

**Wards Affected:** Bilborough (May 2019)

**Item No:**

**Planning Committee  
21<sup>st</sup> June 2023**

## **Report of Director of Planning and Transport**

### **Playing Fields to South Located West Of Westbury School, Chingford Road Nottingham**

#### **1 Summary**

Application No: 22/02157/PFUL3 for planning permission

Application by: Strata

Proposal: Full planning application for the residential development of 130 new homes alongside associated site infrastructure, open space, and landscaping.

The application is brought to Committee because the applicant is seeking variation of the resolution concerning Affordable Housing provision agreed at Planning Committee on 19th April 2023.

To meet the Council's Performance Targets this application should have been determined by 29<sup>th</sup> January 2023. An extension of time has been agreed with the applicant until 30<sup>th</sup> June 2023.

#### **2 RECOMMENDATIONS**

##### **2.1 To GRANT PLANNING PERMISSION subject to: -**

(a) prior completion of a Section 111 Agreement to secure a section 106 planning obligation to provide for:

**(i) an on-site provision of 20% affordable housing or for an on-site provision of a lower % of affordable housing subject to that lower provision and tenure mix (including the proportion of affordable housing for rent and in particular social rent to be provided) being approved by the Local Planning Authority;**

(ii) a financial contribution of £63,885 towards employment and training together with the provision of employment and training opportunities during the construction phase;

(iii) a financial contribution of £390,427 towards secondary school provision.

(b) the indicative conditions substantially in the form of those listed in the draft decision notice at the end of this report and in the update sheet.

##### **2.2 Delegate power to determine the final details of the planning obligation (including affordable housing provision and tenure mix) and conditions of**

planning permission to the Director of Planning and Regeneration subject to him being satisfied that Regulation 122(2) Community Infrastructure Levy Regulations 2010 is complied with, in that the planning obligation sought at paragraph 2.1(a)(i) above is (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.

- 2.3 Confirm that the Committee are satisfied that Regulation 122(2) Community Infrastructure Levy Regulations 2010 is complied with, in that the planning obligations sought at paragraph 2.1(a) above are (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.

### **3 BACKGROUND AND DETAILS OF THE PROPOSAL**

- 3.1 On 19<sup>th</sup> April 2023 Planning Committee resolved to grant planning permission for the residential development of 130 new homes alongside associated site infrastructure, open space, and landscaping at the former Chingford Road playfield site.

- 3.2 The resolution to grant permission was subject to:

(a) prior completion of a Section 111 Agreement to secure a section 106 planning obligation to provide for:

***(i) an on-site provision of 20% affordable housing;***

(ii) a financial contribution of £63,885 towards employment and training together with the provision of employment and training opportunities during the construction phase;

(iii) a financial contribution of £390,427 towards secondary school provision.

- 3.3 This proposal is seeking to vary the requirement for affordable housing provision. The other elements of section 106 remain the same.
- 3.4 This report merely focuses on the proposed change to the affordable housing element of the previously approved section 106. The previous committee report is attached for reference, addressing all other matters that were considered in resolving to approve this application.

### **4 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS**

**Head of Housing & Regeneration:** Support the proposed amendment to the affordable housing element of the section 106.

The Council's housing needs assessment is clear that we have a high level of need for affordable housing for rent (i.e. social rent and affordable rent) rather than intermediate forms of affordable housing like shared ownership and shared equity. Nevertheless, Registered Providers acquiring s106 properties

will generally pay less for properties to rent than for intermediate forms of affordable housing, which impacts the viability of the site. Officers are looking to put in place a new Planning Policy position in the future to prioritise affordable housing to rent but in the meantime officers will try to agree what we can through negotiation to best meet the need in Nottingham. The developers of the Chingford site have offered us a policy compliant s106 contribution of 26 units with half being intermediate housing, however an alternative offer for 21 units, all of which are social rent or affordable rent, would be much more preferable in terms of meeting the city's housing need priorities and would have an equivalent financial impact on the scheme for the developer. I therefore recommend the alternative option of 21 units.

## **5 RELEVANT POLICIES AND GUIDANCE**

### **Aligned Core Strategies (ACS) (2014)**

Policy 8: Housing Size, Mix and Choice  
Policy 19: Developer Contributions

### **Land and Planning Policies (LAPP) (2020)**

Policy HO1: Housing Mix  
Policy HO3: Affordable Housing  
Policy IN4: Developer Contributions

## **6 APPRAISAL**

**(i) Variation of the proposed Affordable Housing provision** (Policies 8 and 19 of the ACS, Policies HO1, HO3 and IN4 of the LAPP)

6.1 Policy HO3 of the LAPP states that for development where 15 or more homes will be provided, or the site has an area of 0.5 hectares or more, 20% of the homes will be required to be affordable housing. The policy goes on to say that the type of affordable housing will be negotiated having regard to:

- a) the Government's policy on Starter Homes and other affordable home ownership product requirements;
- b) the City-wide need for affordable housing, taking into account all other sources and supply of affordable housing;
- c) levels of affordability in the area; and
- d) size, type and tenure of housing in the area.

6.2 The City-wide need for affordable housing, based on data for the housing market area, shows that Nottingham requires more affordable homes for rent (either Affordable Rent or Social Rent) rather than intermediate home ownership, such as Shared Ownership or First Homes. However, the Housing and Planning Act 2016 introduced a general duty for planning authorities to promote the supply of Starter Homes (now known as First Homes). This requirement is captured in policy HO3 of the LAPP which requires that of the 20% requirement for affordable housing, at least half of this (ie. 10%) shall be

available for affordable home ownership, ie. Shared Ownership or First Homes.

- 6.3 Following the resolution to approve this application, the applicant has been in negotiation with the Housing & Regeneration team at the Council concerning the mix of tenure for the affordable housing units, which are to be provided on site rather than a financial contribution being made for off-site provision. The most favourable mix that they were able to put forward based on viability and offers from the Registered Providers (ie. the housing associations who would take and manage the affordable housing once constructed) is:

Type	Number of Units	Details
Social Rent (SR)	9	2b4ph
Affordable Rent (AR)	2	2b4ph
First Homes (FH)	9	2b4ph
First Homes (FH)	6	3b4p

- 6.4 Whilst this seeks to maximise the number of SR units, there is a large portion of the less desirable (for Nottingham) FH units, providing a total of 26 units (20% of the 130 units approved). As an alternative, the applicant was also asked to set out the mix that would be the most favourable in terms of affordable homes for rent, particularly SR units, even if the total number of units were to be less than 20%. On this basis, the applicant has been able to adjust the proposed affordable housing scheme as follows:

Type	Number of Units	Details
Social Rent (SR)	13	2b4ph
Affordable Rent (AR)	6	2b4ph
Affordable Rent (AR)	2	3b4ph

- 6.5 This results in a reduction in the total number of affordable units from 26 (20%) to 21 (16.5%), however the number of affordable units to rent increases from 11 to 21, of which the number of the most desirable (for Nottingham) SR units increases from 9 to 13. This alternative proposition has also been made on the basis that the two schemes are of equivalent value, reflecting the higher cost to the developer in providing affordable housing to rent (see Appendix 1 below).
- 6.6 In conclusion, whilst the 16.5% affordable housing provision of the second scheme is slightly lower than the policy requirement of 20%, it is supported by the Head of Housing & Regeneration in that it would better meet the affordable housing needs of the City, providing significantly more affordable homes to rent rather than intermediate home ownership units. This would be in accordance with the broader aims of policy HO3 of the LAPP which states that the affordable housing provision will be negotiated, taking into account all other sources and supply of affordable housing in the City.
- 6.7 The revised recommendation regarding the affordable housing provision for this development, as set out above, would allow for the provision set out at paragraphs 6.4 and 6.5 above or similar and is therefore considered to be

acceptable and in accord with policies 8 and 19 of the ACS and policies HO1, HO3 and IN4 of the LAPP.

## **7 Financial Implications**

The section 106 requirements concerning affordable housing, as detailed above, are in accordance with policies 8 and 19 of the ACS and policies HO3 and IN4 of the LAPP.

## **8 Legal Implications**

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

## **9 Equality and Diversity Implications**

None.

## **10 Risk Management Issues**

None.

## **11 Strategic Priorities**

Neighbourhood Nottingham: Redevelopment of a partially cleared brownfield site with a high quality, sustainable and mixed-use development, including on-site affordable housing provision

## **12 Crime and Disorder Act implications**

None.

## **13 Value for money**

None.

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

1. Application No: 22/02157/PFUL3 - link to online case file:  
<https://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RKKKB4QLYMF600>

## **15 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)

**Contact Officer:**

Mohammad Taufiqul Islam, Case Officer, Development Management.

Email: [Mohammad.Taufiqul-Islam@nottinghamcity.gov.uk](mailto:Mohammad.Taufiqul-Islam@nottinghamcity.gov.uk)

## Appendix 1

FIRST HOMES OPTION							
SR	9	2b4ph	Terrace/End Terrace	806	£107,528	£967,752	
AR	2	2b4ph	Terrace/End Terrace	806	£115,028	£230,056	
	11					£1,197,808	
FH	9	2b4ph	Terrace/End Terrace	806	£147,000	£1,323,000	
FH	6	3b4ph	Semi Detached	923	£161,000	£966,000	
	15					£2,289,000	
					<b>TOTAL</b>	£3,486,808	
HIGHER RENT OPTION							
SR	13	2b4ph	Terrace/End Terrace	806	£107,528	£1,397,864	
AR	6	2b4ph	Terrace/End Terrace	806	£115,028	£690,168	
AR	2	3b4ph	Semi Detached	923	£133,241	£266,482	
16.15%	21					£2,354,514	
OMS	1	2b4ph	Semi Detached	806	£210,000	£210,000	
OMS	4	3b4ph	Semi Detached	923	£230,000	£920,000	
	5					£1,130,000	
					<b>TOTAL</b>	£3,484,514	
					<b>VARIANCE</b>	-£2,294	

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Nottingham**

**1 Summary**

Application No: 22/02157/PFUL3 for planning permission

Application by: Strata

Proposal: Full planning application for the residential development of 130 new homes alongside associated site infrastructure, open space, and landscaping.

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.

To meet the Council's Performance Targets this application should have been determined by 29<sup>th</sup> January 2023. An extension of time has been agreed with the applicant until 30<sup>th</sup> May 2023.

**2 RECOMMENDATIONS**

**2.1 To GRANT PLANNING PERMISSION subject to: -**

(a) prior completion of a Section 111 Agreement to secure a section 106 planning obligation to provide for:

- (i) an on-site provision of 20% affordable housing
- (ii) A financial contribution of £63,885 towards employment and training together with the provision of employment and training opportunities during the construction phase
- (iii) a financial contribution of £390,427 towards secondary school provision.

(b) the indicative conditions substantially in the form of those listed in the draft decision notice at the end of this report.

**2.2 Power to determine the final details of the planning obligation (including affordable housing mix) and conditions of planning permission to be delegated to the Director of Planning and Regeneration.**

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



sought is (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 SITE AND SURROUNDINGS**

- 3.1 The application site is an area of open space of 6.16ha adjacent to Westbury Academy in Bilborough. The site is bound on all sides by existing development; Chingford Road to the south, Westbury Academy to the south east, Denewood Crescent to the east, Yatesbury Crescent to the north and Wigman Road to the west.
- 3.2 The site is currently in the City Council's ownership, pending sale to the applicant, and it is allocated for housing development in the LAPP.
- 3.3 The site's topography rises to the north-west corner but otherwise the site is generally level and flat. Public pedestrian access can be achieved via Yatesbury Crescent and St Martin's Road. There are also a number of unrecorded public rights of way across the site that have most likely acquired public status by default through long use and should be treated as public. The site currently does not have vehicular access.
- 3.4 There are no designated or non-designated heritage assets located within the site, however, three Listed Buildings – Church of St Martins (Grade II\*), Bilborough Old Rectory (Grade II) and St Martin's Cottages (Grade II), are located immediately to the north of the site.
- 3.5 There are 27 individual trees, 19 tree groups and 14 hedgerows within the site but none are protected by a Tree Preservation Order (TPO).
- 3.6 The site is located within Flood Risk Zone 1 of Environment Agency Flood Map (the lowest risk of flooding which is acceptable in principle for development).

### **4 PLANNING HISTORY**

An application (ref: 19/00023/PDA) was submitted in January 2019 for determination as to whether prior approval was required for the demolition of four residential properties (34-40 Chingford Road). Prior approval was granted and the properties subsequently demolished. There are no other pertinent planning applications relating to the proposed development site.

### **5 DETAILS OF THE PROPOSAL**

- 5.1 Planning permission is sought for the construction of 130 new homes at a proposed density of 32 dwelling per hectare. 20% of the houses would be affordable i.e. 26 units. The open market houses would comprise: 76 x 3 bed houses, 11 x 4 bed houses and 17 x 5 bed houses. The affordable units would comprise: 20 x 2 bed houses and 6 x 3 bed houses. Properties are a mix of two, two and half and three storeys in height. The development is made up of

a mixture of terrace, semi-detached and detached properties with parking provided to the front and side of the properties. All parking areas within the curtilage of dwellings will be provided with Electric Vehicle Charging Points (EVCP's). Dependent on the house-type, either a garage, shed or dedicated bike store is provided for cycle storage.

- 5.2 Vehicular and pedestrian access would be provided from Chingford Road with additional pedestrian access to be provided via the retention of the pedestrian links from the north of the site.
- 5.3 A high level of green infrastructure totalling 2.1ha is to be incorporated in the site, including the provision of a large amenity area of public open space that is to incorporate a Sustainable Urban Drainage (SUD) feature in the form of an attenuation basin.
- 5.4 The proposal has been subject to a number of detailed design changes since the original submission.

## **6 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS**

### **Adjoining occupiers consulted:**

188 Neighbouring properties were notified by letter, a site notice posted, and press notice published. The overall expiry date was 1 December 2022.

7 representations of objection have been received, raising the following concerns:

- There are regular queues of traffic past the Police station on Strelley Road and Wigman Road. Additional cars from Chingford Road will add substantially to the gridlock.
- There are regular accidents at the junction of Wigman Road / Strelley Road.
- The field is used by children to play, and dog walkers all year round. It's a vital green space that helps with mental health.
- The field is covered in wildlife. There are protected bats in the St Martins Church area. Large mammals including foxes, hedgehogs and rabbits live on the field and all the associated invertebrates. The birds share the surrounding trees with squirrels. This housing development will be detrimental to the locals' wellbeing.
- Dozens of people use this space daily, it has always been a safe place to walk with families and dogs. Taking away the space would limit family interaction, outdoor adventures and well-being for the increased stress of workers and carers.
- There are brown sites that can be utilised for housing, leave the green spaces green for the community to use for health and wellbeing.
- When this was ear marked for housing, we were told it would be housing that match what we already had in the area. Everything that has been said has gone out the window. So, against the 3 storey high buildings as we don't want this.

- NCC is determined to ride roughshod over local peoples desires by selling off 'green' land to developers in an effort to recoup some of their losses due to their usual mismanagement of funds. There are plenty of 'brown' field sites with unused business premises which could be used first.
- For almost 10 years now Chingford Road has had to bear the brunt of building traffic.
- The current trees and shrubs provide a good level of privacy from the field and they also harbour a large number and variety of wildlife. Once the 3 story houses are erected and if the existing trees are removed then privacy into our property will be lost and this will affect the property value. What plan is in place to prevent the invasion of privacy?
- If the trees and shrubs are to be removed, would Strata be willing to either replace or offer for high level fencing / wall to be built for all existing properties along Chingford Road?
- The tree survey has been undertaken subsequent to a draft layout and the conclusions about trees to be removed to facilitate construction must therefore be discounted. In particular the LPA should negotiate the retention of T33 which is an outstanding landscape feature and in apparently good condition.
- This area of the city is overstretched on its resources already. The Police cannot cope with the crime as it is at this moment in time, so with the addition of some 130 homes with a possible average of 3.5 people to a home that then gives you an additional 455 people to this area, and if these people are of the wrong type of background, ie drug users, alcoholics and of the criminal element, then yes the crime rate for this area will rise.
- Schools in this area are saying that they are having to lay off staff due to the current economic situation, so if they are unable to cope at this moment in time how on earth will they cope with the additional children that these people bring?
- Doctors and dentists, again another part of the infrastructure that will most defiantly be overstretched if not already.
- It would be interesting to see how many of these homes go out to the rental sector, knowing full well that if they do that it will be mostly paid for from the benefits system. An estate that will be paid for from the benefits sector of government, yet again the workers and tax payers having to pick up the bill.

Local Access Forum: The LAF supports much of the application but registers an objection as there is insufficient detail in relation to rights of way and active travel. If the application is to be approved the following are required:

- I. A commitment to register all footpaths/bridleways with the Highway Authority as public rights of way (PROW), and a firm timeline for that to be done before first occupation of any dwelling.
- II. A revised drawing to show the principal north-south road, detailing a shared path, i.e. dedicated to cycles and walkers, of sufficient width given the scale of student commuting that may be expected. This should be appended to the S38 plan.
- III. A revised PROW drawing showing all paths within the public open

space (POS) and elsewhere on site to be bridleway rather than footpath.

- IV. A path connection on the POS through to St Agnes Close.
- V. A path connection to the existing path located to the southern boundary of the school, which is tarmaced, has a litter bin, and is presumably maintained by the local authority. We note that this path is unacceptably narrow generally and in particular where it approaches Chingford Road, and this should be reviewed by the council.

Nottingham Open Access Forum: Accept that this site is designated for development and we acknowledge the provision of open space slightly larger than the minimum requirement set out. We do have concerns over the proposed removal of vegetation and biodiversity net gain provision. The application calls for the removal of 8 trees, 5 tree groups and 3 hedgerows. There is insufficient detail on mitigation for this loss in terms of replacement, monitoring and management. We also question the classification of the notable Ash specimen T33 which we believe should be retained.

Nottingham Civic Society: welcomes the substantial landscaped buffer zone which will ensure that the proposed residential development would not harm the setting of the three listed buildings which together represent the original core of the village of Bilborough, namely St Martin's Church (Grade II\*) Bilborough Old Rectory (Grade II) and St Martin's Cottages (Grade II). NCS agrees with the conclusions of the applicant's Heritage Statement that there would be only a small amount of visual change to the settings of these listed buildings which would not amount to harm.

The open space which includes the sustainable drainage basin, and the extensive landscaping proposed to transform the appearance of the playing field would need an appropriate management scheme, the details of which should be agreed as part of this application to ensure the open space is suitably maintained and cared for. The proposed streets of dwellings facing the open space should contribute activity and casual surveillance of the space discouraging misuse and anti-social behaviour.

In terms of the urban design of the new development, some streets appear to be overly dominated by frontage parking leaving little opportunity for planting to soften their appearance. There are no sample street perspectives provided in the application to demonstrate the character of the new streetscape. A view into the new development from the Chingford Road entrance to the estate would help illustrate the character.

Nottingham University Hospitals NHS Trust: A contribution is required for this proposed development of £145,853.00. This contribution will be used directly to provide additional health care services to meet patient demand.

**Additional consultation letters sent to:**

**Environmental Health and Safer Places:** No objection subject to conditions requiring verification of radon gas mitigation and the implementation of noise

and sound insulation measures.

**Highways:** No objection subject to conditions relating to:- a construction traffic management plan, the vehicular access off Chingford Road, internal vehicular accesses having visibility splays, provision of vehicular and cycle parking, and electric vehicle charging provision.

**Drainage:** No objection subject to conditions relating to surface water management.

**City Archaeologist:** An archaeological excavation will be required at this site prior to any groundworks commencing. The excavation must be undertaken in accordance with the approved Written Scheme of Investigation. All archaeological works must be carried out by a suitably qualified and experienced archaeological contractor who is a Registered Organisation with the Chartered Institute for Archaeologists.

**Environment Agency:** No objection.

**Education Officer:** Requested contribution of £390,427 towards secondary school provision. No claim for primary school from this development as there is sufficient capacity in the area.

**Biodiversity Officer:** No objection. There is a really great gain in biodiversity units on the site which is positive. This is a good example of use of the metric and habitat creation to provide over 10% gain in biodiversity units on site.

Requested condition to provide hedgehog friendly fencing, and bat and bird boxes.

**Tree Officer:** Tree 33 should be safeguarded against damage and retained. The Tree Protection Plan needs to be amended to incorporate this change. T33 is a tree of significant amenity value.

**Rights of Way Officer:** No objection. Suggest that the applicant submit a revised PROW plan dedicating PROW around large POS as public bridleways, to be maintained by the developer at their expense. Satisfied that it is necessary to stop up the unrecorded public bridleways in order to enable the development.

**Carbon Neutral Policy Team:** Supports most of the sustainability measures but not convinced with the reason for not installing ASHPs.

## **7 RELEVANT POLICIES AND GUIDANCE**

### **National Planning Policy Framework (2021)**

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.

Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

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 180 of the NPPF states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and c) development

whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

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.

### **Aligned Core Strategies (ACS) (2014)**

Policy A: Presumption in Favour of Sustainable Development

Policy 1: Climate Change

Policy 8: Housing Size, Mix and Choice

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) (2020)**

Policy CC1: Sustainable Design and Construction

Policy CC3: Water

Policy EE4: Local Employment and Training Opportunities

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 EN6: Biodiversity

Policy IN2: Land Contamination, Instability and Pollution

Policy IN4: Developer Contributions

Policy LS5: Community Facilities

Policy TR1: Parking and Travel Planning

Policy SA1: Site Allocations

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

Biodiversity SPD (2020)

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



Education contributions from residential developments (2021) SPD

Strategic Flood Risk Assessment (SFRA) (2008)

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

There are no designated listed buildings within the site but there are listed buildings located immediately to the north of the site. As such consideration needs to be given to Section 66 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.

## **8 APPRAISAL**

### **Main Issues**

- (i) Principle of the Development
- (ii) Layout, Scale and Design
- (iii) Impact on Heritage Assets
- (iv) Impact on the Amenities of Surrounding Residents and Future Occupants
- (v) Highway Considerations including Public Rights of Way
- (vi) Flood Risk and Drainage
- (vii) Impact on Trees
- (viii) Other Matters, including Planning Obligations
- (ix) Sustainability and Biodiversity

**(i) Principle of the Development** (Policy 8 of the ACS, Policies HO1, HO3 and SA1 of the LAPP)

- 8.1 The site is identified in the LAPP as Site Allocation SR21 - Chingford Road Playing Field for development to comprise a mix of family dwellings as well as safeguarding a portion of public open space (POS) in the north-western part of the site. The proposed scheme conforms with this allocation.
- 8.2 Policy HO1 of the LAPP states that outside of the City Centre where sites are capable and suitable of accommodating family housing, and in line with Policy 8 of the ACS, the City Council will encourage development of sites for family housing, including larger family housing (within use class C3), as opposed to other forms of residential accommodation. The proposed type and mix of housing is considered to accord with the aims and objectives of these policies.

All of the housing is provided with adequately proportioned gardens and each unit has dedicated parking spaces. It is considered that the proposed scheme would provide a balanced mix and size of house types to meet the future needs of the local community.

- 8.3 Policy HO3 of the LAPP states that for development where 15 or more homes will be provided, or the site has an area of 0.5 hectares or more, 20% of the homes will be required to be affordable housing. Whilst the proposed scheme meets this requirement, the precise details of the affordable housing scheme are currently being negotiated. An update will be provided at Committee.
- 8.4 The proposal is therefore considered to be acceptable in principle, in accordance with policy 8 of the ACS and policies HO1, HO3 and SA1 of the LAPP.

**(ii) Layout, Scale and Design** (Policy 10 of the ACS, Policies DE1 and DE2 and of the LAPP)

- 8.5 The scheme has been the subject of extensive discussions with the Council both before and since the submission of the application. These have focussed on providing an appropriate road hierarchy, a well-connected and permeable layout, the design and integration of the public open space (POS) with the housing development, parking arrangements, street trees and boundary treatments.
- 8.6 The Civic Society are in general terms supportive of the scheme but have raised concern that some streets appear to be overly dominated by frontage parking leaving little opportunity for planting to soften their appearance. This has been addressed through the changes sought, along with the provision of additional street trees which have been incorporated within 'build-outs' that would also aid traffic calming. Where frontage parking is present, landscaping is also used to breakup parking bays allocated to individual units.
- 8.7 Whilst it is felt that the revised layout is well conceived and responds well to the site and its surroundings, there remain some outstanding detailed design issues, particularly relating to treatment of the roads, that officers would wish to negotiate further and it is therefore recommended that these be addressed by condition.
- 8.8 The area of POS incorporates new planting, a network of footpaths and a SUDS attenuation area that is accessible and useable other than on the rare occasions it is required to hold storm water.
- 8.9 The proposed dwellings would be a mix of 2, 2.5 and 3 storeys in height, comprising detached, semi-detached and short runs of terraced dwellings. The largely traditional design of the proposed dwellings would sit comfortably within the context of the site and would provide attractive street scenes. Front boundaries, where appropriate, would be enclosed by hedging and estate style fencing. Brick walls would be provided to the side boundaries of rear gardens which adjoin the street, with close boarded timber fencing enclosing

the rear gardens in all other circumstances.

- 8.10 Principle facing materials comprise red or buff brick and grey or red tiles. Roofs of the proposed houses are typically gable ended, albeit there are several examples of hipped roofs. Several of the 2.5 storey units would also have rooflights or dormer windows.
- 8.11 Subject to further design detail of the roads, precise materials and landscaping being secured by condition, it is considered that the development would be a positive addition to the site and wider area, in accord with policies 10 of the ACS and policies DE1 and DE2 of the LAPP.

**(iii) Impact on Heritage Assets** (Policy 11 of the ACS, Policy HE1 of the LAPP)

- 8.12 With regards to the impact of the proposal on local heritage assets, consideration must be had to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and 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.
- 8.13 The NPPF glossary (GPA3 - 'The setting of a Heritage Asset') states that:  
*"The setting of a heritage asset is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral".*
- 8.14 There are no designated or non-designated built heritage assets located within the site. A Heritage Report has been submitted in support of the application which has identified six Listed Buildings, one Conservation Area (Strelley Conservation Area) and two non-designated built heritage assets located within a 1km search radius around the site. However, the report has established that only three Listed Buildings – Church of St Martins (Grade II\*), Bilborough Old Rectory (Grade II) and St Martin's Cottages (Grade II), have the potential to be affected by the development of the site through changes within their settings.
- 8.15 The site, in particularly the north-western part, makes a limited contribution to the significance of the Church of St Martins and the Bilborough Old Rectory. The site makes no contribution to St Martin's Cottages. The proposed development would result in a small visual change within the setting of these three Listed Buildings, but this would be seen within the context of existing residential development and, furthermore, the large area of proposed POS which would help to preserve the existing setting of these heritage assets.
- 8.16 It is concluded above that the proposed development would not cause harm to the significance of any designated or non-designated built heritage assets. Therefore, in relation to the statutory duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is concluded

that the setting of the adjacent listed buildings would be preserved. Policy 11 of the ACS and policy HE1 of the LAPP are also satisfied in this regard.

**(iv) Impact on the Amenities of Surrounding Residents and Future Occupants** (Policy 10 of the ACS, Policies DE1 and IN2 of the LAPP)

- 8.17 The proposed residential layout has been designed to ensure a good standard of outlook for future occupiers and separation distances between properties are adequate. The layout would ensure that there is no significant degree of overlooking or the loss of light for the future occupants. All proposed dwellings meet the Nationally Described Space Standards and would be provided with appropriate sound insulation measures.
- 8.18 The site is surrounded by residential properties with a number backing onto sections of the site boundary. Concern has been raised by one of the neighbouring residents that once the 3 storey houses are erected and if the existing trees are removed, then the privacy of their property will be lost. None of the 3 storey dwellings back onto these shared boundaries, but rather have been positioned overlooking the POS and sparingly to mark prominent corners throughout the layout. Furthermore, none of the 2.5 storey dwellings have either dormers or large rooflights on their rear elevations. Many of the adjacent properties, particularly along Chingford road and Wigman Road have very generous deep gardens and elsewhere appropriate back-to-back distances would be maintained.
- 8.19 The proposal therefore complies with policy 10 of the ACS and policies DE1 and IN2 of the LAPP in this regard.

**(v) Highway Considerations including Public Rights of Way** (Policies 10 and 14 of the ACS, Policy TR1 of the LAPP)

- 8.20 Some of the representations received raise concern about the level of traffic and congestion that would arise from the proposed development.
- 8.21 A Transport Assessment accompanied the application and demonstrates that the development would have a negligible impact on both the operation of the highway network and highway safety. Vehicular access is to be provided via a new raised table priority crossroads junction with Chingford Road and Calveley Road. This would be designed to current standards to accommodate the anticipated demand and is demonstrated that suitable visibility splays could be achieved at the access junction without the requirement for third party land. The exact design will be subject to agreement via the S278/S38 process. Footways flanking both sides of the site access are proposed, connecting with the existing pedestrian infrastructure on Chingford Road. The internal site design incorporates the continuation of these footways, ensuring good permeability within the site. Pedestrian connections to Yatesbury Crescent and St Martin's Road to the north are also proposed.
- 8.22 There are many amenities and facilities in the local area. The nearest bus

stops are located on Wigman Road, an approximately 300m walk to the west of the proposed site access on Chingford Road. Additional bus stops are located on Strelley Road and Moor Road, within an approximately 500m walk to the north of the site.

- 8.23 Highways are satisfied with the updates that have been made to the layout but still require further detailed design amendments to some of the roads, which can be secured through condition. It is considered that a sufficient number of parking spaces is being provided throughout the layout, with visitor car parking spaces additionally being available.
- 8.24 The applicant has confirmed that an Electric Vehicle Charging Point (EVCP) would be provided for each dwelling, which can be secured via condition.
- 8.25 Local Access Forum (LAF) has requested a commitment to register all footpaths/bridleways with the Highway Authority as public rights of way (PROW). They have also requested a revised PROW plan showing all paths within the POS and elsewhere on site to be bridleway rather than footpath. The stopping up order procedure is at an advanced stage with DfT. The ROW officer is satisfied that it is necessary to stop up the unrecorded public bridleways in order to enable the development to be carried out. The ROW officer considers that the footways at the side of the roads do not have to be “bridleways” but the proposed PROW in the NW corner / POS should be dedicated as public bridleways. A revised plan to reflect this can be secured through condition. A path connection from the POS through to St Agnes Close as requested by the LAF cannot be feasibly achieved and would result in depletion of the existing dense boundary vegetation in that area that is proposed to be retained. Given that this is not an existing access point and the other opportunities available to pedestrians entering the site, it is not considered appropriate for this to be pursued.
- 8.26 Overall, it is considered that the level of traffic generated by the proposals can be accommodated and would have no material impact on the safe operation of the local highway, nor would it significantly add to any congestion at the peak times on the local network. Subject to the recommended conditions, the development is considered to accord with policies 10 and 14 of the ACS and policy TR1 of the LAPP.

**(vi) Flood Risk and Drainage (Policy 1 of the ACS, Policy CC3 of the LAPP)**

- 8.27 The Environment Agency’s Flood Map shows the site lies within Flood Zone 1 (low risk of flooding). The application has been supported by a detailed Flood Risk Assessment (FRA) which shows that the site is not susceptible to any risk of flooding other than from surface water which is predicted to impact a small area in the southern part of the site. Mitigation measures have been included to ensure that the development is safe for its lifetime from flooding and, where possible, will reduce flood risk overall.
- 8.28 The EA has raised no objection to the proposal on flood risk grounds. Subject to the imposition of suitable conditions suggested by the Drainage team, the

proposal accords with policy 1 of the ACS and policy CC3 of the LAPP.

**(vii) Impact on Trees (Policy EN7 of the LAPP)**

- 8.29 The trees at the site are located close to the site boundaries and within neighbouring properties. No tree cover exists within the central areas of the site which consists of a large expanse of open grassland. A tree survey was submitted with the proposal which identifies 27 individual trees, 19 tree groups, and 14 hedgerows within the site.
- 8.30 The development proposals indicate that 8 trees, 5 tree groups and 3 hedgerows would need to be removed to facilitate the new development.
- 8.31 Whilst not objecting the Tree Officer of the Council and Nottingham Open Access Forum have requested that tree T33 (a large ash to the rear of 42 Chingford Road) should be retained.
- 8.32 It should be noted that T33 is a category C tree which is of low quality with an estimated remaining life expectancy of at least 10 years. Therefore, the future of retention of this tree needs to be assessed in the context of the wider aspirations for the site. The proposal would secure 130 new family homes for the City (including policy compliant affordable homes) alongside all the other economic, social and environmental benefits that the development would bring. The tree is located at a pivotal point at the access to this development. To retain this tree and its RPA would sterilise the only achievable vehicular access into the site thus stifling development and resulting in an undeliverable site allocation.
- 8.33 The proposed scheme would provide significant replacement trees to outweigh any perceived harm resulting from the removal of this tree or any others. As part of the landscaping scheme approximately 175 trees of varying species and sizes would be planted, excluding any trees to be planted in rear gardens. This would result in a greater tree coverage across the site when compared to its current situation. In addition, the landscaping plan has specifically chosen a mixture of semi mature, heavy and extra heavy standard trees to plant as bookends to the site entrance, throughout the POS, along main routes and at focal points to give early structure and maturity to the scheme.
- 8.34 On this basis, the benefits of the scheme are considered to significantly outweigh the merits of retaining T33 or any of the other trees, and the proposal is therefore in accord with policy EN7 of the LAPP.

**(viii) OTHER MATTERS**

**Archaeology (Policy HE1 of the LAPP)**

- 8.35 A desktop archaeological assessment has been undertaken and reviewed by the Council's Archaeologist. An archaeological excavation would be required

prior to any groundworks commencing, which can be secured through condition.

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

- 8.36 No significant soil contamination or ground gas issues were identified during the site investigation. Environmental Health have raised no objection and requested standard conditions to deal with the risks associated with radon gas.

**Planning Obligations** (Policy 19 of the ACS, Policies IN4, HO3, EN2, LS5 and EE4 of the LAPP)

- 8.37 As the Council currently owns the land and cannot enter into a s106 agreement with itself, an agreement is to be secured with the developer under s111 of the Local Government Act 1972 requiring a s106 planning obligation to be completed on transfer of the land. A policy compliant planning obligation for the proposed development would be expected to provide the following contributions:
- (i) On-site provision of 20% affordable housing
  - (ii) A financial contribution of £63,885 towards local employment and training
  - (iii) a financial contribution of £390,427 towards secondary school provision
- 8.38 Policy HO3 of the LAPP requires that 20% of the homes will be required to be affordable housing. The tenure and mix of these homes is subject to on-going negotiation.
- 8.39 The contributions for local employment and training and education would meet the requirements of policies EE4, LS5 and IN4 of the LAPP. These contributions together with the on-site affordable housing provision will be secured through the s111/106 agreements.
- 8.40 The NUH Trust has also made a request for a contribution of £145,853.00 towards the provision of additional secondary health care services to meet patient demand arising from the development. It is accepted that health care provision is a material planning consideration within chapter 8 of the NPPF (Promoting Healthy & Safe Communities) which seeks to ensure that planning decisions deliver healthy, inclusive and safe places. Policy IN4 of the LAPP states that developments will be expected to meet the reasonable costs of new infrastructure and services required as a consequence of the proposal, including for community facilities. Whilst the Council are therefore supportive of the principle of such a contribution, a number of queries and issues arise. These concern the need for the specific contribution sought; the method of calculation for the figure requested, and reassurances that the monies sought are necessary and would be spent on healthcare provision directly, fairly and reasonably related to this development. In the absence of the Trust being able to satisfy these outstanding issues, they have been unable to demonstrate

that the contribution sought is compliant with the CIL Regulations 2010. This view also reflects the approach of the Planning Court in the recent case of R v Harborough DC.

**(ix) Sustainability and Biodiversity (Policies 1 and 17 of the ACS, Policies CC1 and EN6 of the LAPP)**

- 8.41 The Sustainability Statement submitted with the application states that Photovoltaic Panels are to be installed on the most appropriate house types. The proposal would also achieve carbon emission reductions through fabric improvements, highly efficient insulation materials, by maximising water efficiency and by effective management of waste. An Electric Vehicle Charging Point is to be installed for each dwelling. Policy 1 of the ACS and policy CC1 of the LAPP are satisfied in this regard.
- 8.42 The Preliminary Ecological Appraisal submitted with the application has identified that the site as existing is of low ecological value. Whilst some areas of the scrub and trees would be lost, there would be no overall loss of these habitats, with a greater area of scrub and number of trees present post development. Further to this, at least 10% of houses within the development would be fitted with an integrated bird bricks/swift boxes, against adjacent vegetation, to create new opportunities for nesting birds. All vegetation clearance required in conjunction with the development would take place outside of the nesting bird season (March to August inclusive), to ensure that there is no impact on nesting birds.
- 8.43 The site is assessed as providing low value habitat for foraging and commuting bats, although the boundary vegetation does provide a linear corridor in an otherwise urban environment. No trees were found to host features which were suitable for roosting bats. Whilst much of the boundary vegetation to the south is being lost, the vegetation to the north, particularly the north-west, is being enhanced to create a wide scrub corridor with trees, neighboured by species rich grasslands which would encourage invertebrate diversity and therefore enhance foraging opportunities, promoting the use of the site by bats as opposed to just for commuting. Integrated bat bricks would be installed in at least 10% (thirteen) of the new buildings on site.
- 8.44 All these measures would provide over 10% gain in biodiversity units on the site, which is welcomed by the Biodiversity Officer. The proposal would enhance the biodiversity value of the site in accord with policy 17 Of the ACS, policy EN6 of the LAPP and the Biodiversity SPD.

**9 Financial Implications**

Financial contributions as detailed above are in accordance with policies IN4, EN2 and EE4 of the LAPP and relevant Supplementary Guidance.

**10 Legal Implications**

The duty in s66 of the Planning (Listed Building and Conservation Area) Act 1990 to have special regard to the desirability of preserving a listed building or



its setting or any features of special architectural or historic interest which it possesses arises in the context of the development's affect upon Church of St Martins (Grade II\*), Bilborough Old Rectory (Grade II) and St Martin's Cottages (Grade II), and so must 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 the listed buildings and give great weight to the conservation of these designated heritage assets irrespective of the level of any harm to their significance.

Any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting), requires clear and convincing justification. Here the Planning Officer offers the opinion that the harm is less than substantial which, should the Committee accept this view, would require the harm to be weighed against the public benefits of the proposal. A balanced judgement should be reached on the scale of the harm or loss and the significance of the non-designated heritage asset.

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.

## **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: Redevelopment of a partially cleared brownfield site with a high quality, sustainable and mixed-use development

Safer Nottingham: The development enhances the surrounding pedestrian environment and incorporates active ground floor frontages that would contribute to a safer and more attractive neighbourhood

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: 22/02157/PFUL3 - link to online case file:

<https://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RKKB4QLYMF600>

**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

Education contributions from residential developments (2021) SPD

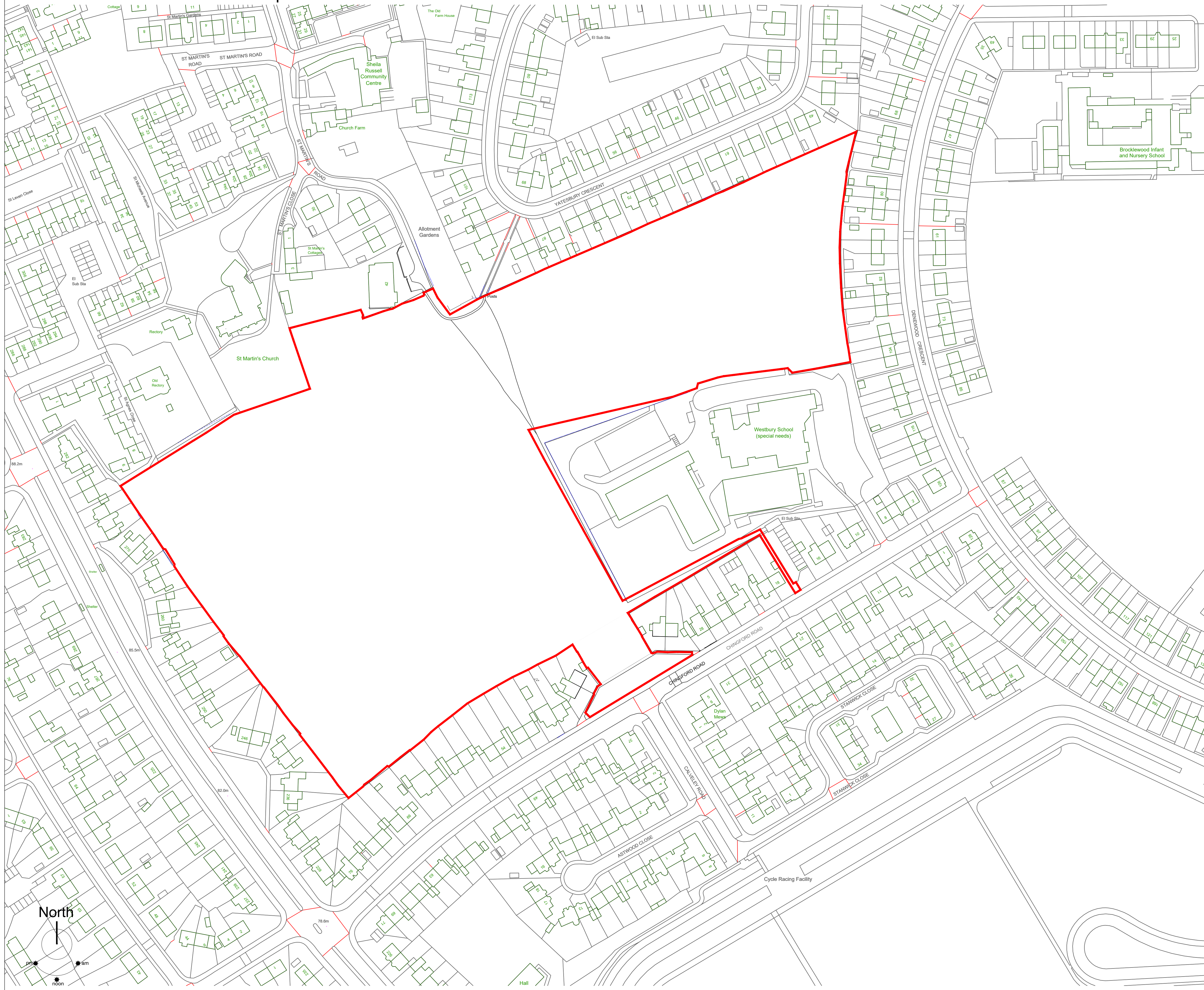
**Contact Officer:**

Mohammad Taufiqul Islam, Case Officer, Development Management.

Email: [Mohammad.Taufiqul-Islam@nottinghamcity.gov.uk](mailto:Mohammad.Taufiqul-Islam@nottinghamcity.gov.uk)



# Chingford Road | Location Plan



All work to be carried out in accordance with the requirements of the Building Regulations, Water Authority and the Construction (Design and Management) Regulations currently in force.

Do not scale from this drawing. Architect to be notified of any discrepancies.

Verify relevant dimensions on site before commencing work or preparing shop drawings. This drawing is copyright.

Rev	Date	Description	By	Checked
A	02.03.2022	Location plan updated following title review.	LM	LA
B	03.09.2022	Location plan updated to survey information and Land comments regarding relation to school and existing boundaries.	LM	LA
C	30.09.2022	Survey information and demolished homes removed from plan.	LM	LA
D	26.10.2022	Red-line amended to align with title plan following feedback from Land.	LM	LA
E	09.01.2023	Red-line amended to include pathway to be stopped up and remove area of land to be retained by school.	LM	LA
F	17.01.2023	Red-line amended to include more of the existing path to be stopped up.	LM	LA

KEY:

 Application Boundary



strata homes limited | quay point | lakeside | doncaster | DN4 5PL  
t: 01302 308508      www.strata.co.uk

scale: 1:1000@A1 | drawn by: LA | date: 08.02.22

Project: Chingford Road, Nottingham

Drawing: Location Plan

Planning Ref:	N/A
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Drawing Number: 21-CL6-SEGB-CRB-03	Revision: F
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**My Ref:** 22/02157/PFUL3 (PP-11364609)

**Your Ref:**

**Contact:** Mr Mohammad Taufiqul-Islam

**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

Marrons Planning  
FAO Jenny Keen  
Waterfront House  
35 Station St  
Nottingham  
NG2 3DQ

Date of decision:

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

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Application No: 22/02157/PFUL3 (PP-11364609)  
Application by: Strata  
Location: Playing Fields To South Located West Of Westbury School, St Martins Road, Nottingham  
Proposal: Full planning application for the residential development of 130 new homes alongside associated site infrastructure, open space, and landscaping.

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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. Prior to the commencement of development a Construction Traffic Management plan shall be submitted to and agreed in writing with the Local Planning Authority. Provision shall be made to accommodate all site operatives, visitors and construction vehicles loading and offloading, during the construction period. The Construction Traffic Management Plan shall also include a construction traffic routing agreement and strategy for managing mud or similar debris on the adjacent public highways.

*Reason: To ensure that the construction of the development has no adverse impact on the local highway network and has no significant impact on neighbouring properties to accord with policy TR1 of the LAPP.*

3. No development involving the breaking of ground shall take place unless a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- a) The programme and methodology of site investigation and recording
- b) The programme for post investigation assessment
- c) Provision to be made for analysis of the site investigation and recording
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e) Provision to be made for archive deposition of the analysis and records of the site investigation
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason: To ensure that any archaeological remains of significance are safeguarded in accordance with policy 11 of the ACS and policy HE2 of the LAPP.*

4. Prior to the commencement of development and notwithstanding the approved drawings, details of the proposed new vehicular access on Chingford Road shall be submitted to and approved in writing by the Local Planning Authority. Details to be provided shall include the layout, geometry, signing and lining of the junction, a swept path analysis and visibility splays.

The vehicular accesses shall be constructed in accordance with the approved details.

*Reason: To avoid prejudice to traffic conditions within the vicinity of the site and to safeguard the amenities of existing occupiers in accordance with Policies 10 and 14 of the ACS and Policies DE1, DE2 and TR1 of the LAPP.*

5. Prior to the commencement of the development, details of the management of surface water on site during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority.

The approved details shall be implemented at all times during construction.

*Reason: In the interests of ensuring the appropriate management of surface water during construction, in accordance with Policy CC3 of the LAPP.*

6. Prior to the commencement of the development, details of the design and associated management and maintenance of the surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority.

The approved drainage system shall be implemented in accordance with the approved detailed design, prior to occupation of the first dwelling.

*Reason: In the interests of ensuring the appropriate management of surface water and to minimise the risk of surface water flooding events affecting occupants of the development in accordance with Policy CC3 of the LAPP.*

7. Prior to the commencement of development, and notwithstanding the approved drawings, the following shall be submitted to and approved in writing by the Local Planning Authority:

- a) Details of the road and footpath design and configuration including street trees, traffic calming features, surface materials and the reconfiguration of turning head adjacent to the end of St Martin's Road.
- b) Details of existing and proposed levels, shown in the form of sections illustrating the relationship between existing and proposed dwellings, for the plots adjacent to the site boundary.

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

*Reason: In the interests of the appearance of the development and the amenities of existing neighbouring residents, in accord with policy 10 of the ACS and policies DE1 and DE2 of the LAPP.*

8. Prior to the commencement of above ground development and notwithstanding the approved drawings, the following shall be submitted to and approved in writing by the Local Planning Authority:

- a) Details of the external materials of the approved dwellings including their facing, roofing and hardsurfacing materials.
- b) Details of the window frames and reveal depths, doors, rain water goods and meter boxes/ventilation louvres (if any).
- c) Details of all means of boundary enclosure, including of the public realm.

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

*Reason: In the interests of the appearance of the development, in accord with policy 10 of the ACS and policies DE1 and DE2 of the LAPP.*

9. Prior to the commencement of above ground development, details of a scheme of bird/swift boxes/bricks, bat boxes/bricks and hedgehog friendly fencing throughout the development, shall be submitted to and approved by the Local Planning Authority.

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

*Reason: In the interest of biodiversity in accordance with Policy 17 of the ACS, Policy EN6 of the LAPP and the Biodiversity Supplementary Planning Document (February 2020).*

**Pre-occupation conditions**

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

10. Prior to occupation of the 1st, 50th, 100th and 130th dwellings, the following shall be submitted to and be approved in writing by the Local Planning Authority:

A Verification Report to demonstrate that the approved Remediation Statement by JNP Group dated Dec 2022 to deal with radon gas contamination of the site, has been fully implemented and completed for the dwellings completed at that point.

*Reason: To ensure that the proposed development poses no contamination risks to accord with Policy 1 of the ACS and Policies CC3 and IN2 of the LAPP.*

11. Prior to occupation of the 1st, 50th, 100th and 130th dwellings, verification that the approved sound insulation and ventilation scheme, as set out in the Noise Impact Assessment by ENS dated 26/09/2022, has been implemented and is fully operational for each dwelling completed at that point, shall be submitted to and be approved in writing by the Local Planning Authority.

*Reason: To ensure that an appropriate noise environment for future occupants and to accord with Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP.*

12. Prior to occupation of the first dwelling and notwithstanding the approved drawings, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include the type, height, species and location of all new trees (including street trees) and shrubs which shall comprise native species and plants attractive to pollinators.

The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of each dwelling or the completion of the development, whichever is the sooner. 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 ACS and Policies DE1, DE2 and EN6 of the LAPP.*

13. Prior to occupation of the first dwelling, details of the management and future maintenance of the public open space, street trees (if not to be adopted as part of the public highway) and other areas of land that are neither within the adopted public highway or the curtilage of one of the dwellings, shall be submitted to and approved by the Local Planning Authority.

Thereafter the approved maintenance and management arrangements shall be implemented at all times.

*Reason: To safeguard appropriate and on-going management and maintenance arrangements for the public areas within the development, in the interests of the amenities of future residents and users of the public open space, in accordance with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.*

14. No dwelling shall be occupied until the following have been carried out in accordance with the approved details:

- a) the parking space/s for the dwelling have been provided and surfaced;
- b) the means of enclosure for the dwelling has been installed;
- c) the on-plot hard surfacing for the dwelling has been installed;
- d) the Electric Vehicle Charging Point for the dwelling has been installed.

*Reason: In the interests of the living conditions of future and neighbouring occupiers, and of promoting sustainable transport, in accordance with Policies 1 and 10 of the ACS and Policies CC1, DE1 and DE2 of the LAPP.*

### **Regulatory/ongoing conditions**

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

15. Notwithstanding any details or notes in the application documents stating or implying otherwise, the dwelling(s) hereby permitted shall be designed and constructed to meet the optional water efficiency requirement of 110 Litres per person per day as specified by Part G of Schedule 1 and regulation 36 (2) (b) of the Building Regulations 2010 (as amended).

*Reason: To ensure efficient use of water resources in the interests of sustainability, to comply with Policy CC1 of the LAPP.*

16. No external lighting shall be installed other than in accordance with the details of a scheme that have first been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be sensitive to bats and should be designed to negate impact on adjacent residential properties.

External lighting shall only be implemented in accordance with the approved scheme.

*Reason: In the interest of ensuring that the development of the site has regard to protected species and neighbouring properties, in accordance with Policies EN6, DE1 and DE2 of the LAPP.*

### **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 30 October 2022.

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

### **Informatives**

#### **1. Radon Gas Contamination**

An appropriate Radon Report depends on the type and size of the site in question & may be either a Radon: England & Wales GeoReport ([https://shop.bgs.ac.uk/Shop/Product/GRS\\_S003](https://shop.bgs.ac.uk/Shop/Product/GRS_S003)) or a Radon Risk Report (<https://www.ukradon.org/services>).

According to the Public Health England (PHE) radon inside buildings is the main source of human exposure to radiation in the UK. Their advice for residential and other properties is that the Action Level for radon concentrations should be 200 Bq m<sup>-3</sup> and the Target Level should be 100 Bq m<sup>-3</sup>. Some parts of the Nottingham city area fall within Radon Classes 2, 3 or 4 where respectively 1% to <3%, 3% to <5% or 5% to <10% of homes are estimated to be above the Action Level. Areas where more than 1% of homes are estimated to be above the Action Level are termed Radon Affected Areas. Furthermore areas where between 1% and 10% of homes are estimated to be above the Action Level are regarded as intermediate probability radon areas.

This development site is classified as being in a Radon Affected Area (Class 3 or Class 4) and as such between 1% to <3% (Class 3) or 3% to <5% (Class 4) of residential buildings in this area are estimated to have radon levels above the Action Level of 200 Bq m<sup>-3</sup>.



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Consequently based on Building Regulations Approved Document C, Radon - Guidance on Protective Measures for New Buildings BRE 211 (2015), and the Public Health England (website <http://www.ukradon.org/>) in order to protect the health of future residents or occupiers of this development from the adverse effects of radiation all new buildings, extensions, conversions & refurbishments:

i. Must include basic radon protection measures as a minimum consisting of a well-installed damp-proof membrane, modified and extended to the outer layer of construction to form a radon-proof barrier across the ground floor of the building, in addition,

ii. The domestic Action Level and Target Level should be applied to non-domestic buildings with public occupancy exceeding 2000 hours per years and also to all schools.

The Remediation Strategy must be undertaken and implemented in accordance with the Environment Agency's Land Contamination Risk Management guidance published at <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>, CIRIA C735 Good Practice on the Testing & Verification of Protection Systems for Buildings Against Hazardous Ground Gases (2014)' and other authoritative guidance. The Remediation Strategy must also provide details of how gas precautions will be validated and the Verification Report must provide details of the inspection process.

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

Any radon gas protection measures included in the original development are designed for the buildings as originally constructed to protect against possible dangers to public health and safety arising from any accumulation of radon and to ensure that the site can be developed and used without health or safety risks to the occupiers of the development and/or adjoining occupiers. These protection measures may be compromised by any future extension of the footprint of the original building or new building structures within the curtilage of the site including the erection of a garage, shed, conservatory or porch or similar structure. Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought should future extension of the footprint of the original building or new building structures within the curtilage of the site be proposed (regardless of whether the proposed construction requires planning permission or building regulation approval).

The responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or the landowner. The developer is required to institute a thorough investigation and assessment of the ground conditions, nature and degree of contamination on the site to ensure that actual or potential risks to public health and safety can be overcome by appropriate remedial, preventive or precautionary measures. The developer shall provide at his own expense such evidence as is required to indicate clearly that the risks associated with ground, groundwater and ground gas contamination of the site has been addressed satisfactorily.

NB: Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought where there are both radon issues and ground gas issues present.

## 2. Environmental Noise Assessment

Verification that the approved sound insulation and ventilation scheme has been implemented shall include;

The specification and acoustic data sheets for glazed areas of the development and any complementary acoustic ventilation scheme

example photographs of the products eg glazing and ventilation units in situ (prior to identifying labels being removed)

photographs, drawings (and where applicable) product data sheets of any other sound insulation measures eg floor joists, floating floors, independent acoustic ceilings or walls etc

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

3. 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 via [highway.approvals@nottinghamcity.gov.uk](mailto:highway.approvals@nottinghamcity.gov.uk). All costs shall be borne by the applicant.

4. 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 at [highway.management@nottinghamcity.gov.uk](mailto:highway.management@nottinghamcity.gov.uk) or 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.

5. Prior to occupation of the consented development, it is necessary to amend and introduce Traffic Regulation Orders. This is a separate legal process and the Order can be made on behalf of the developer by Nottingham City Council at the applicant's expense. It is strongly recommended that you make contact at the earliest opportunity to allow time for the process to be completed. For TRO advice and further information the applicant is advised to contact [traffic.management@nottinghamcity.gov.uk](mailto:traffic.management@nottinghamcity.gov.uk).

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: 22/02157/PFUL3 (PP-11364609)

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/pcs](http://www.planningportal.gov.uk/pcs).

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](mailto: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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