

## **Report of Director of Planning and Regeneration**

### **Retail Unit, Corner of Berridge And Leslie Roads**

#### **1 Summary**

Application No: Application No: 20/02497/PFUL3 for planning permission

Application by: Mr Nick Baseley on behalf of Mr A Akhtar

Proposal: Proposal: Change of use of the ground floor from four retail units to a single retail unit. New shopfront.

The application is brought to Committee because it has generated significant public interest.

To meet the Council's Performance Targets this application should be determined by 19<sup>th</sup> February 2021.

#### **2 Recommendations**

- 2.1 To **GRANT PLANNING PERMISSION** for the reasons set out in this report, subject to the indicative conditions substantially in the form of those listed in the draft decision notices at the end of this report.
- 2.2 Power to determine the final details of the conditions to be delegated to the Director of Planning and Regeneration.

#### **3 Background**

- 3.1 The application site is a two storey brick building on the corner of Berridge and Leslie Roads. Permission was originally granted by Planning Committee on 22<sup>nd</sup> December 2010 for "Erection of mixed use development comprising 4 retail units (Use Class A1) with 4 self-contained apartments above following demolition of garage, workshop and two houses" (ref. 10/03136/PFUL3). The building is substantially complete but has never been occupied.
- 3.2 In the immediate area, around the southern Berridge Road / Leslie Road junction, are retail units, food outlets and financial services uses. To the northeast and northwest of the site are terraced houses and to the west across Leslie Road is a mosque. The Berridge Road Local Centre lies approximately 250 metres to the west.
- 3.3 The planning permission was subject to a number of conditions, of which Condition 19 is most relevant to the current application:  
"The retail units shall not be combined into units larger than those indicated on the approved plans. Reason: In the interests of the Council's retail strategy in accordance with Policy S5 of the Local Plan."

This refers to Policy S5 of the Nottingham Local Plan 2005, which has now been superseded by the retail policies referred to in the appraisal below.

#### **4 Details of the proposal**

- 4.1 Planning permission is sought to change the ground floor from the four units originally granted permission to a single retail unit.
- 4.2 Opening hours are proposed from 8.30am to 8pm on Monday to Saturday and 11am to 5pm on Sundays and Bank Holidays (the original permission allowed hours from 7am to 10pm on any day). A new shopfront is also proposed.

#### **5 Consultations and observations of other officers**

##### **Adjoining occupiers consulted:**

Forty-three letters were sent to neighbouring occupiers on 30.11.2020. A site notice was also posted, on 05.12.2020. Six hundred and eight representations have been received in favour of the proposal and fifty-one objections. It is noted that approximately thirty of the emails in support of the application could not be acknowledged as they appear to have been sent from invalid email addresses.

The primary objections to the proposal are as follows:

- Traffic. A larger shop attracts bulk buyers driving from outside areas plus regular refrigerated lorries. Berridge Road has much smaller shops and has had traffic, parking and turning problems for many years, making the L12 bus re-route to Gregory Boulevard in 2018.
- Child safety. Children play on these terraced side roads. Many still walk to Primary Schools and after-school faith classes, particularly 3.15 to 6.00pm. Some walk home for lunch. Children crossing are much less visible if vehicles stop near the Berridge Road double bend.
- Parking. Electric gated areas have only parking space for 4 flats + shop services, not customers. Lorries and customers' cars will compete with residents for scarce street parking spaces.
- Neighbourhood culture. Small family-run shops have been key to this multicultural village-like neighbourhood for over 50 years. A larger food shop could finish off many of these established smaller shops serving Asian and other local minority cultures.
- No need- Berridge Road local centre offers same produce. Hyson Green's Asian Supermarkets offer same produce, plus ASDA, all in walking distance, with L12 bus stop close, and car parking

The primary reasons for supporting the proposal are:

- There is a need for a food selling this type of produce in this area.
- A high number of respondents supporting the proposal have noted that the shop would be local to a community of potential customers and would be sustainable in

reducing the need to travel to Hyson Green centre and to the existing Pak Foods store in Sneinton.

- The new shopfront would provide level access in an area where such access is lacking.
- The proposal would provide more shopping choice.
- The proposal would be beneficial to the local economy, would create employment and boost other businesses in the area.
- Four separate units is likely to bring takeaways and barber shops of which there are a number already in Forest Fields.

**Additional consultation letters sent to:**

**Environmental Health:** No objection.

**Highways:** An interim highways response has been received seeking further information and recommending conditions and informatives to be imposed in the event that planning permission is granted. Further clarification is being sought from the applicant and an update on highways advice will be provided at the meeting.

**Policy:** No objection. The applicant has demonstrated, through the submission of a Sequential Test, that there are no sequentially preferable alternative sites within a reasonable catchment and so criteria 1 of Policy SH4 has been met. The submitted sequential test satisfactorily demonstrates that there are no sequentially preferable sites available; an existing building will be used making a positive contribution to the area; local jobs will be created; and the proposal is likely to reduce the need to travel, especially by private car.

## **6 Relevant policies and guidance**

### **Aligned Core Strategies (ACS) – Local Plan Part 1 (2014)**

Policy A: Presumption in Favour of Sustainable Development

Policy 1: Climate Change

Policy 6: Role of Town and Local Centres

Policy 10: Design and Enhancing Local Identity

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

Policy DE1: Building Design and Use

Policy DE2: Context and Place Making

Policy DE4: Shopfronts

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

Policy CC1: Sustainable Design and Construction

### **NPPF (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.

## **7. Appraisal of proposed development**

### **Main Issues**

- (i) Whether the development will prejudice the council's retail policy;
- (ii) Whether the development will prejudice the amenity of adjacent residential properties and the surrounding area;
- (iii) Design and appearance of the shopfront.

### **Issue (i) Whether the development will prejudice the council's retail policy (Policy 6 of the ACS and Policy SH4 of the LAPP)**

- 7.1 Policy 6 of the ACS supports town and local centres, and is reinforced by Policy SH4 of the LAPP. SH4 seeks to ensure that development involving main town centre uses is directed towards existing Centres to support their continued success and ongoing vitality and viability, and that development in unsustainable out of centre or edge of centre locations is resisted. To this end, a sequential test is required to accompany applications for development of main town centre uses in edge of centre and out of centre locations (retail impact assessments are required for development in excess of 1,000 sq m – the application premises would provide 400 sq. m gross of retail floorspace). Accepted methodology for assessing alternative sites for a store of this size is to consider a catchment of a 5 minute drive time, that alternative sites should be available at the time that the planning application is made and that alternative sites are able to accommodate the development scheme as proposed in the application. The submitted sequential test

has therefore considered Hyson Green and Sherwood District Centres, as well as Local Centres at Alfreton Road, Mansfield Road, Carrington and Nuthall Road.

- 7.2 In summary, the submitted sequential assessment found three sites potentially available for a store of this size which are in or edge of existing centres and therefore sequentially preferable. These are 103 -111 Derby Road (former Ropewalk Public House), the former Cricket Players Public House on Radford Road and Unit 1 Commodore Court on Nuthall Road. All other units are too small for the proposed use. The submitted document assesses 103 -111 Derby Road as edge-of-centre, constrained by other policy requirements, not fitting the operational requirements of the applicant and inappropriate for the anticipated customer base. The former Cricket Players is also constrained by policy requirements and considered to be unavailable within a reasonable timeframe to accommodate the proposed development. Unit 1 Commodore Court is a vacant former Sainsburys store but is at the very edge of the Forest Fields catchment area, is nearly twice the size of the operator's requirements and is locationally inappropriate for the operator's anticipated customer base.
- 7.3 The submitted assessment notes that the proposed operator, Pak Foods, primarily serves a specific customer base, noting that "Some of the surrounding outlying areas of the anticipated catchment area of the proposal are very different in economic and social mix and it would therefore be appropriate to conclude that the application proposal is to a large extent locationally specific to the area immediately surrounding the application site itself". This argument is accepted; it is clear that a customer base exists for the specific food store that is proposed by this application and there is a degree of support for the proposal within the Forest Fields area.
- 7.4 Objectors have highlighted concerns about competition and the potential for the new store to damage the viability of existing smaller food retailers, particularly on Berridge Road. Concern has also been expressed that a larger store could affect the trade of businesses serving the Asian community in the area, affecting what objectors have described as the village-like character of the area. Business competition is not a material planning consideration. It is noted, however, that the Pak Foods store in Sneinton operates in a thriving shopping centre which usually has no vacant units and where other food retailers do operate alongside. Objectors also suggest that there is no 'need' for the proposed store. In planning policy terms, it is not necessary for developers to demonstrate a need for the proposed development, although it is noted that there appears to be some evidence of a demand for the store in the locality. Emails in support have also highlighted the difficulty accessing Hyson Green for older residents, the sustainable nature of such a store serving local customers and the matter that level access would be provided for older and disabled customers.
- 7.5 The conclusions of the Sequential Assessment, that there are no sites suitable and available to accommodate the proposed development that are sequentially preferable to the application site itself, have been assessed against Policy 6 of the ACS and Policy SH4 of the Local Plan and it is considered that the proposal to provide one larger unit rather than four small units would not prejudice the council's retail policies supporting town and local centres.

**Issue (ii) Whether the development will prejudice the amenity of adjacent residential properties and the surrounding area (Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP)**

- 7.6 The Highway Report submitted by the applicant notes that the largest delivery vehicle used by the operator is a 7.5 tonne van and that they would accept a condition limiting deliveries to this size of vehicle. There is also no reason to expect that deliveries to one single retail unit of this size would be any more frequent or require larger vehicles than the approved scheme for four units.
- 7.7 The applicant has submitted a revised layout plan which shows four resident parking spaces to the east of the building and four commercial parking spaces and deliveries to the west of the building. There would be no through route between the two parking areas. Also the applicant has proposed a condition that the gates to these areas would be kept open at all times so that they can be used. Whilst it is acknowledged that there may be occasions when servicing of retail units could give rise to delays and some inconvenience for road users during servicing manoeuvres, it is not considered that such activities would be inherently dangerous. Servicing can take place using the service yard, and if managed appropriately as suggested by the applicant should not conflict with existing on-street parking. Conditions are recommended that the gate to the retail unit's parking area shall remain open during the hours that the unit is open, and that deliveries do not take place outside opening hours. This is considered sufficient to ensure that the service and parking area is used and as there is no reason to require that the resident's parking gate is always open. The proposed parking and servicing layout is, then, considered to be acceptable and it is not considered that the parking, servicing and pedestrian safety situation for one single unit would be any worse than it would be for four units. Indeed, it is considered that there servicing of one unit by one operator may potentially be less harmful than four units operated independently, because it reduces the likelihood of conflicting delivery times and potentially reduces the overall number of deliveries required.
- 7.8 Opening hours are proposed from 8.30am to 8pm on Monday to Saturday and 11am to 5pm on Sundays and Bank Holidays, whilst the original permission allowed hours from 7am to 10pm on any day. These opening hours can be controlled by planning condition and are considered acceptable to avoid any detrimental impact from noise and activity for neighbouring residents.
- 7.9 Overall, it is considered that the proposal, with the conditions as detailed, is unlikely to give rise to materially greater adverse impacts on the amenity of residents than would be the case if the units were to be brought into use in line with their planning permission for four smaller units. It is considered that the proposal complies with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.

**Issue (iii) Design and appearance of the shopfront (Policy DE4 of the LAPP)**

- 7.10 The new shopfront would comprise full-height glazing for three of the four bays (each one constructed as a separate shop) and a single entrance door in the left hand bay. Materials are proposed to be aluminium and the design of the shopfront is considered to be acceptable. The proposal therefore complies with DE4 of the LAPP.

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

It is considered that the proposal, which complies with the policies set out above, is sustainable development. It is noted that the physical work to the building will need to incorporate appropriate energy/water conservation measures in order to comply with the Building Regulations. It is considered that this is sufficient to satisfy the requirements of Policies A and 1 of the Aligned Core Strategies and Policy CC1 of the LAPP.

**9 Financial Implications**

None.

**10 Legal Implications**

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

**11 Equality and Diversity Implications**

None.

**12 Risk Management Issues**

None.

**13 Strategic Priorities**

Ensuring that all planning and development decisions take account of environmental and sustainability considerations.

**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: 20/02497/PFUL3 - link to online case file:  
<http://publicaccess.nottinghamcity.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

2. Highways, 29.01.21

3. Pollution Control, 02.12.20

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

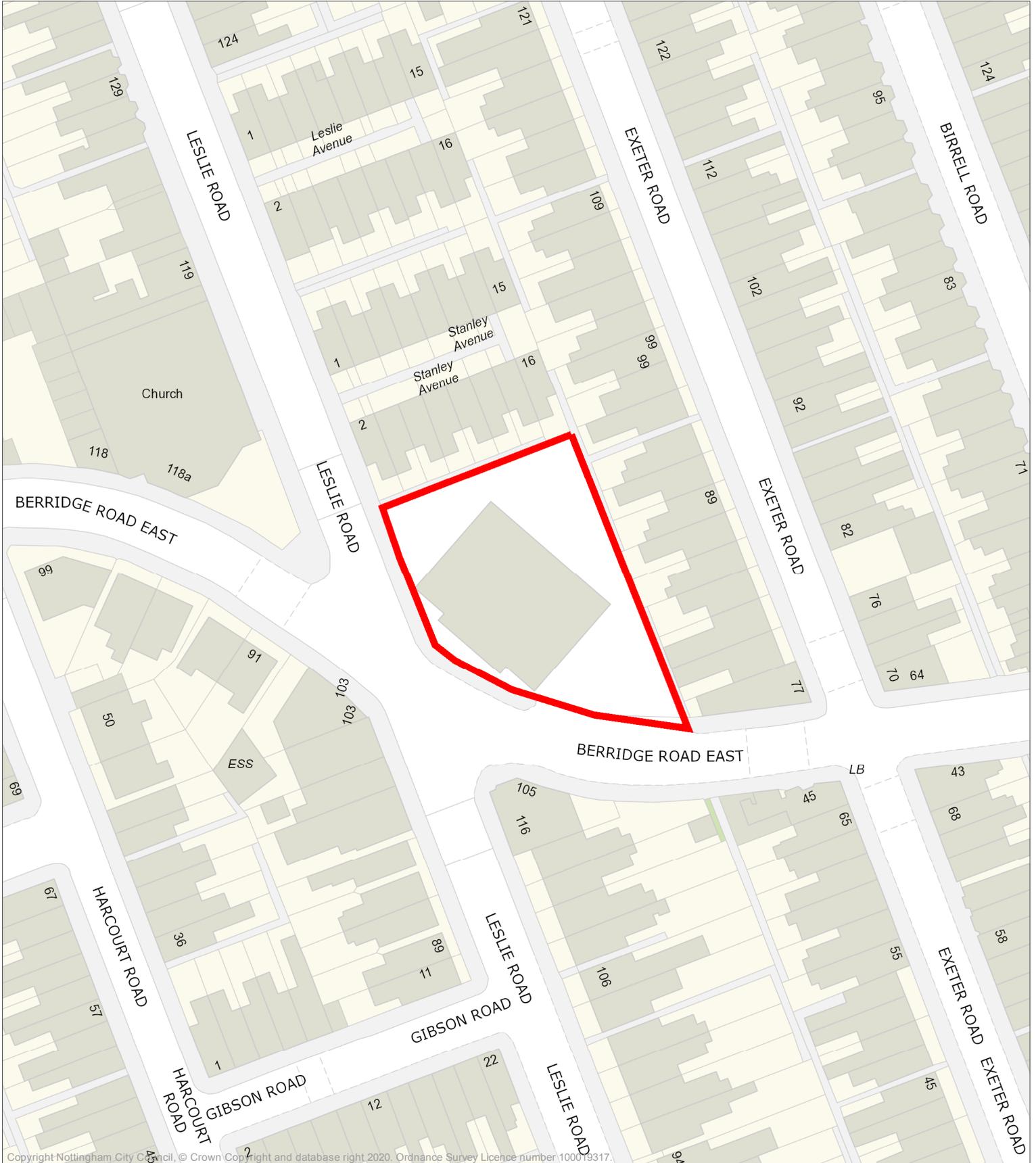
Aligned Core Strategies – Local Plan Part 1 (2014)  
Land and Planning Policies – Local Plan Part 2 (2020)  
NPPF (2019)

**Contact Officer:**

Mr Phil Shaw, Case Officer, Development Management.

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# NOMAD printed map



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Key  
 City Boundary

Description  
No description provided

**My Ref:** 20/02497/PFUL3 (PP-09260723)  
**Your Ref:**  
**Contact:** Mr Phil Shaw  
**Email:** development.management@nottinghamcity.gov.uk



**Nottingham  
City Council**

Development Management  
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Mr Nick Baseley  
The Studios  
Church Farm  
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Date of decision:

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

Application No: 20/02497/PFUL3 (PP-09260723)  
Application by: Mr A Akhtar  
Location: Retail Unit, Corner Of Berridge And Leslie Roads, Nottingham  
Proposal: Change of use of the ground floor from four retail units to a single retail unit. New shopfront.

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)

There are no conditions in this section.

**Pre-occupation conditions**

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

2. The building shall not operate as a single retail unit until the external layout shown on drawing 20/369-02A has been fully implemented, incorporating any revisions agreed in writing by the Local Planning Authority following the submission of tracking details of delivery vehicles within the site;

*Reason: In the interests of the living conditions of neighbouring residents and in the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategies and Policies DE1 and DE2 of the Local Plan.*



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3. The building shall not operate as a single retail unit until the following have been provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority:

- a) Cycle parking that is secure, covered and well lit to the amount of 8 cycle spaces for staff and customers and 4 cycle spaces for the residential apartments;
- b) An electric vehicle charging scheme to a minimum of one point for customers and one for residents.
- c) Bollards have been provided to the front of the development to demarcate the line of the private land ownership and the adopted highway.

*Reason: In the interests of sustainable development and highway safety in accordance with Policies 1 and 10 of the Aligned Core Strategies and Policies CC1 and DE1 of the Local Plan.*

**Regulatory/ongoing conditions**

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

4. The retail unit shall not be open to customers outside the hours of 8.30am to 8pm on Monday to Saturday and 11am to 5pm on Sundays and Bank Holidays.

*Reason: In the interests of the living conditions of neighbouring residents in accordance with Policy 10 of the Aligned Core Strategies and Policies DE1 and DE2 of the Local Plan.*

5. The retail unit shall not be serviced by vehicles heavier than 7.5 tonne gross weight.

*Reason: In the interests of the living conditions of neighbouring residents and in the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategies and Policies DE1 and DE2 of the Local Plan.*

6. The gates to the western parking and servicing area serving the retail unit shall remain open at all times that the unit is open to customers, ie between 8.30am to 8pm on Monday to Saturday and 11am to 5pm on Sundays and Bank Holidays

*Reason: In the interests of the living conditions of neighbouring residents and in the interests of highway safety in accordance with Policy 10 of the Aligned Core Strategies and Policies DE1 and DE2 of the Local Plan.*

7. Deliveries to the retail unit shall not take place outside the hours of 8.30am to 8pm on Monday to Saturday and 11am to 5pm on Sundays and Bank Holidays

*Reason: In the interests of the living conditions of neighbouring residents in accordance with Policy 10 of the Aligned Core Strategies and Policies DE1 and DE2 of the Local Plan.*

**Standard condition- scope of permission**

S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the forms, drawings and other documents comprising the application as validated by the council on 18 November 2020.

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

**Informatives**

1. 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



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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.

2. 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.

3. 1. Construction Traffic Management Plan (CTMP)

It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring. If the development works will have any impact on the public highway, please contact Network Management. 0115 8765293 or email [highway.management@nottinghamcity.gov.uk](mailto:highway.management@nottinghamcity.gov.uk) All associated costs will be the responsibility of the developer.

2. Highway licences

The Highways Network Management team at Loxley House must be notified regarding when the works will be carried out as disturbance to the highway will be occurring and licences may be required. Please contact them on 0115 8765293. All costs shall be borne by the applicant.

3. Section 278 agreement - highway works

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

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.



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## **RIGHTS OF APPEAL**

Application No: 20/02497/PFUL3 (PP-09260723)

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

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

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay.

The Secretary of State need not consider an appeal if the City Council could not for legal reasons have granted permission or approved the proposals without the conditions it imposed.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

## **PURCHASE NOTICES**

If either the City Council or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. This procedure is set out in Part VI of the Town and Country Planning Act 1990.

## **COMPENSATION**

In certain limited circumstances, a claim may be made against the City Council for compensation where permission is refused or granted subject to conditions by the Secretary of State. The circumstances in which compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.



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