

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

### **British Waterways Building, Castle Wharf**

#### **1 Summary**

Application No: 21/02662/PFUL3 for planning permission

Application by: Philip Smith on behalf of Mr Richard Thomas

Proposal: Conversion of British Waterways Building to provide a total of 95 residential units (12 studios, 42 one bedroom apartments & 41 two bedroom apartments) including construction of a rooftop extension providing 8 apartments. Works to include internal and external alterations to allow the creation of the apartments including new lifts, staircases, secondary glazing, reception and communal lounge and other alterations to facilitate the proposals

The application is brought to Committee because it is a major application on a prominent site where there are important land use and design considerations. Additionally, for viability reasons, the application is being recommended for approval with proposed planning obligations which are less than required by planning policy.

To meet the Council's Performance Targets this application should have been determined by 18th April 2022. An extension of time has been agreed with the applicant to cover the extended period of negotiation.

#### **2 Recommendations**

2.1 To **GRANT PLANNING PERMISSION** for the reasons set out in this report, subject to:

- (i) prior completion of a Section 106 Planning Obligation to secure the following:
  - (a) a contribution to Education of £55,783
  - (b) an offsite contribution towards public open space of £19,502
  - (c) a contribution towards Employment and Training Opportunities of £3,714
- (ii) 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 both the terms of the Planning Obligation and the conditions of planning permission to be delegated to the Director for Planning and Regeneration.

2.3 That Committee are satisfied that Regulation 122(2) Community Infrastructure Levy Regulations 2010 is complied with, in that the planning obligations sought are (a)

necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.

### **3 Background**

- 3.1 The site relates to a 6 storey former warehouse building dating from 1919 which was built to assist the transit of goods along the Nottingham and Beeston Canal, and is known as the British Waterways Building (BWB). It is a highly prominent and iconic building within the local area and is instantly recognised by the sign writing to each of its parapets. It is a Grade 2 Listed Building and located within the Canal Conservation Area. Immediately to the north of the site is Castle Wharf and to the east and west are pedestrianised areas associated with the canal frontage. This area contains a mix of offices and commercial leisure uses, including a number of public houses/restaurants. To the south the building is bounded by the Nottingham and Beeston Canal and beyond this is the Nottingham Justice Centre, whilst a short distance to the east is the Nottingham Train Station. There are a number of other listed buildings in proximity to the site, the closest being the former Canal Museum, 54 Canal Street (Fellows, Morton and Clayton Public House) and 50 Carrington Street (former Railway Goods Offices).
- 3.2 The BWB has most recently been in commercial use as a pub, gym and comedy club. The building is still partially occupied by the comedy club (The Glee Club), but the rest of the building is currently vacant.
- 3.3 As well as being within the Canal Conservation Area, the site is situated in the Canal Quarter and acknowledged as a landmark building within the LAPP. The site is also located within Flood Zones 2 and Flood Zone 3a, therefore at medium to high probability of flooding.

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

- 4.1 Permission is sought for the conversion of the whole of the building into residential use, including a roof top extension. 95 residential (C3) apartments would be provided (12 studios, 42 one bedroom apartments and 41 two bedroom apartments), that would range in size from 40 square meters to 85 square metres. The roof top extension would accommodate 8 of the apartments.
- 4.2 Part of the ground floor would provide a reception area and residents lounge, whilst the basement would provide 15 car parking spaces (including Electrical Vehicle Charging Points), waste storage, cycle parking and space for plant. Access to the basement facilities would be from Castle Wharf and Canal Street to the north. An existing raised walkway to the north elevation would be retained as part of the proposals, though the scheme would see the existing canopies (modern additions) over two of the glazed ground floor areas being removed on this elevation. On the east elevation one of the ground floor window openings would be infilled internally but glazing will be retained externally. Changes are also proposed to the glazing within the historic loading bays to the southern elevation. The most substantial alteration to the appearance of the building would be the roof top extension.
- 4.3 During the lifetime of the application revisions have been negotiated to the extension to improve its design in relation to the rest of the building, and to secure a more sensitive alteration to the loading bays in the southern elevation.

- 4.4 The listed status of the building constrains the ability to improve its thermal fabric but secondary glazing is to be provided. The new roof top extension has been designed using a fabric first approach. The building would be space heated using electric panel heaters and a central heat recovery mechanical ventilation system. The ventilation system would also assist with reducing overheating in the summer. It is also indicated that air source heat pumps would be utilised within the roof top apartments. Water consumption will be limited to 110 litres per person/per day. Additionally, as part of negotiations a green roof is to be applied to the roof top extension.
- 4.5 Listed building consent has also been applied for separately under application reference 21/02663/LLIS1.

## 5 Consultations and observations of other officers

### Adjoining occupiers consulted:

Neighbours in Castle Wharf House, the Waterfront Public House and County House have been notified of the proposal by letter. The application has also been publicised through site and press notice. As a result of this consultation 1 representation has been received, which raises the following matters:

- Conversion would damage the listed building and the roof top extension looks like a plant room. Concern that the visuals do not show the true visual impact of the building and query need for the roof top extension and the need for the 8 roof top apartments.

Comments have also been received from:

**Nottingham Civic Society** – No objections in principle. It is felt that the roof top extension is visually well contained and would not be obtrusive within the wider view of the building from the Castle and the area around Canal Street. Concern though over the changes to the window framing to the former loading bays.

(NCS were re-consulted following amendments to the design of the roof top extension but raised no objections. They did however reiterate concerns over the changes to the former loading bays)

**Local Access Forum** – No objections, subject to conditions securing sheltered cycle parking for visitors. The cycle parking provision for residents is welcomed.

### Additional consultation letters sent to:

**Environmental Health and Safer Places** – No objections, subject to conditions to secure submission of an environmental noise assessment, a sound insulation scheme and a noise and dust management scheme. A condition requiring a remediation strategy has also been requested.

**Environment Agency** – Initially objected to the scheme on flood risk grounds. Following submission of a revised Flood Risk Assessment, the EA were re-consulted and now raise no objections, subject to implementation of the proposed flood mitigation measures. These measures include raising habitable ground floor finished levels to 26.02 metres above Ordnance Datum, provision of an evacuation plan and provision of flood resistance and resilience measures.

**Lead Local Flood Authority** – Requested provision of a Green roof, to assist surface water drainage, and also queried the original flood mitigation measures proposed.

**Highways** – No objections, subject to conditions securing a construction traffic management plan, electrical vehicle charging points being provided for each car parking space and provision of travel packs for residents.

**English Heritage and Amenity Societies** – Have advised no comments to make on this scheme and that advice of the Conservation Officer should be sought.

**Conservation Officer** – The proposed conversion to residential use is considered to be acceptable in principle. The overall impacts on the significance of the listed building and conservation area are minor and the limited harm is weighed against the public benefit of bringing the building back into use. The conversion would also reverse previous unsympathetic alterations made to the building.

While the proposal is generally considered to be acceptable there were initial concerns in relation to the colour of the secondary glazing, the treatment of the loading bays and the design of the roof top extension. These matters have now been addressed and are discussed in the main body of the report.

**Nottingham City Biodiversity Officer** – No objections, subject to conditions requiring provision of boxes for birds and bats, and to secure as much landscaping as possible.

**Carbon Neutral Team** – Recognise that the listed status of the building does restrict the extent to which the energy efficiency of the building can be improved. However, note that secondary glazing, air source heat pumps and electrical vehicle charging points are to be provided, and that water consumption is to be restricted to 110 litres per person/per day.

The Team also requested provision of a green roof, which is now included.

**Education** – Have requested a contribution towards primary school places.

## **6 Relevant policies and guidance**

### **Aligned Core Strategies (ACS) (Local Plan Part 1) (September 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 14: Managing Travel Demand  
Policy 17: Biodiversity  
Policy 19: Developer Contributions

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

Policy CC1: Sustainable Design and Construction  
Policy CC3: Water  
Policy EE4: Local Employment and Training Opportunities

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 Heritage 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

### **National Planning Policy Framework (NPPF)**

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

Paragraph 126 notes that the creation of high quality beautiful and sustainable 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.

Paragraphs 159 to 169 of the NPPF relate to planning and flood risk, these paragraphs seek to steer development away from inappropriate areas at risk of flooding. They also set out when a sequential and exceptions test will be required in relation to developments, applications for a change of use do not require provision of sequential and exception test.

In determining applications that may affect heritage assets, paragraph 194 of the NPPF advises that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance

and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 195 requires local planning authorities to assess the significance of the affected proposal taking into account available evidence and any necessary expertise.

Paragraph 197 of the NPPF then states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraphs 199 – 202 indicate that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraphs 203-205 require that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Paragraph 206 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.

## **Supplementary Planning Documents (SPDs)**

Biodiversity (2020)

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

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

Given the listed status of the BWB and its location within the Canal Conservation Area, consideration needs to be given to Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 66 places a duty on local planning authorities to have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historical interest which it possesses. The duty requires considerable importance and weight to be given to the desirability of preserving the setting of all listed buildings (including Grade II), however, it does not prevent the granting of planning permission. A balancing exercise must be undertaken between the harm caused and the benefit the development will bring.

Section 72 places a duty on local planning authorities, in exercising their planning functions in relation to Conservation Areas to give special attention to the desirability of preserving or enhancing the character or appearance of that area.

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

### **Main Issues**

- (i) Principle of the Development
- (ii) Listed Building, Conservation Area and Design Considerations
- (iii) Impact on the Amenities of Surrounding Residents and Future Occupants
- (iv) Other Matters

### **Issue (i) Principle of Development (Policies 5 and 8 of the ACS, Policies RE2 and HO1 of the LAPP)**

- 7.1 Policy 5 of the ACS supports the creation of housing within the City Centre where suitable living conditions can be secured. Policy RE2 of the LAPP also supports the provision of housing where it does not prejudice the activities of nearby uses, and the re-use of historic buildings. Therefore, the proposed residential redevelopment of the BWB is in accord with this broader strategic context.
- 7.2 Policy 8 of the ACS and policy HO1 of the LAPP support the creation of smaller residential units within the City Centre; the proposed mix of studios, one and two bedroom apartments would meet this requirement whilst providing a range in

typology and size.

- 7.3 The proposal is therefore considered to be acceptable in principle.

**Issue (ii) Listed Building, Conservation Area and Design Considerations**

(Policies 10 and 11 of the ACS, Policies DE1, DE2 and HE1 of the LAPP, Paragraphs 126, 130 and 195 to 206 of the NPPF, and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990)

- 7.4 By reversing some of the previous unsympathetic alterations to the building's interior character and reinstating lost fabric, the internal works would preserve and enhance the significance of the building as an early 20th century warehouse. Changes to facilitate its conversion to residential use have been well considered and would lead to a rational and ultimately reversible subdivision of the open plan form. In providing a generous communal area on the ground floor the scheme would preserve some sense of the open character of the warehouse interior and within the apartments themselves features such as the spiral staircase, steel columns and beams, and the exposed brick external walls would be retained. The windows would be upgraded by utilising a simply designed secondary glazing system which is compatible with the characterful deep reveals, while acoustic and fire separation between the floors would be provided by lining the ceilings and floors with a reversible boarding system. The applicant has agreed to the use of a dark coloured frame to the secondary glazing proposed, which will address a concern raised by the Conservation Officer.
- 7.5 The revised proposals for the loading bays to the southern elevation are considered to be acceptable and would involve the introduction of metal windows with multiple panes, similar in design to existing windows in the building and more sympathetic than the modern glazing system currently found here. Whilst the Civic Society still feel that further changes are required to these loading bays, it is considered that the amendments made adequately addresses the concerns raised by the Conservation Officer. The final detailed plans and sections for the windows can be secured by condition. The existing timber shutters and boards that sit to the side of the loading bays would be retained.
- 7.6 The most substantial alteration proposed by the scheme is the single storey roof top extension. Design revisions to this have sought to create a cohesive and rational roof top extension that achieves a sympathetic addition whilst also preserving the architectural interest of the building. The extension would be faced in a consistent dark grey cladding system with recessed panel joints to give a cleaner aesthetic. Although, the extension would be visible above the brick parapet of the building from several vantage points (including longer views from the Castle, along Wilford Road, the Canal towpath and Carrington Street bridge), the submitted drawings and visuals demonstrate the limited impact that the extension would have on these views and that its design, together with choice of materials, mitigate this visual impact. The information submitted also shows that the setting of neighbouring listed buildings would be unaffected and would be preserved. The proposed green roof would be visible from the Castle grounds and provide visual interest in addition to its sustainability and biodiversity benefits. Indeed, the view from the Castle has the potential to be enhanced as the roof top extension would replace existing roof plant, some of which is very large and visible above the parapet of the BWB, detracting from its appearance in longer views.



- 7.7 Overall, it is considered that the development's impact on the significance of the listed building, the character of the Conservation Area and on longer views from the Castle and other locations, would be minor and the harm outweighed by the public benefits that the scheme would bring in terms of creating a viable long term and sustainable use for the building, and by reversing unsympathetic changes made to the building in the past. The proposal therefore complies with policies 11 and 10 of the ACS, policies DE1, DE2 and HE1 of the LAPP and paragraphs 126, 130 and 195 to 206 of the NPPF.
- 7.8 The proposal would also preserve the historic and architectural interest of the building and its setting, and preserve the setting of nearby listed buildings. As such it is considered that that the statutory duty imposed by section 66 of the 1990 Listed Building Act will be complied with. Section 66 relates to the duty of 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. The NPPF glossary states that: *"The setting of a heritage asset is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"*.
- 7.9 Section 72 of the 1990 Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. As indicated above, the proposal would preserve the character and appearance of the Conservation Area, and enhance views from higher vantage points. It is therefore considered that the statutory duty imposed by section 72 would also be complied with.

**Issue (iii) Impact on the Amenities of Surrounding Residents and Future Occupants (Policies RE2, DE1, DE2 and IN2 of the LAPP)**

- 7.10 Due to the relationship of the building to neighbouring properties and the design of the roof top extension, the proposed development would not affect the amenity of neighbouring occupants in terms of loss of light, daylight or privacy, nor would it result in any visual intrusion or cause any overbearing impact.
- 7.11 Secondary glazing is proposed to existing windows and the changes to the glazing in the loading bay openings in the southern elevation would assist in ensuring that future residents of the development would not be unduly affected by external noise. Additionally, an environmental noise assessment and a sound insulation scheme, as requested by Environmental Health, can be secured by condition.
- 7.12 The scheme also proposes the creation of private defensible space through the provision of planters in front of the northern elevation of the building, which would create a sense of separation with the surrounding uses. A ground floor opening in the eastern elevation would also be infilled internally to prevent public access; access to the remaining eastern opening would be controlled through building management. The provision of a reception area would also benefit the amenities of future occupants.
- 7.13 Sound insulation would be provided between the floors and walls of neighbouring apartments in order to reduce noise transference, details of which can be secured by condition. The scheme has also been designed to provide good levels of natural light within each apartment. The size of the apartments would meet nationally

described space standards and more than 10% of them would be provided as accessible and adaptable homes, meeting the requirements of Policy HO4 of the LAPP. The rooftop apartments would also be provided with their own outdoor amenity space.

- 7.14 Overall, the proposal would not unduly affect the amenity of neighbouring occupants and future residents of the building would be provided with a good standard of living environment. The proposal therefore complies with policies RE2, HO4, DE1, DE2 and IN2 of the LAPP.

#### **Issue (iv) Other Matters**

##### **Flood Risk** (Policy CC3 of the LAPP and paragraphs 159 to 169 of the NPPF)

- 7.15 Whilst the development would introduce a more vulnerable use into the building, given that the proposal involves a change of use and a roof top extension, sequential and exception tests have not been required in this instance. A revised Flood Risk Assessment (FRA) has been approved by the Environment Agency. The mitigation measures set out in the FRA can be secured by condition, and as such the proposal complies with policy CC3 of the LAPP and paragraphs 159 to 169 of the NPPF.

##### **Highways** (Policy 14 of the ACS, Policy TR1 of the LAPP)

- 7.16 Highways have raised no objection to the proposal. Details of a construction traffic management plan, electrical vehicle charging points and travel packs for future occupants can be secured by condition. In relation to the comments provided by the Local Access Forum, given the limited amount of external space around the building it would be difficult to provide visitor cycle parking stands outside of the building. However, details of how the internal car and cycle parking spaces will be managed could be secured by condition. The proposal therefore complies with policy 14 of the ACS and policy TR1 of the LAPP.

##### **Contamination** (Policy IN2 of the LAPP)

- 7.17 Environmental Health have requested details to deal with ground gas contamination. A condition is recommended to address this, if and where ground is to be broken as a result of the development. The proposal therefore complies with policy IN2 of the LAPP.

##### **Planning Obligations** (Policy 19 of the ACS, Policies IN4, HO3, EN2 and EE4 of the LAPP)

- 7.18 A policy compliant development would be expected to provide the following planning obligations:
- 19 affordable housing units (20% provision) or a contribution towards off-site provision of £833,663
  - On site public open space/public realm or a contribution towards off-site provision of £151,782
  - A contribution towards education provision of £55,783
  - Local employment and training opportunities, including a financial contribution of £28,758 towards their delivery

The total contribution would therefore be £1,057,980.

7.19 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 if the full S106 contributions were to be paid, but rather than the zero contribution concluded within the applicant's viability appraisal, they have recommended a reduced contribution of £79,000. Following a period of negotiation this has been accepted by the applicant. The contributions are proposed to be apportioned as follows:

- Education - £55,783
- Public open space/public realm - £19,502
- Local employment and training opportunities (financial contribution) - £3,714

7.20 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. The contributions themselves satisfy policies HO3, EN2 and EE4 of the LAPP, and the Open Space SPD.

**8. Sustainability / Biodiversity** (Policies 1 and 17 of the ACS, Policies CC1, CC3 and EN6 of the LAPP, and the Biodiversity SPD)

8.1 The proposal does include some planting along with the installation of bat and bird boxes as recommended in the ecology report. A green roof is also to be provided which would support wildlife and assist with surface water disposal. Given the limited space available around the building, it is considered that these measures would result in biodiversity enhancement across the site. The proposal is therefore in accordance with policy 17 of the ACS, policy EN6 of the LAPP and the Biodiversity SPD.

8.2 Energy efficiency and sustainability measures are set out within the Energy and Sustainability Report submitted as part of the application. As indicated in the Proposal section above, the listed status of the building has restricted the scope of improvements that can be made, and this is acknowledged by the Council's Carbon Neutral Team. Despite this constraint, the following sustainability measures to be incorporated into the scheme:

- A fabric first approach is being adopted within the new roof top extension, and secondary glazing will be provided to existing windows thereby improving their thermal performance. The proposal would deliver a minimum 15% increase to the 2013 Part L Building Regulation u-value requirements in relation to the rooftop extension. The thermal improvements within the existing building would result in an overall improvement of the existing fabric performance by approximately 18.75%.
- The Air Permeability target for the roof top extension would deliver a minimum 50% improvement on air permeability requirements. A mechanical ventilation heat recovery (MVHR) system would be provided throughout the building.
- The inclusion of Air Source Heat Pumps to the roof top apartments to provide space heating and hot water.
- Water consumption to be limited to 110 litres per person/per day.

- Provision of electrical vehicle charging points
- Provision of a green roof

8.3 Given that the scheme has yet to be designed to a sufficiently detailed stage, further details of the proposed sustainability measures are to be required by condition. The proposal therefore complies with policy 1 of the ACS and policies CC1 and CC3 of the LAPP.

## 9 Financial Implications

Financial contributions, as detailed above in the Planning Obligations section of the Report, are in accordance with policy 19 of the ACS and policies IN4, HO3, EN2 and EE4 of the LAPP, and the relevant Supplementary Planning Documents.

## 10 Legal Implications

Under s 66 Planning (Listed Building and Conservation Area) Act 1990, in determining an application which affects a listed building or its setting, the local planning authority, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The duty in s66 of the Planning (Listed Building and Conservation Area) Act 1990 must also be considered as a material consideration in the planning balance.

The Committee must afford considerable importance and weight to the "desirability of preserving... the setting" of listed buildings when weighing this factor in the balance with other "material considerations" which have not been given this special statutory status.

A finding of harm to the setting of listed buildings is a consideration to which the Committee must give "considerable importance and weight, when weighing up the harm, against any benefits or countervailing factors. However, that does not mean to say that a strong presumption against granting permission for development that would harm the listed building and or its setting, cannot be outweighed by substantial public benefits so as to rebut that presumption.

It is also 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 great enough.

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 legal considerations arise these will be addressed at the meeting.

## **11 Equality and Diversity Implications**

The proposed development has been designed to be compliant with current Building Regulation standards in terms of accessibility and requirements under the Disability Discrimination Act. The building will have accessible doors and corridors suitable for wheel chair users and lifts are proposed at every stair core.

## **12 Risk Management Issues**

None.

## **13 Strategic Priorities**

Neighbourhood Nottingham: Retention and redevelopment of a long term vacant heritage asset

Safer Nottingham: The development enhances the surrounding pedestrian environment and bringing this long term vacant building back into use would contribute to a safer and more attractive neighbourhood

Working Nottingham: Ensuring Nottingham's workforce is skilled through Local Employment and Training opportunities

## **14 Crime and Disorder Act implications**

The development would enhance natural surveillance in and around the site.

## **15 Value for money**

None.

## **16 List of background papers other than published works or those disclosing confidential or exempt information**

1. Application No: 21/02662/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R479YMLYJUQ00>

2. Application No: 21/02663/LLIS1 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R479YOLYJUR00>

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

NPPF (2021)

Aligned Core Strategies – Local Plan Part 1 (2014)

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

Biodiversity (2020) SPD

The Provision of open Space in New Residential and Commercial Development  
(2019) SPD

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