



Nottingham City Council Planning Committee

Date: Wednesday, 17 June 2020

Time: 2.30 pm

Place: Remote - To be held remotely via Zoom -
<https://www.youtube.com/user/NottCityCouncil>

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

Corporate Director for Strategy and Resources

Governance Officer: Catherine Ziane-Pryor **Direct Dial:** 0115 876 4298

- 1 Apologies for Absence**
- 2 Membership**
To note that Councillor Maria Joannou has replaced Councillor Azad Choudhry.
- 3 Declarations of Interest**
- 4 Minutes** 3 - 8
Of the meeting held on 18 March 2020 (for confirmation)
- 5 Planning Applications : Reports of the Chief Planner**
 - a Land West Of Arkwright Street. South Of Crocus Street** 9 - 38
- 6 Application Approved by Delegated Authority (for noting)**
 - a Site of 2, Queens Road, Nottingham** 39 - 58
 - b Lenton Boulevard Service Station, 199 Lenton Boulevard** 59 - 70
- 7 Future meeting dates**
To consider approving the following Planning Committee meeting schedule for the 2020/21 municipal year, meeting at 2.30pm:

2020

22 July
19 August
23 September
21 October
18 November
16 December

2021

11 January
08 February
08 March
12 April

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

Citizens are advised that this meeting may be recorded by members of the public. Any recording or reporting on this meeting should take place in accordance with the Council's policy on recording and reporting on public meetings, which is available at www.nottinghamcity.gov.uk. Individuals intending to record the meeting are asked to notify the Governance Officer shown above in advance.

Nottingham City Council

Planning Committee

Minutes of the meeting held at Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 18 March 2020 from 2.32 pm - 3.51 pm

Membership

Present

Councillor Michael Edwards (Chair)
Councillor Leslie Ayoola
Councillor Graham Chapman (Vice Chair)
Councillor Kevin Clarke
Councillor Maria Joannou
Councillor Pavlos Kotsonis
Councillor Sally Longford
Councillor Lauren O`Grady
Councillor Mohammed Saghir

Absent

Councillor Gul Nawaz Khan
Councillor AJ Matsiko
Councillor Toby Neal
Councillor Ethan Radford
Councillor Wendy Smith
Councillor Cate Woodward
Councillor Audra Wynter

Colleagues, partners and others in attendance:

Ann Barrett - Legal Team Leader, Planning and Environment
Mark Lowe - Head of Housing and Regeneration
Rob Percival - Area Planning Manager
Paul Seddon - Director of Planning and Regeneration
Phil Shaw - Principal Planning Officer
Kate Morris - Governance Officer

35 Apologies for Absence

Prior to taking apologies the Chair asked the Director of Planning and Regeneration to explain why the Planning Committee was taking place given the public health advice around the Covid 19 virus.

The Director of Planning and Regeneration advised the committee that the decisions on the agenda today included 3 important housing schemes, and the decisions made today would be acted on by Officers following the meeting. Central government have recognised that planning committees are an important part of the planning process and play a key role in helping to keep the economy going. They have therefore advised that they should continue, with alternative arrangements made where necessary. The schemes on the agenda play to the heart of the Council Plan priorities. He also went on to inform the committee that they were in a position to make decisions on these planning applications as reports were thorough, had taken into account consultations, and that all representations had been considered.

The Committee acknowledged this advice and information.

The following apologies had been received:-

Councillor Gul Kahn - Personal
Councillor AJ Matsiko - Unwell

Planning Committee - 18.03.20

Councillor Toby Neal – Personal
Councillor Ethan Radford – Personal
Councillor Wendy Smith – Personal
Councillor Cate Woodward – Personal
Councillor Audra Wynter – On Leave

36 Declarations of Interests

None.

37 Minutes

The minutes of the meeting held on 19 February 2020 were confirmed as a true record and were signed by the Chair.

38 Planning Applications: Reports of the Director of Planning and Regeneration

- a Site of the former Mechanics Arms Public House, Alfred Street North, St Ann's (Agenda Item 4a)

Councillor Graham Chapman left the room during consideration of this item.

Paul Seddon, Director of Planning and Regeneration, introduced application number 19/02365/PFUL3 for planning permission by Allan Joyce Architects Ltd on behalf of Framework Housing Association for the erection of 16 supported living flats and associated management and training facilities following the demolition of the public house.

This application was deferred by Planning Committee on 19 February 2020 to allow further consideration of objections raised by residents and for the consultation period to expire.

The application is brought to the Committee due to significant public interest contrary to officer recommendation from local residents with two Ward Councillors having submitted written objections. In addition it was proposed that the planning obligations typically required by adopted planning policies be waived in this case.

To meet the Council Performance Targets this application should have been determined by 21 January 2020

Additional information, amendments and changes to the item since the publication of the agenda was included in an update sheet, which was circulated at the meeting and appended to the agenda published online. It included further representation from Councillor Sue Johnson, Ward Councillor.

The following points were discussed:

- (a) Improvements have been made to the design of the building as discussed at the Planning committee on 19 February 2020. The top of the building has been improved as requested and the ground floor windows are in better

proportion. The applicant has confirmed that the entrance of the building will be brightly lit;

- (b) Brickwork decoration will add interest to the building giving it more visual strength. Improvements have been made to the architecture within the original shape and form of the design;
- (c) The extended public consultation period has now come to an end. An additional 30 comments have been received from the public mainly raising similar points to those previously received.
- (d) One comment raised concerns that the proposed development was on a walking route to the local school. Education colleagues confirmed that the development was within the catchment area of the school and that children may be passing it on their way to and from school. Advice from Education colleagues was that the development would have a low impact;
- (e) The applicant has confirmed that there will be a 24 hour site contact number for residents to raise concerns if needs be and a route to escalate those concerns if issues are not resolved;
- (f) Concerns had been raised by one resident about lack of natural light as a result of the proposed development. Officers confirmed that the rooms affected were not main living rooms, and that the distance between the development and the existing dwelling was entirely acceptable and appropriate.
- (g) Committee members commented on the lack of communal outside space and raised concerns that residents of the development might congregate at the local play park, which may deter local children from using the play equipment there. Officers advised the committee that each flat had generous living accommodation, and that the shared space on the ground floor was also very generous. There are a number of public open spaces within walking distance of the development that residents could choose to use, and colleagues felt that there was sufficient local, public open space to address the lack of garden space at the development;
- (h) Members of committee agreed that there is a need for good quality housing for homeless people within the city and that objections would be raised by residents wherever the development was planned due to the perceived negative impacts.
- (i) Committee members were reassured that the applicant had confirmed that there would be a staff presence on site 24 hours a day and that the applicant was willing to provide telephone contact details for residents to raise concerns and escalate them if necessary;

Resolved to:

- (1) **Grant planning permission subject to the indicative conditions listed in the draft decision notice at the end of the Report of the Director of**

**Planning and Regeneration published within the supplement agenda;
and**

**(2) Delegate power to determine the final details of the conditions to the
Director of Planning and Regeneration.**

- b Site of Eastglade Primary School, Whitcombe Gardens, Bestwood (Agenda Item 4b)

Rob Percival, Area Planning Manager, introduced application number 19/02811/PFUL3 for planning permission by Pelham Architects on behalf of Nottingham City Homes for the construction of 106 homes.

The application is brought to the Committee as it is proposed that the planning obligations typically required by adopted planning polices be waived in this case.

To meet the Council Performance Targets this application should be determined by 20 March 2020

The following points were discussed:

- (a) Development of proposals for the site has been difficult due to the substantial level changes across the site resulting in it being vacant for many years. There have been a number of iterations of the scheme with substantial input from Planning colleagues;
- (b) Permission is sought for a total of 106 residential properties, including 1 bedroom flats, and 2 and 3 bedroom houses. All properties are two storeys and will be affordable homes, contributing to the Council's plan to provide high quality affordable homes to rent across the city;
- (c) Vehicular access to the site is from Padgham Court to the north and from Cottam Gardens from the south. The alignment of the development seeks to make the most of the level changes on the site;
- (d) The plans will involve the removal of a number of trees from the site, this does include 2 category A trees. The loss of these trees has been deemed acceptable for the development of the site as a number of other mature trees will be retained and new trees will be replanted at a ratio of at least 2:1. It is not likely to be possible to relocate the existing trees due to their size;
- (e) The apartment blocks, situated in the northern part of the site, have front doors to the ground floor units and an active street frontage has been achieved. The architecture of the apartment blocks and the houses have similar features that ensures the development is attractive and interesting, with distinguishing features on individual buildings. Open space has been designed into the development around the retained trees and retaining walls are sensitively located to deal with the changes in levels across the site;

- (f) The applicant has submitted a viability appraisal, which shows that with a S106 payment for open spaces the development would not be able to go ahead. This is due to the high build costs given the site topography and the relatively low residential values in this area;
- (g) Most of the buildings will be fitted with PV panels. Other sustainability measures were discussed, such as ground water / mine water heating etc. The costs for such measures on a site with such high build costs would exacerbate costs and lead to an even more unviable scheme;
- (h) Committee members commented on the road surfacing materials and their difficulty and expense to maintain. They suggested that more areas of tarmacked road would be acceptable and would reduce maintenance costs;
- (i) Committee members questioned the use of gas in the flats, as previously this had been discouraged due to safety concerns. Officers advised that gas was more efficient to run in terms of central heating and that electric heating technology had not yet caught up with advanced gas based systems;
- (j) There was discussion around development of a Planning Check list for both developers and for Planning Committee members to ensure that all options around sustainability are considered on future schemes.

Resolved to:

- (1) Grant planning permission subject to the indicative conditions listed in the draft decision notice at the end of the Report of the Director of Planning and Regeneration**
- (2) Delegate power to determine the final details of the conditions to the Director of Planning and Regeneration.**

c Site of the former Woodborough Public House, Woodborough Road, St Ann's (Agenda Item 4c)

Rob Percival, Area Planning Manager, introduced application number 19/01743/PFUL3 for planning permission by Pelham Architects on behalf of Tuntum Housing for the residential development of 17 houses and 11 flats, comprising of 8 x 2 bed / four people, 8 x 3 bed / 5 people houses, and 1 x 4 bed / 7 people houses and 10 x 1 bed / 2 person, and 1 x 2 bed / 4 person flats.

The application is brought to the Committee as it is proposed that the planning obligations typically required by adopted planning polices be waived in this case.

To meet the Council Performance Targets this application should have been determined by 6 November 2019.

The following points were discussed:

- (a) The site is situated on the junction of Woodborough Road and Robin Hood Chase and comprises of the site of the former Woodborough Inn, an area of grass and trees and a carpark;
- (b) The houses and the flats on Manning Street are two storey and the flats on Woodborough Road are three storey. Vehicle and pedestrian access is proposed from Manning Street, including use of an existing parking area. All properties on this site will be affordable housing;
- (c) There are a number of trees across the site; those along the Chase will be retained, but others will be removed from the former pub site, to be replaced within the proposed courtyard area on the same part of the site. The applicant has submitted a viability report indicating that even without the open spaces contribution the scheme will be in deficit. However, it is recognised that this development is for 100% affordable housing and would contribute to the Council objective to increase the number of affordable homes in Nottingham;
- (d) PV panels are not included in this development due to the affordability and viability of the scheme. There will be 1 electric vehicle charging point per 10 parking spaces;
- (e) Committee members commented that pedestrian archways granting access to the backs of the properties will need to be made secure with gating and that rendered portions of the buildings would be easier to maintain and look better in the long run if they were brick work;
- (f) A S106 contribution has been requested by the NUH NHS Trust to support the provision of secondary care. Whilst the Council is supportive of the principle of contributions for healthcare, there are a number of outstanding queries and issues with the request that are subject to on-going discussion with the Trust. Given the viability issues with this scheme it is clear that the developer cannot make any financial contribution, but recognised that they are contributing to the Council's key objective to provide affordable housing. It is therefore agreed that no NUH NHS contribution be sought in this instance.

Resolved to:

- (1) Grant planning permission subject to the indicative conditions listed in the draft decision notice at the end of the Report of the Director of Planning and Regeneration**
- (2) Delegate power to determine the final details of the conditions to the Director of Planning and Regeneration.**

WARDS AFFECTED: Bridge

Item No:

PLANNING COMMITTEE
17th June 2020

Report of Director of Planning and Regeneration

Land West Of Arkwright Street. South Of Crocus Street

1 SUMMARY

- Application No: 19/02663/PFUL3 for planning permission
- Application by: Cassidy Group (Arkwright Street) Limited & Sheriff Way Nottingham Limited
- Proposal: Development of residential apartments and retail space with associated car parking, landscaping, and associated infrastructure.

The application is brought to Committee because it relates to a major development with important design and regeneration considerations, and where the Planning Obligation may include contributions less than required by planning policy.

To meet the Council's Performance Targets this application should have been determined by 20.02.2020, an extension of time has been agreed to 01.07.2020.

2 RECOMMENDATIONS

2.1 GRANT PLANNING PERMISSION subject to:

- (a) the conclusion of an assessment on the viability of the proposed development, prior completion of a Section 106 Planning Obligation that may include financial contributions toward Public Open Space, Affordable Housing, Education and Local Employment and Training, the details of which will be provided for the consideration at Planning Committee; and
- (b) conditions substantially in the form of those listed in the draft decision notice at the end of this report.

2.2 Power to determine the final details of the conditions and S106 Planning Obligation 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 at 2 (b) (i) and (ii) 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.

3 BACKGROUND

3.1 The site, located to the south of the City Centre, is currently vacant and bounded to the north by Crocus Street, to the east by Arkwright Street, to the south by Meadows Way and to the west Sheriffs Way/Waterway Street West. There was a

warehouse on the western side of the site known as Victor House which was demolished to facilitate the tram line that now passes along Meadows Way. The site itself is relatively flat, though there is a banked area to Meadows Way and the surrounding land does rise up to the north east towards the railway Station. The existing buildings to the northwest of the site comprise the 19th Century Karlsruhe House, Castle Rock Brewery Buildings, The Vat and Fiddle Public House and the Queens Hotel, though immediately to the north, on the opposite side of Crocus Street, is a metal clad warehouse building. Beyond these buildings to the north is the Unity Square office building currently under construction. To the east is the Crocus Place site which has planning permission for Grade A offices. The southern edge of the site is bounded by Meadows Way and NET Tram line, with 2-3 storey houses of the Meadows opposite and to the south east, a recently constructed 4 storey apartment block.

- 3.2 The site is located within the Canal Quarter and the fringes of the site lie within Flood Zone 2, at medium risk of flooding. To the north east of the site is the Station Conservation Area, its boundary taking in the Queens Hotel. The Station itself is a Grade II * listed building.
- 3.3 Planning permission was previously granted on the site for a mixed residential development of student accommodation (420 beds) and Private Rental Sector (PRS) apartments (149 units), 4-8 storeys in scale. The resolution to grant this application (18/00131/PFUL3) was made by Planning Committee in January 2019. The scheme comprised two buildings that wrapped around the edge of the site, providing an active frontage to all four sides. The student element of the scheme was proposed on the western side of the site and the PRS apartment element to the east. A pedestrian route was proposed between the two buildings, through the centre of a landscaped courtyard at the heart of the site. A commercial unit was also proposed to the ground floor of Arkwright Street. This previous scheme is still capable of being implemented.

4 DETAILS OF THE PROPOSAL

- 4.1 Planning permission, by a different applicant, is now sought for a wholly PRS apartment scheme comprising 171 x one bedroom units, 121 x two bedroom units and 27 studios, providing a total of 319 units. 32 of the units are designed to accessible and adaptable standards for all. A commercial unit (202 sqm) remains part of the scheme on the Arkwright Street frontage.
- 4.2 The scheme comprises a single building around the edge of the site providing a continuous frontage to the surrounding streets. At its centre would be a car park to the ground floor with landscaped court yard above. The main entrance and communal facilities are accessed off Sheriffs Way/Waterway Street, with other secondary entrances off Arkwright Street and Crocus Street. Access to the car park is from Crocus Street. There is an expanse of public highway to the west of the building bound by Sheriffs Way/Waterway Street and Meadows Way that is proposed to be landscaped as part of the scheme.
- 4.3 97 car parking spaces are proposed within the car park, 5 available for disabled car users and 9 provided with electric vehicle charging points (EVCPs). Three secure cycle storage areas are incorporated into the scheme providing parking for a total of 324 cycles. Three bin storage areas are provided around the car park which would accommodate a total of 52 x 1100 litre bins.

- 4.4 The design of the scheme follows a similar approach to the 2018 scheme insofar as it comprises a perimeter block with the lowest 4 story element fronting Meadows Way, building up to the tallest element at the Sheriffs Way/Crocus Street junction. However, this scheme takes a different strategy to scale and mass by proposing a taller, tower element at the western end of the building, with the remainder of perimeter block having a lower and more consistent scale. The tower is proposed to be 12 storeys, with the lower element rising from 4 to 6 storeys. The previous scheme did not have the tower but larger 7 and 8 storey elements. The current scheme further softens its scale with the entire upper floor (excluding the tower) being treated with a mansard roof, which was not the case with the previous scheme along Crocus Street and approximately half of the Meadows Way frontage. As with the previous scheme, a feature, double storey mansard element fronts Arkwright Street.
- 4.5 In addition to their scale and mass, the two schemes also differ in their architectural style. The previous scheme had a unique appearance with a slightly harder contemporary feel. The current scheme has a more regular fenestration pattern with a greater glazing to solid ratio. The mansard roof feature is used on both schemes but more extensively so on the current one, softening the top of the building. There is also a series of recessed vertical elements that break down the mass of the elevations and help to create a grain to this urban block. Both schemes employ a town house aesthetic to Meadows Way with larger openings on the groundfloor and each unit having its own front door. Compared to the previous scheme, the current proposal has been set back within the site to address the constraint of the overhead power line supports for the tram line, creating a much wider pavement and area to the front of the units that is given over to landscaped front gardens. The principle of groundfloor units with their own front doors is also carried round onto Crocus Street.
- 4.6 The tower on the latest proposal is designed to read as a separate yet adjoining building, with a distinctly different elevational treatment and brick colour.
- 4.7 Deep reveals both within the brickwork and to the windows create depth and a sense of detailing to the building. Curved corners are also a notable design feature, which are carried through to the mansard elements.
- 4.8 The scheme is predominantly to be finished in brickwork, with a distinctly different colour proposed for the tower element. The mansard roof would be finished in a dark grey standing seam cladding system. Stonework is proposed to cap the parapet of the brickwork and elsewhere as an accent material to highlight certain elements of the building.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

72 neighbouring residential properties have been notified of the proposed development. As the proposal is a major development and not far from the boundary of the Station Conservation Area, it has also be publicised through site and press notices. Two representations have been received as a result of this publicity.

Nottingham Civic Society: Nottingham Civic Society objects to the height of the proposed tower fronting Sheriff's Way because it would diminish the relative significance of the Station Clock tower as the dominant focus for the long view from Queen's Walk and Sheriff's Way towards the Grade II* listed Station. The long view from Queen's Walk is recognised by the Adopted City Centre Urban Design Guide, as an important contributor to the character and appearance of the locality and the Station Conservation Area as the setting to the listed Station itself. The tower appears to have been designed to dwarf the distant Station in these key views, compromising the Station's landmark status and reducing its visual dominance to the detriment of both the listed building and the character and appearance of the conservation area, contrary to local plan policy.

Whilst the massing and design of the remainder of the proposed building is appropriate for its urban context, use of more traditionally-coloured red brick in the mix of materials would improve the development's potential integration into its surroundings.

Nottingham Local Access Forum: The underlying theme of the Transport Statement is that existing infrastructure for walking, cycling and vehicular access is fit to accept the development without improvement or modification. Whilst a quantitative assessment might show this to be the case, a qualitative assessment would show otherwise.

Walking and cycling routes to and from the city centre and nearby public transport facilities are impeded by crossings of the inner ring road. In addition, the immediately adjacent signal controlled pedestrian/cycle crossing of Meadows Way does not afford the pedestrian/cycle priority that it might for such a lightly trafficked road. Red pedestrian/cycle signals here seem to hold users unnecessarily, whilst red signals are at the same time holding vehicular traffic, and also when no conflicting road/tram traffic is evident. Plans for the public realm to accommodate the cycle route across the Sheriffs Way frontage of the Unity Square development are yet to be finalised and may be compromised by constraints that the Unity Square development alone cannot address or shoulder. Whilst it might be unreasonable to ask the development proposed under this application to fully address all these issues, consideration should be given to calling for a developer contribution secured under a 106 agreement to further their resolution.

Car parking spaces are proposed in numbers below the maximum level permitted by Nottingham, understandable given the location of the site and good accessibility to other sustainable modes of transport. The developer should however be challenged to justify the level of parking in an effort to see that unused parking spaces are not offered for rent by residential occupiers, as happens elsewhere in similarly located developments in the city. This is positive and will encourage walking and cycling. It's also elsewhere in similarly located developments in the city.

The developer is looking to meet the required standard for cycle parking (which is low compared with standards required in other UK cities) by allocation of space within the residential units. We question the implied assertion that this is a practical proposition, particularly for certain types of cycle - ebikes for instance, which can be very heavy. Some of the space dedicated to car parking could instead be given over to further cycle parking to see that the required standard is properly met, and

that residential occupiers are not put to the inconvenience and impracticality of utilising area within their living spaces for cycle parking.

Through the application process there has also been engagement with the Ward councillors and community representatives from the Meadows, which included a community consultation meeting in February 2020. The scheme was generally well received.

Additional consultation letters sent to:

Environmental Health and Safer Places: No objection to the scheme subject to conditions to secure the provision of a Remediation Strategy, Noise Reduction Scheme, a Scheme for Odour reduction (associated with any kitchen facilities) and a restriction on the hours of operation and servicing for the non-domestic unit. These matters can be secured through conditions.

Highways: No objections, though concerns have been raised by the NET team in regards to the impact of the development during construction and once occupied on the tram line. The developer has been liaising with the NET team regarding this. Highways have also requested details of the proposal's impact on the existing street lighting and road signage. These matters can be secured through condition.

Environment Agency: No objection to the scheme subject to a condition requiring the development to be completed in accordance with the submitted Flood Risk Assessment, and conditions securing a remediation strategy and flood resilience measures.

Drainage Team: No objections to the proposed development subject to a condition requiring the development to be completed in accordance with the submitted Flood Risk Assessment, and a condition securing flood resilience measures.

Conservation Officer: The Conservation Officer has been closely involved in discussions relating to the design of the development, and has raised no objections to the scheme.

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 124 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 127 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.

Furthermore, Paragraph 200 states that Local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Even though the application site is not adjacent to a listed building or within the Station Conservation Area, the site is close to a number of listed buildings and not far from the southern boundary of the Station Conservation Area. As such consideration needs to be given to section 66 (1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Building Act 1990”).

Section 66 places a duty on local planning authorities to have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historical interest which it possesses. The duty requires considerable importance and weight to be given to the desirability of preserving the setting of all listed buildings including Grade II, however, it does not create a bar to the granting of planning permission. A balancing exercise must be undertaken between the harm caused and the benefit the development will bring. Additionally, section 72(1) of the Listed Building Act 1990 states that there is a general duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any building or land in a conservation area.

Aligned Core Strategies (ACS) (2014):

- Policy 1: Climate Change
- Policy 5: Nottingham City Centre
- Policy 8: Housing
- Policy 10: Design and Enhancing Local Identity
- Policy 11: The Historic Environment
- Policy 12: Local Services and Healthy Lifestyles

Policy 14: Managing Travel Demand
Policy 17: Biodiversity
Policy 19: Developer Contributions

Land and Planning Policies (LAPP) (January 2020):

Policy CC1: Sustainable Design and Construction
Policy CC2: Decentralised Energy and Heat Networks
Policy CC3: Water
Policy EE4: Local Employment and Training Opportunities
Policy RE1: Facilitate Regeneration
Policy RE2: Canal Quarter
Policy HO1: Housing Mix
Policy HO3: Affordable Housing
Policy HO4: Specialist and Adaptable Housing
Policy DE1: Building Design and Use
Policy DE2: Context and Place Making
Policy HE1: Proposals affecting designated and non-designated assets
Policy TR1: Parking and Travel Planning
Policy EN2: Open Space in New Development
Policy EN6: Biodiversity
Policy IN2: Land Contamination, Instability and Pollution
Policy IN4: Developer Contributions
Site Allocation: SR64

Supplementary Planning Policy Documents:

Station Conservation Area Character Appraisal and Management Plan (April 2008)

This notes that the combination of transport corridors has divided the Conservation Area into a series of relatively large and often impenetrable urban blocks that typify the overall character of the Conservation Area. The appraisal identifies the Station as the principal building in the Conservation Area. It also advises that the Conservation Area offers the potential for higher buildings in the vicinity of the Station subject to a considered analysis on the local context and important views.

Nottingham City Centre Urban Design Guide (May 2009)

Although not a statutory document that is part of the development plan, this guide provides a physical framework and promotes the highest standard of urban design and architecture for the City Centre. The area in which the development falls has been identified as a 'Zone of Reinvention' in the Urban Design Guide. In this area of the City buildings of ground plus 4 are envisaged due to its sensitive location and need to respect longer views adjacent to the Meadows residential area. This design guide also recognises that there may be opportunities for taller buildings outside of the Station Conservation Area and along the Meadows Gateway.

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- (i) Principle of the development

- (ii) Building design including impact on Conservation Area and Listed Buildings
- (iii) Impact on neighbours and future occupants
- (iv) Other matters

(i) Principle of the development (Policies 5 and 8 of the ACS, Policies RE1, RE2, HO1, DE1 and SR64 of the LAPP)

- 7.1 The proposal is for the redevelopment of a prominent, derelict and unsightly brownfield site that is located alongside well-used approaches into the City Centre. It falls within an allocated site for development (SR64) and would represent a significant scheme in the continued regeneration of the Canal Quarter, thereby supporting the aims of Policy 5 of the ACS and Policies RE1 and RE2 of the LAPP. The uses proposed fall within those indicated as part of site allocation.
- 7.2 The apartments are of an appropriate size internally and meet or exceed National Space Standards. The proposed mix of 1 and 2 bed units is in keeping with Policy 8 of the ACS and Policy HO1 of the LAPP which encourage the provision of such units within the City Centre. The close proximity of the Station, bus station, multiple on-street bus routes and cycles routes mean the site is incredibly well served by a wide variety of sustainable transport modes, in addition to the City Centre and associated facilities being within close walking distance.
- 7.3 Additionally, the proposed landscaping to the west of the site supports a strategic aim of policy RE2 to exploit opportunities to create and enhance public spaces.
- 7.4 The principle of the development is therefore supported and in accordance with policies 5 and 8 of the ACS and policies DE1, RE1, RE2, HO1 and SR64 of the LAPP.

(ii) Building design including impact on Conservation Area and Listed Buildings (Section 66 and Section 72 of the Listed Building Act 1990, Policies 10 and 11 of the ACS, Policies RE1, RE2, DE1, DE2 and HE1 of the LAPP, the NPPF)

- 7.5 The Nottingham City Centre Urban Design Guide has identified the application site as falling within a 'Zone of Reinvention' where it is expected that a new urban form will emerge, through the introduction of high quality gateway buildings that respect the wider historic context, and in particular views to the southern edge of the City from the Meadows area. With regards to the Station Conservation Area, the site lies approximately 100m from its southern boundary. The site also lies to the east of the important view of the Station from Queens Walk.
- 7.6 With regards to the impact of the proposal on the local heritage context, the crucial aspects for consideration are:
 - (a) Section 66 (1) of the Listed Building Act 1990, and the duty this places on having special regard to the desirability of preserving the setting of a listed building or its setting. In this instance the key listed building would be Nottingham Station;
 - (b) Section 72 of the Listed Building Act 1990 and the duty of preserving or enhancing the character or appearance of a building or land in the Station Conservation Area; and

(c) The level of harm created by the impact of the proposal on local heritage assets.

- 7.7 The NPPF Glossary GPA3 'The setting of a Heritage Asset' states that *"The setting of a heritage asset is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"*.
- 7.8 The setting of Nottingham Station is defined by how the building is appreciated in its local context. Nottingham Station is a relatively low-rise building with a high townscape value created by the architectural flourishes of its Neo-Baroque design and the townscape value of its landmark central clock tower. Its historic setting was created by its association with historic buildings of a similar date and scale within the Station Conservation Area.
- 7.9 The massing of the proposed building, particularly the tower element, has been arranged to protect distant views of the City Centre from the south. The site lies to the right hand side of a key view of the Station along Queens Walk. In spite of the concerns raised by the Civic Society, given the position of the proposed development to the side of this view and its distance from the Station, it has been concluded that the development would not adversely impact on the setting of the Station. Therefore, in relation to the statutory duty of section 66 of the Listed Building Act 1990, it is considered that the setting of the Station would be preserved and that any harm would be less than substantial.
- 7.10 The Station Conservation Area Character Appraisal and Management Plan recognises that whilst the preservation and enhancement of the Conservation Area's historic environment is important, there is an opportunity to promote regeneration and development initiatives. As already indicated above, the site is within a Zone of Reinvention where the proposed development would assist in the repair of a townscape that has a negative impact on the character and appearance of the Conservation Area. The proposal would help to create an urban grain that enhances the character and appearance of the Conservation Area, whilst also respecting key views towards it. The Station Conservation Area Character Appraisal and Management Plan also indicates that the Area offers the potential for higher buildings in the vicinity of the Station, subject to a considered analysis of the local context and important views. This analysis has been undertaken and it concluded that the proposal would not adversely impact upon views into and out of the Station Street Conservation Area.
- 7.11 Overall, it is felt that the redevelopment of this derelict site and the proposed design of the scheme would enhance the character and appearance of the Station Conservation Area. The scheme satisfies the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a building or land in a Conservation Area in accord with section 72 of the Listed Building Act 1990. With regard to the NPPF and policies 11 of the ACS and HE1 of LAPP, the impact of the proposal on the character and appearance of the Conservation Area is considered to be of less than substantial harm.
- 7.12 As the harm caused to local heritage assets is less than substantial, the aforementioned policies require this level of harm to be weighed against the public benefits of the scheme. These policies indicate that if the public benefits of a

scheme clearly outweigh the harm caused, then the proposal is considered to be acceptable.

- 7.13 Policies RE1 and RE2 of the LAPP recognise the strategic importance of the Canal Quarter, with the Station at its heart. The redevelopment of this area is key to inward investment and the economic prosperity of the City, along with the provision of significant housing delivery. Redeveloping this derelict site in close proximity to the Station would therefore greatly assist these aims. The less than substantial harm caused by this development in relation to its impact on the setting of the Station and the Station Conservation Area would therefore be outweighed by the public benefit that the proposal brings in regeneration terms.
- 7.14 Turning to the detailed design of the scheme, the scale and massing has been developed over many iterations with great weight being given to its relationship and impact upon the Meadows residential area. During the life of the application the architectural treatment and internal configuration of the building has been refined further.
- 7.15 The approach taken to scale seeks to address the transition between a higher scale appropriate to the City Centre and Canal Quarter, and the lower domestic scale of the Meadows. This is particularly key on this site with it being one of the closest within the Canal Quarter to the Meadows. At this point Meadows Way, which incorporates the tramline, is a relatively wide street so the proposal for the building to be predominantly 4 storey along this frontage is felt to be appropriate. Where the building steps up on the corners at each end of this frontage, the public highway widens and the distance to the buildings on the southern side of the road increases.
- 7.16 Although the scheme does increase in height around the other edges of the site, it is felt that these frontages are less sensitive in terms of scale and are where, in this Zone of Reinvention, the prevailing scale of future development will be higher. Furthermore, Waterway Street West and Sheriffs Way form part of inner ring road where larger scale development is commensurate with the character and width of this road. Indeed the site marks the end of vistas along Sheriffs Way from the north and Waterway Street from the west.
- 7.17 The perimeter block approach offers active frontages to all four surrounding roads; this is reinforced by the ground floor apartments having direct 'front door' access from the street, the communal entrances at key focal points and the inclusion of a commercial unit on the Arkwright Street frontage. The creation of the landscaped public space to the west of the building also assists in activating the frontage to Sheriffs Way/Waterway Street, as does the main entrance being located off this space. The more generous set back from Meadows Way and larger front gardens to this frontage help to soften the relationship with the housing opposite, but also present the opportunity for greater soft landscaping to the benefit of biodiversity and the streetscene.
- 7.18 The proposed building is considered to be a positive interpretation of the principles established by the previous scheme. The mass is simplified and the tower introduced to create a more striking element on the frontage to Sheriffs Way/Waterway Street. The elevational changes described in the Proposals section, particularly the increased proportion of glazing, the more extensive use of the mansard roof and the depth added to facades of the building, are all felt to be positive changes. The curved corners and design of the entrances to the building,

both communal and individual, are also welcomed. The treatment of the tower as a distinct entity is considered to be successful, reinforced by the change in both elevational treatment and brick colour. It is felt that this would be an attractive addition to the Canal Quarter, yet in a manner that is respectful of context and longer views, as described above.

- 7.19 Movement within the building has been given due consideration to ensure that all residents have ease of access to the communal facilities of the building, such as the lobby, courtyard, cycle stores, car park and bin storage. The landscaped courtyard makes good use of the space above the carpark and would offer private amenity space for the occupants. Some of the apartments facing into the courtyard will have their own small garden areas to its edge.
- 7.20 In conclusion, it has been considered that the scale and massing of the proposed scheme are appropriate to its context and that the design of the building would deliver a high quality development that would significantly enhance the existing townscape. The proposal therefore accords with Sections 66 and 72 of the Listed Building Act 1990, policies 10 and 11 of the ACS, policies RE1, RE2, DE1, DE2 and HE1 of the LAPP, and the relevant sections of the NPPF.

(iii) Impact on neighbours and future occupants (Policies HO4, DE1 and IN2 of the LAPP)

- 7.21 The development is separated from the Meadows residential area by the wide Meadows Way, which also incorporates the tramline. The nearest properties are set approximately 25m to 30m from the southern boundary of the site. As a result of these distances, the height of the development along this southern edge of the site and the fact that it would sit to the north of the adjacent dwellings to the south, it is felt that the development would have an acceptable impact on the residential amenity of nearest residents.
- 7.22 The development has been designed to ensure that it will not cause any internal amenity issues for future residents. Noise and disturbance issues from the NET tramline and the proximity to Meadows Way and Sheriffs Way can be addressed through appropriate noise and vibration assessment, ventilation and sound insulation, all of which can be secured through condition. With appropriate conditions to address these and other matters, Environmental Health have raised no objection.
- 7.23 To ensure that the commercial use fronting onto Arkwright Street does not cause any residential amenity issues it is recommended that this be restricted to A1 (Retail), A2 (Professional Services), A3 (Café) and B1 uses only, or for any communal facilities for the occupants of the development.
- 7.24 The proposed accommodation is of a size that meets the National Space Standards set out in Policy DE1 of the LAPP, and also makes the required provision for accessible and adaptable units required by Policy HO4 of the LAPP.
- 7.25 Overall, therefore, the proposal raises no undue amenity concerns for either neighbouring properties or future occupants of the development, and accords with policies HO4, DE1 and IN2 of the LAPP.

(iv) Other Matters

Highway considerations (Policy 14 of the ACS, Policy TR1 of the LAPP)

- 7.26 Highways have raised no objections to the proposed development. The car park entrance is appropriately located on Crocus street and given the highly sustainable location, 97 parking spaces for 319 units is considered to be an acceptable ratio, 9 of which will have EVCPs. Furthermore, 324 cycle parking spaces are housed in secure and easily accessible facilities. Additionally electric vehicle charging points are also proposed within the car parking area.
- 7.27 Comments from the Nottingham Local Access Forum are noted. They recognise that there is a broader public realm enhancement project associated with the Unity Square project, that is looking at pedestrian and cycle movement along the Sheriff Way frontage. Subject to the outcome of S106 negotiations, should any monies be available for public open space then consideration would be given towards further public realm enhancement within the vicinity of the site, with a focus on pedestrian and cycle movement to and from the City Centre. Regarding car and cycle parking provision, the proposals are within standard and considered to be acceptable. Highways have not suggested that further work is required to the current pedestrian crossing arrangements for Meadows Way, this is a matter that was discussed at the community engagement meeting when the same conclusion was reached.
- 7.28 It is recommended that a construction management plan, together with the other matters requested by Highways, be secured by condition.
- 7.29 The development is in accordance with policy 14 of the Aligned Core Strategy and policy TR1 of the LAPP.

Flood risk (Policy 1 of the ACS, Policy CC3 of the LAPP)

- 7.30 The site lies within Flood Zone 2. The main source of potential flood is from the River Trent and as such, the application has been accompanied by a Flood Risk assessment (FRA). The Environment Agency have assessed this document and raised no objections to the proposal in terms of flood risk. As indicated in the Drainage Team's consultation response, they have recommended conditions to cover details of infiltration rates and surface water drainage management arrangements.
- 7.31 With appropriate conditions the proposal accords with policy 1 of the ACS and policy CC3 of the LAPP.

Waste (Policy 10 of the ACS, Policy DE1 of the LAPP)

- 7.32 The applicant has provided adequate bin storage facilities in locations that are easily accessible for both occupants and bin collection services. The proposal therefore complies with policy 10 of the ACS and policy DE1 of the LAPP in this regard.

Planning obligations (Policies 12 and 19 of the ACS, Policies EN2, IN4, HO3 and EE4 of the LAPP)

- 7.33 A policy compliant S106 planning obligation for the proposed development would be expected to provide the following contributions:

- Affordable Housing - £2,496,000
- Education - £137,736
- Public Open Space - £193,858
- Local Employment and Training - £78,888

7.34 An off-site contribution for affordable housing is sought in this instance because the tenure of development proposed would not lend itself to management by a separate registered social landlord.

7.35 Policy 19 of the ACS and Policy IN4 require consideration to be given to the viability of schemes when determining whether it would be reasonable to require contributions from developments. In line with these latter policies the applicant has submitted a viability appraisal with the application which is being independently reviewed by an assessor appointed by the Council. Discussions are still taking place with the applicant in this regard and an update will be provided in advance of Committee.

8. SUSTAINABILITY / BIODIVERSITY (Policy 1 and 17 of the ACS, Policies EN6, CC1, CC2 and CC3 of the LAPP)

8.1 The scheme is to incorporate high levels of insulation within the building fabric to achieve a 10% reduction in carbon emissions over and above Building Regulations requirements. Photovoltaic panels are to be installed on the roof areas to provide renewable energy for the development, and to reduce energy demand it is proposed use low energy light fittings and natural ventilation for all units, where feasible. Low water usage fittings are also to be used. Electric vehicle charging points are proposed within the car park and cycle storage for 324 spaces is above standard (319 spaces).

8.2 The proposed soft landscaping to the courtyard, Meadows Way frontage and land to the west of the site provide an opportunity to enhance bio-diversity in this part of the City Centre. The applicant has confirmed their intention to use native and adaptive species and also to incorporate bird and bat boxes to support local wildlife.

8.3 Overall the scheme complies with policies 1 and 17 of the ACS and policies EN6, CC1, CC2 and CC3 of the LAPP.

9 FINANCIAL IMPLICATIONS

9.1 As indicated above in relation to the S106 planning obligation, the applicant has submitted a viability appraisal that is currently being independently assessed. This process has the potential for S106 contributions to be reduced or waived, depending on the outcome of the assessment.

10 LEGAL IMPLICATIONS

The issues raised in this report are primarily ones of planning judgement. However, the Committee in exercise of its planning functions should note the general statutory duties regarding conservation areas and listed buildings as stated in sections 72 and 66 of the Listed Building Act 1990.

Conservation Area Duty

The duty under the Listed Building Act 1990 is a general overarching statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance, with respect to any building or land in a conservation area, in exercise of planning functions. The Committee must have regard to this duty in consideration of the application in so far as the Station Conservation Area is concerned, which sits in the area bounded by the Nottingham Canal to the north, London Road to the east, Tinkers Leen and part of Crocus Street to the south, and Carrington Street/Arkwright Street to the west.

Listed Buildings Duty

As the development affects a number of listed buildings or their settings the Committee must have special regard to the desirability, in the exercise of its planning functions, to preserving such buildings or their setting or any features of special architectural or historical interest which they possess. The Committee in making its decision must have regard to 'the overarching duty' imposed by s 66 (1) which requires considerable importance and weight to be given to the desirability of preserving the setting of all listed buildings, including Grade II, even if the harm would be 'less than substantial'. However, the duty does not create a bar to the granting of planning permission and an irrebuttable presumption is not created. It can be outweighed by material considerations powerful enough to do so.

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

Neighbourhood Nottingham: Redevelopment of a long term brownfield site with a high quality, sustainable residential development.

Working Nottingham: 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 neighbourhood.

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: 19/02663/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q1O3IQLYHER00>

17 Published documents referred to in compiling this report

Aligned Core Strategy (September 2014)

Land and Planning Policies Part 2 Local Plan Document (January 2020)

NPPF (2019)

Station Conservation Area Character Appraisal and Management Plan (April 2008)

Nottingham City Centre Urban Design Guide (May 2009)

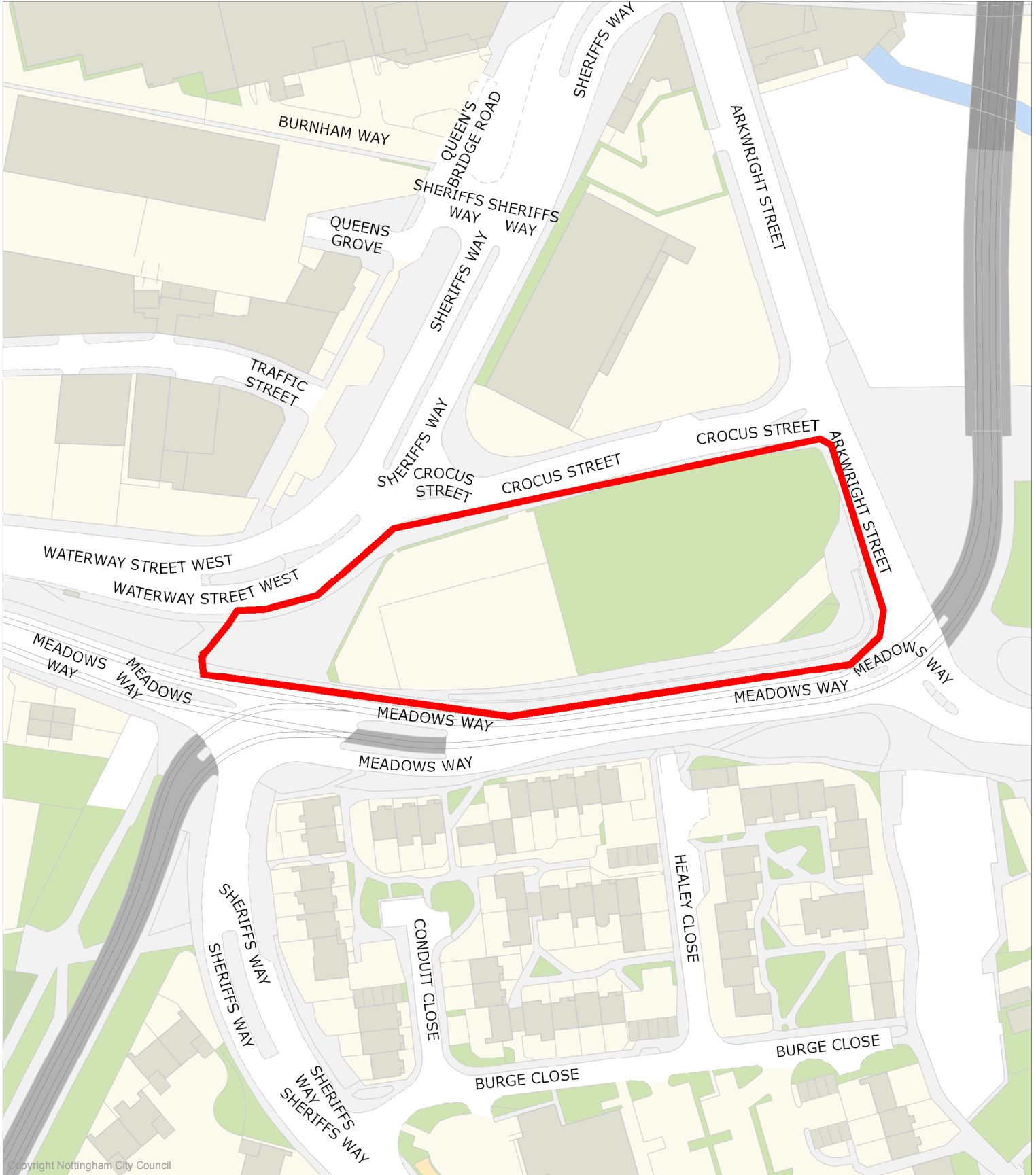
Application 18/00131/PFUL3

Contact Officer:

Mrs Jennifer Curry, Case Officer, Development Management.


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NOMAD printed map



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Key
 City Boundary

Description
 No description provided

My Ref: 19/02663/PFUL3 (PP-08292183)

Your Ref:

Contact: Mrs Jennifer Curry

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

DPP Planning
FAO Mr Tom Wright
Sophia House
28 Cathedral Road
Cardiff
CF11 9L

Date of decision:

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

Application No: 19/02663/PFUL3 (PP-08292183)
Application by: Cassidy Group (Arkwright Street) Limited & Sheriff Way No...
Location: Land West Of Arkwright Street. South Of Crocus Street, Nottingham, NG2 2HH
Proposal: Development of residential apartments and retail space with associated car parking, landscaping, and associated infrastructure.

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. The development shall not be commenced until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the type, size and frequency of delivery vehicles to/from the site, haul routes (if any), site security, traffic management plans, measures to prevent the deposit of debris on the highway, working times and a timetable for its implementation.

Thereafter the construction plan shall be implemented in accordance with the approved details and timetable unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid prejudice to traffic conditions within the vicinity of the site and to safeguard the amenities of existing occupiers in accordance with Policies 10 and 14 of the Aligned Core Strategy and Policy TR1 of the LAPP.



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DRAFT ONLY

Not for issue

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Continued...

3. Prior to the commencement of the development, a Remediation Strategy that has regard to the Desk Study Report reference J17089 by GEA dated April 2017 and includes the following components to deal with the risks associated with ground, groundwater and ground gas contamination of the site shall be submitted to and be approved in writing by the Local Planning Authority:

- a) A Site Investigation and a detailed assessment of the risk to all receptors that may be affected, including those off site.
- b) A Remediation Plan, based on a) above, giving full details of the remediation measures required and how they are to be undertaken (including a contingency plan for dealing with any unexpected contamination not previously identified in the Site Investigation).
- c) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in b) above are complete.

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

Reason: To safeguard the health and residential amenity of the occupants of the proposed development and to prevent pollution of controlled waters to comply with Policy IN2 of the LAPP.

4. Prior to the commencement of any above ground development, a detailed sound insulation and ventilation scheme in relation to plant noise that has regard to the Acoustic Planning Assessment by Hoare Lea dated 11/06/2019 shall be submitted to and be approved in writing by the Local Planning Authority.

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

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

Reason: To protect the amenities of future occupiers of the properties in accordance with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

5. Prior to the commencement of any above ground development, a detailed sound insulation and ventilation scheme that has regard to the Acoustic Planning Assessment by Hoare Lea dated 11/06/2019 shall be submitted to and be approved in writing by the Local Planning Authority.

The sound insulation scheme shall:

- a) include predicted internal noise levels for any plant and equipment which will form part of the development and address issues of transmission of noise through the structure.
- b) include the specification and acoustic data sheets for glazed areas of the development and any complementary acoustic ventilation scheme and be designed to achieve the following internal noise levels:
- i. Not exceeding 30dB LAeq(1 hour) and not exceeding NR 25 in bedrooms for any hour between 23.00 and 07.00,
- ii. Not exceeding 35dB LAeq(1 hour) and not exceeding NR 30 for bedrooms and living rooms for any hour between 07.00 and 23.00,
- iii. Not more than 45dB L_{Amax}(5 min) in bedrooms (measured with F time weighting) between the hours of 23.00 and 07.00,
- iv. Not more than 50dB LAeq(1 hour) for garden areas (including garden areas associated with residential homes or similar properties).

Reason: To protect the amenities of future occupiers of the properties in accordance with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

6. Prior to the development being first commenced, details of the sustainability measures incorporated within the development to reduce carbon emissions and use of resources shall be submitted to and approved in writing by the Local Planning Authority. The information to be submitted shall set out the power source for space and water heating within the building, provide details of how the building will be ventilated, how water usage will be minimised and how surface water discharge will be managed and reduced.

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

Reason: To ensure that the development incorporates sustainable design features to accord with policy CC1 of the LAPP.

7. Prior to the commencement of any above ground development, a large scale sample panel of all proposed materials to be used on the external elevations of the approved development has been constructed on site and has been reviewed and agreed in writing by the Local Planning Authority. Confirmation of the proposed external materials including details of the windows/doors, means of enclosure and hard surfaced areas of the site shall also be submitted to and approved in writing by the Local Planning Authority before any external materials associated with the completed development are utilised on site. The development shall thereafter be implemented in accordance with the approved materials.

Reason: In order to ensure an appropriate quality of finish to the approved development and in accordance with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

8. Prior to the commencement of any above ground development large-scale elevation and section drawings (e.g. at a scale of 1:20/1:10) of the detailed design of the following elements for each architectural variation to the building's elevations shall be submitted to and approved in writing by the Local Planning Authority:

- a) Elevations: including glazing systems, louvers, reveals, window panels, building and entrances;
- b) Roofs: including edges, parapets, and windows;
- c) Plant: including lift enclosure, external ventilation systems, and other similar elements that are integral to the fabric of the building.

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

Reason: In order to ensure that the detailed design of these areas are consistent with the high quality of the development and in accordance with Policy 10 of the Adopted Core Strategy and Policy DE1 of the LAPP.

Pre-occupation conditions

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

9. Prior to first occupation of the development, the following shall be submitted to and be approved in writing by the Local Planning Authority:
- a) 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.
 - b) 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 and groundwater contamination of the site has been fully implemented and completed.

Reason: In order to ensure that the remediation strategy approved under condition 3 is fully implemented to accord with comply with Policy IN2 of the LAPP.

10. Prior to first occupation of the development, verification that the approved sound insulation and ventilation scheme for the residential, non-domestic unit/s and to deal with plant noise have been implemented and are fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

The assessment shall include the specification and acoustic data sheets for the sound insulation scheme and any complementary acoustic ventilation scheme and be designed to ensure that residential amenity is adversely affected.

The assessment shall also include verification that the approved sound insulation and ventilation scheme has been implemented and is fully operational.

Reason: In order to ensure that the approved sound insulation scheme to protect future occupiers and neighbouring has been installed in accordance with the approved scheme to comply with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

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

Reason: In order to ensure that the has been installed in accordance with the approved scheme to comply with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

12. Prior to the first occupation of the non-domestic unit/s written verification that the approved ventilation and odour control scheme/s for the non-domestic unit/s has been implemented and is fully operational 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 using the approved routing of services to roof level, odour abatement technology and specification for the scheme for the ventilation and means of discharging and dispersing fumes from the unit.

Reason: In order to ensure that the has been installed in accordance with the approved scheme to comply with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

13. Prior to the first occupation of the development secure cycle parking and bin storage shall be provided in accordance with the approved ground floor plan.

Reason: To promote sustainable forms of travel in accordance with Policies 10 and 14 of the Aligned Core Strategy.

14. Prior to the first occupation of the development electric vehicle charging points shall be provided at the points indicated on the approved ground floor plan.

Reason: To promote sustainable forms of travel in accordance with Policies 10 and 14 of the Aligned Core Strategy.

15. The development shall not be occupied until a scheme of soft and hard landscaping for the proposed courtyard, front gardens to Meadows Way and planters to other residential units, and the area to the west of the building bounded by Sheriffs Way/Waterway Street and Meadows Way, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the type, height, species and location of proposed trees and shrubs. It shall also include details of hard surfacing materials, location of any surface water drainage features and street furniture. It shall also incorporate measures to enhance the biodiversity of the site.

Reason: To ensure that the appearance of the development and ecological value of the site are satisfactory in accordance with Policy 10 and 17 of the Aligned Core Strategy.

16. The approved landscaping scheme shall be carried out in accordance with the approved landscaping scheme prior to the development being first occupied, unless otherwise prior agreed in writing by the Local Planning Authority.

Reason: To ensure that the appearance of the development and ecological value of the site are satisfactory in accordance with Policy 10 and 17 of the Aligned Core Strategy.

17. Prior to the development being first occupied details of the arrangements to be made for the maintenance and management of the landscape areas (including specifications and details of responsibility) associated with the development shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be maintained and managed in accordance with the approved details.

Reason: To ensure that the appearance of the development and ecological value of the site are satisfactory in accordance with Policy 10 and 17 of the Aligned Core Strategy.

18. The development shall not be occupied until a lighting scheme for the exterior of the building and the courtyard area has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall also include an assessment of the impact of the lighting scheme on proposed and existing local residents, and also its impact on the operation of the NET tramway.

Reason: To protect the amenities of neighbouring residential properties and in the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

19. The development shall not be occupied until amendments to existing road signage have been carried out in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

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

20. The development shall not be occupied until any redundant footway crossings and/or damaged or altered areas of footway or other highway have been reinstated in accordance details which have first been submitted to and agreed in writing with the Local Planning Authority.

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

21. The development shall not be brought into use until the car parking provision has been provided in accordance with the approved Ground Floor Plan.

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

22. The development shall not be brought into use until a servicing plan detailing the loading and unloading of goods associated with the residential and commercial use of the development has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include tracking details to demonstrate that service vehicles and cars can safely enter, manoeuvre and leave the site without causing conflict with highway traffic and pedestrians.

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

23. The development shall not be occupied until a flood evacuation plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall also include the measures proposed to provide flood resilience.

The development shall be carried out in accordance with the approved flood resilience measures. The development shall be occupied in accordance with the Flood Evacuation Plan.

Reason: To reduce the risks associated with a flood event to accord with Policy CC3 of the LAPP.

Regulatory/ongoing conditions

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



24. The non-domestic unit shall be used for commercial purposes falling within Class A1, A2, A3 and B1 of the Town and Country Use Classes Order (as amended) or for a purpose that is solely provided for the use of the residents of the development that is ancillary to the residential uses hereby permitted.

Reason: To protect the amenities of neighbouring residential in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

25. No non-domestic unit shall operate outside the hours of 07.00 to 23.00 hrs on any day.

Servicing and deliveries to and from the non-domestic units (including waste collections) shall not take place outside the hours of 07.00 to 19.00 hrs Monday to Friday, 08.00 hrs to 18.00 hrs on Saturdays and 9.00 hrs to 16.00 hrs on Sundays

Reason: To protect the amenities of future residential occupants and neighbouring residential properties in accordance with Policy 10 of the Aligned Core Strategy and Policy DE1 of the LAPP.

26. The development shall be carried out in accordance with the submitted flood risk assessment (ref: Arkwright Street, Nottingham, Flood Risk Assessment, June 2019, ASN-BWB-ZZ-XX-RP-YE-0001_FRA, BWB Consulting) and the following mitigation measures it details:

(a) Finished floor levels shall be set no lower than 26.03 metres above Ordnance Datum (AOD) for More Vulnerable parts of the development (In accordance of table 5.1 of the FRA).

(b) Implementation of a flood resilience/resistant design to be implemented on only Less Vulnerable parts of the development, to a minimum of height of 26.03m AOD (In accordance with Section 4.17 of the FRA).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: A minimum finished floor level of 26.03m AOD for more vulnerable parts of the development is required to ensure the proposed development meets the Greater Nottingham Strategic Risk Assessment (2018) and the National Planning Policy Framework (2019). The implementation of a flood resilience/resistant design is required due to the lower finished floor levels in the less vulnerable parts of the proposed development. This will ensure the proposed development will have reduced damage and cost during a flood event. It will also allow for a quick return to business as normal. To comply with Policy CC3 of the LAPP.

27. Prior to the installation of any kitchen facilities associated with an A3 (cafe and restaurant) use or communal areas of accommodation within the development a ventilation scheme for the control of odours and dispersal of smells shall be submitted to and approved in writing by the Local Planning Authority.

The approved ventilation scheme shall be provided in accordance with the approved details prior to any kitchen facilities associated with an A3 (cafe and restaurant) use or communal areas of accommodation being first brought into use.

Reason: To ensure that the provision of kitchen facilities associated with an A3 (cafe and restaurant) use or communal areas of accommodation does not cause a nuisance to residential occupants of the development.

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 28 November 2019.

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. NET Comments

Working near NET permit required see <https://www.thetram.net/work-near-the-tram.aspx>

Consideration of positioning of windows will be required to avoid windows opening too close to the OHLE poles. There will also need to be access for the maintenance of the OHLE poles. See attached for the drawing of the OHLE pole foundations.

Desire lines near the entrance to the property and the new footpaths will need to be passed by NTL to ensure pedestrians/ cyclists are kept safe and are not encouraged to cross the tram tracks at places that aren't actual pedestrian crossings.

Glenn Oakes (Infrastructure Maintenance Coordinator) is the contact at NTL for work permits and technical/operations queries. glenn.oakes@thetram.net

4. Environment Agency

Flood Resistance and Resilience

We strongly recommend the use of flood resistance and resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

To find out which measures will be effective for this development, please contact your building control department. In the meantime, if you'd like to find out more about reducing flood damage, visit the Flood Risk and Coastal Change pages of the planning practice guidance. The following documents may also be useful:

Department for Communities and Local Government: Preparing for floods

<http://www.planningportal.gov.uk/uploads/odpm/4000000009282.pdf>

Department for Communities and Local Government: Improving the flood performance of new buildings: <https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

Safe Access, Egress and Evacuation Plan

The following issues are not within our direct remit or expertise, but nevertheless are important considerations for managing flood risk for this development. Prior to deciding this application we

recommend that consideration is given to the issues below. Where necessary, the advice of relevant experts should be sought.

- o Adequacy of rescue or evacuation arrangements.
- o Details and adequacy of an emergency plan.
- o Details and adequacy of flood proofing and other building level resistance and resilience measures.
- o Details and calculations relating to the structural stability of buildings during a flood.

Signing up for Flood Warning Service

The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit <https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up.

Flood warnings can give people valuable time to prepare for flooding - time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities.

For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-for-flooding>.

To get help during a flood, visit <https://www.gov.uk/help-during-flood>.

For advice on what do after a flood, visit <https://www.gov.uk/after-flood>.

The proposed design life of the development (60 Years) seems to be short for a development of this nature. This hasn't had an impact on assessing flood risk as the correct climate change allowances have been used. But it is more of an advisory to the Local Planning Authority as this is not within the remit of the Environment Agency.

The previous use of the proposed development site as a factory presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is within source protection zone 3 located upon a secondary A aquifer (Holme Pierrepoint Sand and Gravels) above the Nottingham Castle principal aquifer.

The application's "Desk Study" (Ref: J17089, dated April 2017) demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. The report recommends that a phase 2, intrusive investigation is completed prior to development.

We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Without these conditions we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

5. Drainage

The Flood Risk Assessment confirms that Finished Floor Levels for the site will be set at 26.03m AOD minimum for the residential units, which is the equivalent to the 1 in 100-year + 50% climate change event. However, the commercial units are required to be lower. Please could the applicant expand on how these units will be built to be resilient following the detailed design stage.

Furthermore, I would recommend that the flood evacuation plan is extended for the whole site, not just for the commercial units, given that a large area would be inundated should the 1 in 100-year + 50% climate change event occur.

Please note that as there are proposed electric charging points in the car park, there should be a plan in place to disconnect these should a significant flood occur.

6. Highways

Highway Boundary - there are areas of the site which are currently designated as adopted highway the applicant should make contact with our Traffic Management department in order to arrange for a stopping up order to be processed. This should be done prior to the start of construction.

The proposed Entrance to the site is onto Crocus street and will require the construction of a dropped kerb vehicular footway crossing this should be done under a highways act agreement with the City Council.

The development will require works to the Highway and therefore the applicant should contact Liz Hiskens in the City Councils Network.

Management department to arrange for the work to be carried out under a highways act agreement.

Construction works will be taking place immediately adjacent to the public highway, and given the potential impact on the surrounding area during the development works, we would ask that the applicant provide us with a Construction Management Plan. This should provide us with more details on how the construction works will be managed, to ensure minimal impact on the public highway. The applicant will be required to contact our Highways Network Management Team on 0115 8765238 to ensure all necessary licenses and permissions are in place prior to any works commencing on site.

7. Contaminated Land, Ground Gas and Groundwater

The Remediation Strategy (including its component elements) must be undertaken and implemented in accordance with Defra and the Environment Agency's guidance Model Procedures for the Management of Land Contamination, CLR 11, 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:

Cut and fill operations on site

How trees retained on site will be dealt with

How gas precautions including any radon gas precautions will be validated

Any asbestos surveys carried out, the method statement for removal of asbestos and subsequent validation of air and soil following asbestos removal and demolition.

Following completion of the development, no construction work, landscaping or other activity must be undertaken which may compromise the remediation measures implemented to deal with ground, groundwater and ground gas contamination of the site.

Any ground gas protection measures included in the original development are designed for the buildings as originally constructed to protect against possible dangers to public health and safety arising from any accumulation of methane, carbon dioxide or other gas and to ensure that the site can be developed and used without health or safety risks to the occupiers of the development and/or adjoining occupiers. These protection measures may be compromised by any future extension of the footprint of the original building or new building structures within the curtilage of the site including the erection of a garage, shed, conservatory or porch or similar structure. Advice from the Council's 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 and 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.

Environmental Noise Assessment

The environmental noise assessment shall be suitable and sufficient, where appropriate shall consider the impact of vibration, and shall be undertaken by a competent person having regard to BS 7445: 2003 Description and Measurement of Environmental Noise and any other appropriate British Standards. The internal noise levels referred to are derived from BS 8233: 2014 Sound Insulation and Noise Reduction for Buildings.

The approved sound insulation scheme must be maintained and, in the case of mechanical ventilation, must be maintained, serviced and operated in accordance with manufacturer's recommendations.

Commercial Noise

The approved sound insulation scheme must be maintained &, in the case of mechanical ventilation, must be maintained, serviced and operated in accordance with manufacturer's recommendations.

Air Quality

The development is located either within or on the boundary of an existing or proposed Air Quality Management Area declared under the provisions of Part IV of the Environment Act 1995. Air Quality Management Areas are designated where the air quality objectives as set out in the Air Quality (England) Regulations 2000 (as amended) and the Regulations are not being achieved.

In this context an area of poor air quality means that the air quality objectives for nitrogen dioxide, as set out in the Regulations, are not being met.

While no air quality assessment is required in this situation, an air quality assessment using an appropriate methodology (eg atmospheric dispersion modelling or DMRB screening) will be required to establish which floors of a multi-storey building do not require an appropriate ventilation scheme.

The air quality management scheme shall include the design and configuration specification of the whole building ventilation scheme and ensure that:

Exposure of sensitive receptors to poor air quality shall be reduced as far as practicable;

The location of clean air intakes for the scheme shall be located so as to maximise the vertical and horizontal distance between the clean air intakes and the primary source of poor air quality / air pollution;

The discharge of ventilation air shall be from the building façade facing the primary source of poor air quality;

The approved whole building ventilation scheme including any additional mitigation measures, shall be maintained, serviced and operated in accordance with manufacturer's recommendations while the development continues to be occupied.

Consideration will also be given to alternative equivalent measures to reduce exposure to poor air quality. However these may require the support of an air quality assessment to demonstrate their effectiveness.

The combined noise from the whole building ventilation scheme, any other environmental noise and noise from plant and equipment must not exceed NR 25 in bedrooms between the hours of 23.00 and 07.00 or NR 30 for living rooms and bedrooms between the hours of 07.00 and 23.00.

Control of Odour and Provision of Adequate Ventilation

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

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

Fire safety advice for restaurants, fast food outlets and take away shops may be obtained from Nottinghamshire Fire and Rescue Service

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:

- The intensification of use of the kitchen,
- The nature of the food prepared, served or cooked on site
- The method of preparation and cooking of the food served or cooked on site
- 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.

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: 19/02663/PFUL3 (PP-08292183)

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

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

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.

Wards Affected: Bridge

Item No:

**Planning Committee
17 June 2020**

Report of Director of Planning and Regeneration

Site of 2, Queens Road, Nottingham

1 Summary

Application No: 19/00936/PFUL3 for planning permission

Application by: Core Architects on behalf of I H Moore And Company (Holdings) Ltd.

Proposal: Erection of nine and six storey building to provide 39 no. apartments (C3) and 2 no. ancillary commercial units (A3 and / or B1); formulation of new dropped kerb vehicular access from Queen's Road for servicing area; and, associated hard and soft landscaping works.

This report is brought to Committee to inform members of the Urgent Non-Executive Decision taken by the Chief Executive under Delegation 24, with regard to this application.

2 RECOMMENDATION

- 2.1 To note that application 19/00936/PFUL3 was granted planning permission as an Urgent Non-Executive Decision taken by the Chief Executive under Delegation 24 of the City Council's scheme of Delegation on 29 April 2020.

3 BACKGROUND

- 3.1 Due to the restrictions placed upon working arrangements as a result of the current Covid-19 pandemic, it was not possible for Planning Committee to be held in April this year. However, there were applications that required determination by Planning Committee at that time so alternative arrangements were made to enable business to continue as usual. Following consultation with the members of the Planning Committee, the applications were referred to the Chief Executive for determination to be made as Urgent Non-Executive Decisions under Delegation 24. Within the report to the Chief Executive, a copy of which is appended, the case for using this delegation in this instance was set out as follows:
- 3.2 *Protecting the City's economy is one of the 3 themes that Government expects Councils to focus their resources on during this crisis. The Planning System is a key contributor to the local economy and it is vital that we continue to operate our decision making. The Planning Directorate has moved successfully to remote working and the planning process is operating largely BAU. Planning applications continue to be received and decisions made under the scheme of delegation. It has not proved possible to establish a process for holding a virtual Planning Committee meeting for the decisions required in April. Applicants are rightly expecting their*

applications to be determined and to be unable to do so would seriously harm the City's reputation of being proactive and 'open for business' through this critical time. It is also vital that all opportunities to enable development and regeneration to come forward as speedily as possible are taken.

- 3.3 *This application concerns a major development that would bring significant investment to the Canal Quarter regeneration area. A resolution to approve the application is critical for the applicant to provide confidence for investors and to enable this development project to progress.*
- 3.4 The report also set out details of the consultation that was undertaken with Planning Committee prior to this matter being referred to the Chief Executive.
- 3.5 The report was signed by the Chief Executive on 29 April 2020, thereby approving the following Recommendation:
- 3.6 *Subject to the prior completion of bat survey work, comprising two activity surveys and the Director of Planning in consultation with the Biodiversity Officer being satisfied as to any potential impacts of development on protected bat species, and as to the scope of measures to avoid or mitigate any impacts being sufficient, to GRANT PLANNING PERMISSION subject to the conditions listed in the draft decision notice at the end of this report and any further conditions arising from the further bat survey work.*
- 3.7 *Power to determine the final details of the conditions to be delegated to the Director of Planning and Regeneration.*

4 FINANCIAL IMPLICATIONS

None.

5 LEGAL IMPLICATIONS

None.

6 EQUALITY AND DIVERSITY IMPLICATIONS

None.

7 RISK MANAGEMENT ISSUES

None.

8 STRATEGIC PRIORITIES

None.

9 CRIME AND DISORDER ACT IMPLICATIONS

None.

10 VALUE FOR MONEY

None.

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

1. Application No: 19/00936/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PQLVE1LYHWK00>

12 Published documents referred to in compiling this report

Aligned Core Strategy (September 2014)

Land and Planning Policies Part 2 Local Plan Document (January 2020)

NPPF (2019)

Station Conservation Area Character Appraisal and Management Plan (April 2008)

Nottingham City Centre Urban Design Guide (May 2009)

Contact Officer:

Mrs Jennifer Curry, Case Officer, Development Management.

Email: jennifer.curry@nottinghamcity.gov.uk. Telephone: 0115 8764027

Urgent Non-Executive Decision taken by the Chief Executive under Delegation 24

24/04/2020

Committee that would usually have taken the report – Planning Committee

Application:	19/00936/PFUL3 for planning permission By: Core Architects on behalf of I H Moore And Company (Holdings) Ltd. For: Erection of nine and six storey building to provide 39 no. apartments (C3) and 2 no. ancillary commercial units (A3 and / or B1); formulation of new dropped kerb vehicular access from Queen's Road for servicing area; and, associated hard and soft landscaping works	
Director(s)/ Corporate Director(s):	Director of Planning and Regeneration	Wards affected: Meadows
Report author(s) and contact details:	Rob Percival, Area Planning Manager Rob.percival@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Jenny Curry, Senior Principal Planning Officer Richard Bines, Solicitor	
Summary of issues:		
<p>Protecting the City's economy is one of the 3 themes that Government expects Councils to focus their resources on during this crisis. The Planning System is a key contributor to the local economy and it is vital that we continue to operate our decision making. The Planning Directorate has moved successfully to remote working and the planning process is operating largely BAU. Planning applications continue to be received and decisions made under the scheme of delegation. It has not proved possible to establish a process for holding a virtual Planning Committee meeting for the decisions required in April. Applicants are rightly expecting their applications to be determined and to be unable to do so would seriously harm the City's reputation of being proactive and 'open for business' through this critical time. It is also vital that all opportunities to enable development and regeneration to come forward as speedily as possible are taken.</p> <p>This application concerns a major development that would bring significant investment to the Canal Quarter regeneration area. A resolution to approve the application is critical for the applicant to provide confidence for investors and to enable this development project to progress.</p>		
Recommendation(s):		
1	Subject to the prior completion of bat survey work, comprising two activity surveys and the Director of Planning in consultation with the Biodiversity Officer being satisfied as to any potential impacts of development on protected bat species, and as to the scope of measures to avoid or mitigate any impacts being sufficient, to GRANT PLANNING PERMISSION subject to the conditions listed in the draft decision notice at the end of this report and any further conditions arising from the further bat survey work	
2	Power to determine the final details of the conditions to be delegated to the Director of Planning and Regeneration	

1 Background

- 1.1 The application site extends to approximately 945sqm. It is partially occupied by a vacant, two-storey building which was originally a cinema auditorium. Abutting this building to the west are 1 Arkwright Street (solicitors office) and 1a and b Arkwright Street. 1a is a derelict vacant building and 1b has a takeaway to its ground floor and flats to its upper floors. Over-sailing the eastern part of the site is the NET line bridge. Immediately to the south is Tinkers Leen, which is culverted under the derelict cinema building. There are some self-set trees to the southern boundary of the site.
- 1.2 Across Queens Road to the north is the Nottingham Train Station, a Grade II * listed building. Further to the east of the NET Bridge is the 10 storey Picture Works building which accommodates retail/commercial units at ground floor level and apartments above. To the south of Tinkers Leen is a vacant site which has recently been given granted planning permission for an office building known as Crocus Place.
- 1.3 The site sits within the Station Conservation Area. Meadows Mill is a further listed building in the vicinity of the site; this is located to the east of the Picture Works. The site is underlain by a principal aquifer and is located in Flood Zone 2. Queens Road forms part of the inner ring road system and there are no stopping regulations in force outside the frontage of the site. The site also sits within the Canal Quarter regeneration area.

2 Details of the Proposal

- 2.1 Planning permission is sought for a 6 and 9 storey flat roofed building which would accommodate 2 small café (A3) /office (B1) units to its ground floor and 39 apartments to its upper floors; 31 one-bedroom/one-person units and 8 two bedroom/three-person units. 26 of the one bedroom residential units would be 39sqm and 5 would be 46sqm. All of the two bedroom units would be 61sqm. In addition to the 2 commercial units to the ground floor there would also be a reception for the apartments, bin, plant and cycle storage. The existing derelict building would be demolished to facilitate the development.
- 2.2 To the eastern side of the new building a service area is proposed, accessed from Queens Road. The access would be located between the NET Bridge and eastern elevation of the building. The internal bin and cycle stores would be accessed from this side of the building and a designated bin collection point provided to the rear of the service area. No car parking spaces are proposed.
- 2.3 The building would sit to the back edge of the pavement and the ground floor uses have been arranged to provide an active frontage to Queens Road. The building has been divided into 2 elements, with 9 storeys adjacent to the NET bridge and 6 storeys next to 1 Arkwright Street. The 9 storey element is proposed in a grey/brown brick and the 6 storey element a red brick. Stone detailing is proposed below the first floor of the 9 storey element to strengthen the base of this element of the building, along with stone lintels above the ground floor windows. Both the 9 and 6 storey elements have angled reveal detailing to their upper floor windows and to the top of the building, their parapets incorporate a recessed line of brick detailing and stone capping. The western side of the building would be largely obscured by 1 Arkwright Street and only the upper floor would be visible over the roof of this adjacent building.

2.4 The drawings submitted indicate that PV panels are proposed to the roof of the 6 storey element.

3 Consultations and observations of other officers

Adjoining occupiers consulted:

3.1 24 neighbouring properties at Picture Works, 1 Queens Road, 1 Arkwright Street, and 1a Arkwright Street were notified in writing of the application. A site notice was displayed at the site and a press notice was also published. 13 representations have been received as a result of this publicity. These raise the following matters:

- Impact of traffic generated by the development on the local road network, as this is a major road Highways England should be consulted
- Concerns over safety of pedestrians using this part of Queens Road
- Query need for additional flats within Nottingham City Centre
- Proximity of development to tram line and impact that this will have on future occupants
- Impact on light to neighbouring properties
- Impact on local businesses
- Conflict with local plan policies which seeks comprehensive redevelopment of area
- Impact of the scale of the development on the surrounding area, the Station Conservation Area and neighbouring listed buildings
- Noise and disturbance for neighbouring properties during construction and once the building is occupied
- Concern about impact of demolishing cinema building on neighbouring property
- Concern over the boundary of the site being indicated as the mid-point of the Tinkers Leen.

Nottingham Civic Society: objects to this tall building immediately facing the Grade II* listed Nottingham Station and adjacent to the former corner bank, itself on the Local List and within the Station Conservation Area. The building which is to be even taller than The Picture Works to the east, would tower over the Station from the south, undermining the landmark status of the Station Clock Tower cupola.

Seen from Sheriff's Way to the west, the proposed tall building would tower above the former bank which used to command the junction of Arkwright St with Sheriff's Way - a characteristic of the Station Conservation Area where corner buildings assert themselves. In addition, the mass of the proposed building would interrupt one of the Key Views identified in the City Centre Urban Design Guide looking from The Embankment towards the Station Clock Tower. This tall building only the width of the tram lines apart from The Picture Works, would obliterate this cherished long view without any public benefit being offered to balance this loss. The height, mass and architecture should be redesigned to respect the setting of the listed and locally listed buildings and the character and appearance of the conservation area.

Planning consultation

3.2 **Conservation Officer:** The design should respond positively to the historic context of the Old Bank Building and the Station. Whilst it would be inappropriate for a contemporary design to emulate the ornate detailing of the Edwardian Baroque style, it is possible to afford the new building a more sympathetic sense of proportion and hierarchy. When viewed alongside the Bank in particular (which has a robust ground

floor as a base for the colonnade above) the new building's plinth is feeble and its main entrances very understated. The need for a more clearly defined plinth is all the more pressing given the greater overall height of the new building. In the same way, the proportions of the top floor would also benefit from a sense of diminished hierarchy compared to the floors below. This could be achieved through the addition of a subtle cornice or string line, a set back and/or a diminished window size.

Further work is therefore needed in regards to the proportions of the buildings, the hierarchy of the ground and top floors and also the detailing of the building, to ensure that it makes a positive contribution and does not detract from its historic context.

Historic England: The scheme is supported in principle as the development of the site will contribute to the strategic development of this area, though Historic England do raise concerns about the proposal. It is noted that the building does step down towards the surviving historic building of the former bank building, however it is felt that the height of the building should be further reduced. Reducing the height of the 6 storey building by 1 storey would better reflect the historic scale of surviving buildings.

City Archaeologist: No objections.

Highways: Concerns have been raised in regards to the proposed width of the vehicular access to the site and the ability for servicing to take place to the side of the building due to the presence of the NET Bridge and the height restrictions it places on the eastern part of the site. Highways have recommended a number of conditions to ensure that there is no adverse impact on the local highway network.

Highways England: No objections.

NET: Concerns are raised about the level of building work within the vicinity of the NET Bridge.

Environment Agency: Initially raised objections to the scheme regarding proposed finished floor levels within the building. Following further discussions it was agreed that all habitable areas within the development should have floor levels no lower than 26.33mAOD. Appropriate evacuation plans will need to be put in place, these should be discussed with the Emergency Planners within the Local Authority.

Local Lead Flood Authority: No objections to the scheme, but applicants need to be aware that care will be needed during construction works to ensure that there is no damage to the culvert.

Biodiversity Officer: The applicant's ecologist has recommended further bat survey work, comprising two activity surveys. These surveys need to be considered as part of the application and cannot be conditioned.

Environmental Health and Safer Places: No objections to the information provided (and following subsequent discussions with the applicant's consultants) in relation to air quality, ground contamination, noise or vibration. Conditions will be required to cover the heating system, ground contamination, gas monitoring, ventilation and odour control for any café (A3) uses, noise, vibration and piling.

Nottingham University Hospital NHS Trust (NUH NHS Trust): A financial contribution is requested for additional secondary healthcare services to meet patient demand.

4 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 124 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 127 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.

Furthermore, Paragraph 200 states that Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and

It is also important to note the requirements of section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This places a duty to have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historical interest which it possesses. The duty requires considerable importance and weight to be given to the desirability of preserving the setting of all listed buildings including Grade II, however, it does not create a bar to the granting of planning permission. A balancing exercise must be undertaken between the harm caused and the benefit the development will bring. (Additionally, section 72(1) of the Act states that there is a general duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any building or land in a conservation area.

Aligned Core Strategies (ACS) (2014):

Policy 1: Climate Change
Policy 5: Nottingham City Centre
Policy 8: Housing
Policy 10: Design and Enhancing Local Identity
Policy 11: The Historic Environment
Policy 12: Local Services and Healthy Lifestyles
Policy 14: Managing Travel Demand
Policy 17: Biodiversity
Policy 19: Developer Contributions

Land and Planning Policies (LAPP) (January 2020):

Policy CC1: Sustainable Design and Construction
Policy CC2: Decentralised Energy and Heat Networks
Policy CC3: Water
Policy RE1: Facilitate Regeneration
Policy RE2: Canal Quarter
Policy HO1: Housing Mix
Policy HO3: Affordable Housing
Policy HO4: Specialist and Adaptable Housing
Policy DE1: Building Design and Use
Policy DE2: Context and Place Making
Policy HE1: Proposals affecting designated and non-designated assets
Policy TR1: Parking and Travel Planning
Policy EN2: Open Space in New Development
Policy EN6: Biodiversity
Policy IN2: Land Contamination, Instability and Pollution
Policy IN4: Developer Contributions

Site Allocation PA74

Supplementary Planning Policy Documents:

Station Conservation Area Character Appraisal and Management Plan (April 2008)
The site is within the boundary of the Station Conservation Area and in this context the Station Conservation Area Character Appraisal and Management Plan is relevant. This notes that the combination of transport corridors has divided the Conservation Area into a series of relatively large and often impenetrable urban blocks that typify the overall character of the Conservation Area. The appraisal identifies the Station as the principal building in the Conservation Area. It also advises that the Conservation Area offers the potential for higher buildings in the vicinity of the Station subject to a considered analysis on the local context and important views.

Nottingham City Centre Urban Design Guide (May 2009)
Although not a statutory document that is part of the development plan, this guide provides a physical framework and promotes the highest standard of urban design and architecture for the city centre. The area in which the development falls has been identified as a 'Zone of Reinvention' in the Urban Design Guide. In this area of the City buildings of ground plus 4 are envisaged due to its sensitive location and need to respect longer views adjacent to the Meadows residential area

5 Appraisal of proposed development

Main Issues

- (i) Principle of the development
- (ii) Building design including impact on the character and appearance of the Station Conservation Area and adjacent Listed Buildings
- (iii) Impact on neighbours and future occupants
- (iv) Other matters
- (v) Planning obligations

(i) Principle of the development (Policies 5 and 8 of the ACS, Policies RE1, RE2, HO1 and PA74 of the LAPP)

- 5.1 The proposal is for the redevelopment of a derelict and unsightly brownfield site that will assist the continued regeneration of the Canal Quarter. The uses proposed as part of this scheme fall within those indicated as part of site allocation PA74, which also incorporates the existing buildings on the corner of Arkwright Street and Queens Road, the Crocus Place site and the Meadows and Crocus Mill buildings to Crocus Street and Waterway Street. Given that planning permission has already been granted for the largest element of the PA74 allocation, the Crocus Place office scheme, and as PA74 requires the retention of the former bank (1 Arkwright Street), it is felt that this 2 Queens Road site can come forward for development without prejudicing the redevelopment of other parts of the allocation area. The proposal therefore complies with Policy 5 of the ACS and Policies RE1 and RE2 of the LAPP in this regard. It is also felt that the proposal would not cause harm to existing businesses in the area and enhance the frontage to the Tinkers Leen, both in accordance with Policy RE2 of the LAPP.
- 5.2 The proposed mix of 1 and 2 bed units is in keeping with Policy 8 of the ACS and Policy HO1 of the LAPP which encourage the provision of such units within the City Centre.
- 5.3 Overall, the proposal is considered to be wholly in accordance with Policies 5 and 8 of the ACS, site allocation PA74 and Policies RE1, RE2, HO1 of the LAPP.

(ii) Building design including impact on the character and appearance of the Station Conservation Area and adjacent Listed Buildings (Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies 10 and 11 of the ACS, Policies RE1, RE2, DE1, DE2 and HE1 of the LAPP and the NPPF)

- 5.4 As indicated by the comments received from the conservation bodies and the Council's Conservation Officer, the material heritage related considerations regarding the proposed development are its scale, height and appearance in relation to neighbouring buildings, and how it responds to the local heritage context.
- 5.5 It is worth noting that changes have been made to the elevations of the building since the application was submitted, which address the issues raised by the Conservation Officer. A more clearly defined plinth has been provided and the detailing at the top of the building has been altered through the addition of a solid course and stone capping. The materials of the new building have also been reviewed, the 6 storey element would be red brick and the 9 storey would be a grey/ brown brick. The scale and mass of the building has not altered since the application was submitted, however,

the scheme was subject to extensive pre-application discussions in relation to its proposed scale and mass, as shown within the submitted design and access statement.

- 5.6 The site is within the Station Conservation Area, the Old Bank Building to the western boundary is considered to be a non-heritage asset. Opposite the site to the north, is the Nottingham Train Station, a Grade II * Listed Building. The waterway known as Tinkers Leen, is located to the southern boundary of the site, which forms part of the southern boundary of the Station Conservation Area.
- 5.7 The other nearby listed building, Meadows Mill (48-50 Queens Road), which is mentioned in representations made in relation to the scheme, sits to the eastern side of the Picture Works; on this basis it is felt that the proposed development would not directly affect the setting of Meadow Mill.
- 5.8 With regards to the impact of the proposal on the local heritage context, the crucial aspects for consideration are:
- Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the duty this places on having special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historical interest which it possesses. In this instance Nottingham Train Station;
 - The impact on the setting of the Old Bank Building as non-designated heritage assets within the Station Conservation Area;
 - Section 72 of the 1990 Act and the duty of preserving or enhancing the character or appearance of a building or land in the Station Conservation Area; and
 - The level of harm created by the impact of the proposal on local heritage assets.
- 5.9 The NPPF Glossary GPA3 'The setting of a Heritage Asset' states that *"The setting of a heritage asset is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"*
- 5.10 The setting of Nottingham Station is defined by how the building is appreciated in its local context. Nottingham Station is a relatively low-rise building with a high townscape value created by the architectural flourishes of its Neo-Baroque design and the townscape value of its landmark central clock tower. Its historic setting was created by its association with historic buildings of a similar date and scale within the Station Conservation Area.
- 5.11 It is considered that the new building would be located sufficiently to the east to avoid significantly affecting views of the Station Clock Tower from the south, in particular along Queens Walk. Additionally, in views south along Carrington Street the new building would similarly be positioned sufficiently to the east to avoid significantly impacting the Station Clock Tower.
- 5.12 When looking down Queens Road from its junction with Carrington Street, the new building would be seen sitting opposite to the corner of the main station building and the former Police Station associated with the site. With the proposed changes to the appearance of the new building it is felt that it would sit comfortably opposite the Station. The proposed height of the new building at 6 and 9 storeys would also feel appropriate given the height of the buildings along the southern side of Queens Road.

The proposal would have limited impact on longer views of the Station and its Clock Tower as described above and would not compete with the Station in the immediate streetscape. Therefore, in relation to the statutory duty of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the setting of the Station would be preserved and that any harm would be less than substantial.

- 5.13 The character and special architectural interest of the Old Bank Building would not be significantly affected by the proposal. This neighbouring building is of stone and brick construction and has ornate detailing of the Edwardian Baroque style. It also has a robust ground floor to its Queens Road frontage which provides a base for the colonnade above. The 6 storey element of the building would sit on the same building line as the Old Bank Building and its red brick frontage would blend with the red brick to the first and second floors of its neighbour. Whilst the new building would be a storey taller than the Old Bank Building, the difference in height between the two would be lessened by the deep and very detailed parapet to the Old Bank Building. Overall, it is considered that the proposal would cause less than substantial harm to the setting of the Old Bank Building.
- 5.14 The Nottingham City Centre Urban Design Guide identifies the application site as falling within a Zone of Repair, where new development is expected to respect and repair the historic character of the area. The Station Conservation Area Character Appraisal and Management Plan recognises that whilst the preservation and enhancement of the Conservation Area's historic environment is important, there is an opportunity to promote regeneration and development initiatives. Policy RE2 indicates the need to make better use of the Tinkers Leen waterway by improving its visibility and access to it. It is also noted that the Station Conservation Area Character Appraisal and Management Plan Conservation indicates that the Area offers the potential for higher buildings in the vicinity of the Station, subject to a considered analysis of the local context and important views.
- 5.15 The site is currently of very poor townscape quality within the Station Conservation Area and has a negative impact on the character and appearance of the area. The proposal would repair the streetscape of Queens Road and respect the character and appearance of surrounding buildings. The massing and scale of the building, broken into 9 and 6 storeys, is considered to be an appropriate design response in relation to the Station Building opposite and the Old Bank Building to the west. The scale of the building is also similar to that of the 10 storey Picture Works to the east of the site. In longer views of the Station Conservation Area from the Castle, the lower red brick building would only just be visible above the Law Courts, whilst the use of a grey/brown brick in the 9 storey element taller would not be easily distinguishable from the Picture Works building. The scale and density of the building is also felt to be appropriate for a site in such close proximity to the Station, taking advantage of this being the foremost transport hub and interchange for the City. Additionally the proposal makes the most of its frontage to the Tinkers Leen, providing an active frontage with a terrace that allows residents of the scheme to utilise this space next to the waterway. The scheme also proposes new planting to the edge of the Tinkers Leen.
- 5.16 Overall, it is felt that the redevelopment of this derelict site and the proposed design would enhance the character and appearance of the Station Conservation Area. The scheme satisfies the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a building or land in a Conservation Area in accord with section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 Act. With regard to the NPPF and Policies 11 of the ACS and HE1 of LAPP, the impact

of the proposal on the character and appearance of the Conservation Area is considered to be of less than substantial harm.

- 5.17 As the harm caused to local heritage assets is less than substantial, the aforementioned policies require this level of harm to be weighed against the public benefits of the scheme. These policies indicate that if the public benefits of a scheme clearly outweigh the harm caused, then the proposal is considered to be acceptable.
- 5.18 Policies RE1 and RE2 of the LAPP recognise the strategic importance of the area that the site sits within; the Canal Quarter, with the Station at its heart. The redevelopment of this area is key to inward investment and economic prosperity of the City. Redeveloping this derelict site in close proximity to the Station would therefore greatly assist the regeneration of the area. The less than substantial harm caused by this development in relation to its impact on the setting of the Station, the Old Bank Building and the Station Conservation Area, would therefore be outweighed by the public benefit that the proposal brings in regeneration terms.
- 5.19 The proposal therefore accords with the NPPF, Policy 11 of the ACS, Policies HE1, RE1 and RE2 of the LAPP and enable the duties placed by sections 66 (1) and 72 (1) of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 to be met.
- 5.20 Policies 10 of the ACS and DE1 and DE2 of the LAPP require consideration of the proposal against design criteria that take account of whether a development would respect and enhance the streetscape, townscape and character of an area. They indicate the need to pay particular attention to aspects such as scale, mass and historic views. As discussed above, the proposal would have a positive impact on the character of the area, its townscape and streetscape. It is also of an appropriate scale and mass and respects historic views. The proposal therefore accords with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.

(iii) Impact on neighbours and future occupants (Policies DE1 and IN2 of the LAPP)

- 5.21 Representations received raise concerns about the impact that the proposal would have on light to neighbouring properties, along with noise and disturbance during its construction and when occupied.
- 5.22 It is felt that there is sufficient distance between the new building and neighbouring properties so as not to cause any undue impact on light levels at neighbouring properties, including the similarly sized Picture Works on the opposite side of the NET Bridge. 1a Arkwright Street does have east facing windows that face onto the site, however the new building would not project far enough south to adversely affect these.
- 5.23 Conditions have been recommended by Environmental Health and Safer Places to ensure that construction works do not cause undue disturbance, noise or dust for neighbouring occupants. Only vehicular movements associated with servicing would take place once the development is occupied, which would not represent a significant level of traffic movements. The site is located within the City Centre and as such there will already be a degree of background noise and disturbance. It is not considered that the proposal would add greatly to this.
- 5.24 The proposed accommodation is of a size that meets the space standards set out in Policy DE1 of the LAPP. It is noted that Environmental Health and Safer Places have raised no objection to the development in relation to its proximity to the NET line, and

have agreed that a vibration assessment can be conditioned. Along with the additional conditions they recommend, it is considered that the amenities of future occupants of the building would be adequately protected. It has also been concluded that the proposed development would have an acceptable relationship with the approved office building at Crocus Place to the south, for occupants of both buildings.

- 5.25 Overall, therefore, the proposal raises no undue amenity concerns for either neighbouring properties or future occupants of the development, in accord with Policy DE1 and Policy IN2 of the LAPP.

(iv) Other matters

Biodiversity (Policy 17 of the ACS, Policy EN6 of the LAPP)

- 5.26 Given the proximity of the Tinkers Leen and the condition of the existing derelict building, there is a strong possibility that bats may be present on site. The ecology report submitted with the application advises that further bat survey work should be carried in the form of two activity surveys. The usual time for carrying out such surveys is between March and September. As there is high potential for bats to be present at the site these activity surveys have to be carried out prior to planning permission being granted. On this basis, the recommendation to grant permission is subject to these surveys being carried out and the Council being satisfied that the findings do not present a barrier to the development preceding. In this way it is felt that the obligations relating to this protected species can be met, in accord with Policy 17 of the ACS and Policy EN6 of the LAPP.

Highways (Policies 10 and 14 of the ACS, Policy TR1 of the LAPP)

- 5.27 Highways have raised concerns with regards to the proposed width of the vehicular access to the site and the ability for servicing to take place to the side of the building, particularly given the presence of the NET Bridge and the height restrictions it places on the eastern part of the site. 3D tracking has been provided by the applicant to demonstrate that vehicles up to 7.9m in length can enter and leave the site in forward gear, without impacting on the Bridge. Having reviewed this information Highways have advised that access off Queens Road and the proposed servicing area may be acceptable subject to a number of conditions, including details of a service delivery plan. Informatives can also be used to advise the applicant of the additional requirements of the s278 process and discussions/agreements needed with NET.
- 5.28 The site is in a sustainable location close to the train station, tram, bus stops and public car parks. It is therefore considered acceptable for there to be no on-site car parking associated with the development.
- 5.29 Subject to the appropriate conditions the proposal therefore complies with Policies 10 and 14 of the ACS and Policy TR1 of the LAPP.

Flooding and Water Quality (Policy CC3 of the LAPP)

- 5.30 In line with the comments made by the Environment Agency, it is recommended that the following are secured through condition:
- Floor Levels of habitable areas to be set no lower than 26.33m AOD
 - Details of a flood evacuation plan

5.31 With such conditions the proposal complies with Policy CC3 of the LAPP.

Air Quality and Land Contamination (Policy IN2 of the LAPP)

5.32 As noted in the consultation section above, Environmental Health and Safer Places have recommended conditions to cover the heating system, ground contamination, gas monitoring, ventilation and odour control for any café (A3) uses, noise, vibration and piling. Subject to such conditions the proposal complies with Policy IN2 of the LAPP.

(v) Planning Obligations (Policies 12 and 19 of the ACS, Policy IN4 of the LAPP)

5.33 A policy compliant planning obligation for the proposed development would be expected to provide the following contributions:

- Affordable Housing - £312,000
- Public Open Space -£13,960
- Local Employment and Training - £11,652

The request for secondary health care provision by the NUH NHS Trust is - £16,056

5.34 Regarding the requested contribution for the NUH NHS Trust, it is accepted that health care provision is a material planning consideration that is referenced in policy 12 of the ACS (Local Services and Healthy Lifestyles), policy IN4 of the LAPP (Developer Contributions) and chapter 8 of the NPPF (Promoting Healthy & Safe Communities). Whilst the Council are therefore supportive of the principle of such a contribution, a number of queries and issues arise. These concern the need for the specific contribution sought; the method of calculation for the figure requested, and; reassurances that the monies sought are necessary and would be spent on healthcare provision directly, fairly and reasonably related to this development. In the absence of the Trust being able to satisfy these outstanding issues, they have been unable to demonstrate that the contribution sought is compliant with the CIL Regulations 2010.

5.35 The applicant has submitted a viability appraisal with the application which has been independently reviewed by an assessor appointed by the Council. The assessor has found the scheme to be unviable with the required S106 contributions. The developers profit with zero S106 contribution is 10.15%, well below the lower end of the acceptable range set out in the Planning Practice Guidance, which is 15% for this type of development. As such, no planning obligations will sought in this instance.

5.36 Policy 19 of the ACS and Policy IN4 require consideration to be given to the viability of schemes when determining whether it would be reasonable to require contributions from developments. These policies are therefore complied with on this basis.

6 Sustainability / Biodiversity (Policy 1 of the ACS, Policies CC1, CC2 and CC3 of the LAPP)

6.1 A Sustainability and Energy Statement has been submitted with the application which advises that the development has been designed following a fabric first approach. The scheme would utilise insulation to reduce U-Values and control heat loss by reducing air leakage. The scheme would also improve energy efficiency through its mechanical and electrical systems, and a PV array is proposed to the roof of the 6 storey building. In this way, the energy efficiency of the building would be more than 10% above current Building Regulation targets.

- 6.2 The scheme is also to incorporate measures such as lower capacity baths and dual flush toilets, to reduce water consumption in line with policy CC1 (110 litres per day) of the LAPP. Building materials are to be responsibly sourced in order to reduce the embodied carbon of the development. A condition is recommended requiring further details of the sustainable design features to be used, to maximise the development's resilience and adaptation to climate change. The proposal therefore complies with Policy 1 of the ACS and Policies CC1, CC2 and CC3 of the LAPP.
- 6.3 As indicated above, a further 2 bat activity surveys have been requested prior to this application being finally determined. The proposed development provides little opportunity for landscaping but a planting scheme is proposed which would assist in enhancing biodiversity along the boundary of Queens Road and Tinkers Leen. This would be secured by condition.

7 Financial Implications

- 7.1 As indicated above in relation to issue (v) Planning Obligations, the applicant has submitted a viability appraisal that has been independently reviewed. The conclusions of this review are that the scheme cannot support any s106 contributions.

8 Legal Implications

- 8.1 The planning decision sought involves the discharge of a non-executive function of the Council but is an in-principle decision, as planning permission cannot be issued until the prior completion of bat survey work, comprising two activity surveys (to be completed between March and September 2020) and the Director of Planning in consultation with the Biodiversity Officer being satisfied as to any potential impacts of development on protected bat species, and as to the scope of measures to avoid or mitigate any impacts being sufficient.
- 8.2 The Chief Executive must be satisfied the in-principle decision is necessary to be taken in its own right in planning terms, before the next meeting of the Planning Committee. The reasons for urgency presented by the Director of Planning and Regeneration are set out in the "Summary of Issues". The reasons for urgency shall be submitted to the next meeting of the Planning Committee. There is a risk of challenge to an urgent Chief Executive decision in respect of a non-executive function inherent in an in-principle decision such as that sought.
- 8.3 The issues raised in this report are primarily ones of planning judgement, however the Chief Executive in exercise of any planning functions should note the general statutory duties regarding conservation areas and listed buildings as stated in sections 72 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conservation Area Duty

- 8.4 The duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Building Act 1990") is a general overarching statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance, with respect to any building or land in a conservation area, in exercise of planning functions. The Chief Executive must have regard to this duty in consideration of the application in so far as the Station Conservation Area is concerned,

which sits in the area bounded by the Nottingham Canal to the north, London Road to the east, Tinkers Leen and part of Crocus Street to the south, and Carrington Street/Arkwright Street to the west. The whole of the application site lies within the Conservation Area.

Listed Buildings Duty

- 8.5 As the development affects a number of listed buildings or their settings the Chief Executive must have special regard to the desirability, in the exercise of its planning functions, to preserving such buildings or their setting or any features of special architectural or historical interest which they possess. The Chief Executive in making a decision must have regard to 'the overarching duty' imposed by s 66 (1) which requires considerable importance and weight to be given to the desirability of preserving the setting of all listed buildings, including Grade II, even if the harm would be 'less than substantial'. However, the duty does not create a bar to the granting of planning permission and an irrebuttable presumption is not created. It can be outweighed by material considerations powerful enough to do so.

Comments provided by Richard Bines, Solicitor, Planning, Environment and Leisure Team – Legal Services, 24 April 2020

9 Equality and Diversity Implications

None.

10 Risk Management Issues

None.

11 Strategic Priorities

Neighbourhood Nottingham: Providing a high quality and sustainable development

12 Crime and Disorder Act Implications

The development would provide a residential development with good natural surveillance

13 Value for money

None.

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

1. Application No: 19/00936/PFUL3 - link to online case file:
<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PQLVE1LYHWK00>

15 Published documents referred to in compiling this report

Aligned Core Strategy (September 2014)
Land and Planning Policies Part 2 Local Plan Document (January 2020)

NPPF (2019)

Station Conservation Area Character Appraisal and Management Plan (April 2008)

Nottingham City Centre Urban Design Guide (May 2009)

16 Consultation on decision

- 16.1 All Planning Committee members were invited to attend a consultation regarding this item on 15th April 2020. 12 of the 16 members of Committee attended and were able to raise queries and express their opinions on the proposals. Following this, consultation with the Chair and Vice Chair was undertaken on 22nd April 2020. The meeting was also attended by the Director of Planning and Regeneration, the Area Planning Manager and a Solicitor. The opposition spokesperson failed to attend or acknowledge an invite to the meeting. It was noted that he'd failed to respond to the invite for the informal consultation on 15th April and failed to respond to a telephone call from Constitutional Services ahead of the meeting on 22nd April. He also failed to answer a request to join the meeting from the Director of Planning and Regeneration, sent as the meeting commenced. The meeting proceeded on the basis of legal advice that it may be necessary to make a final effort to contact and consult with the opposition spokesperson before any decision is made in accordance with the constitution, but the consultation of the Chair and Vice Chair should not be impeded.
- 16.2 The decision Chair and Vice Chair concluded that they were content to support the recommendation as per the above report with the following amended/ additional conditions:

Issue to be addressed	19/00936/PFUL3 – 2 Queens Road
Extend landscaping to rear of the building adjacent to the Tinkers Leen On-going management and maintenance of the external space	Amend condition 15 - Add in: Notwithstanding the approved drawings, soft landscaping shall be maximised within the site, including the area between the building and the Tinkers Leen. Plants and trees shall be native species selected for their biodiversity value and shall include a focus on bee friendly planting. The landscaping scheme shall also include proposals for the on-going management and maintenance of the external areas of the site.
Maximise use of the building's two flat roofs	Amend condition 21 - Add in: The proposed sustainability measures shall extend to the roof areas of both the 6 and 9 storey elements of the building, which shall be used for accommodating either PV panels, green/brown roofs or roof top vegetation.
Strengthen the main entrance to the apartments	Amend condition 12 – Add in: e) Main entrance to the apartments: notwithstanding the approved drawings, this requires amendment to enlarge and strengthened the legibility of this primary entrance to the building.

Requirement for high quality bricks and brick detailing	These will be secured under conditions 11 and 12.
Need to avoid long term vacant groundfloor commercial units	<p>Add additional condition: Within 6 months of the first occupation of the apartments hereby approved, the groundfloor commercial units hereby permitted shall have been occupied with active uses in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: In the interests of the appearance of the development and vitality of the Canal Quarter, in accordance with policies 5, 10 and 11 of the ACS and policies RE1, RE2, DE1, DE2 and HE1 of the LAPP</p>

16.3 Following the meeting on 22nd April 2020, this report has been sent to the opposition spokesperson inviting their comments by 5pm, 28th April 2020.

17 Approval

Approving Officer Name	Ian Curryer, Chief Executive
Approving Officer Signature	Ian Curryer
Date of Approval	29th April 2020

Contact Officer: Paul Seddon/Rob Percival

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Wards Affected: Radford

Item No:

**Planning Committee
17 June 2020**

Report of Area Director of Planning and Regeneration

Lenton Boulevard Service Station , 199 Lenton Boulevard

1 Summary

Application No: 19/02869/PVAR3

Application by: Zenith Planning And Design on behalf of Fibreshore Ltd

Proposal: Variation of condition 4 of planning permission reference 14/00287/PFUL3 to allow the petrol filling station and shop to operate 24/7, and to allow the operation of the automatic car wash to restricted hours and to allow the jet wash to operate at alternative hours to the 2014 permission without enclosure.

This report is brought to Committee to inform members of the Urgent Non-Executive Decision taken by the Chief Executive under Delegation 24, with regard to this application.

2 RECOMMENDATION

- 2.1 To note that application 19/02869/PVAR3 was granted planning permission as an Urgent Non-Executive Decision taken by the Chief Executive under Delegation 24 of the City Council's scheme of Delegation on 29 April 2020.

3 BACKGROUND

- 3.1 Due to the restrictions placed upon working arrangements as a result of the current Covid-19 pandemic, it was not possible for Planning Committee to be held in April this year. However, there were applications that required determination by Planning Committee at that time so alternative arrangements were made to enable business to continue as usual. Following consultation with the members of the Planning Committee, the applications were referred to the Chief Executive for determination to be made as Urgent Non-Executive Decisions under Delegation 24. Within the report to the Chief Executive, a copy of which is appended, the case for using this delegation in this instance was set out as follows:

- 3.2 *Protecting the City's economy is one of the 3 themes that Government expects Councils to focus their resources on during this crisis. The Planning System is a key contributor to the local economy and it is vital that we continue to operate our decision making. The Planning Directorate has moved successfully to remote working and the planning process is operating largely BAU. Planning applications continue to be received and decisions made under the scheme of delegation. It has not proved possible to establish a process for holding a virtual Planning Committee meeting for the decisions required in April. Applicants are rightly expecting their applications to be determined and to be unable to do so would seriously harm the City's reputation of being proactive and 'open for business' through this critical time.*

It is also vital that all opportunities to enable development and regeneration to come forward as speedily as possible are taken.

3.3 *This application concerns a longstanding enforcement matter that has generated significant local interest, hence its referral to Planning Committee. A decision on the application is critical for the applicant to help secure their business, and for neighbouring residents to safeguard their residential amenity.*

3.4 The report also set out details of the consultation that was undertaken with Planning Committee prior to this matter being referred to the Chief Executive.

3.5 The report was signed by the Chief Executive on 29 April 2020, thereby approving the following Recommendation:

GRANT PLANNING PERMISSION subject to:

3.6 *the conditions substantially in the form of those listed in the draft decision notice at the end of this report but with power to determine the final details those conditions being delegated to the Director of Planning and Regeneration*

4 FINANCIAL IMPLICATIONS

None.

5 LEGAL IMPLICATIONS

None.

6 EQUALITY AND DIVERSITY IMPLICATIONS

None.

7 RISK MANAGEMENT ISSUES

None.

8 STRATEGIC PRIORITIES

None.

9 CRIME AND DISORDER ACT IMPLICATIONS

None.

10 VALUE FOR MONEY

None.

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

1. Application No: 19/02869/PVAR3 - link to online case file:
<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q308U0LYMQ800>

12 Published documents referred to in compiling this report

Aligned Core Strategy September 2014 Land and Local Planning Policies
Development Plan Document Part 2 January 2020

NPPF (February 2019)

Contact Officer:

Mrs Jennifer Curry, Case Officer, Development Management.

Email: jennifer.curry@nottinghamcity.gov.uk Telephone: 0115 8764027

Urgent Non-Executive Decision taken by the Chief Executive under Delegation 24

24/04/2020

Committee that would usually have taken the report – Planning Committee

Application:	19/02869/PVAR3 for planning permission By: Zenith Planning And Design on behalf of Fibreshore Ltd For: Variation of condition 4 of planning permission reference 14/00287/PFUL3 to allow the petrol filling station and shop to operate 24/7, and to allow the operation of the automatic car wash to restricted hours and to allow the jet wash to operate at alternative hours to the 2014 permission without enclosure	
Director(s)/ Corporate Director(s):	Director of Planning and Regeneration	Wards affected: Radford
Report author(s) and contact details:	Rob Percival, Area Planning Manager Rob.percival@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Jenny Curry, Senior Principal Planning Officer Richard Bines, Solicitor	
Summary of issues:		
<p>Protecting the City's economy is one of the 3 themes that Government expects Councils to focus their resources on during this crisis. The Planning System is a key contributor to the local economy and it is vital that we continue to operate our decision making. The Planning Directorate has moved successfully to remote working and the planning process is operating largely BAU. Planning applications continue to be received and decisions made under the scheme of delegation. It has not proved possible to establish a process for holding a virtual Planning Committee meeting for the decisions required in April. Applicants are rightly expecting their applications to be determined and to be unable to do so would seriously harm the City's reputation of being proactive and 'open for business' through this critical time. It is also vital that all opportunities to enable development and regeneration to come forward as speedily as possible are taken.</p> <p>This application concerns a longstanding enforcement matter that has generated significant local interest, hence its referral to Planning Committee. A decision on the application is critical for the applicant to help secure their business, and for neighbouring residents to safeguard their residential amenity.</p>		
Recommendation(s):		
1	GRANT PLANNING PERMISSION subject to the conditions substantially in the form of those listed in the draft decision notice at the end of this report but with power to determine the final details those conditions being delegated to the Director of Planning and Regeneration	

1 Background

- 1.1 The application relates to a petrol filling station on the west side of Lenton Boulevard between the junctions of Derby Road and Ilkeston Road. The site extends to 0.25 hectares and comprises a kiosk/retail unit with forecourt canopy covering the fuel pumps, a detached building currently being used as an automatic car wash and an unenclosed jet wash facility to its side. The site is bounded by the Marcus Garvey Community Centre and the City Council's Lenton Business Centre to the south, the two storey dwellings on Stansfield Street to the west, St Paul's Catholic Church to the north and two storey dwellings on the opposite side of Lenton Boulevard to the east.
- 1.2 Planning permission was granted under reference 14/00287/PFUL3 for the re-use of petrol filling station with extensions and alterations to the existing buildings, provision of new petrol pumps and associated facilities and activities (car washing, valeting, tyre sales and air and water facilities). As part of this permission the following hour restrictions were imposed:

The use of the petrol station shall only be permitted between the hours of 0700 and 2300 on any day.

Additionally, the following time restrictions were applied to the operation of each respective activity on the site:

- Air compressor (which is part of the air/water facility) - Monday to Friday 0700-2000hrs, Saturday, Sunday / Bank Hols 0830-2000hrs

- Vacuum facility - Monday to Friday 0700-2000hrs, Saturday, Sunday / Bank Hols 0830-2000hrs

- Hand car wash (on western boundary) - Monday to Saturday 0830-1730hrs, Sunday and Bank Hols 0900-1630hrs

- Hand valet (on western boundary) - Monday to Friday 0800-1930hrs, Saturday 0900-1900hrs, Sunday and Bank Hols 0900-1700hrs

- Jet wash (restricted to the designated enclosed bay) - Monday to Friday 0800-1930hrs, Saturday 0900-1900hrs, Sunday and Bank Hols 0900-1700hrs

- 1.3 The 2014 planning permission was implemented. Since its implementation the hand car wash and valeting have ceased at the site, and the building formerly used for tyre fitting has been altered to provide an automatic car wash (the purpose for which it was originally built).

2 Details of the proposal

- 2.1 Permission is sought to vary the restrictive hours in place for the petrol filling station and shop so that it can open 24 hours a day and to allow the jet wash to operate at different hours to those imposed in 2014, without the enclosure previously agreed. Permission is also sought for the operation of the automatic car wash to restricted hours. It is understood that the petrol filling station has in fact been operating 24 hours since October 2016, served from the shop via a hatch. The applicant has explained that this was initially for security reasons as a result of a number of burglaries, attempted break-ins and vandalism, but it was discovered that there was a significant demand for trade

between 2300 and 0700 from taxi drivers, delivery drivers, shift workers and QMC staff etc.

2.2 The Applicant initially sought permission for the automatic car wash to operate 6am to 11pm (Monday to Friday) and 7am-10pm (Saturday and Sunday), and for the jet wash to operate 6am to 10pm (Monday to Friday) and 7am-10pm (Saturday and Sunday). The application was advertised on this basis.

2.3 Through negotiations the applicant has now agreed to the following times of opening:

Automatic Car Wash

Monday – Friday – 8.30am to 9pm

Saturday – 9am to 9pm

Sunday and Bank Holidays – 9am to 6pm

Jet Wash

Monday – Friday – 8.30am to 9pm

Saturday – 9am to 9pm

Sunday and Bank Holidays – 9am to 6pm

2.4 These new operating times for the jet wash and automatic were not re-advertised as they are less than those originally proposed, and as such felt to cause less impact on the surrounding area.

2.5 As detailed below in section 7 (Appraisal), consideration has also had to be given to times of servicing and delivery, and blocking off access to the site.

3 Consultations and observations

Neighbouring Properties:

38 neighbouring properties on Lenton Boulevard and Stansfield Street were notified of the application by letter. A site notice was also displayed.

As a result of this publicity 54 letters of representation have been received, 4 raising objections and 50 in support of the application. A petition with 15 signatures objecting to the proposal has also been received.

The objections raise the following matters:

- Impact that extending opening hours will have on the quality of health and life for neighbouring properties as a result of additional noise and disturbance, particularly at night which could affect the quality of sleep;
- The site has already been operating outside of the permitted hours;
- The proposal will cause additional noise and disturbance in the form of car doors slamming, car radios/music and car engines revving, and also from operating a service hatch;
- The automatic car wash has added to noise and disturbance associated with the site and has been noted to operate at 2am. The lights flash and cause light pollution;
- The petrol filling station is within a residential area;

- Taxi cabs gather at night at the petrol filling station with noise generated by loud talking and music;
- Spray from the automatic car wash and jet wash impacts on neighbours enjoyment of their gardens; and
- The automatic car wash causes noise and disturbance.

Verbal concerns have also been raised in relation to deliveries taking place outside of the current petrol filling station/shop operating times, and the noise associated with such deliveries.

The letters of support raise the following matters:

- The need for a petrol filling station with the services offered at this location;
- Never noticing the petrol filling station causing noise or disturbance in the area; and
- Helpfulness of staff at the petrol filling station.

Additional consultation letters sent to:

Highway Authority: No objections to the proposal.

Environmental Health and Safer Places (EH&SP): Have confirmed that the following would be acceptable in relation to the extended opening hours of the petrol filling station and shop, and the operation of the car washing facilities:

Shop and Petrol Filling Station

No objection to the shop/petrol filling station opening 24/7. EH&SP have not received any complaints with regards to the recent 24/7 operation of the site. It is also noted that no objection is raised with regards the noise assessment submitted with the application.

Automatic Car Wash

The automatic car wash can be provided without doors providing it is operated during the following times:

Monday – Friday – 8.30am to 9pm
 Saturday – 9am to 9pm
 Sunday and Bank Holidays – 9am to 6pm

Jet Wash

The jet wash can be uncovered providing that it is operated during the following times:

Monday – Friday – 8.30am to 9pm
 Saturday – 9am to 9pm
 Sunday and Bank Holidays – 9am to 6pm

Servicing/deliveries

Servicing deliveries and collections should be restricted to the current permitted opening times of the service station, 7am to 11pm. The bread delivery proposed by the applicant

at 5.45am is felt to be too early and would cause noise and disturbance to neighbouring residents.

Chaining-off rear portion of the site

To prevent access to the western portion of the site that is adjacent to the nearest neighbouring residents, a series of chains are proposed to be used between the hours of 2300 and 0700 (see drawing submitted as part of the application).

EH&SP are aware of concerns being raised about taxis parking to the rear of the site and as such would prefer if this area could be chained off earlier, from 9pm, to further reduce noise and disturbance for neighbouring properties.

EH&SP have also advised that should they receive noise complaints in the future with regard to activity at the site, they would also be able to investigate under environmental legislation.

4 Relevant policies and guidance

National Planning Policy Framework (2019):

Paragraph 180 of the National Planning Policy Framework advises that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Paragraph 182 of the NPPF sets out the approach to be taken where new development takes place at an existing business. In these instances existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed. Paragraph 183 states that, the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

Aligned Core Strategies (ACS) (2014):

Policy 10: Design and Enhancing Local Identity

Local Plan Part 2 - Land and Planning Policies (LAPP) (January 2020):

Policy DE1: Building Design and Use

Policy IN2: Land Contamination, Instability and Pollution

5 Appraisal

- 5.1 The main issue concerning this application is the impact that the proposed operating hours would have on neighbouring residents in terms of noise and disturbance.
- 5.2 Neither EH&SP or the Planning team have received complaints about the petrol filling station and shop since they began operating 24/7. The complaints both have received have centred on the operation of the automatic car wash. It is also noted that the noise assessment submitted with the application advises that the operation of the petrol filling station kiosk/shop will not cause any increased noise above existing background levels. To conclude on this particular matter, the proposal for the petrol filling station/shop to be open 24/7 is therefore considered to be acceptable in principle, subject to the appropriate restrictions being imposed by condition.
- 5.3 However, as recommended by EH&SP, it is felt that servicing and deliveries to the site should be restricted to the between 7am and 11pm. This would correspond to the current opening hours and, therefore, those which servicing/deliveries can currently take place. Servicing and deliveries will be controlled through the use of a condition.
- 5.4 Chaining-off access to the western part of the site would further ensure that noise levels are kept to a minimum in the most sensitive area of the site. It would also ensure that activity cannot take place to the rear of the petrol filling station/shop, which has caused concern with local residents who have advised that taxi drivers have congregated in this area previously. Rather than aligning this requirement with the hours of use for the petrol filling station/shop, the applicant is proposing that this measure commence an hour earlier at 10pm. This chaining-off will be secured by condition.
- 5.5 Automatic car washes are commonly found at petrol filling stations. Indeed, the building proposed for this use was originally built for this purpose, but converted to a tyre sales/fitting facility under the previous permission. However, it is recognised that the use does have a specific noise profile uncommon with the rest of the site that justifies a tighter restriction on hours of operation. The applicant initially requested that this facility be operated 6am to 11pm (Monday to Friday) and 7am-10pm (Saturday and Sunday). They have also advised that fitting doors to the facility to make it completely enclosed would be prohibitively expensive, unless the hours of use are sufficiently wide.
- 5.6 EH&SP have considered the information submitted and have advised that the hours of use for the automatic car wash should be 8.30am to 9pm (Monday to Friday), 9am to 9pm (Saturday) and 9am to 6pm (Sunday and Bank Holidays), on the basis of it not being enclosed with doors. Overall these hours are felt to balance the need for the automatic car wash by the applicant, to help diversify the business, and the need to safeguard the residential amenity of neighbouring residents.
- 5.7 Without any enclosure it is also recommended that the hours of operation for the jet wash be the same as those as the automatic car wash. Again, these are common features of petrol filling stations and as with the automatic carwash, it is considered that these hours of operation balance the needs of the applicant with the amenities of neighbouring residents.
- 5.8 A condition is proposed to secure the provision of measures to prevent the automatic car wash and jet wash from being used outside of the permitted hours of use.
- 5.9 Although the hand car wash and valeting no longer take place at the site, it is appropriate that the conditions restricting the hours of such uses be retained. These

ancillary uses were part of the 2014 planning application and are therefore still capable of being undertaken at the site, but because of the noise and disturbance impacts that hand car washing and valeting could have on the surrounding area, these activities need to be controlled.

- 5.10 Subject to conditions securing the matters set out above, the proposed changes to the operation of this petrol filling station are considered to be acceptable and in accord with policy 10 of the ACS and policies DE1 and IN2 of the LAPP.

6 Sustainability / Biodiversity

No implications.

7 Financial Implications

None.

8 Legal Implications

The issues raised in this report are primarily ones of planning judgement., however the Chief Executive must be satisfied the decision is necessary to be taken in its own right in planning terms, before the next meeting of the Planning Committee. The reasons for urgency presented by the Director of Planning and Regeneration are set out in the "Summary of Issues". The reasons for urgency shall be submitted to the next meeting of the Planning Committee.

Comments provided by Richard Bines, Solicitor, Planning, Environment and Leisure Team – Legal Services 29 April 2020

9 Equality and Diversity Implications

None.

10 Risk Management Issues

None.

11 Strategic Priorities

None.

12 Crime and Disorder Act implications

It is considered that through the use of conditions restricting access to all parts of the site and the hours that the facilities can be used, that the potential for anti-social behaviour at the site can be reduced.

13 Value for money

None.

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

1. Application No: 19/02869/PVAR3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q308U0LYMQ800>

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

Aligned Core Strategy - September 2014
Land and Local Planning Policies - January 2020

NPPF (February 2019)

16 **Consultation on decision**

- 16.1 All Planning Committee members were invited to attend a consultation regarding this item on 15th April 2020. 12 of the 16 members of Committee attended and were able to raise queries and express their opinions on the proposals. Following this, consultation with the Chair and Vice Chair was undertaken on 22nd April 2020. The meeting was also attended by the Director of Planning and Regeneration, the Area Planning Manager and a Solicitor. The opposition spokesperson failed to attend or acknowledge an invite to the meeting. It was noted that he'd failed to respond to the invite for the informal consultation on 15th April and failed to respond to a telephone call from Constitutional Services ahead of the meeting on 22nd April. He also failed to answer a request to join the meeting from the Director of Planning and Regeneration, sent as the meeting commenced. The meeting proceeded on the basis of legal advice that it may be necessary to make a final effort to contact and consult with the opposition spokesperson before any decision is made in accordance with the constitution, but the consultation of the Chair and Vice Chair should not be impeded.
- 16.2 The decision Chair and Vice Chair concluded that they were content to support the recommendation as per the above report.
- 16.3 Following the meeting on 22nd April 2020, this report has been sent to the opposition spokesperson inviting their comments by 5pm, 28th April 2020.

17 **Approval**

Approving Officer Name	Ian Curryer, Chief Executive
Approving Officer Signature	Ian Curryer
Date of Approval	29th April 2020

**Once signed, please return to Governance Services
(constitutional.services@nottinghamcity.gov.uk) for publication.**

Contact Officer: Paul Seddon/Rob Percival

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