0.65ha site search area represents a reasonable minimum site search criteria for the purposes of the sequential test. The Planning Consultant referenced the use of this minimum site search criteria for other applications by Lidl and Aldi and concluded that there were no material considerations which justified a departure from these parameters in this instance.
- The objection from Tesco sets out a series of reasons why the development site at Gala Way is sequentially preferable to the application site. The Council's consultants concluded that further analysis was required, specifically in relation to whether this site is more accessible and well connected to a town centre than the application site. It was also recommended that a detailed sequential analysis of this site was undertaken, having regard to the 0.65ha minimum site search criteria referenced above.

Retail Impact Assessment

- The original Planning Retail Statement did not provide health checks of the centres which may be affected by the proposed development. In order for a robust judgment to be made of likely trade draw and whether any identified impact is adverse, health checks of nearby centres were needed. These health checks should be in accordance with the indicators set out in Planning Policy Guidance. Taking account of geographical proximity as well as the existing trade draw provided by the applicant it was recommended that health checks were undertaken for:

- Beckhampton Road Local Centre
- Carrington Local Centre
- Bulwell Town Centre
- Arnold Town Centre
- Sherwood District Centre
- Nuthall Road Local Centre

- These centres are all within, or in proximity to, the 5-minute drive time of the proposed store and would therefore be potentially affected by the proposed development.
- The Council's Consultants noted that trading densities given within the Planning Retail Statement were lower than trading densities used in recent impact assessments prepared by the applicant in support of Lidl applications. Clarification was therefore requested for the reasons a lower benchmark trading density was utilised in this instance.
- Furthermore, the Council's Consultants cited a number of concerns in relation to the assumed trade diversions, namely an over reliance on trade diversion from Limited Assortment Discounters (LAD) and an underestimate of the draw from superstores within and on the edge of the catchment area (Tesco Extra (Top Valley Way), Tesco Extra (Jennison Road), Morrisons, (Leen Road) and Sainsburys (Sir John Robinsons Way). It was also concluded that Trade diversion was generally under-estimated for local top-up convenience stores in close proximity to the application site; including Co-op Food, Nisa and Select & Save on Arnold Road and Tesco Express, 10 Oxengate. As a consequence, the Consultant recommended that sensitivity testing was undertaken of trade diversions from existing centres and stores, to be informed by health checks for the centres.

7.9 The conclusions of the preliminary assessment outlined above were given to the applicant and they have subsequently provided updated information as set out within their letter dated 2nd November 2022. This information has been reviewed by Applied Planning and the findings form part of the assessment of the proposed development. Ultimately it is concluded that there are no site/units which are suitable and available for the proposed development and that based on the information available, the application complies with the sequential test. It is also concluded that the development would not have a significant adverse impact on the considerations within Paragraph 90 (a) and (b). These findings and the analysis of the submitted information is discussed in further detail in the following section of the report (Issue ii).

7.10 Notwithstanding the above issues it is noted that the proposed development would bring the vacant site back into an economic use and create an estimated 40 FTE jobs, as well as contributing £10,660 through Section 106 for the Nottingham Jobs Hub, leading to direct and indirect benefits to the local economy in compliance with Policy 4 of the ACS and Policy EE4 of the LAPP.

7.11 The proposed development would be accessible to a large local residential population. The new store would provide a new facility in the area, which provides the opportunity for existing and new residents (a link is provided through the proposed residential development) to shop without using a car.

7.12 In conclusion it is considered that the principle of the development is acceptable and in accordance with Policies 4 and 6 of the ACS and Policies EE4, SH4 and SA1 of the LAPP.

Issue (ii) Suitability of Retail use in this out of centre location (Section 7 of the NPPF, Policy 6 of the Aligned Core Strategy and Policy SH4 of the Local Plan)

7.13 The application site is not in an identified centre. Policy SH4 of the LAPP and paragraphs 87-89 of the NPPF require the sequential approach to site selection to

be applied to all development proposals for main town centre uses that are not in an identified centre and not in accordance with an up-to-date Development Plan. The NPPF states that applications for main town centre uses should be in town centres, then edge of centre locations, and only if suitable sites are not available within a reasonable period, should out-of-centre sites be considered.

- 7.14 Policy SH4 also states that for out of centre retail developments of more than 1000sqm, a Retail Impact Assessment must be carried out and where proposals which would result in a significant adverse impact on in-centre investment or the vitality and viability of a centre within the catchment area of the proposal, they will not be supported. This broadly reflects the requirements of the NPPF paragraph 90.
- 7.15 As detailed above, the application is supported by a Planning and Retail Statement which includes a sequential test and impact assessment. This has been updated and additional supporting letters from WSP on behalf of the applicant, dated 16th September 2022 and 2nd November 2022, have been received. The latter responds to the Preliminary response from AppliedPlanning, the Council's Consultants, which identified a number of concerns in relation to the Sequential Test and the Retail Impact Assessment.

Sequential Test

- 7.16 Applied Planning's appraisal of the Sequential Test queried the use of the 0.85ha search criteria and recommended that it was carried out again with a search criteria of 0.65ha. Whilst Tesco suggested lowering the search criteria to 0.3ha, Applied Planning concluded that this site size would only be capable of delivering a 2-storey 'Metropolitan' store business model with limited parking provision which isn't the broad type and format of the business model proposed in this application. Applied Town Planning cite recent caselaw (Aldergate v Mansfield District Council & Anor [2016]) which clarifies that the sequential test should be considered on the basis of the broad type and format of the proposed land use, allowing for appropriate flexibility in respect of format and scale. As such, the applicant has carried out a search of sites with an area of 0.65ha and this is considered satisfactory and justified.
- 7.17 No sequential sites have been identified within or to the edge of district or local centres within the catchment area, despite lowering the site area search criteria to 0.65ha. The alternative site at Gala Way raised by MRPP (which the applicant considers to be out of centre and not sequentially preferable), has been reopened by Buzz Bingo since the Planning and Retail Statement assessment was initially undertaken and is, therefore, no longer available.
- 7.18 In reviewing the applicant's response above, Applied Planning concludes that the applicant's assumptions are fair and that no sequentially preferable sites have been identified. It is therefore considered that the Sequential Test is passed.

Retail Impact Assessment

- 7.19 The submitted Retail Impact Assessment uses the criteria set out within Paragraph 90 of the NPPF:
- (a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

(b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

It is noted that Paragraph 91 of the NPPF and the associated Practice Guidance, 'Town centres and retail', refer to 'significant adverse impact' and that the policies and guidance have been purposefully drafted in these terms because it is accepted that most new developments will have some impact.

- 7.20 As outlined above, the preliminary appraisal of the Retail Impact Assessment, carried out by Applied Town Planning, identified a number of issues with the initial findings. In response to this, WSP on behalf of the applicant, have provided additional information and carried out further analysis. WSP have confirmed that the benchmark trading intensities have been taken from the latest available data from 2021 which is why the figures may differ from data used from earlier applications made by Lidl. Given that the data used is up to date from a reliable data source, this is considered acceptable. The Retail Planning Consultant, in their appraisal, concur with this conclusion.
- 7.21 WSP on behalf of the applicant, carried out Health checks of Beckhampton Road Local Centre, Carrington Local Centre, Bulwell Town Centre, Arnold Town Centre and Sherwood District Centre, in October 2022. All centres were found to be healthy and in their appraisal of this information, Applied Town Planning Consultants agreed with these findings. Whilst the applicant opted not to carry out a Health Check on Nuthall Road Centre on account of it being beyond the 5 minute drivetime of the application site, it not having any comparable stores that the development would draw trade from, and it not being identified as a destination within the Household Survey. Despite the applicant's conclusions in this regard, Applied Town planning carried out their own health check of Nuthall Road Centre and found it to be healthy.
- 7.22 The Health checks have allowed for a greater depth analysis of the potential impact arising from the proposed development. Alongside these checks, WSP on behalf of the applicant, have also carried out sensitivity testing on the trade draws from each of the centres. They conclude that although the larger stores, such as Sainsbury's, Tesco and Morrisons remain popular, in each location there is an Aldi or Lidl less than 1 mile away. As such, if a shopper wanted to shop at a discount retailer, they would have made that choice already and the trade diversion from these stores to a discounter would have already taken place.
- 7.23 The applicant therefore maintains the view that most trade will be diverted from the six Aldi or Lidl stores within the catchment area. WSP assumptions about the trade draw from the local top-up convenience stores have been adjusted. It was evident from the health checks that these stores primarily provide for a very localised top-up shop primarily from a walk-in catchment. The household survey indicated that there was very little (if any) consistent use of these stores. As such it is not considered that these stores would experience significant trade diversion. Despite this the assumed trade draw has been adjusted to show that 1% of Lidl's turnover will come from the Co-op at Beckhampton Road Local Centre and 1.5% from other smaller out of centre locations along Arnold Road.
- 7.24 Whilst Applied Planning's analysis of Trade draw differs from WSP's in terms of the percentage draw, the conclusions for each of the Local Centres is the same, that the proposed development would be unlikely to have any significant impact upon any single store or centre.

- 7.25 In considering the impact on investment in centres, the applicant states that they are not aware of any current, committed and planned investment within the 5-minute drivetime with the exception of proposals at Sherwood District Centre, on edge of the catchment area (Sherwood Library site). However, as outlined in the sequential assessment, the nature of the proposed retail floorspace within this redevelopment is different to the proposed food store, particularly in terms of its size (at only 259sqm net). It is also only a small part of a wider development scheme which is focussed on the re-provision of a new library facility and new residential dwellings. As such, it is not considered that the proposed Lidl food store will impact on the delivery of this mixed-use development proposal. Applied Planning reach a similar conclusion in their appraisal.
- 7.26 Following a comprehensive assessment of the submitted Retail Impact Assessment by Applied Planning and consideration of these conclusions by the Council's Planning Policy Team, the applicant's conclusions are accepted and it is agreed that the proposed development of a food store, would not result in any significant adverse impact upon existing businesses or upon committed or planned in-centre investment. As such, it is considered that the development would comply with section 7 of the NPPF, Policy 6 of the ACS and Policy SH4 of the LAPP.

Issue (iii) Layout, design and appearance (Policy 10 of the Aligned Core Strategy and Policies DE1 and DE2 of the LAPP)

- 7.27 The layout of the site has been designed to provide an active frontage and high visibility of the store on Arnold Road, albeit set back from that road, with a legible car park which minimises the opportunity for misuse and anti-social behaviour. The scheme has evolved in response to highways, drainage and urban design feedback, improving pedestrian routes into and through the site and ensuring vehicular movements are safe whilst making efficient use of the land available. The layout of the development balances the constraints of the site, and in particular the site shape and gradient, with the requirements of the retailers to create a viable and deliverable scheme.
- 7.28 The store building follows a standard layout for the retailer and has been rationalised in response to their latest floorspace and delivery requirements. The scale, form and massing of the building are considered to be appropriate and the palette of materials proposed, comprising steel frames, metal cladding and a powder coated aluminium and glazed shopfront is also acceptable. The delivery and plant areas are contained to the south side of the store away from the boundaries with residential development.
- 7.29 As amended, the pedestrian routes into the site are acceptable and footpath links between the retail site and the residential development beyond, allow for the comprehensive and cohesive redevelopment of the wider site. A new pedestrian link running north south, through the Lidl site and landscaped area to the south is proposed. This will link to the existing pathway to the south of the site which also connects to the hospital site to the south. Landscaping proposals have been enhanced with increased tree planting and screening to boundaries.
- 7.30 The vehicular access into the site has been amended in accordance with Highways requirements and similarly the access to the substation has been reconfigured in line with Highways recommendations. The car park would provide a sufficient mix of

standard and accessible spaces as well as bays with Electric Vehicle Charging points. Infrastructure to enable further charging points to be provided in the future, is also to be incorporated during construction, which is welcomed.

- 7.31 In summary, the design and layout are considered to be appropriate for the nature of development proposed and in response to site constraints. Amendments have been made to enhance and improve accessibility and pedestrian routes to and within the site. The development therefore accords with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP in this regard.

Issue (iv) Impact on Amenity (Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP)

- 7.32 Policy 10 of the ACS and Policy DE1 of the LAPP require all new developments to consider the impact on the amenity of nearby residents or occupiers. Policy IN2 of the LAPP requires the impact of noise upon residential properties to be considered. Plant equipment and delivery bays have been sited to the south of the store, away from boundaries with residential properties. A Noise Assessment has been submitted and reviewed by the Environmental Health Team who have no concerns in this regard. A pre-occupation condition is recommended to ensure the plant equipment and associated noise barrier are installed in accordance with the details.
- 7.33 It should be noted that no concerns have been raised by members of the public relating to the impact of the proposed development on their amenity, particularly in terms of noise.
- 7.34 Although the east boundary of the site will adjoin the rear boundaries of properties within the proposed residential development (reference 22/00675/PFUL3) it is not considered that the scale or massing of the building would give rise to any significant adverse impact upon the light to or outlook from these properties.
- 7.35 The store opening times proposed are 08.00 to 22.00 Monday to Saturday, and for any six hours between 10.00 to 18.00 on Sundays, which is considered to be reasonable. Deliveries are proposed between 07:00-23:00. Typically, there would be two HGV deliveries within a 24-hour period, although at busier times such as Christmas and Easter this could increase to three deliveries. All deliveries would be made to the service dock which, as detailed above, would be located to the south elevation of the store. It is considered that this is located at a sufficient distance from the nearest existing and proposed residential properties to avoid any significant noise and disturbance.
- 7.36 In view of the above it is considered that the proposed development would comply with Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP.

Issue (v) Highways, Access and Parking (Policies 10 and 14 of the ACS and Policy TR1 of the LAPP)

- 7.37 The Highway Authority has assessed the proposals, including the Transport Assessment carried out by the applicants. They are satisfied with the content and findings of this report, and that the impact of the development, as amended, on traffic flows and road safety are acceptable. The level and arrangement of car parking proposed is also acceptable. It is considered that the development would be in compliance with Policy TR1 of the LAPP.

- 7.38 The changes to geometry of the site access have resulted in a reduction in the width of the access road. This would make it easier for pedestrians to cross the road whilst ensuring safe access and egress for vehicles.
- 7.39 The footpath links with the proposed residential development and beyond the site would allow and encourage visitors to the store on foot and bike, thus reducing the reliance on travel by car, with cycle storage being provided within the development. It is considered that the proposal accords with Policy 14 of the ACS in this regard.
- 7.40 Conditions requiring a Construction Management Plan and the implementation of car parking, cycle parking and Electric Vehicle Charging are recommended. In summary, the development is considered to comply with Policies 10 and 14 of the ACS and Policy TR1 of the LAPP.

Issue (vi) Trees and Biodiversity (Policies 17 and 19 of the ACS and Policies EN6, EN7 and IN4 of the LAPP, Biodiversity SPD)

- 7.41 Policy EN6 of the LAPP states that development will only be permitted where significant harmful ecological impacts are avoided. Where harmful impacts cannot be avoided they should be mitigated through the design, layout and detailing of the development, or as a last resort compensated for, which may include off-site measures. The Biodiversity SPD further supports this.
- 7.42 The application is accompanied by an Ecological Appraisal, Ecological Enhancement Scheme and Biodiversity Net Gain Assessment. At the time the assessment was carried out, the site comprised areas of established woodland and grassland. Whilst much of which is proposed to be removed to facilitate the development, a comprehensive scheme of tree replanting and ecological enhancements (including bird and bat boxes, sensitive lighting and hedgehog connectivity) has been submitted (and in itself is considered satisfactory by the Council's Biodiversity Officer) this is not sufficient to offset the loss of habitats and the Biodiversity Net Gain Assessment demonstrates an overall loss in Biodiversity rather than a gain.
- 7.43 The proposals for the removal of woodland and grassland have been reconsidered by the developer but in their opinion it is not possible to increase the retention due to the harm arising from the disturbance of the adjacent areas of grassland/woodland. As such, the developer proposes a contribution towards off-site biodiversity gain as additional mitigation in order to achieve an overall gain. With mitigation in the form of a financial contribution proposed, It is considered that the benefits of developing a long term vacant site which clearly has economic benefits as well as providing affordable housing for this city, outweighs the harm arising from the removal of the grassland and woodland. The Biodiversity Officer has assessed the proposals and provided calculations for a contribution towards off-site Biodiversity Gain based upon a figure per unit for both grassland and woodland. This amounts to a figure of £35,503.57 which is to be requested through the s106 Agreement. The contributions will be placed in a ringfenced account which will be used for the creation of habitats. Taking account of the on-site proposals and the off-site compensation to be provided by a s106 contribution, it is considered that the development complies with Policies 17 and 19 of the ACS, Policies EN6, EN7 and IN4 of the LAPP and the Biodiversity SPD.
- 7.44 Policy EN7 of the LAPP relates to Trees and seeks to retain and protect trees of high value, and other trees and landscaping where possible, and secure adequate

mitigation/replanting for the loss of trees. A Tree Survey and Arboricultural Impact Assessment have been submitted with the application which concludes that none of the trees on the site are/were category 'A' (high value) trees. No trees on site benefit from any statutory protection and as such consent to remove any trees is not required from the local planning authority. The lowest value trees are to be removed during site clearance.

- 7.45 Where trees are not proposed for retention, mitigation in the form of replanting is proposed. This approach is considered to reach an acceptable balance between the loss of the trees and the viable redevelopment which will provide onsite mitigation. It is considered that the development in this regard, complies with Policy EN7 of the LAPP.

Issue (vii) Planning Obligations (Policies 17 and 19 of the Aligned Core Strategies, Policies EN6, EE4 and IN4 of the LAPP and the Biodiversity SPD)

- 7.46 The application site comprises land which is partly in the Council's ownership and partly owned by a third party. As the Council cannot enter into an agreement with itself it is proposed that the planning obligation required to enable this permission to be granted will initially only be secured against the land which is in third party ownership. However, on completion of the land transfer it is proposed that the planning obligation subsequently be varied to ensure that it binds the remainder of the application site.

- 7.47 A policy compliant development would be expected to provide the following planning obligations:

- a financial contribution of £35,503.57 towards off-site Biodiversity Net Gain
- Local employment and training opportunities, including a financial contribution of £10,660 towards their delivery

The total contribution is therefore £46,163.57

- 7.48 The applicant has committed to the above Policy compliant contributions. To conclude, the contributions satisfy Policies 17 and 19 of the Aligned Core Strategies, Policies EN6, EE4 and IN4 of the LAPP, and the Biodiversity SPD.

8. Sustainability (Policy 1 of the ACS and Policy CC1 and CC3 of the LAPP)

- 8.1 Policy 1 of the ACS affirms the presumption in favour of sustainable development. Policy CC1 (sustainable design and construction) of the LAPP promotes energy efficient buildings and sustainable design, and Policy CC3 (water) seeks to protect water quality, promote efficient water use and require sustainable drainage where possible.

- 8.2 The proposed development would incorporate various measures to mitigate and adapt to climate change. The proposal incorporates passive design strategies to take advantage of natural daylight and enhanced fabric efficiencies. The proposed store will also incorporate active design strategies to reduce energy consumption by introducing heat recovery ventilation to pre-heat incoming fresh air and installing low energy lighting.

- 8.3 As a company, Lidl seeks to reduce CO2 emission rates from its buildings by over 20% when compared with a building of the same type, size and use. The fully glazed, front façade maximises natural daylight entering the building, whilst sensor controlled exterior sun blinds automatically operate to mitigate the effects of excessive heat from solar gain. Finally, photovoltaics, to capture solar power for use in store, will be applied to the roof of the store. As detailed earlier within the report, Electric vehicle charging points are proposed within the car park.
- 8.4 The site is in Flood Zone 1 and therefore at the lowest risk of flooding. A condition requiring the submission of details of surface water drainage provision has been recommended by the Drainage Team. Overall the scheme will comply with Policy 1 of the ACS and Policies CC1 and CC3 of the LAPP.

9 Financial Implications

None.

10 Legal Implications

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

11 Equality and Diversity Implications

None.

12 Risk Management Issues

None.

13 Strategic Priorities

Neighbourhood Nottingham: Redevelopment of a cleared brownfield site with a high quality, sustainable development.

Safer Nottingham: The development enhances the pedestrian Connectivity, contributing to a safer and more attractive neighbourhood

Ensuring Nottingham's workforce is skilled through Local Employment and Training 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: 22/00709/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9SWP6LYK5800>

17 Published documents referred to in compiling this report

Aligned Core Strategies – Local Plan Part 1 (2014)

Land and Planning Policies – Local Plan Part 2 (2020)

NPPF (2021)

Biodiversity SPD 2020

Greater Nottingham & Ashfield Housing Needs Assessment, October 2020.

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Key
 City Boundary

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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.