

Report of Director of Planning and Regeneration

Site Of 10 Raleigh Street

1 Summary

Application No:	20/02128/PFUL3 for planning permission
Application by:	Zenith Planning and Design on behalf of Asiana LLP
Proposal:	Erection of 5 storey apartment building and stopping up of street corner.

The application is brought to Committee because the application is recommended for approval but planning obligations are proposed to be waived.

To meet the Council's Performance Targets this application should have been determined by 5th January 2021. An extension of time has been agreed in principle with the applicant.

2 Recommendations

- 2.1 To **GRANT PLANNING PERMISSION** subject to the indicative conditions substantially in the form of those listed in the draft decision notice at the end of this report.

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

3 Background

- 3.1 The site has been vacant for some years and is located on the corner of Raleigh Street and Stoneleigh Street. The site is located within Gamble Street / Alfreton Road Conservation Area. The site formerly held a public house which was demolished several years ago. The site has no allocation in the Local Plan, although the area is generally residential. To the south and west are blocks of flats; adjacent to the site is Portland Square, which presents four storeys to the street but with a setback clerestory fifth storey. To the west is a seven storey block of flats. To the north are one and two storey residential units
- 3.2 Planning permission was refused in February 2018 for a "new five-storey building containing 18 apartments, car park, landscaping and stopping up of street corner" (ref.17/02563/PFUL3). Reasons for refusal were adverse impact on the street scene and the historic character of the conservation area; unacceptable impact on the living conditions of residents of the existing Portland Square flats; and the development providing neither on-site public open space nor a contribution toward the provision or enhancement of public open space elsewhere for the benefit of its future residents.

- 3.3 Planning permission was refused in April 2018 for a “new four-storey building containing 16 apartments” (ref. 18/01143/PFUL3). The reason for refusal was the adverse impact on the living conditions of residents of the existing Portland Square flats.
- 3.4 In July 2019 a Planning Inspector dismissed appeals relating to both of these refused applications. Following negotiations and the submission of information and revisions by the applicants, the Planning Inspector (in his words) “alluded to some areas in which the appeal schemes would be acceptable which ... would result in compliance with a number of policies in the development plan”. Remaining areas of contention across the two appeal schemes were the impact of the new development on the living conditions of residents of the existing Portland Square flats and certain design elements and their impact on the Gamble Street / Alfreton Road Conservation Area. The current application seeks to address those issues.

4 Details of the proposal

Planning permission is sought for the erection of a five storey apartment building containing fourteen apartments. The building would have a flat roof at fourth storey level, the same height as the existing Portland Square building, with a setback clerestory and a parapet wall forming the fifth floor. The building would be of red brick with aluminium rain screen cladding, recessed aluminium windows and juliet balconies. In plan, the new building would extend out from the existing gable end of the Portland Square building and would be L-shaped at ground floor level where one flat would be provided in a single storey section of the building. Eight off-street car parking spaces and cycle storage are proposed in a landscaped car park to the east of the building.

5 Consultations and observations of other officers

Adjoining occupiers consulted:

Two hundred and fifteen neighbouring properties consulted in adjacent flats and houses. Site and press notices displayed.

Fourteen emails of representation received from neighbouring residential occupiers, objecting to the proposal for the following reasons:

- New proposals fail to address the previous reasons for refusal.
- Design of the fifth floor and the proposed cladding materials are out of character with the existing building and the surrounding area.
- The proposed single storey element is out of character.
- Problems of parking from the provision of eight off-street parking spaces for fourteen flats.
- Proposal would lead to a loss of light for existing flats in Portland Square.
- Proposal would lead to a loss of view and outlook for existing flats in Portland Square.
- Proposal would lead to overlooking of existing flats in Portland Square.
- Larger, two or three bed flats would be more appropriate for the housing mix in the area.
- Potential for increased anti-social behaviour from students
- Problems of security for Portland Square flats due to provision of flat adjacent to the existing building.
- Reduction in value of existing flats (it is noted that this is not an issue for the planning system to consider).

One email received in favour of the proposal as it would improve the appearance of the vacant site.

Nottingham Civic Society supports the proposal in that scale and form of the building now proposed is more in keeping with the traditional former textile factories and warehouses which give character to the conservation area.

Additional consultation letters sent to:

Highways: No objection subject to conditions regarding construction Management plan, stopping up of highway and electric vehicle charging.

Pollution Control: No objection subject to provision of electric vehicle charging.

Lead Local Flood Authority: No objection subject to use of sustainable drainage.

School Organisation Team: No education contribution required.

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

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Aligned Core Strategies (2014):

Policy 1 - Climate Change
Policy 8 - Housing Size, Mix and Choice
Policy 10 - Design and Enhancing Local Identity
Policy 11: The Historic Environment
Policy 19 – Developer Contributions

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

Policy CC1 - Sustainable Design and Construction
Policy HO1 - Housing Mix
Policy HO3 - Affordable Housing
Policy DE1 - Building Design and Use
Policy DE2 - Context and Place Making
Policy HE1: Proposals Affecting Designated and Non-Designated Heritage Assets
Policy EN2 - Open Space in New Development
Policy IN4 - Developer Contributions

7. Appraisal of proposed development

Main Issues

- (i) Principle of the Development.
- (ii) Design and Impact on the Streetscene and Conservation Area.
- (iii) Impact on Residential Amenity.
- (iv) Sustainability.
- (v) Planning Obligations

Issue (i) Principle of the Development (ACS Policy 8 and LAPP Policies HO1 and DE1)

- 7.1 The principle of residential development has been considered acceptable in assessing the previous applications. Whilst the above policies support the provision of family housing in the city, it is considered that the characteristics of the surrounding development are such that the site is more suited to a development of flats. A recent Housing Market Assessment has been carried out in Nottingham and has confirmed the need for more housing types, of all tenures, in almost all wards in Nottingham. The site is in a sustainable location, accessible to public transport and local amenities on Alferton Road. The proposal would provide 9 x 1 bed units and 5 x 2 bed units ranging in size from 39m² to 63m². These flat sizes comply with the Nationally Described Space Standards contained in Policy DE1. The proposal complies with Policy 8 of the ACS and Policies HO1 and DE1 of the LAPP.

Issue (ii) Design and Impact on the Streetscene and Conservation Area (ACS Policies 10 and 11 and LAPP Policies DE1 and HE1)

- 7.2 The proposal is now considered to have reached an acceptable design that preserves the historic industrial character of its surroundings. The height and massing of the building, use of materials and detailing have been carefully considered and result in façade treatments that complement the historic mill buildings on the opposite side of the road, but make their own 21st century contribution to the area. The top floor clerestory section of the building is similar in design to that of the neighbouring apartment building, but not as heavily glazed.

The addition of more glazing compared to solid panels would be beneficial in terms of making the top floor appear more lightweight in character. However, when viewed from Raleigh Street this element will not be visually prominent due to its adequate set back and the narrow width of the street. For these reasons the application in its current form is considered to comply with Policies 10 and 11 of the ACS and Policies DE1 and HE1 of the LAPP.

Issue (iii) Impact on Residential Amenity (ACS Policy 10 and LAPP Policies DE1 and DE2)

- 7.3 The appeals were dismissed by the Planning Inspector (regarding impact on residential amenity) in relation to the impact of the return section of the building on Portland Square residents. A Planning Inspector's decision on an appeal is a material consideration in determining future applications and should provide applicants with a direction as to how to overcome concerns. It is evident from the Inspector's decision letter that he considered the return section of the new building, in both cases, to be the element that led to 'a sense of restriction and enclosure'.

The return section of the new building has, as noted above, been omitted from the current proposal. Whilst it is accepted that the building itself would have an impact on light and outlook for existing Portland Square occupiers, it is considered - particularly taking into account the Planning Inspector's decision - that this would not be sufficiently detrimental to warrant a refusal of planning permission. In this regard, the proposal is considered to comply with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.

The scheme would provide eight parking spaces for fourteen flats. This is a sustainable location close to general amenities, close to the city centre and to public transport routes on Alfreton Road. It is noted that there is no Highway objection and the parking provision is considered to be acceptable. A store for eight cycles and waste bins is proposed in the parking area, which is considered to be acceptable.

The flats may be occupied by students, as could any one and two bed flats; in general, the low level problems of anti-social behaviour associated with student occupation tend to relate to areas with very high student occupation and the presence of houses in multiple occupation; it is not considered that this should be a reason for refusal.

Issue (iv) Sustainability (ACS Policy 1 and LAPP Policy CC1)

- 7.4 The Council is committed to Carbon Neutrality by 2028 and an action plan has been produced setting out how this is to be achieved. However, planning applications must be assessed in the light of the national and local planning policies in place at the time the application is determined. Mandatory energy performance standards for all new homes are now incorporated into Building Regulations, rather than to be achieved by the planning process. There is no Local Plan policy regarding the amount of energy to be provided by renewables. The proposal is considered to comply with Policy 1 of the Aligned Core Strategies and Policy CC1 of the Local Plan Part 2.

Issue (v) Planning Obligations (ACS Policies 8 and 19 and LAPP Policies EN2, HO3 and IN4)

- 7.5 A policy compliant planning obligation for the proposed development would be expected to provide a total contribution of £91,836.18 in lieu of on-site provision comprising affordable housing (£71,643.48) and off-site open space enhancement (£20,192.70), as the site is not large enough to provide on-site open space.

The applicants have submitted a viability appraisal which has been independently appraised by CP Viability on the Council's behalf. CP Viability conclude that the development is not viable with the burden of any of the required obligations, and it is therefore recommended that developer obligations are waived in this instance. The proposal is thereby considered to accord with ACS Policies 8 and 19 and LAPP Policies EN2, HO3 and IN4.

8 Financial Implications

As noted above, a policy compliant planning obligation for the proposed development would be expected to provide a contribution of £125,096 in lieu of on-site provision of affordable housing and enhancement of existing areas of open space. It is, however, recommended above that these contributions are waived.

9 Legal Implications

It is necessary for a Local Planning Authority, to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, as designated heritage asset, under section 72 of the Planning (Listed Building and Conservation Area) Act 1990, when determining a planning application within a conservation area.

While the duty with regard to preserving or enhancing may only require that no harm should be caused, it nonetheless creates a "special presumption" and "considerable weight and attention" as a material planning consideration, should be given to any harm found to arise with regard to the character or appearance of the area.

The above duty means there is a strong statutory presumption against granting planning permission which does not so preserve or enhance. This must be placed in the planning balance in determining the application. However, that presumption may be outweighed by other material considerations.

The weight to be attached to each of the relevant historic dimensions or ingredients of the judgment is a matter which section 72 clearly leaves to the decision-maker in each individual case.

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

10 Equality and Diversity Implications

None

11 Risk Management Issues

None

12 Strategic Priorities

Neighbourhood Nottingham: Providing a high quality and sustainable development

13 Crime and Disorder Act implications

None

14 Value for money

None

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

1. Application No: 20/02128/PFUL3 - link to online case file:

<https://publicaccess.nottinghamcity.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

17 Published documents referred to in compiling this report

Nottingham Local Plan Part 2 (January 2020)

Aligned Core Strategies (September 2014)

NPPF (2019)

Contact Officer:

Phil Shaw Case Officer, Development Management.

Email: Philip.shaw@nottinghamcity.gov.uk Telephone: 0115 8764076

NOMAD printed map



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Key

 City Boundary

Description

No description provided

My Ref: 20/02128/PFUL3 (PP-09094677)
Your Ref:
Contact: Mr Phil Shaw
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

Zenith Planning And Design
FAO Alison Dudley
38 Greenhills Road
Eastwood
NG16 3DG

Date of decision:

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

Application No: 20/02128/PFUL3 (PP-09094677)
Application by: Asiana LLP
Location: Site Of 10 , Raleigh Street, Nottingham
Proposal: Erection of 5 storey apartment building and stopping up of street corner.

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 details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - a) the external materials of the new building;
 - b) the design, appearance and materials of the means of enclosure of the site;
 - c) the hard surfacing of the site;
 - d) the design, appearance and materials of the bin and cycle store;
 - e) a scheme for the use of Sustainable Drainage Systems (SuDS);
 - f) an electric vehicle charging scheme to include one electric vehicle charging point per domestic unit and one electric vehicle charging point per 10 parking spaces (unallocated parking). To prepare for increased demand in future years, appropriate cable provision shall be included in the scheme design and installed as part of the development in agreement with the Local Planning Authority.

The development shall be carried out in accordance with the approved details.



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Continued...

Reason: To ensure that the appearance of the development is acceptable and in the interests of sustainable development in accordance with Policies 1, 10 and 11 of the Aligned Core Strategies and Policies CC1, CC3, DE1, DE2 and HE1 of the Local Plan.

Pre-occupation conditions

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

3. A landscaping and planting scheme shall be provided for the development. In particular:
- a) no dwelling shall be occupied until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, comprising native species and plants attractive to pollinators, has been submitted to and approved in writing by the Local Planning Authority;
 - b) the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development whichever is the sooner; and
 - c) any trees or plants which die, are removed or become seriously damaged or diseased within a period of five years shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the appearance of the development is satisfactory and in the interests of biodiversity in accordance with Policies 10 and 17 of the Aligned Core Strategies and Policies DE1, DE2 and EN6 of the Local Plan.

4. No dwelling shall be occupied until the following have been carried out in accordance with the approved details:
- a) the car parking areas have been laid out and surfaced;
 - b) the cycle and bin storage has been provided;
 - c) the electric vehicle charging scheme has been implemented.

Reason: In the interests of sustainable development and the living conditions of residents 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)

There are no conditions in this section.

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 6 October 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 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. Highways

1. CTMP and mud on road

It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway. If the development works will have any impact on the public highway, please contact Highway Network Management highway.management@nottinghamcity.gov.uk 0115 8765293. A Construction Traffic Management Plan will be required. 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 highway.management@nottinghamcity.gov.uk 0115 8765293. All costs shall be borne by the applicant.

3. S278

In order to carry out all off-site highway works the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact Highway Management in the first instance on 0115 876 5293 or via email at Highway.Management@nottinghamcity.gov.uk. All costs shall be borne by the applicant.

4. Traffic Regulation Orders

The Highway Authority considers it prudent that as part of the proposed off site highways works a Traffic Regulation Order is undertaken to provide a safer highway environment. The Order can be made on behalf of the developer by Nottingham City Council at the expense of the developer. This is a separate legal process and the Applicant should contact Highway Management in the first instance on 0115 876 5293 or via email at Highway.Management@nottinghamcity.gov.uk. All costs shall be borne by the applicant.

5. Road Safety

The applicant can contact our Road Safety colleagues on 0115 8765227 or via email at Road.SafetyAudit@nottinghamcity.gov.uk to discuss Road Safety audit requirements.

6. Street Lighting

The development may require the repositioning of street lighting column 3S295. Please contact Street Lighting on 0115 876 1850. All associated costs shall be borne by the applicant.

7. Cycle Parking

For information on cycle parking including stands and cycle maps please CyclingTeam@nottinghamcity.gov.uk

8. Residents Parking Permits

Residents of the new development WILL NOT qualify for a permit to park in any existing nor future surrounding residents parking scheme.

9. Electric Vehicle Charging points (EVCPs)



Please contact Rasita Chudasama 0115 8763938 Rasita.Chudasama@nottinghamcity.gov.uk to seek advice on the electric vehicle charging points (EVCP).

10. Stopping Up Order

The development will require the stopping up of the public highway and no part of that development hereby permitted (or any temporary works or structures) shall obstruct the public highway until the areas of public highway thereon, shown indicatively on plans 2202(08)005 and 2202(08)G02 Rev A by Rayner Davies Architects have been formally stopped up. The applicant must contact Rights of Way Officer John Lee on 0115 8765246 or via email at John.Lee@nottinghamcity.gov.uk to discuss the stopping up order required.

4. All developments must consider the use of Sustainable Drainage Systems (SuDS) within their application, and should prioritise incorporating rainwater re-use. For water that cannot be reused, the building regulations hierarchy for the disposal of surface water must be followed. If the proposals do not include SuDS, then we require robust evidence for the justification to do so. SuDS should be utilised to achieve multiple benefits e.g. biodiversity, carbon capture etc.

We will require surface water discharge rates to be restricted to provide a 30% betterment compared to the site's previous use.

This must be supported by the relevant calculations and drainage strategy, and if infiltration is deemed a feasible method for this site, we will need to see evidence of the appropriate infiltration testing (BRE365).

The Drainage Strategy as a minimum should contain:

- Details of how the surface water run-off will be managed,
- Drainage plan showing the layout of the proposed drainage (both foul and surface water),
- Proposed Adoption of SuDS features (who will maintain the SuDS features),
- Maintenance plan for the lifetime of the development (how will the SuDS features be maintained),
- Relevant surface water calculations from licenced software.

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: 20/02128/PFUL3 (PP-09094677)

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.

STREET NAMING AND NUMBERING

Nottingham City Council has a statutory responsibility for agreeing and registering addresses. If the development will create one or more new addresses or streets (for example a new build or conversion) please contact address.management@nottinghamcity.gov.uk as soon as possible,



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quoting your planning application reference. Any addresses assigned outside of this process will not be officially recognised and may result in difficulties with service delivery.

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