

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 solidier 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)

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	
Date of Approval	29th April 2020

Contact Officer: Paul Seddon/Rob Percival