

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

### **Former Apollo Hotel, 170 Hucknall Lane**

#### **1 Summary**

Application No: 23/00120/PFUL3 for planning permission

Application by: Mr Andrew Pettifor on behalf of Mersenne Developments Ltd

Proposal: Construction of a mixed-use development comprising a UCO Classes E(a) and (b) unit with drive-thru and two number Use Class E(a), E(b), E(c) and Sui Generis (tanning salon) units, with associated parking, Electric Vehicle Charging points, minor alterations to the vehicular access, and landscaping.

This application was deferred at the June meeting and is returned to Committee because it is considered to raise sensitive issues having regard to the history and previous decisions of the Planning Committee

To meet the Council's Performance Targets this application should have been determined by 21st March 2023

#### **2 Recommendations**

1. Grant permission subject to the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Director of Planning and Transport.

#### **3 Background**

3.1 The attached report on the proposed development was made to Planning Committee on 21 June. In deferring a decision on the application the draft minute of this Committee states that:

“The Committee felt that it was unable to take a decision on this application until further information regarding the local air quality impacts for residents and occupiers of the site resulting from this development. The Committee also requested that the applicant is approached to see if a more architecturally appealing and sustainable building design for the drive-thru restaurant can be proposed as a part of the application.”

The following further information and proposed design amendments have been received.

3.2 (i) Air Quality Impacts

The applicant has commissioned an air quality assessment and has provided a report, which concludes that the development-generated traffic emissions will not have a significant impact on local air quality and that further mitigation measures are not required. Environmental Health have reviewed the report and have confirmed that they accept its findings. It is therefore considered that the proposed development will not significantly impact upon local air quality in accordance with LAPP Policy IN2.

#### (ii) Building Design and Sustainability

The applicant has agreed to make a number of changes to the building design.

Greggs Unit:

- Cladding changed to brickwork on North and West elevations facing the car park & Hucknall Lane, respectively.
- Blue corner feature and blue side feature blue cladding extended in height.
- PV array area included on the roof.

Retail Units:

- Cladding changed to brickwork on South, East and West elevations facing Hucknall Lane and parking areas.

Site Plan:

- Increased number of trees.
- Railings added to Hucknall Lane boundary wall.

The applicant has also advised that they are willing to accept a condition to require the submission and approval of details to control/protection of out-of-hours access to the site.

It is considered that the applicant has responded positively to Committee's request and it is considered that the proposed amendments are appropriate to the appearance and sustainability of the proposed development. The proposed amendments will be presented to Committee.

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

**Environmental Health:** The findings of the Air Quality Assessment Report that the impact on this development on Air Quality is likely to be insignificant are accepted.

# Appendix - 23/00120/PFUL3 Committee Report June 2023

Wards Affected: Bulwell

Item No:

Planning Committee 21 June 2023

## Report of Director of Planning and Transport

### Former Apollo Hotel, 170 Hucknall Lane

#### 1 Summary

Application No: 23/00120/PFUL3 for planning permission

Application by: Aspbury Planning Ltd on behalf of Mersenne Developments Ltd

Proposal: Construction of a mixed-use development comprising; a UCO Classes E(a) and (b) unit with 'Drive-thru;' and, Two number Use Class E(a), E(b), E(c) and Sui Generis (tanning salon) units; with associated parking; Electric Vehicle Charging points: minor alterations to the vehicular access; and, landscaping.

The application is brought to Committee because it is considered to raise sensitive issues having regard to the history and previous decisions of the planning committee.

To meet the Council's Performance Targets this application should have been determined by 21st March 2023

#### 2 Recommendations

**GRANT PLANNING PERMISSION** subject to the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Director of Planning and Transport.

#### 3 Background

3.1 The application site is the site of the former Apollo Hotel and public house on Hucknall Lane.

3.2 There are residential properties on Ventura Drive to the north and adjoining the east/rear boundary of the site. There is a tyre centre and electrical factors businesses to the south of the site on Saxondale Court.

3.3 Planning permission for the use of part of the application site as a hand car wash was initially granted temporary consent (13/01074/PFUL3) and renewed on two occasions. Planning permission was subsequently granted on 15 January 2021 (20/02230/PFUL3) for the permanent retention of the hand car wash and hot food unit with limiting planning conditions.

3.4 The car wash operations have recently ceased and the site has been vacated.

## **4 Details of the proposal**

- 4.1 The application proposes the construction of a new mixed-use development comprising a drive thru restaurant and a separate building containing two retail units. The application description has been recently amended, removing the previous reference to hot food take away use (sui generis) from all three proposed units. The applicant has also confirmed the proposed first occupiers as Greggs for the drive thru, and Subway and Indigo Sun (tanning salon) being for the other two retail units.
- 4.2 The drive thru restaurant building would be located centrally proximate to the southern boundary of the site, with the two retail units occupying a similar position proximate to the sites' northern boundary. Vehicle access would be from Hucknall Lane and from the north eastern corner of the site. There would be a loop road around the proposed drive thru restaurant building, with menu boards and an order point. There would be a separate pedestrian access midway along the Hucknall Road boundary, at a point adjacent to an existing bus stop. Customer car parking (including EV parking) is arranged around the proposed buildings, with landscaping proposed around the perimeter of the site.
- 4.3 The applicant has recently amended their proposed hours of operation from 06:30 to 23:00 Monday-Saturday, to 07:00 to 22:00 Monday-Saturday. Sundays/Bank holidays are unchanged, being proposed as 08:00 to 20:00.

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

### **Adjoining occupiers consulted:**

181-199(o) Hucknall Lane  
1, 7, 9, 11, 15, 17, 12-22 Ventura Drive  
2, 3 Saxondale Court

Neighbour: On a previous occasion I notified you of risks regarding rodent infestation emanating from the River Leen, drawn towards open air food outlets installed on the car wash site. It is the Springfields Estate that pays the cost of rodent invasions infesting their gardens by rats lodging under sheds and seeking entry to our residences. I therefore reiterate that the further pursuit of food outlets on this site exacerbates the rodent problem as it affects the residents of Springfields Estate, and we the residents require more deference towards our unaddressed fears and unintended consequences of rodent infestation. This is not good enough.

Neighbour (x2): We object to the proposed development. The opening hours of the development are not appropriate for a site that shares a direct boundary with residential properties, and will have an impact on our quality of life, through noise caused by staff and deliveries accessing and leaving the site earlier and later than the specified opening hours, as well as cars and associated noise such as music, modified cars with loud exhausts, etc, groups of people gathering, etc.

The location of the drive thru is wholly inappropriate behind 3 residential properties and the food order points and outside customer seating being directly behind our back gardens (the 'acoustic' fence installed on the site does nothing to minimise the noise generated on the site, which will only increase with the increased number of visitors to the site). The order points at McDonalds can be heard at our properties in

the evening, throughout the night, and early morning when the roads are quiet, so there is no doubt that the location of these will cause significant disturbance.

Idling cars going through the drive thru will have an impact on air pollution so close to residential properties where young children and vulnerable adults are residing. There will be increased pollution resulting from the increase in traffic to the site and cars idling so close to the rear boundary of the gardens.

The development will result in an increase in anti-social behaviour in the area, as is proven by the number of incidents that take place in the vicinity of McDonalds nearby.

Food sold on the site previously led to an increase in rats in the area that, as we share a direct boundary with the site, often appeared in our gardens, which is not safe.

We can see from the site plan that there is the intention to install a CCTV pole. Given the proximity of this to our properties, it appears that this will infringe on our privacy when we are inside our properties, as well as outside in the garden.

We cannot see the lighting details but, as it appears that the site will not be gated off when it is not operating, it can be assumed that any lighting would be kept on all night, which will cause light pollution issues for our bedrooms which look out on to the site.

The increase in traffic in and out of the site will have a negative impact on Hucknall Lane which is already significantly congested during peak travel times.

The development is not an appropriate use for a site of this nature at all, but should there be a recommendation to approve it, the proposed layout would have to be turned 180 degrees so that the drive thru is located on the opposite side of the site which does not share a direct boundary with any residential properties. The opening hours (and hours for staff and delivery access) would also need to be significantly reduced to minimise the impact on the residential dwellings that share a boundary.

**Additional consultation letters sent to:**

**Nottingham Local Access Forum:** We query the assumption that cycle parking will be dependent on staff demand. There should instead be some provision in the layout plans at the outset in accordance with the current local plan Part 2 Appendix 1. It follows therefore that current relevant layout plans should not be referenced in a decision notice to approve. The Framework Travel Plan states (section 5) that the recommended annual Travel Plan Review Report will be submitted to the local authority, but it must state an officer post recipient. That post should probably sit within the Transport department.

**Environment Agency:** The development falls within flood zone 2 and therefore the LPA should apply national flood risk standing advice.

**Flood Management Team:** No objection subject to conditions relating to detailed drainage design, the management of surface water on site during construction, and verification drainage system has been constructed as per the agreed scheme.

**Policy:** No objection. Main town centre uses in an out of centre location are to be reviewed having regard to Policy SH4 of the Land and Planning Policies Local Plan. It is considered that the applicant has demonstrated the absence of any suitable/available alternative sites in more appropriate locations. The sequential test is therefore considered to be satisfied.

**Environmental Health:** No objection subject to conditions relating to commercial plant noise; noise and dust management during construction; odour and ventilation; ground gas contamination remediation; a noise management plan to address any instances of noise complaints from the operation of the proposed development; and operating hours control.

**Highways:** No objection subject to conditions and informatives. Please ensure any boundary treatment to Hucknall Lane prevents headlight infiltration from the drive thru onto traffic movements and distraction.

## **6 Relevant policies and guidance**

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

Policy 1 - Climate Change  
Policy 6: Role of Town and Local Centres  
Policy 10 - Design and Enhancing Local Identity  
Policy 14 - Managing Travel Demand

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

Policy CC3: Water  
Policy DE1: Building Design and Use  
Policy SH4: Development of Main Town Centre Uses in Edge of Centre and Out of Centre Locations  
Policy IN2: Land Contamination, Instability and Pollution  
Policy TR1: Parking and Travel Planning

### **NPPF (2021):**

Paragraph 87 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

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

### **Main Issues**

#### **Issue (i) Location and Use**

- 7.1 The proposed development includes main town centre retail uses on a site that is defined as being in an out-of-centre location, with the nearest main town centre being Bulwell Town Centre. Paragraph 87 of the NPPF, ACS Policy 6 and LAPP Policy SH4 states that planning permission for development of main town centre uses in edge of centre and out of centre locations will be subject to the sequential

test for site selection, with proposals for development being required to satisfactorily demonstrate that there are no sequentially preferable sites available.

- 7.2 The applicant has submitted a sequential test report, which has been reviewed by the Policy Team. The submitted assessment concludes that there are no suitable alternative sites where the proposed development could be located. The majority are identified as being too small, with others either not being available or at locations that are sequentially less preferable than the application site. It is therefore considered that the proposed drive-thru and other uses are sequentially located on the most appropriate and available site.
- 7.3 The site's position is within a short travel distance of the Bulwell Town Centre where it can be expected that a proportion of customer trips will be linked to those visiting the centre. Whilst it must be anticipated that the higher proportion of trips to the proposed development will be made by car, it is also likely that many of these trips would occur already, either as linked trips to the centre or as commuter trips using Hucknall Road as a primary traffic route into and out of the city. The site is located on a bus route with a bus stop immediately adjacent to the site's boundary with Hucknall Road. On-site cycle parking facilities can be secured via a planning condition.
- 7.4 The site remains predominantly vacant and the proposed development will therefore enable the development of a brownfield land and provides the opportunity to improve its overall appearance.
- 7.5 Accordingly, it is not considered that the proposed development would conflict with ACS Policy 6 and LAPP Policy SH4.

### **Issue (ii) Layout and Design**

- 7.6 The format of a drive-thru is not particularly flexible, with vehicle movement being required around the building. The proposed layout therefore provides for access off Hucknall Road and a loop road, with drivers menu boards and an order point prior to the building collection hatch.
- 7.7 It is noted that the applicant has positioned the drive-thru off from the rear boundary of the site and therefore at a distance from the nearest residential properties to the rear on Ventura Drive. The impact upon the residential amenity of those properties is discussed below but, in terms of the internal layout of the site, the position of the drive-thru building is considered to be appropriate as part of the layout of the proposed development.
- 7.8 The additional separate building containing two retail units reflects the position of the drive-thru building and is also generally of the same size. This building is orientated to face the drive-thru and therefore has its side elevation facing towards Hucknall Road and its rear elevation towards the boundary with Ventura Drive. Whilst it would generally be more appropriate for retail units to be orientated towards the principal frontage, in this instance it is considered that there is greater merit in recognising the a cross-site relationship with the proposed drive-thru building and where activity would be focussed towards the centre of the site.
- 7.9 It is therefore considered that the layout and design of the proposed development accords with ACS Policy 10 and LAPP Policy DE1.

### **Issue (iii) Residential Amenity**

- 7.10 The application site is adjoined to the east by residential properties on Ventura Drive. The residential amenity of these properties are acknowledged as being sensitive to noise from activities from within the site, which has been a particular consideration in the determination of planning applications for the existing car wash use.
- 7.11 Activity from the proposed development including vehicle movements and engine noise, speaker noise from the drive-thru ordering point, and deliveries are reviewed within the Noise Assessment report that has been submitted with the application. The report notes that a 2.8m high acoustic fence is proposed to replace the existing acoustic fence that is offset from the eastern boundary of the site and that this replacement fence would extend further across this boundary to the rear of the proposed EV charging points. The fence would therefore effectively screen the proposed development from the ground floor and gardens of those neighbouring properties. The application also indicates that landscaping is proposed on either side of the proposed acoustic fence and further details have been provided to ensure the quality of the proposed treatment across the site. The existing close-boarded timber fence to the northern boundary of the site is proposed to be retained, screening the site from facing properties across Ventura Drive.
- 7.12 The Noise Assessment has been reviewed by Environmental Health, who have considered this to be acceptable subject to planning conditions that are consistent with the conclusions of the report. It is therefore considered that the proposed development accords with LAPP Policies DE1 and IN2 in this respect.
- 7.13 The applicant's revised proposed hours of opening have also been reviewed by Environmental Health and are considered to be acceptable subject to on-going regulation by planning condition.
- 7.14 The comments the neighbours regarding potential privacy infringements arising from the proposed CCTV camera are noted but is not a planning matter, falling under the General Data Protection Regulation and Data Protection Act and it is expected that the applicant will incorporate sufficient measures to avoid this potential conflict.
- 7.15 The comments of the neighbours regarding potential light pollution is a matter that is controlled under the Environmental Protection Act as a 'statutory nuisance' and it is expected that the applicant will incorporate sufficient measures to avoid this potential conflict.
- 7.16 The comments of neighbours relating to rat/rodent issues in the area is not a planning matter and would be regulated under the Environmental Health food safety and hygiene regulations.

### **Issue (iv) Highways**

- 7.17 The application site is currently served by two vehicle access points off Hucknall Road. It is proposed that the southern access is closed and that the northern access proximate to Ventura Drive is developed as an entry/exit point for vehicles. The existing bus stop midway along the site's boundary with Hucknall Road is to be retained and a separate pedestrian access into the site is also proposed at this point.



- 7.18 The application submission also includes a Transport Assessment, which concludes that the traffic impact of the proposed development will be negligible, with a large proportion of trips being made to the site already being present on the road network. The report also concludes that the car park will operate within capacity at peak demand and that service arrangements will accommodate delivery traffic.
- 7.19 The Transport Assessment and application details have been reviewed by Highways, who have advised that the proposed development is acceptable subject to planning conditions. Highways comment in relation to preventing headlight distraction to vehicles using Hucknall Lane is also being addressed under the landscaping boundary wall details that have now been provided. Whilst cycle parking has not been indicated on the proposed layout plan, it is considered that appropriate on-site provision can be secured via a planning condition. It is therefore considered that the proposed development accords with ACS Policy 14 and LAPP Policies DE1 and TR1 in this respect.

#### Other

- 7.20 The applicant has updated their Flood Risk Assessment, which has been reviewed and confirmed as acceptable by the Flood Risk Management team subject to conditions. The proposed development is therefore considered to accord with AC Policy 1 and LAPP Policy CC3.

### **8. Sustainability / Biodiversity**

The provision of six dedicated EV car parking spaces is a positive aspect of the proposed development. The details and quality of the proposed landscaping across the site has also been improved.

### **9 Financial Implications**

None.

### **10 Legal Implications**

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

### **11 Equality and Diversity Implications**

None.

### **12 Risk Management Issues**

None.

### **13 Strategic Priorities**

None.

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

None.

**15 Value for money**

None.

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

1. Application No: 23/00120/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ROZA9MLYLQ000>

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

Aligned Core Strategies – Local Plan Part 1 (2014)

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

**Contact Officer:**

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# Nomad printed map



**Key**  
City Boundary

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**Description**  
A map printed from Nomad.

**My Ref:** 23/00120/PFUL3 (PP-11812437)  
**Your Ref:**  
**Contact:** Mr Jim Rae  
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**Nottingham  
City Council**

Development Management  
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Mr Andrew Pettifor  
Aspbury Planning Ltd  
20 Park Lane Business Centre  
Park Lane  
Nottingham  
NG6 0DW

Date of decision:

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

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Application No: 23/00120/PFUL3 (PP-11812437)  
Application by: Mersenne Developments Ltd  
Location: Former Apollo Hotel, 170 Hucknall Lane, Nottingham  
Proposal: Construction of a mixed-use development comprising a UCO Classes E(a) and (b) unit with drive-thru and two number Use Class E(a), E(b), E(c) and Sui Generis (tanning salon) units, with associated parking, Electric Vehicle Charging points, minor alterations to the vehicular access, 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)



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**Not for issue**

Continued...

2. Prior to the commencement of the development, a noise report shall be submitted to and be approved in writing by the Local Planning Authority.

The report shall provide sufficient detail to demonstrate that the combined noise from any mechanical services plant or equipment (including any air handling plant) specified to serve the development and running at 100% load shall not exceed a level 10dB below the existing ambient LA90 background noise level, at a point 1 metre from the window of any nearby noise sensitive premises at any time during the relevant operational period of the development.

No items of plant or equipment (either singly or in combination) shall have a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulses (bangs, clicks, clatters, thumps).

The sound insulation scheme shall be carried out in accordance with the approved details unless varied with the express written approval of the Local Planning Authority.

*Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

3. Prior to the commencement of the development a detailed Noise Management Plan shall be submitted to and be approved in writing by the Local Planning Authority.

The Noise Management Plan shall identify the types and locations of construction / demolition & other activities which are likely to cause noise disturbance to sensitive receptors and:

1. Minimise noise arising from construction / demolition & other activities by technical and physical means, and through management best practice e.g.:

- i. Provide an electrical supply for plant & equipment to avoid the use for generators
- ii. Provide acoustic shielding for works where there is a direct line of sight to noise sensitive receptors
- iii. Minimise the noise impact from the depositing of waste into skips
- iv. Minimise the noise impact of the collections from and deliveries to the site

2. Identify (and make stakeholders aware of) the person responsible for recording, investigating & dealing with complaints from residents.

3. Set out a communication strategy to keep regulators, resident and other stakeholders advised well in advance of specific works which are likely to cause a noise disturbance.

Development works shall thereafter be carried out in accordance with the approved Noise Management Plan.

*Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

4. Prior to the commencement of the development, a scheme for the ventilation and means of discharging and dispersing fumes and the prevention of nuisance caused by odour from the development shall be submitted to and be approved in writing by the Local Planning Authority.

The submission shall include an odour risk assessment, the design configuration, odour abatement technology and specification for the scheme for the ventilation and means of discharging and dispersing fumes from development.

*Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience odour nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

5. Prior to the commencement of the development, a Remediation Strategy that includes the following components to deal with the risks associated with ground gas contamination of the site shall be submitted to and be approved in writing by the Local Planning Authority:

a) The Site Investigation, shall be finalised, and risk assessment completed.

b) A Remediation Plan, based on the above risk assessment addressing the gas related risks, giving full details of the remediation measures required and how they are to be undertaken.

c) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in c) above are complete.

The Remediation Strategy shall be carried out in accordance with the approved details unless varied with the express written approval of the Local Planning Authority.

*Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

6. Prior to the commencement of construction, detailed design of the surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority.

Where a sustainable drainage scheme is to be provided the submitted details shall:

i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface sewers;

ii) Include a timetable for its implementation; and

iii) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure operation of the scheme throughout its lifetime. Prior to the occupation of the buildings hereby approved the surface water drainage works shall be carried out and the sustainable drainage system shall thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

*Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site. To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development. In accordance with Policy CC3 of the Land and Planning Policies Development Plan Document.*

7. No development shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority.

*Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy CC3 of the Land and Planning Policies Development Plan Document.*

**Pre-occupation conditions**

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

8. Prior to first occupation of the development, verification that the approved mechanical services plant or equipment (including any air handling plant) specified to serve the development including any mitigation measures has been submitted to and approved by the Local Planning Authority.

*Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

9. Prior to first occupation of the development, verification that the approved scheme for the ventilation and means of discharging and dispersing fumes and prevention of odour nuisance has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

*Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience odour nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

10. Prior to the first occupation of the development, a verification report demonstrating that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), providing the details of any management company and stating the national grid reference of any key drainage elements such as but not restricted to (surface water attenuation devices/areas, flow restriction devices, outfalls) shall be submitted to and approved by the Local Planning Authority

*Reason: To ensure the drainage system is constructed to the National Non-Statutory Technical Standards for SuDS in accordance with Policy CC3 of the Land and Planning Policies Development Plan Document.*

11. The approved development shall not be first occupied until the existing vehicle access on Hucknall Road, which will be made redundant as a consequence of the implementation of the approved development, has been reinstated with full height kerbs and footways.

*Reason: In the interests of ensuring that these works are carried out in association with the approved redevelopment of the site and in the interests of highway safety and amenity in accordance with Policy DE1 of the Land and Planning Policies Development Plan Document.*



12. Prior to the first occupation of the drive-thru unit, a detailed Noise Management Plan for that element of the approved development shall be submitted to and be approved in writing by the Local Planning Authority.

The Noise Management Plan shall identify the types and locations of operational activities which are likely to cause noise disturbance to sensitive receptors, including customers playing music in their waiting vehicles and the communications at the order point and:

- How management will control and minimise noise arising from operational activities by technical and physical means.
- Identify (and make stakeholders aware of) the person responsible for recording, investigating & dealing with complaints from any residents
- Annually review the Noise Management Plan.

The operators shall thereafter adhere to the approved Noise Management Plan unless this has been varied with the further written consent of the Local Planning Authority.

*Reason: To ensure that the residential occupiers and neighbouring properties to the development do not experience noise nuisance in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

13. Prior to first occupation of the development, the following shall be submitted to and be approved in writing by the Local Planning Authority:

A Verification Report, which shall include the data referred to in the Verification Plan, to demonstrate that the approved Remediation Strategy to deal with ground gas contamination of the site has been fully implemented and completed.

*Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution in accordance with Policy IN2 of the Land and Planning Policies Development Plan Document.*

14. The approved development shall not be first occupied until details of a minimum provision of 16 on-site cycle parking spaces have been submitted to and approved by the Local Planning Authority. The approved details shall thereafter be implemented prior to the first occupation the unit within the approved development to which that provision relates.

*Reason: In the interests of ensuring the appropriate provision of cycle parking facilities within the site in accordance with Policy TR1 of the Land and Planning Policies Development Plan Document.*

#### **Regulatory/ongoing conditions**

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

15. The approved drive thru restaurant use shall not be open to customers outside of the following hours unless with the prior written consent of the Local Planning Authority:

07:00 to 22:00 Monday to Saturday  
08:00 to 20:00 Sundays and Bank Holidays

*Reason; In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies and Policy IN2 of the Land and Planning Policies Development Plan Document.*





16. The approved drive thru restaurant shall not be operated unless an acoustic fence of the same specification as approved (position, height and construction) remains in place between the rear of the drive thru restaurant area and the rear and side boundaries of the adjoining residential properties on Ventura Drive.

*Reason: In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies and Policy IN2 of the Land and Planning Policies Development Plan Document.*

17. No deliveries or servicing shall be carried out to any unit within the approved development outside of the following hours unless with the prior written consent of the Local Planning Authority:

07:00 to 22:00 Monday to Saturday  
08:00 to 20:00 Sundays and Bank Holidays

*Reason; In the interests of the amenity of neighbouring residents to the application site and in accordance with Policy 10 of the Aligned Core Strategies and Policy IN2 of the Land and Planning Policies Development Plan Document.*

18. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation or the completion of the development whichever is the sooner, and any trees 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 will be satisfactory in accordance with Policy 10 of the Adopted Core Strategy and Policy DE1 of the Land and Planning Policies Development Plan Document.*

#### **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 following drawings/documents:  
Drawing reference 18232-112 revision Rev S  
Drawing reference 18232-113 revision Rev B  
Drawing reference 18232-114 revision Rev A  
Drawing reference 18232-115 revision Rev F  
Drawing reference 18232-116 revision Rev A  
Drawing reference 18232-117  
Drawing reference 18232-118 revision Rev N  
Drawing reference 18232-VL\_L01 revision Rev L

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

#### **Informatives**

1. The reason for this decision, and a summary of the policies the local planning authority has had regard to are set out in the committee report, enclosed herewith and forming part of this decision.

2. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what



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other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

### 3. Commercial Noise

The objective of this condition is to prevent background noise creep in the vicinity of the development. The environmental noise assessment must be suitable and sufficient and must be undertaken with regard to BS 7445: 2003 Description and Measurement of Environmental Noise.

The environmental noise assessment must include details of the type and model of all mechanical services plant or equipment (including any air handling plant) together with its location, acoustic specification; mitigation measures and relevant calculations to support conclusions.

The mechanical services plant or equipment (including any air handling plant), including any mitigation measures, must be maintained, serviced and operated in accordance with manufacturer's recommendations while the development continues to be occupied.

### 4. Noise Management Plan

The operator must adhere to the agreed Noise Management Plan while the construction / refurbishment work continue. The Noise Management Plan must be regularly reviewed. Any significant amendments which may have an impact on noise sensitive receptors shall be agreed in advance with the regulator and communicated to all other stakeholders

### 5. Construction & Demolition - Noise Control: Hours of Work

The acceptable hours for demolition or construction work (including deliveries to & from the site) are detailed below; -

Monday to Friday:	07.30 hrs - 18.00 hrs (noisy operations restricted to 08.00 hrs -18.00 hrs)
Saturday:	08.30 hrs - 17.00 hrs (noisy operations restricted to 09.00 hrs - 13.00 hrs)
Sunday:	at no time
Bank Holidays:	at no time

Work outside these hours may be acceptable in exceptional circumstances but must be agreed with Nottingham City Council's Environmental Health Team (email: [pollution.control@nottinghamcity.gov.uk](mailto:pollution.control@nottinghamcity.gov.uk))

### 6. Ground Gas Contamination

The Remediation Strategy (including its component elements) 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 including any radon gas precautions will be validated.

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 ground gas contamination of the site.

Any ground 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 methane, carbon dioxide or other gas 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).

It is a requirement of current Building Regulations that basic radon protection measures are installed in all new constructions, extensions conversions & refurbishments on sites which are Radon Class 3 or 4 and full radon protection measure are installed on site which are Radon Class 5 or higher. 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.

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.

## **7. Control of Odour & Provision of Adequate Ventilation**

The design of the approved scheme for the ventilation and means of discharging fumes shall have regard to the Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust Systems (EMAQ, 2018).

The approved scheme shall be designed to provide for ventilation and means of discharging and dispersing fumes, the prevention of odour nuisance and the minimisation of the risk of ducting fires. The approved scheme must be maintained, serviced and operated in accordance with manufacturer's recommendations and other authoritative guidance while the development continues to be occupied.

Fire safety advice for restaurants, fast food outlets and take away shops may be obtained from Nottinghamshire Fire & Rescue Service (email: [fireprotectionsouth@notts-fire.gov.uk](mailto:fireprotectionsouth@notts-fire.gov.uk) ). (NB Cheshire Fire & Rescue Service have useful advice on their website See - <https://www.cheshirefire.gov.uk/business-safety/fire-safety-advice-for-businesses/restaurants-fast-food-outlets-and-take-away-shops>).

The approved scheme must be kept under review by the operator and alterations or improvements may be required to prevent odour nuisance where any subsequent significant change to the operation of the development is proposed which may affect the control of odour or risk of fire:

Significant changes to the operation of the development which may affect the control of odour include:

- i. The intensification of use of the kitchen,
- ii. The nature of the food prepared, served or cooked on site
- iii. The method of preparation and cooking of the food served or cooked on site

iv. The extension of operating times

It is the duty of the operator to design, install and maintain the ventilation system to prevent an odour nuisance. Adequate measures must be taken to prevent nuisance due to odours passing through windows, floors or walls etc. into adjoining properties.

**Adequate Ventilation**

The operator of any cooking appliance must ensure that there is effective and suitable ventilation in order to enable the effective combustion of fuel and the removal of the products of combustion. The specification of a ventilation system shall be determined on the basis of a risk assessment, taking account of factors such as the cooking arrangements taking place and the need to replace extracted air.

The ventilation system must be designed, installed and maintained in accordance with manufacturer's instructions. Guidance on the design specifications of kitchen ventilation systems is contained within "DW/172" produced by the Building and Engineering Services Association (formerly the Heating and Ventilating Contractors Association). Supporting guidance has been published by the Health and Safety Executive (HSE) within Catering Information Sheet 10 (CAIS10), available at <http://www.hse.gov.uk/pubns/cais10.pdf> .

Gas appliances are subject to specific legislation and standards. Newly installed gas appliances should be fitted with an interlock to shut the gas supply off in the event of a failure to the ventilation system. Further guidance on gas safety in catering is available within Catering Information Sheet 23 (CAIS23), available at <http://www.hse.gov.uk/pubns/cais23.pdf> .

The onus for ensuring that the system does not cause odour nuisance or present a risk of fire rests with the operator. If the system is found to be causing an odour nuisance or a risk of fire at any point, then suitable modification works will be required to be carried out and an enforcement notice may be served.

**8. Control of Odour & Provision of Adequate Ventilation**

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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: 23/00120/PFUL3 (PP-11812437)

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 Planning Inspectorate website at <https://www.gov.uk/appeal-planning-decision>.

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, 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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