

Report of Director of Planning and Transport

Former Site Of Chronos Richardson Ltd, Belconnen Road

1 Summary

1. Application No: 22/00675/PFUL3 for planning permission

Application by: Ms Julie White on behalf of Mypad 2020 Ltd
Proposal: Development of 62 dwellings, with access from Wyton Close and Belconnen Road, landscaping, drainage and open space

AND

2. Application No: 22/00709/PFUL3 for planning permission

Application by: Ms Julie White on behalf of Lidl GB Ltd.

Proposal: Development of food store with car park, landscaping, plant and associated works and access from Belconnen Road

The applications are brought back to Committee due to a material change in circumstances since the Committee last considered the applications.

To meet the Council's Performance Targets these applications should have been determined by 4th July 2022.

2 Recommendations

Further to resolutions 48 and 49 of Planning Committee on 21 December 2022 to grant planning permission for both applications subject to the prior completion of Section 106 agreements and subject to conditions, the Committee resolves:

1. To **grant planning permission** for application 22/00709/PFUL3 (Lidl GB Ltd) in accordance with resolution 49 of the 21 December 2022 Committee only in the event that planning permission for application 22/00675/PFUL3 (MyPad 2020 Ltd) has first been granted in accordance with resolution 48 of that Committee.
2. In the event that it is not possible to determine application 22/00675/PFUL3 by 20 October 2023 (either because the required Section 106 Agreement has not been completed, or because the application is withdrawn,) the Director of Planning and Transport be delegated power to **refuse planning permission** for both applications as being contrary to the policies of the development plan, for the reasons set out in this report.

3 Background

- 3.1 The two applications which are subject of this report relate to land within the former site of Chronos Richardson (the "Land"). The Land is a former industrial site which

has since been cleared and remains vacant. Part of the Land is currently owned by the Council and the remainder by a third party. The Land has been marketed for sale as a single development site

- 3.2 The Land is allocated under site allocation reference SR13 within Policy SA1 of the LAPP. The appendix to Policy SA1 sets out an anticipated delivery of 63-87 dwellings on the Land.
- 3.3 Application references 22/00675/PFUL3 and 22/00709/PFUL3 which propose a residential scheme of 62 dwellings and a food store respectively, were brought to Committee in December 2022. The applications, although separate, were always considered as a comprehensive package for development of the Land, with the same consultant acting as agent for both applicants and applications and with each application cross referring and being considered integral to the other. In accordance with the Officer recommendations at the time, the Committee resolved to grant planning permission for both schemes, subject to the prior completion of Planning Obligations for each of the applications, securing Policy compliant contributions for Affordable Housing, off site Open Space, off site Biodiversity Gain, Education and Employment and Training.
- 3.4 The previous Committee reports for applications 22/00675/PFUL3 and 22/00709/PFUL3 form appendices to this current report and provide a detailed description and analysis of the developments proposed. This current report provides additional information in relation to a material change in circumstances which has led to the change in recommendations. The applications are therefore brought back to Committee to update members on the change in circumstances and seek delegated authority for the Director of Planning and Transport to refuse the applications in the event that it is not possible to progress and grant 22/00675/PFUL3 in a reasonable period of time.

4 Details of the proposal

- 4.1 As detailed above, there has been a change in circumstances, which is considered to be material in the context of the applications and the way in which they have previously been reported to and considered by the Planning Committee in December 2022.
- 4.2 As detailed within the December report for application 22/00709/PFUL3, the approval of a retail store on the Land, (which is allocated within the LAPP for housing (Policy SA1)), represents a departure from the Local Plan. However, this was substantially justified by the concurrent application to provide 62 dwellings on the remaining part of the Land. Overall, it was considered that the delivery of a residential development on the remainder of the Land, in accordance with the policies of the Development Plan, was a material consideration which carried sufficient weight to tip the planning balance in favour of allowing the development of a retail store as a departure from Local Plan Policies.
- 4.3 Although the 2 applications were not explicitly linked, they were submitted concurrently by the same agent and as indicated above each application cross referred the other and the wider development of the Land. As such, at the time the applications were considered by Committee, there was no foreseeable prospect that the 2 applications would not progress simultaneously and be delivered as a

comprehensive development for the entirety of the Land (SR13).

- 4.4 Following the Committee's December resolutions, some progress was made with the negotiation of each of the Section 106 agreements. However, since then, MyPad have advised the council that for commercial reasons they are no longer in a position to progress or complete the Section 106 Agreement that is necessary to make the residential development acceptable in planning terms nor to implement the permission if granted.
- 4.5 Without the Section 106 Agreement, the proposed housing development would fail to provide the agreed contributions towards Affordable Housing, Open Space, Education, Biodiversity gain and Employment and Training Opportunities. The development would therefore fail to comply with policy 19 of the ACS and policies EE4, EN2, EN6, IO4, HO3 and SA1 of the LAPP. Furthermore, the planning balance justification for a departure from the development plan for the retail store is negatively affected by the removal of the residential element from the comprehensive scheme provided by the two applications. It is considered that these factors therefore amount to a material change in circumstances since the Committee originally considered the applications which warrants further consideration by the Committee.
- 4.6 Whilst it is possible that an alternative housing application could come forward in place of the previously considered scheme, this would need to be considered on its own merits and would be subject to fresh consultation and negotiations. There is no guarantee that an alternative provider would be able to deliver the policy compliant Section 106 contributions that have been negotiated through the current application and thus in the absence of permission being granted for 22/00675/PFUL3 the retail scheme and consequential departure from Local plan policy, can no longer be justified.

5 Consultations and observations of other officers

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

6 Relevant policies and guidance

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

7. Appraisal

- 7.1 Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 7.2 Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations.
- 7.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken

Application 22/00675/PFUL3- the “Residential Development”

- 7.4 The Committee resolution to grant planning permission was subject to prior completion of a Section 106 agreement that is, as noted in that resolution, necessary to make the development acceptable in planning terms. A failure to complete the Section 106 Agreement means that the proposed housing development would fail to provide contributions towards Affordable Housing, Open Space, Education, Biodiversity gain and Employment and Training Opportunities. The development would therefore fail to comply with policy 19 of the ACS and policies EE4, EN2, EN6, IN4, HO3 and SA1 of the LAPP.

Application 22/00709/PFUL3- the “Retail Development”

- 7.5 As noted above, the retail store is a departure from policy SA1 of the development plan. The Update Sheet that accompanied the December Committee meeting set out the following summary of the relevant planning considerations that, taken together, were considered to justify a departure from the provisions of the development plan.

"In recommending the application as a departure from the Development Plan, officers have had regard to the matters set out in the report and consider that the material considerations support such a decision. In particular, regard has been had to the significant employment benefits provided by the scheme, the benefit of a new retail development in a location that serves existing and future local residents, and, together with the accompanying residential application will regenerate a long-standing brownfield site. Regard has also been had to the Council's current position in relation housing land supply, and the homes and other benefits provided by the related application for residential development as part of the comprehensive redevelopment of the site. Overall it is considered that these benefits are significant material considerations that taken together support the granting of planning permission which is a departure from the residential allocation in the LAPP."

- 7.6 Following the change in circumstances outlined above, officers have reviewed the weight and balance of material planning considerations and the extent to which a departure from the development plan is now justified. Whilst the employment and retail benefits are still recognised, the Retail Development in isolation would see at best a partial regeneration of a brownfield site. Regeneration of the remainder of the Land for the allocated purpose would be dependent on an application coming forward in the future and can no longer be regarded with sufficient certainty as to carry weight as a material planning consideration. It is considered that the Retail Development in isolation would at best not facilitate regeneration of the remaining land and at worst has the potential to be a barrier to it.
- 7.7 Whilst it is possible that an alternative housing scheme could come forward in place of the Residential Development, this would need to be considered on its own merits and would be subject to fresh consultation and negotiations. There is no guarantee that an alternative provider would be able to deliver the policy compliant Section 106 contributions that have been negotiated through the current application.
- 7.8 Taking all the above into consideration, in the absence of a permission for the Residential Development it is considered that the balance of considerations no

longer weighs in favour of granting planning permission for the Retail Development contrary to the development plan, and that planning permission should be refused, being contrary to Policy SA1 (site SR13) of the LAPP.

Conclusion and justification for recommendation

- 7.9 This is an unusual set of circumstances, and as such the new recommendations have been drafted with flexibility and in order to facilitate development where possible. It remains the case that the combined scheme, across the two applications, is acceptable as per the previous resolutions of the Committee. However MyPad's expressed inability to be able to progress and/or conclude the Section 106 Agreement to secure the planning permission for the Residential Development has planning consequences for both applications, it is considered appropriate to allow a period of time for that decision to be reviewed, and for further negotiations to take place if the applicants are minded to do so.
- 7.10 In the event that it is not possible to get to a point where the planning permission for the Residential Development can be issued, either because of
- the withdrawal of application 22/00709/PFUL3; or
 - the passing of a reasonable period of time (2 months) without significant progress being made on the associated Section 106 Agreement;

Delegated authority is sought to refuse planning permission for one or both applications for the reasons detailed above.

8. Sustainability / Biodiversity

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

9 Financial Implications

None.

10 Legal Implications

A planning permission is not granted until the actual decision notice is issued. Where, as in this case, there is a material change of circumstances which affects material planning considerations and/or the weight which may be applied to them which arises after Committee has resolved to grant permission but before the permission is issued then it is appropriate to bring the application (s) back to Committee. The issues raised in this report however remain primarily ones of planning judgement and 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

Please see previous Committee reports for 22/00675/PFUL3 and 22/00709/PFUL3.

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: 22/00709/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9SWP6LYK5800>

2. Application No: 22/00675/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/onlineapplications/applicationDetails.do?activeTab=summary&keyVal=R9HSXNLYJBB00>

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

Contact Officer:

Mrs Zoe Kyle, Case Officer, Development Management.

Email: zoe.kyle@nottinghamcity.gov.uk Telephone: 0115 8764059

Appendix - 22/00675/PFUL3 December 2022 Committee Report

Wards Affected: Bestwood

Item No:

**Planning Committee
21 December 2022**

Report of Director of Planning and Transport

Former Site of Chronos Richardson Ltd, Wyton Close

1 Summary

Application No: 22/00675/PFUL3 for planning permission

Application by: Ms Julie White on behalf of MyPad 2020 Ltd

Proposal: Development of 62 dwellings, with access from Wyton Close and Belconnen Road, landscaping, drainage and open space.

The application is brought to Committee because it relates to a major development with important land use and design considerations.

To meet the Council's Performance Targets this application should have been determined by 28th June 2022.

2 Recommendations

2.1 GRANT PLANNING PERMISSION subject to:

Prior completion of a planning obligation which shall include:

- (i) a financial contribution of £151,110.69 towards off-site Open Space
- (ii) a financial contribution of £52,546.44 towards off-site Biodiversity gain
- (iii) a financial contribution of £338,875 towards Education Provision
- (iv) provision of local employment and training including a financial contribution of £19,128 towards its delivery.
- (v) Provision of 20% Affordable Housing of which 10% is to be affordable ownership

2.2 Power to determine the final details of the planning obligation 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 are (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.

3 Background

- 3.1 The application relates to approximately 1.6ha of land within the former site of Chronos Richardson. It is a former industrial site which has since been cleared and remains vacant. Part of the site is currently owned by the Council and part is owned by an external party. It is proposed that the land to which this application relates, together with the adjoining land which forms the wider Chronos Richardson site, are sold as one development site.
- 3.2 The application site, together with the remaining portion of land within the former site of Chronos Richardson, make up site allocation reference SR13, as defined within Policy SA1 of the LAPP. The appendix to Policy SA1 sets out an anticipated delivery of 63-87 dwellings on the site.
- 3.3 The site is bound to the north by Arnold Road, to the south by a public footpath, beyond which is Nottingham University Hospital. To the east of the site lies Arnside Road, Wyton Close and residential development. To the west of the site is Belconnen Road and further residential development. The application site lies predominantly on the eastern side of the wider Chronos Richardson site and wraps around the remaining 1ha of land which forms the development site of a proposed Lidl store (application reference 22/00709/PFUL3).
- 3.4 The site slopes from north to south with an approximate level difference across the site of 3m. An existing public footpath runs from east to west alongside the southern boundary of the site (outside of the redline boundary). The site has substantial scrub cover, much of which is self-set following the demolition of the previous industrial buildings and structures. There are also some mature trees within the site, particularly along the western periphery on Belconnen Road.
- 3.5 The site falls within Flood Zone 1.

4 Details of the proposal

- 4.1 The application seeks permission for a residential development of 62 dwellings arranged in a series of cul-de-sacs. On the east side of the site, there will be 50 houses with vehicular access off Wyton Close. To the west side of the site, there will be 12 flats, arranged in three, two storey blocks with vehicular access off Belconnen Road.
- 4.2 All of the dwellings will be affordable dwellings, available as shared ownership or for social rent and a mix of 1, 2, 3 and 4 bed units will be provided, the 1 bedroom units being provided as flats. Pedestrian access between both parts of the development will be provided along the southern edge of the site. Pedestrian links to the proposed Lidl site are also incorporated in the scheme.
- 4.3 At the southern edge of the site, two attenuation ponds are proposed. Whilst this is a form of open space, it is not useable as recreational space and as such a contribution towards the provision of off-site open space is sought.
- 4.4 Off street parking is provided throughout the development, with all one and two bed units having at least one off street space and 3 and 4 bed units having 2 spaces. Additional on-street visitor parking is also indicated.

5 Consultations and observations of other officers

Adjoining occupiers consulted:

110 neighbouring properties were notified of the proposed development by letters dated 13th April 2022.

This notification included properties on the following neighbouring streets: Belconnen Road, Wyton Close, Embley Road, The Green Mews, Williamson Row, Arnside Road and Arnold Road.

The application was also publicised through a site and a press notice.

1 representation from Nottingham Local Access Forum was received, raising the following objections to the development;

- There is no cycle storage included for the housing development
- The quality of cycle storage proposed for the apartments is insufficient.
- It is recommended that a condition requiring details of cycle storage be requested.

Further notification letters were sent to the same addresses on 18th August 2022. The response date for representations was 9th September 2022 and no further representations have been received.

Environmental Health and Safer places: No objection, subject to conditions relating to ground gas contamination protection and noise.

Highways: The layout, as amended, is considered to be satisfactory.

Drainage: No objection. A drainage strategy has been submitted and reviewed by the Drainage Team (Lead Local Flood Authority). Following a request for additional information, the Drainage Team are satisfied with the proposed strategy, subject to conditions requiring further details of surface water drainage works and maintenance.

Planning Policy: No objection. It is recognised that the number of houses to be provided will be one less than that envisaged by the site allocation. However, it is also recognised that the applicants will be meeting a valid and important housing need in the City by providing an affordable housing scheme and therefore, on balance there are no policy objections to the above proposal subject to the satisfaction of Officers that the proposed development is acceptable in regard to design, layout, scale, massing and appearance of the development in the context of Policies DE1 and DE2 of the LAPP.

Biodiversity and Greenspace Officer: No objection subject to s106 contribution to offsite Biodiversity Gain. The Biodiversity and Greenspace Officer has confirmed that the money will be placed in a ringfenced financial revenue account and will be used when needed for the creation of the habitats.

Education: The proposed development generates 10.5 primary pupils and 7.5 secondary pupils. Contributions to the Provision of Primary and Secondary Education are required, totalling £338, 875.

Nottingham Jobs: An employment and training plan is recommended, including a proposed contribution of £19,128 to support the services provided by the Jobs Hub.

6 Relevant policies and guidance

National Planning Policy Framework (2019)

The NPPF advises that there is a presumption in favour of sustainable development and that applications for sustainable development should be approved where possible. Paragraph 126 notes that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development.

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

(a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

(e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

(f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil,

air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 states that when determining planning applications, local planning authorities should support development whose primary objective is to conserve or enhance biodiversity while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Aligned Core Strategy (September 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 17: Biodiversity

Policy 19: Developer Contributions.

Land and Local Planning Policies (LAPP) (Local Plan Part 2 Document)

Policy CC1: Sustainable Design and Construction

Policy CC3: Water

Policy EE4: Local Employment and Training Opportunities

Policy DE1: Building Design and Use

Policy DE2: Context and Place making

Policy TR1: Parking and Travel Planning

Policy EN2: Open Space in Development

Policy EN6: Biodiversity

Policy EN7: Trees

Policy IN2: Land Contamination, Instability and Pollution

Policy IN4: Developer Contributions

Policy SA1: Site Allocations

Policy HO1: Housing Mix

Policy HO3: Affordable Housing

Supplementary Planning Documents

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

Biodiversity (2020)

7. Appraisal of proposed development

Main Issues:

- (i) Principle of Development
- (ii) Layout, design and appearance
- (iii) Residential amenity
- (iv) Highways and access
- (v) Biodiversity and trees

(vi) Planning Obligations

Issue (i) Principle of the Development (Policies 1 and 8 of the ACS, Policies HO1, HO3 and SA1 of the LAPP)

- 7.1 The site is a vacant former industrial site that has been cleared. The reuse of brownfield sites is actively encouraged and supported by the national and local planning policy.
- 7.2 The application site is part of a wider site allocated as a development site by the Local Plan Part 2 (site ref. SR13) and is anticipated to deliver 63-87 dwellings. The site has been subdivided with the portion of land outside of this application site, being subject of an application for a Lidl Food Store. The remaining 1.6ha of land forms the subject of this application for residential development of 62 dwellings. The loss of residential land is acknowledged, but the number of dwellings to be provided on the remainder of the LAPP allocation (62) is acceptable compared to the LAPP range of 63-87 in the LAPP. The number of homes is included in an appendix rather a LAPP policy, and so the range is indicative, and does not have the weight of Policy. Para 6.32 of the LAPP states “The Development Principles set out the range of acceptable uses for each site. Whilst the precise quantum of development will be subject to review during the development management.”
- 7.3 Although the provision is one dwelling less than that sought under the site allocation, it is recognised that the scheme is seeking to provide a wholly affordable scheme, exceeding the 20% required by Policy HO3. It would provide a mix of house types contributing to the creation of a balanced and sustainable community, thus complying with the aims of Policy 8 of the ACS and Policy HO1 of the LAPP. Taking account of these factors, the loss of one dwelling from the provision is not considered to be of any significant consequence. The Council’s Policy Officers have reviewed the proposals in the context of the Housing Land Supply and raise no objection. Officers recognise that the scheme will meet an identified demand for Affordable Housing and on this basis do not object to the reduction (by one unit) in the number of dwellings to the provided as detailed within Policy SA1 of the LAPP.
- 7.4 Policy HO1 of the LAPP encourages development of sites for family housing. It does not set targets nor is it prescriptive about the level of family housing, this being a matter of judgment based on the characteristics of the site, as set out in Para 4.14 of the LAPP. The scheme is for 100% affordable housing, which satisfies 2d of HO1 by meeting other aims of the City Council, as evidenced by Greater Nottingham & Ashfield Housing Needs Assessment, October 2020. The proposed development would therefore comply with Policies 1 and 8 of the Aligned Core Strategies and Policies HO1, HO3 and SA1 of the LAPP.
- 7.5 An assessment of the suitability of the remaining 1ha of land for retail development is provided within the appraisal of the requisite planning application (ref. 22/00709/PFUL3) and this includes a Sequential Test and Retail Impact Assessment.

Issue (ii) Layout, design and appearance (Policy 10 of the ACS and Policies DE1, DE2, EN2 and IN4 of the LAPP)

- 7.6 The site layout has evolved in response to consultee feedback, particularly that from the Highway Authority and the resulting road layout which comprises a primary carriageway with footways either side, transitioning to a shared surface, is

acceptable in principle. Technical details relating to the transitions and materials are under review and it is anticipated that the final details will be agreed by condition. Any additional information provided will be relayed to Committee by way of an Update Sheet.

- 7.7 The points of vehicular access off Belconnen Road and Wyton Close are acceptable to the Highway Authority. Pedestrian access through the site and the links to the retail store and existing footpath to the south have been improved through the design evolution and are considered to be acceptable, contributing to a legible, cohesive design overall.
- 7.8 The proposed development of two storey, semi-detached properties is in keeping with the scale and massing of surrounding residential development. The use of pitched tiled roofs and traditional brick elevations is appropriate to the local vernacular and the use of two types of brick and tile and the inclusion of feature brickwork panels will add sufficient aesthetic interest to the properties.
- 7.9 Boundary treatments have been amended to reflect the best practice guidance within the Design Quality Framework, comprising walls to rear/side boundaries where they have a public interface and timber fences otherwise. Front boundaries are to be enclosed with low level brick and railing above which is acceptable and will assist in providing clear definitions between public and private/defensible space.
- 7.10 There is ongoing discussion in relation to bin storage and how best to place this to ensure that storage is used effectively. This is likely to include some bin storage being relocated to front gardens. It is recommended that a condition be imposed to agree final details in relation to bin storage.
- 7.11 A landscaping plan has been provided with the application and includes tree planting, shrubbery and grassed areas within front and rear gardens. There are a number of areas of landscaping that fall outside of the boundaries of individual plots and these are to be maintained by a Management Company. These areas have been highlighted on a plan and an appropriate condition to ensure this is regulated, is recommended.
- 7.12 Although a degree of public greenspace is provided throughout the development in the form of footpath links and the area around the attenuation pond, this is not considered to be useable open space. As such, a financial contribution of £151,110.69 towards the provision of off-site Open Space is sought through a s106 Agreement. This is in accordance with Policies EN2 and IN4 of the LAPP and the associated SPD on Open Space.
- 7.13 As amended, it is considered that the proposal would create a sustainable and well connected development, resulting in a quality living environment for future occupiers. All units would comply with Nationally Described Space Standards and would benefit from off street parking. It is therefore considered that the proposed development accords with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP.

Issue (iii) Residential Amenity (Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP)

- 7.14 The development provides a mix of 1, 2, 3 and 4 bedroom properties, all of which meet minimum Space standards. The layout allows for adequate light within and outlook from habitable rooms. Sufficient distances are provided between properties, including back to back distances, to avoid any significant overlooking or loss of privacy for future occupiers. The development is located sufficiently far away from nearby residential properties to avoid any significant impact upon the amenity of existing occupiers.
- 7.15 Plots 21, 25, 26, 27 and 28 will have shared boundaries with the proposed Lidl store. However, the store has been stepped away from the boundary and all deliveries and plant equipment are sited away from this shared boundary to minimise any noise or disturbance. Acoustic fencing is proposed within the Lidl site and the boundaries will be further screened with planting. These measures are considered sufficient to avoid any significant adverse impact upon the residential amenity of future occupiers of the proposed properties.
- 7.16 All properties benefit from a private rear garden and have access to areas of public realm within the development as well as links to existing footpaths beyond the site boundary, ensuring all residents will have access to adequate outdoor amenity space and greenspace.
- 7.17 In view of the above, it is considered that the proposed development would provide a satisfactory living environment for future occupiers and would avoid any significant impact upon the amenity of existing residential properties in the area. It would therefore comply with Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP.

Issue (iv) Highways, Access and Parking (Policy 10 of the ACS, Policies DE1, DE2 and TR1 of the LAPP)

- 7.18 The Highway layout has been through a series of amendments in order to achieve the best possible design for the development. The resulting layout with a primary road into the housing site, transitioning to shared surface is considered to provide the safest and most legible routes for pedestrians whilst ensuring adequate carriageway width and turning space for vehicles. As described above, the final details of the transitions and surfacing are under review and a condition is recommended to secure the agreement of these details prior to commencement.
- 7.19 Access to the flats off Belconnen Road is provided in the form of two private drives, which is considered to be acceptable. Final details of the parking layout are to be requested by condition together with tracking details.
- 7.20 The level of parking proposed is in compliance with the requirements set out by Policy TR1 of the LAPP, namely 1.5 per dwelling. This translates to a minimum of 1 space per dwelling for the smaller units (1 and 2 bed) and 2 spaces for the larger (3 bed and 4 bed) units and this is considered to be acceptable. Local Ward Councillors, during pre-application discussions with the developer, expressed concern about the potential resulting impacts upon parking for surrounding streets and requested some on street parking. Additional on-street parking provision is indicated at appropriate points across the development. The final tracking exercises are underway and as such the final layout of on-street parking is to be requested by

condition. It is noted that there is a need to balance the demand for on-street parking for residents and visitors to the properties within the development, with the need to prevent parking by visitors to the City hospital, which has been a problem on surrounding streets in the area. Ultimately, the use of TROs may be an option in the future but this would need to be agreed with the Highway Authority through the appropriate mechanism. In summary, the development is considered to comply with Policy 10 of the ACS and Policies DE1, DE2 and TR1 of the LAPP in respect the Highways, access and parking issues.

Issue (v) Trees and Biodiversity (Policies 17 and 19 of ACS, Policies EN6, EN7 and IN4 of the LAPP)

- 7.21 Policy EN6 states that development will only be permitted where significant harmful ecological impacts are avoided. Where harmful impacts cannot be avoided they should be mitigated through the design, layout and detailing of the development, or as a last resort compensated for, which may include off-site measures. The Biodiversity SPD further supports this.
- 7.22 The application is accompanied by an Ecological Appraisal, Ecological enhancement scheme and Biodiversity Net Gain Assessment. The site comprises areas of established Woodland and grassland, much of which is proposed to be removed to facilitate the development. Whilst a comprehensive scheme of tree replanting and Ecological enhancements (including bird and bat boxes, sensitive lighting and hedgehog connectivity) has been submitted, this is not sufficient to offset the loss of habitats and the Biodiversity Net Gain Assessment demonstrates an overall loss in Biodiversity rather than a gain.
- 7.23 The proposals for the removal of woodland and grassland have been reconsidered by the developer but it is not possible to increase the retention due to the harm arising from the disturbance of the adjacent areas of grassland/woodland. As such, the developer proposes a contribution towards off-site Biodiversity Gain as additional mitigation in order to achieve an overall gain. The Biodiversity Officer has assessed the proposals and provided calculations for a contribution towards off-site Biodiversity Gain based upon figure per unit for both grassland and woodland. This amounts to a figure of £52,546.44 which is to be requested through the s106 Agreement. This money will be placed in a ringfenced financial revenue account which will be used when needed for the creation of the habitats. This is in accordance with Policies 17 and 19 of the LAPP, Policies EN6 and IN4 of the LAPP and the adopted Biodiversity SPD.
- 7.24 Policy EN7 of the LAPP relates to Trees and seeks to protect trees of importance and secure adequate mitigation/replanting for the loss of trees. A tree survey and Arboricultural Impact Assessment have been submitted with the application which concludes that none of the trees on the site are category A trees. The lowest value trees will be removed during site clearance. Every effort has been made to retain as many of the higher grade trees as possible and incorporate them into the layout and this includes a band of mature trees along the western edge of the site. It is acknowledged that some mature trees have already been removed. However, these trees did not benefit from any statutory protection and as such consent was not required from the local planning authority for their removal.
- 7.25 Where it is not possible to retain trees, mitigation in the form of replanting is proposed. The landscape proposals for the site includes new trees around the residential dwellings combined with a variety of other landscaping. This approach is considered to reach an acceptable balance between the loss of the trees and the

viable redevelopment which will provide significant onsite mitigation. It is considered that the development in this regard, complies with Policy EN7 of the LAPP.

Issue (vi) Planning Obligations (Policies 17 and 19 of the Aligned Core Strategies and Policies HO3, EN2, EN6 and EE4 of the LAPP, and the Open Space and Biodiversity SPDs.)

- 7.26 The application site comprises land which is partly in the Council's ownership and partly owned by a third party. As the Council cannot enter into an agreement with itself it is proposed that the planning obligation required to enable this permission to be granted will initially only be secured against the land which is in third party ownership. However, on completion of the land transfer it is proposed that the planning obligation subsequently be varied to ensure that it binds the remainder of the application site.
- 7.27 A policy compliant development would be expected to provide the following planning obligations:
- A minimum 20% on site affordable Housing
 - On site public open space/public realm or a contribution towards off-site provision of ££151,110.69
 - A contribution of £338,875 towards Education provision (£199,224 for Primary and £139,651 for Secondary)
 - A contribution of £52,546.44 towards off-site Biodiversity Gain.
 - Local employment and training opportunities, including a financial contribution of £19,128 towards their delivery

The total contribution is therefore £561,660.13

- 7.28 The applicant has committed to the above Policy compliant contributions, with the scheme exceeding the Affordable Housing Provision requirement. To conclude, the contributions satisfy Policies 17 and 19 of the Aligned Core Strategies and Policies HO3, EN2, EN6 and EE4 of the LAPP, and the Open Space and Biodiversity SPDs.

8. Sustainability (Policy 1 of the ACS and Policies CC1 and CC3 of the LAPP)

- 8.1 All dwellings within the development will be provided with increased insulation within the fabric of the building and either photovoltaic panels or Air Source Heat pumps. As the Registered Providers will likely want some input into this decision, these details are to be requested by condition, prior to commencement.
- 8.2 The site is in a sustainable location within walking distance of well served bus routes and will be well connected to existing pedestrian and cycle routes. Cycle racks are indicated for the flats. However, notwithstanding this, a condition requiring details of secure, covered and well-lit cycle storage for the whole development, is recommended.
- 8.3 The site falls within Flood zone 1 and as such is at the lowest risk of flooding. The development includes the use of SUDs in the form of two attenuation ponds at the southern edge of the site. This has been reviewed by the Drainage Team and is considered satisfactory. This will also contribute to Biodiversity enhancement for the development. A condition requiring details of Surface Water drainage proposals and maintenance is recommended.

8.4 All dwellings will be provided with electric vehicle charging points and a condition is recommended to secure these prior to occupation. In summary, it is considered that overall the scheme will comply with Policy 1 of the ACS and Policies CC1 and CC3 of the LAPP.

9 Financial Implications

None.

10 Legal Implications

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

11 Equality and Diversity Implications

None.

12 Risk Management Issues

None.

13 Strategic Priorities

Neighbourhood Nottingham: Redevelopment of a cleared brownfield site with a high quality, sustainable development.

Safer Nottingham: The development enhances the pedestrian Connectivity ,contributing 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

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: 22/00675/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9HSXNLYJBB00>

17 Published documents referred to in compiling this report

Aligned Core Strategies – Local Plan Part 1 (2014)

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

NPPF (2021)

Biodiversity SPD 2020

Open Space SPD 2019

Affordable Housing SPD 2021

Greater Nottingham & Ashfield Housing Needs Assessment, October 2020.

Contact Officer:

Mrs Zoe Kyle, Case Officer, Development Management.

Email: zoe.kyle@nottinghamcity.gov.uk Telephone: 0115 8764059

Nomad printed map



Crown copyright and database rights 2021 OS 100019317. Use of this data is subject to terms and conditions., Nottingham City Council

0 0.03 0.06 km



Key



City Boundary

Printed map generated by a Nomad user on 13/12/2022. This map is not suitable for publishing, for high quality maps please contact gl@nottinghamcity.gov.uk.

Description

A map printed from Nomad.



Nottingham
City Council

Appendix -22/00709/PFUL3 December 2022 Committee Report

Wards Affected: Bestwood

Item No:

**Planning Committee
21 December 2022**

Report of Director of Planning and Transport

Former Site of Chronos Richardson Ltd, Belconnen Road

1 Summary

Application No: 22/00709/PFUL3 for planning permission

Application by: Ms Julie White on behalf of Lidl GB Ltd

Proposal: Development of food store with car park, landscaping, plant and associated works and access from Belconnen Road

The application is brought to Committee because it is a major development that represents a departure from the Local Plan.

To meet the Council's Performance Targets this application should have been determined by 4th July 2022.

2 Recommendations

2.1 GRANT PLANNING PERMISSION subject to:

Prior completion of a planning obligation which shall include:

- (i) a financial contribution of £35,503.57 towards off-site Biodiversity Net Gain
- (ii) provision of local employment and training including a financial contribution of £10,660 towards its delivery.

2.2 Power to determine the final details of the planning obligation 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 are (a) necessary to make the development acceptable in planning terms, (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development.

3 Background

3.1 The application relates to approximately 1ha of land within the western portion of the former site of Chronos Richardson. It is a former industrial site which has since been cleared and remains vacant. Part of the site is currently owned by the Council and part is owned by an external party. It is proposed that the land to which this application relates, together with the adjoining land which forms the wider Chronos Richardson site, are sold as one development site.

- 3.2 The application site, together with the remaining portion of land within the former site of Chronos Richardson, make up site allocation reference SR13, as defined within Policy SA1 of the LAPP. The site allocation requires the delivery of 63-87 dwellings. The site has been subdivided to form two application sites, this application for a Lidl food store, and a concurrent application for residential development.
- 3.3 The site is bound to the north by Arnold Road and the rear boundaries of properties on The Green Mews, to the south by the remainder of the vacant industrial site beyond which there is a public footpath running east / west and connecting to Nottingham University Hospital to the south. To the east of the site lies part of the vacant industrial site, beyond which is Arnside Road and Wyton Close. To the east of the site is Belconnen Road and further residential development.
- 3.4 The site levels drop down below that on Arnold Road and fall away to the south although the area of the previously demolished buildings is generally level. There are existing trees and mature landscaping within the site, particularly on its frontage to Arnold Road.
- 3.5 The site falls within Flood zone 1.

4 Details of the proposal

- 4.1 The application seeks permission for the development of a Lidl food store (Use Class E) with car park and associated plant and landscaping with access off Belconnen Road, on an out of town centre site. The proposals for the store have been amended, resulting in a slight decrease in the floor area of the store. As amended, the store would have a gross internal area of 1,895sqm with a net sales area of 1,251sqm.
- 4.2 The layout, as amended, shows the store adjacent to the eastern boundary of the site with car parking to the north and west. Landscaping is proposed to the north and eastern boundaries and along parts of the western and southern boundaries. The car park would provide 100 standard spaces, 4 disabled, 9 parent and child and 4 with Electric Vehicle Charging points. 20% of the spaces will be fitted with the infrastructure required to introduce additional charging points in the future.
- 4.3 The Lidl store would be single storey with a pitched roof. The building would comprise a steel frame structure with a combination of metal cladding for the roof and cladding panels on the elevations and a powder coated aluminium and glazed shopfront.
- 4.4 The site would be enclosed by brick faced retaining walls where it adjoins the existing pavement and acoustic or timber fencing to rear/internal boundaries.
- 4.5 Vehicular access will be via Belconnen Road. The geometry of the access has been revised slightly in response to Highways requirements. The vehicle access would lead customers to the car park and delivery vehicles to the HGV service dock to the south of the store. External plant would be contained within an area to the south of the building and all refuse would be stored within the store.

- 4.6 It is estimated that the store will create 40 Full time equivalent jobs.
- 4.7 As referenced above, the remainder of the site (reference SR13) is subject of a concurrent planning application for residential development of 62 dwellings (planning application reference 22/00675/PFUL3).

5 Consultations and observations of other officers

Adjoining occupiers consulted:

109 neighbouring properties were notified of the proposed development by letters dated 13th April 2022.

Following changes to the proposal further notification letters were sent to the same addresses on 18th August 2022. The response date for representations was 9th September 2022. No further representations were received to the second round of notification letters.

Notification included properties on the following neighbouring streets: Belconnen Road, Wyton Close, Embley Road, The Green Mews, Williamson Row, Arnside Road and Arnold Road.

The application was also publicised through a site and a press notice.

The application was advertised as a departure application.

Responses

10 representations from 9 individuals were received in response to this publicity, of which 9 were in support of the proposed development, citing the following reasons why the development will be welcomed;

- The long term vacant site will be brought back into use, reducing the opportunity for vandalism and misuse.
- The retail store will provide a much needed local supermarket for the Bestwood area
- The accompanying development will bring new houses
- The development will create employment opportunities

One letter of objection was received, although this expressed support for the development in principle. The points of objection were as follows:

- Loss of trees/flowers/shrubs, will these be replanted?
- Concern that the retail store will result in a parking 'free for all' on surrounding streets
- Concern that customers will leave engines running whilst parked.

This application was published on the agenda for September Planning Committee 2022. Prior to Committee, two objections from Martin Robeson Planning Practice (MRPP) on behalf of a competitor supermarket (Tesco Stores Limited) were received, setting out the following points of objection:

- The critical lack of any 'Health Check' analysis of nearby town centres in order to inform retail impact assessment,
- Lack of credibility in some of the retail impact assessment's outputs,
- Failure to have proper and effective regard to the application of flexibility in the sequential testing of preferable opportunities,
- Failure of the sequential test in not confirming a preferable opportunity as 'suitable'
- Loss of allocated housing land,
- The environmental effects that arise from the unsuitability of the site for the proposed retail purpose, and
- The proposal is an unsustainable form of retail development when sited in this out-of-centre location
- The proposal is not in a sustainable location in terms of transport and accessibility,
- The proposal fails the sequential test since there is a more accessible, preferable opportunity
- Lack of credibility in the assessment of retail impact,
- Non-disclosure of the removal of mature trees and its impact on the assessment of application against policy,
- Misinterpretation of policy relating to biodiversity,
- Incorrect calculation of the loss in delivery of housing units,
- A misleading visual of the proposed development, and
- Lack of balancing exercise to address the proposal's departure from the Local Plan

Following receipt of the two letters, WSP, on behalf of the applicant, issued a response which can be summarised as follows;

- The objection was submitted some 6 months after the validation date of the application and 3 working days before Committee. It is assumed that the timing of the objection is for commercial reasons. A delay would be beneficial to any competitor but also places undue pressure on the Local Planning Authority and public funds.
- The impact of such actions inevitably effects other work Local Planning Authorities (LPAs) are engaged with. Slowing down decision making has an economic impact for a Council area. It slows down the delivery of an Authority's wider strategic objectives, which particularly at this time of a cost of living crisis, is something we would have hoped all commercial organisations would be cognisant of.
- At the time of submission it was not considered necessary to carry out Health checks based on an assumption that trade draw would be limited
- Customers seeking to shop in a discount supermarket have several options to choose from in the locality and will have already made their decision to shop in an Aldi or Lidl regardless of the application proposals coming forwards. Therefore, the trade drawn from existing locations is concentrated on the existing discount supermarkets.
- The scope of the retail assessment, including the level of flexibility required to be demonstrated, was agreed with the Local Planning Authority (the LPA) in accordance with paragraph 017 Reference ID: 2b-017-20190722 of

NPPG. The levels of flexibility required are not prescribed by the NPPF or the NPPG. It is a matter for professional judgement and agreement with the LPA.

- No sequential sites have been identified within or to the edge of district or local centres within the catchment area by either the Council or MRPP. The alternative site at Gala Way raised by MRPP (which is out of centre and not sequentially preferable), has been reopened by Buzz Bingo since the assessment was initially undertaken and is no longer available. The sequential test has therefore been satisfied.
- The Lidl application proposals have been developed in conjunction with the residential proposals on the adjacent site. All of the proposed residential development will be affordable dwellings and the number, mix and type of dwellings proposed on the allocated site is considered acceptable by officers
- The application site is clearly suitable for the development proposed and an acceptable engineering solution has been found to enable the development to progress. Officers have assessed the proposal and found it to be acceptable. The officers should not be expected to assess a hypothetical scenario as suggested by MRPP.
- It is common ground that there are no in-centre or edge of centre locations capable of accommodating the proposals. The site is located within a residential community and the proposals therefore provide a destination that is accessible by a range of modes of transport, including customers arriving on foot.

Additional consultation letters sent to:

Environmental Health and Safer places: No objection, subject to conditions relating to ground gas contamination protection and commercial plant noise.

Highways: No objection. Following a series of amendments to the access and car park, the Highway Authority are satisfied with the layout, subject to conditions relating to construction traffic management, electric vehicle charging, cycle parking, tracking and refuse collection.

Drainage: No objection. A drainage strategy has been submitted and reviewed by the Drainage Team (Lead Local Flood Authority). Following a request for additional information, the Drainage Team are satisfied with the proposed strategy, subject to conditions requiring further details of surface water drainage works and maintenance.

Planning Policy: No objection. Additional information and analysis has been provided by the applicant in support of the Sequential Test and Retail Impact Assessment. A comprehensive appraisal of this information and analysis has been undertaken by a Retail Planning Consultant. The Council is satisfied with the conclusions reached within the submitted information and within the appraisal undertaken by the Retail Planning Consultant. The proposal is considered to be in accordance with Aligned Core Strategy (2014) Policy 6 and Land & Planning Policies Development Plan Document (Local Plan Part 2) Policy SH4. Loss of residential land is acknowledged, but the number of dwellings to be provided on the remainder of the LAPP allocation (62) is acceptable compared to the LAPP range

of 63-87 in the LAPP. The number of homes is included in an appendix rather a LAPP policy, and so the range is indicative, and does not have the weight of Policy. Para 6.32 of the LAPP states “The Development Principles set out the range of acceptable uses for each site”. The remainder of the site is to be developed in compliance with Policy SR13 of the LAPP.

Nottingham Jobs: An employment and training plan is recommended, including a proposed contribution of £10,660 to support the services provided by the Jobs Hub.

Biodiversity and Greenspace Officer: No objection subject to s106 contribution to offsite Biodiversity Gain. The funds will be used for the creation of habitats.

Carbon Neutral Policy Team: Consideration should be given to additional planting to compensate the loss. There is no indication of the extent of PV panels or consideration of alternatives to the ASHP and PV panels. There is no evidence that SUDS will be combined with natural planted areas and further consideration to on site mitigation should be given to avoid off site compensation.

6 Relevant policies and guidance

National Planning Policy Framework

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 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.

Section 7 of the NPPF relates to the vitality of Town Centres.

Paragraphs 87-89 require the sequential approach to site selection to be applied to all development proposals for main town centre uses that are not in an identified centre and not in accordance with an up-to-date Development Plan. It states that 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.

Paragraph 90 requires all retail, leisure and office development outside of town centres to be subject to a retail impact assessment if over a proportionate, locally set threshold. Where no local threshold exists the default is 2,500sqm. Impact assessments should include assessment of:

- Impact of the proposed on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Where a development fails the sequential test or will have a significant adverse impact on one or more of the above considerations it should be refused in accordance with paragraph 91.

Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 180(d) states that when determining planning applications, local planning authorities should support development whose primary objective is to conserve or enhance biodiversity while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Aligned Core Strategy (September 2014):

Policy A: Presumption in Favour of Sustainable Development

Policy 1: Climate Change

Policy 4: Employment Provision and Economic Development

Policy 6: Role of Town and Local Centres

Policy 10: Design and Enhancing Local Identity

Policy 14: Managing Travel Demand

Policy 17: Biodiversity

Policy 19: Developer Contributions.

Land and Local Planning Policies (LAPP) (Local Plan Part 2 Document)

Policy CC1: Sustainable Design and Construction

Policy CC3: Water

Policy EE4: Local Employment and Training Opportunities

Policy DE1: Building Design and Use

Policy DE2: Context and Place making

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

Policy TR1: Parking and Travel Planning

Policy EN6: Biodiversity

Policy EN7: Trees

Policy IN2: Land Contamination, Instability and Pollution

Policy IN4: Developer Contributions

Policy SA1: Site Allocations

Supplementary Planning Documents

Biodiversity (2020)

7. Appraisal of proposed development

Main Issues:

- (i) Principle of Development
- (ii) Suitability of Retail use in this out of centre location
- (iii) Layout, design and appearance
- (iv) Residential amenity
- (v) Highways and access
- (vi) Biodiversity and trees
- (vii) Planning Obligations

Issue (i) Principle of the development (Policies 4, and 6 of the ACS and Policies EE4, SH4 and SA1 of the LAPP)

- 7.1 The site is a vacant former industrial site that has been cleared. The reuse of brownfield sites is actively encouraged and supported by national and local planning policy.
- 7.2 The application site is part of a wider site allocated as a development site by Policy SA1 of The Local Plan Part 2 (site ref. SR13). Policy SA1 states that the sites are “allocated and protected to meet the development needs of Nottingham to 2028”. The main purpose of the allocation is to ensure an adequate supply of land to meet the needs of the city. The appendix to Policy SA1 sets out an anticipated delivery of

63-87 dwellings on the site. The application is accompanied by a concurrent planning application for residential development (22/00675/PFUL3) for 62 dwellings.

- 7.3 The loss of land that could otherwise be developed for housing is acknowledged, but the number of dwellings to be provided on the remainder of the LAPP allocation (62) is considered to be acceptable compared to the LAPP range of 63-87 in the LAPP. The number of homes is included in an appendix rather a LAPP policy, and so the range is indicative, and does not have the weight of Policy. The shortfall relative to this indicative range is considered to have an insignificant impact on the city's ability to meet its housing needs, and in this context it should be noted that there is a housing land supply that is currently in excess of six years, against a five year requirement. Para 6.32 of the LAPP states "The Development Principles set out the range of acceptable uses for each site. Whilst the precise quantum of development will be subject to review during the development management process, appendices three, four and five set out the broad number of residential units". The LAPP therefore provides a degree of flexibility in terms of numbers of homes on LAPP sites. The proposed development would comprise 100% affordable dwellings, providing a mix of house types and sizes, thus contributing to the creation of a balanced community. The requirement within the Development Principles for the creation of new open space, is in the context of a 100% housing site. Para 6.29 of the LAPP "The Development Principles give an indication of key issues relating to each site but are not intended to be comprehensive development briefs." Policy EN2 of the LAPP provides for developer contributions to enhance existing areas of open space or additional open space in the area. The part of SR13 for which a planning application for residential development is under consideration is anticipated to provide a policy compliant level of open space contribution through a S106 agreement.
- 7.4 Policy HO1 of the LAPP encourages development of sites for family housing. It does not set targets nor is it prescriptive about the level of family housing, this being a matter of judgment based on the characteristics of the site, as set out in Para 4.14 of the LAPP. The scheme is for 100% affordable housing, which satisfies 2d of HO1 by meeting other aims of the City Council, as evidenced by Greater Nottingham & Ashfield Housing Needs Assessment, October 2020.
- 7.5 Taking account of these factors, the proposed loss of housing land within the allocated site is considered to be acceptable, and there is no objection in principle to the delivery of retail development in addition to the residential development.
- 7.6 Notwithstanding the above, National and Local Planning Policies require a sequential Test and Retail Impact Assessment to be carried out for Out of Town Retail development of this scale. Paragraph 90 of the NPPF requires all retail, leisure and office development outside of town centres to be subject to a retail impact assessment if over a proportionate, locally set threshold. Policy 6 of the ACS requires the Sequential Test to be satisfied for Out of Town retail development and Policy SH4 of the LAPP requires an Impact Assessment for retail development greater than 1,000 square metres or greater of new (gross) floorspace on the edge of or outside an existing Centre. The NPPF para 90 states that Impact assessments should include assessment of:
- Impact of the proposed on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and

- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

7.7 These assessments have been provided with the application and updated as appropriate. Following concerns raised in the objection from MRPP on behalf of Tesco stores limited, WSP, on behalf of the applicant, has undertaken further analysis in support of the Sequential Test and has provided an updated Planning Retail Statement together with a response to the Tesco objection.

7.8 Acknowledging the comments made on behalf of Tesco in relation to credibility of the assessment of retail impact and given the technical and specialist nature of these issues, The Council has instructed an independent appraisal of the Planning Retail Statement and the applicant's response to the objection made on behalf of Tesco. Officers have taken independent advice from Applied Planning, a retail planning consultancy. The Preliminary analysis of the submitted information, as undertaken by Applied Planning, identified several areas of concern as follows;

Sequential Test

- The submitted Planning Retail Statement set a minimum site search area in the sequential test of 0.87ha. The Council's Consultants considered that this represented insufficient flexibility and that a 0.65ha site search area represents a reasonable minimum site search criteria for the purposes of the sequential test. The Planning Consultant referenced the use of this minimum site search criteria for other applications by Lidl and Aldi and concluded that there were no material considerations which justified a departure from these parameters in this instance.
- The objection from Tesco sets out a series of reasons why the development site at Gala Way is sequentially preferable to the application site. The Council's consultants concluded that further analysis was required, specifically in relation to whether this site is more accessible and well connected to a town centre than the application site. It was also recommended that a detailed sequential analysis of this site was undertaken, having regard to the 0.65ha minimum site search criteria referenced above.

Retail Impact Assessment

- The original Planning Retail Statement did not provide health checks of the centres which may be affected by the proposed development. In order for a robust judgment to be made of likely trade draw and whether any identified impact is adverse, health checks of nearby centres were needed. These health checks should be in accordance with the indicators set out in Planning Policy Guidance. Taking account of geographical proximity as well as the existing trade draw provided by the applicant it was recommended that health checks were undertaken for:
 - Beckhampton Road Local Centre
 - Carrington Local Centre
 - Bulwell Town Centre
 - Arnold Town Centre
 - Sherwood District Centre
 - Nuthall Road Local Centre

- These centres are all within, or in proximity to, the 5-minute drive time of the proposed store and would therefore be potentially affected by the proposed development.
- The Council's Consultants noted that trading densities given within the Planning Retail Statement were lower than trading densities used in recent impact assessments prepared by the applicant in support of Lidl applications. Clarification was therefore requested for the reasons a lower benchmark trading density was utilised in this instance.
- Furthermore, the Council's Consultants cited a number of concerns in relation to the assumed trade diversions, namely an over reliance on trade diversion from Limited Assortment Discounters (LAD) and an underestimate of the draw from superstores within and on the edge of the catchment area (Tesco Extra (Top Valley Way), Tesco Extra (Jennison Road), Morrisons, (Leen Road) and Sainsburys (Sir John Robinsons Way). It was also concluded that Trade diversion was generally under-estimated for local top-up convenience stores in close proximity to the application site; including Co-op Food, Nisa and Select & Save on Arnold Road and Tesco Express, 10 Oxengate. As a consequence, the Consultant recommended that sensitivity testing was undertaken of trade diversions from existing centres and stores, to be informed by health checks for the centres.

7.9 The conclusions of the preliminary assessment outlined above were given to the applicant and they have subsequently provided updated information as set out within their letter dated 2nd November 2022. This information has been reviewed by Applied Planning and the findings form part of the assessment of the proposed development. Ultimately it is concluded that there are no site/units which are suitable and available for the proposed development and that based on the information available, the application complies with the sequential test. It is also concluded that the development would not have a significant adverse impact on the considerations within Paragraph 90 (a) and (b). These findings and the analysis of the submitted information is discussed in further detail in the following section of the report (Issue ii).

7.10 Notwithstanding the above issues it is noted that the proposed development would bring the vacant site back into an economic use and create an estimated 40 FTE jobs, as well as contributing £10,660 through Section 106 for the Nottingham Jobs Hub, leading to direct and indirect benefits to the local economy in compliance with Policy 4 of the ACS and Policy EE4 of the LAPP.

7.11 The proposed development would be accessible to a large local residential population. The new store would provide a new facility in the area, which provides the opportunity for existing and new residents (a link is provided through the proposed residential development) to shop without using a car.

7.12 In conclusion it is considered that the principle of the development is acceptable and in accordance with Policies 4 and 6 of the ACS and Policies EE4, SH4 and SA1 of the LAPP.

Issue (ii) Suitability of Retail use in this out of centre location (Section 7 of the NPPF, Policy 6 of the Aligned Core Strategy and Policy SH4 of the Local Plan)

7.13 The application site is not in an identified centre. Policy SH4 of the LAPP and paragraphs 87-89 of the NPPF require the sequential approach to site selection to

be applied to all development proposals for main town centre uses that are not in an identified centre and not in accordance with an up-to-date Development Plan. The NPPF states that applications for main town centre uses should be in town centres, then edge of centre locations, and only if suitable sites are not available within a reasonable period, should out-of-centre sites be considered.

- 7.14 Policy SH4 also states that for out of centre retail developments of more than 1000sqm, a Retail Impact Assessment must be carried out and where proposals which would result in a significant adverse impact on in-centre investment or the vitality and viability of a centre within the catchment area of the proposal, they will not be supported. This broadly reflects the requirements of the NPPF paragraph 90.
- 7.15 As detailed above, the application is supported by a Planning and Retail Statement which includes a sequential test and impact assessment. This has been updated and additional supporting letters from WSP on behalf of the applicant, dated 16th September 2022 and 2nd November 2022, have been received. The latter responds to the Preliminary response from AppliedPlanning, the Council's Consultants, which identified a number of concerns in relation to the Sequential Test and the Retail Impact Assessment.

Sequential Test

- 7.16 Applied Planning's appraisal of the Sequential Test queried the use of the 0.85ha search criteria and recommended that it was carried out again with a search criteria of 0.65ha. Whilst Tesco suggested lowering the search criteria to 0.3ha, Applied Planning concluded that this site size would only be capable of delivering a 2-storey 'Metropolitan' store business model with limited parking provision which isn't the broad type and format of the business model proposed in this application. Applied Town Planning cite recent caselaw (Aldergate v Mansfield District Council & Anor [2016]) which clarifies that the sequential test should be considered on the basis of the broad type and format of the proposed land use, allowing for appropriate flexibility in respect of format and scale. As such, the applicant has carried out a search of sites with an area of 0.65ha and this is considered satisfactory and justified.
- 7.17 No sequential sites have been identified within or to the edge of district or local centres within the catchment area, despite lowering the site area search criteria to 0.65ha. The alternative site at Gala Way raised by MRPP (which the applicant considers to be out of centre and not sequentially preferable), has been reopened by Buzz Bingo since the Planning and Retail Statement assessment was initially undertaken and is, therefore, no longer available.
- 7.18 In reviewing the applicant's response above, Applied Planning concludes that the applicant's assumptions are fair and that no sequentially preferable sites have been identified. It is therefore considered that the Sequential Test is passed.

Retail Impact Assessment

- 7.19 The submitted Retail Impact Assessment uses the criteria set out within Paragraph 90 of the NPPF:
- (a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

(b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

It is noted that Paragraph 91 of the NPPF and the associated Practice Guidance, 'Town centres and retail', refer to 'significant adverse impact' and that the policies and guidance have been purposefully drafted in these terms because it is accepted that most new developments will have some impact.

- 7.20 As outlined above, the preliminary appraisal of the Retail Impact Assessment, carried out by Applied Town Planning, identified a number of issues with the initial findings. In response to this, WSP on behalf of the applicant, have provided additional information and carried out further analysis. WSP have confirmed that the benchmark trading intensities have been taken from the latest available data from 2021 which is why the figures may differ from data used from earlier applications made by Lidl. Given that the data used is up to date from a reliable data source, this is considered acceptable. The Retail Planning Consultant, in their appraisal, concur with this conclusion.
- 7.21 WSP on behalf of the applicant, carried out Health checks of Beckhampton Road Local Centre, Carrington Local Centre, Bulwell Town Centre, Arnold Town Centre and Sherwood District Centre, in October 2022. All centres were found to be healthy and in their appraisal of this information, Applied Town Planning Consultants agreed with these findings. Whilst the applicant opted not to carry out a Health Check on Nuthall Road Centre on account of it being beyond the 5 minute drivetime of the application site, it not having any comparable stores that the development would draw trade from, and it not being identified as a destination within the Household Survey. Despite the applicant's conclusions in this regard, Applied Town planning carried out their own health check of Nuthall Road Centre and found it to be healthy.
- 7.22 The Health checks have allowed for a greater depth analysis of the potential impact arising from the proposed development. Alongside these checks, WSP on behalf of the applicant, have also carried out sensitivity testing on the trade draws from each of the centres. They conclude that although the larger stores, such as Sainsbury's, Tesco and Morrisons remain popular, in each location there is an Aldi or Lidl less than 1 mile away. As such, if a shopper wanted to shop at a discount retailer, they would have made that choice already and the trade diversion from these stores to a discounter would have already taken place.
- 7.23 The applicant therefore maintains the view that most trade will be diverted from the six Aldi or Lidl stores within the catchment area. WSP assumptions about the trade draw from the local top-up convenience stores have been adjusted. It was evident from the health checks that these stores primarily provide for a very localised top-up shop primarily from a walk-in catchment. The household survey indicated that there was very little (if any) consistent use of these stores. As such it is not considered that these stores would experience significant trade diversion. Despite this the assumed trade draw has been adjusted to show that 1% of Lidl's turnover will come from the Co-op at Beckhampton Road Local Centre and 1.5% from other smaller out of centre locations along Arnold Road.
- 7.24 Whilst Applied Planning's analysis of Trade draw differs from WSP's in terms of the percentage draw, the conclusions for each of the Local Centres is the same, that the proposed development would be unlikely to have any significant impact upon any single store or centre.

- 7.25 In considering the impact on investment in centres, the applicant states that they are not aware of any current, committed and planned investment within the 5-minute drivetime with the exception of proposals at Sherwood District Centre, on edge of the catchment area (Sherwood Library site). However, as outlined in the sequential assessment, the nature of the proposed retail floorspace within this redevelopment is different to the proposed food store, particularly in terms of its size (at only 259sqm net). It is also only a small part of a wider development scheme which is focussed on the re-provision of a new library facility and new residential dwellings. As such, it is not considered that the proposed Lidl food store will impact on the delivery of this mixed-use development proposal. Applied Planning reach a similar conclusion in their appraisal.
- 7.26 Following a comprehensive assessment of the submitted Retail Impact Assessment by Applied Planning and consideration of these conclusions by the Council's Planning Policy Team, the applicant's conclusions are accepted and it is agreed that the proposed development of a food store, would not result in any significant adverse impact upon existing businesses or upon committed or planned in-centre investment. As such, it is considered that the development would comply with section 7 of the NPPF, Policy 6 of the ACS and Policy SH4 of the LAPP.

Issue (iii) Layout, design and appearance (Policy 10 of the Aligned Core Strategy and Policies DE1 and DE2 of the LAPP)

- 7.27 The layout of the site has been designed to provide an active frontage and high visibility of the store on Arnold Road, albeit set back from that road, with a legible car park which minimises the opportunity for misuse and anti-social behaviour. The scheme has evolved in response to highways, drainage and urban design feedback, improving pedestrian routes into and through the site and ensuring vehicular movements are safe whilst making efficient use of the land available. The layout of the development balances the constraints of the site, and in particular the site shape and gradient, with the requirements of the retailers to create a viable and deliverable scheme.
- 7.28 The store building follows a standard layout for the retailer and has been rationalised in response to their latest floorspace and delivery requirements. The scale, form and massing of the building are considered to be appropriate and the palette of materials proposed, comprising steel frames, metal cladding and a powder coated aluminium and glazed shopfront is also acceptable. The delivery and plant areas are contained to the south side of the store away from the boundaries with residential development.
- 7.29 As amended, the pedestrian routes into the site are acceptable and footpath links between the retail site and the residential development beyond, allow for the comprehensive and cohesive redevelopment of the wider site. A new pedestrian link running north south, through the Lidl site and landscaped area to the south is proposed. This will link to the existing pathway to the south of the site which also connects to the hospital site to the south. Landscaping proposals have been enhanced with increased tree planting and screening to boundaries.
- 7.30 The vehicular access into the site has been amended in accordance with Highways requirements and similarly the access to the substation has been reconfigured in line with Highways recommendations. The car park would provide a sufficient mix of

standard and accessible spaces as well as bays with Electric Vehicle Charging points. Infrastructure to enable further charging points to be provided in the future, is also to be incorporated during construction, which is welcomed.

- 7.31 In summary, the design and layout are considered to be appropriate for the nature of development proposed and in response to site constraints. Amendments have been made to enhance and improve accessibility and pedestrian routes to and within the site. The development therefore accords with Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP in this regard.

Issue (iv) Impact on Amenity (Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP)

- 7.32 Policy 10 of the ACS and Policy DE1 of the LAPP require all new developments to consider the impact on the amenity of nearby residents or occupiers. Policy IN2 of the LAPP requires the impact of noise upon residential properties to be considered. Plant equipment and delivery bays have been sited to the south of the store, away from boundaries with residential properties. A Noise Assessment has been submitted and reviewed by the Environmental Health Team who have no concerns in this regard. A pre-occupation condition is recommended to ensure the plant equipment and associated noise barrier are installed in accordance with the details.
- 7.33 It should be noted that no concerns have been raised by members of the public relating to the impact of the proposed development on their amenity, particularly in terms of noise.
- 7.34 Although the east boundary of the site will adjoin the rear boundaries of properties within the proposed residential development (reference 22/00675/PFUL3) it is not considered that the scale or massing of the building would give rise to any significant adverse impact upon the light to or outlook from these properties.
- 7.35 The store opening times proposed are 08.00 to 22.00 Monday to Saturday, and for any six hours between 10.00 to 18.00 on Sundays, which is considered to be reasonable. Deliveries are proposed between 07:00-23:00. Typically, there would be two HGV deliveries within a 24-hour period, although at busier times such as Christmas and Easter this could increase to three deliveries. All deliveries would be made to the service dock which, as detailed above, would be located to the south elevation of the store. It is considered that this is located at a sufficient distance from the nearest existing and proposed residential properties to avoid any significant noise and disturbance.
- 7.36 In view of the above it is considered that the proposed development would comply with Policy 10 of the ACS and Policies DE1 and IN2 of the LAPP.

Issue (v) Highways, Access and Parking (Policies 10 and 14 of the ACS and Policy TR1 of the LAPP)

- 7.37 The Highway Authority has assessed the proposals, including the Transport Assessment carried out by the applicants. They are satisfied with the content and findings of this report, and that the impact of the development, as amended, on traffic flows and road safety are acceptable. The level and arrangement of car parking proposed is also acceptable. It is considered that the development would be in compliance with Policy TR1 of the LAPP.

- 7.38 The changes to geometry of the site access have resulted in a reduction in the width of the access road. This would make it easier for pedestrians to cross the road whilst ensuring safe access and egress for vehicles.
- 7.39 The footpath links with the proposed residential development and beyond the site would allow and encourage visitors to the store on foot and bike, thus reducing the reliance on travel by car, with cycle storage being provided within the development. It is considered that the proposal accords with Policy 14 of the ACS in this regard.
- 7.40 Conditions requiring a Construction Management Plan and the implementation of car parking, cycle parking and Electric Vehicle Charging are recommended. In summary, the development is considered to comply with Policies 10 and 14 of the ACS and Policy TR1 of the LAPP.

Issue (vi) Trees and Biodiversity (Policies 17 and 19 of the ACS and Policies EN6, EN7 and IN4 of the LAPP, Biodiversity SPD)

- 7.41 Policy EN6 of the LAPP states that development will only be permitted where significant harmful ecological impacts are avoided. Where harmful impacts cannot be avoided they should be mitigated through the design, layout and detailing of the development, or as a last resort compensated for, which may include off-site measures. The Biodiversity SPD further supports this.
- 7.42 The application is accompanied by an Ecological Appraisal, Ecological Enhancement Scheme and Biodiversity Net Gain Assessment. At the time the assessment was carried out, the site comprised areas of established woodland and grassland. Whilst much of which is proposed to be removed to facilitate the development, a comprehensive scheme of tree replanting and ecological enhancements (including bird and bat boxes, sensitive lighting and hedgehog connectivity) has been submitted (and in itself is considered satisfactory by the Council's Biodiversity Officer) this is not sufficient to offset the loss of habitats and the Biodiversity Net Gain Assessment demonstrates an overall loss in Biodiversity rather than a gain.
- 7.43 The proposals for the removal of woodland and grassland have been reconsidered by the developer but in their opinion it is not possible to increase the retention due to the harm arising from the disturbance of the adjacent areas of grassland/woodland. As such, the developer proposes a contribution towards off-site biodiversity gain as additional mitigation in order to achieve an overall gain. With mitigation in the form of a financial contribution proposed, It is considered that the benefits of developing a long term vacant site which clearly has economic benefits as well as providing affordable housing for this city, outweighs the harm arising from the removal of the grassland and woodland. The Biodiversity Officer has assessed the proposals and provided calculations for a contribution towards off-site Biodiversity Gain based upon a figure per unit for both grassland and woodland. This amounts to a figure of £35,503.57 which is to be requested through the s106 Agreement. The contributions will be placed in a ringfenced account which will be used for the creation of habitats. Taking account of the on-site proposals and the off-site compensation to be provided by a s106 contribution, it is considered that the development complies with Policies 17 and 19 of the ACS, Policies EN6, EN7 and IN4 of the LAPP and the Biodiversity SPD.
- 7.44 Policy EN7 of the LAPP relates to Trees and seeks to retain and protect trees of high value, and other trees and landscaping where possible, and secure adequate

mitigation/replanting for the loss of trees. A Tree Survey and Arboricultural Impact Assessment have been submitted with the application which concludes that none of the trees on the site are/were category 'A' (high value) trees. No trees on site benefit from any statutory protection and as such consent to remove any trees is not required from the local planning authority. The lowest value trees are to be removed during site clearance.

- 7.45 Where trees are not proposed for retention, mitigation in the form of replanting is proposed. This approach is considered to reach an acceptable balance between the loss of the trees and the viable redevelopment which will provide onsite mitigation. It is considered that the development in this regard, complies with Policy EN7 of the LAPP.

Issue (vii) Planning Obligations (Policies 17 and 19 of the Aligned Core Strategies, Policies EN6, EE4 and IN4 of the LAPP and the Biodiversity SPD)

- 7.46 The application site comprises land which is partly in the Council's ownership and partly owned by a third party. As the Council cannot enter into an agreement with itself it is proposed that the planning obligation required to enable this permission to be granted will initially only be secured against the land which is in third party ownership. However, on completion of the land transfer it is proposed that the planning obligation subsequently be varied to ensure that it binds the remainder of the application site.

- 7.47 A policy compliant development would be expected to provide the following planning obligations:

- a financial contribution of £35,503.57 towards off-site Biodiversity Net Gain
- Local employment and training opportunities, including a financial contribution of £10,660 towards their delivery

The total contribution is therefore £46,163.57

- 7.48 The applicant has committed to the above Policy compliant contributions. To conclude, the contributions satisfy Policies 17 and 19 of the Aligned Core Strategies, Policies EN6, EE4 and IN4 of the LAPP, and the Biodiversity SPD.

8. Sustainability (Policy 1 of the ACS and Policy CC1 and CC3 of the LAPP)

- 8.1 Policy 1 of the ACS affirms the presumption in favour of sustainable development. Policy CC1 (sustainable design and construction) of the LAPP promotes energy efficient buildings and sustainable design, and Policy CC3 (water) seeks to protect water quality, promote efficient water use and require sustainable drainage where possible.
- 8.2 The proposed development would incorporate various measures to mitigate and adapt to climate change. The proposal incorporates passive design strategies to take advantage of natural daylight and enhanced fabric efficiencies. The proposed store will also incorporate active design strategies to reduce energy consumption by introducing heat recovery ventilation to pre-heat incoming fresh air and installing low energy lighting.

- 8.3 As a company, Lidl seeks to reduce CO2 emission rates from its buildings by over 20% when compared with a building of the same type, size and use. The fully glazed, front façade maximises natural daylight entering the building, whilst sensor controlled exterior sun blinds automatically operate to mitigate the effects of excessive heat from solar gain. Finally, photovoltaics, to capture solar power for use in store, will be applied to the roof of the store. As detailed earlier within the report, Electric vehicle charging points are proposed within the car park.
- 8.4 The site is in Flood Zone 1 and therefore at the lowest risk of flooding. A condition requiring the submission of details of surface water drainage provision has been recommended by the Drainage Team. Overall the scheme will comply with Policy 1 of the ACS and Policies CC1 and CC3 of the LAPP.

9 Financial Implications

None.

10 Legal Implications

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

11 Equality and Diversity Implications

None.

12 Risk Management Issues

None.

13 Strategic Priorities

Neighbourhood Nottingham: Redevelopment of a cleared brownfield site with a high quality, sustainable development.

Safer Nottingham: The development enhances the pedestrian Connectivity, contributing 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

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: 22/00709/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9SWP6LYK5800>

17 Published documents referred to in compiling this report

Aligned Core Strategies – Local Plan Part 1 (2014)

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

NPPF (2021)

Biodiversity SPD 2020

Greater Nottingham & Ashfield Housing Needs Assessment, October 2020.

Contact Officer:

Mrs Zoe Kyle, Case Officer, Development Management.

Email: zoe.kyle@nottinghamcity.gov.uk Telephone: 0115 8764059

Nomad printed map



Crown copyright and database rights 2021 OS 100019317. Use of this data is subject to terms and conditions., Nottingham City Council

0 0.03 0.05 km 

Key

 City Boundary

Printed map generated by a Nomad user on 13/12/2022. This map is not suitable for publishing, for high quality maps please contact gl@nottinghamcity.gov.uk.

Description

A map printed from Nomad.



Nottingham
City Council

PLANNING COMMITTEE

UPDATE SHEET

(List of additional information, amendments and changes to items since publication of the agenda)

21 December 2022

4a) Former Chronos Richardson site- Lidl (22/00709/PFUL3)

Following publication of the Committee report, 2 further letters have been received from MRPP on behalf of Tesco Stores Ltd.

The first letter, dated 14th December 2022, suggests that this item should be withdrawn from the Committee agenda due to non-disclosure of information on the Council's website, namely, 2 letters from WSP on behalf of the applicant, in response to earlier objections from MRPP.

The second letter, dated 19th December 2022, sets out further representations in relation to the proposed development, in response to further work carried out in relation to the Sequential Test and Retail Impact Assessment and in response to the published Committee report. The letter can be summarised as follows:

- (i) In their assessment of the Sequential Test, Applied Planning (retail Consultant) suggested a minimum site search area of 0.65ha. MRPP on behalf of Tesco Stores Limited suggested that a 0.3ha minimum site size should be adopted. They suggest this lower threshold reflects recent discounter schemes that have promoted a standard format but over two floors i.e., ground floor sales with warehousing over. MRPP therefore conclude that Applied Planning are wrong in asserting that this *"would only be capable of delivering a 2-storey 'Metropolitan' store business model"*. MRPP on behalf of Tesco Stores maintain their view that a search area of 0.3ha should be used and suggest that examples can be found in respect of recent planning applications at Orpington and Thames Ditton. They make no further responses to the retail impact recommendations that have now been made to the Council on the basis of full health checks having been carried out together with appropriate sensitivity analysis relating to trade draw from larger supermarkets and local shops. However, they maintain that the 0.3ha sequential site threshold should be adopted as it does not relate to a wholly different format, rather it provides a flexible approach to delivering discounter retailers' standard store format.
- (ii) The regrading of the site that is required to facilitate the level floorplate and car park required by the retail development would have significant environmental impacts, namely impact upon the amenities of residential properties and diminution of an effective and appropriate residential environment for the future residential occupiers of dwellings on the adjoining allocated land.
- (iii) The development also requires the removal of 11 trees and 3 groups of trees. Policy EN7 states *"Planning permission for development proposals affecting trees will only be granted where existing high-value trees are retained and protected, along with other trees and landscaping where possible"*.

- (iv) Policy EN6 states *“development proposals on, or affecting, ... non-designated sites ... with biodiversity value will only be permitted where it can be demonstrated that the need for the development outweighs any harm caused by the development and that adequate mitigation measures are put in place*
- (v) The policy is clear. Adverse proposals will only be permitted where the need for the development outweighs the harm caused. The appropriateness of adequate mitigation only arises if need has outweighed harm. There is no evidence of this within the application.
- (vi) Trees have already been removed which deprives the local planning authority from being unable to exercise its mind effectively on the application of policies EN6 and EN7 in decision-making on the application.
- (vii) Delivery of the allocation as a whole, i.e., for an overall site-wide residential proposal, would have not have any requirement to regrade the significant area necessary to accommodate the supermarket. It would have been able to retain all of the trees having merit whether within the required ‘open space provisions’ or otherwise.
- (viii) A residential scheme, in maintaining current site levels, would enable relationships with existing neighbouring properties to be positively designed and managed.
- (ix) The impact from the need to re-grade the site causes significant level differences between any proposed residential development and the external plant area to the south of the neighbouring proposed store and its HGV delivery stand. This results in the need for a 4 m high noise barrier around that area (as recommended in the applicant’s Noise Assessment).
- (x) Noise from the store’s access and car park endure until 11pm at night. This activity would impact on residents in homes to be developed. That would appear to expose occupiers to unnecessary noise nuisance.
- (xi) All of the identified issues arise as a direct consequence of seeking to accommodate the application proposal on a site that is unsuitable to accommodate it.
- (xii) The Report, in its Summary, reconfirms that the proposal *“...is a major development that represents a departure from the Local Plan.”* However, the report does not effectively articulate a balancing exercise between the breach of planning policy, particularly with regard to Policy SA1 and other considerations. Furthermore the recommendation does not include referral to the Secretary of State under the relevant Directions.

Comments

The 'undisclosed documents' that MRPP refer to were published on the website in conjunction with the publication of the Committee report. It is considered that statutory requirements for publicity of the application, consultation and the publishing of background papers have been met and that there are no grounds for deferral of consideration of the application.

The issues raised within the latter dated 19th December 2022 are addressed as follows:

- (i) Applied Planning have appraised the Sequential Test and provided justification for the use of a 0.6ha site area. The Council accept this justification and consider that the Sequential Test is met, as set out within the Committee report.**
- (ii) The Council consider that the operational works and regarding of the site are acceptable in terms of the resulting relationship between the retail store and the neighbouring residential properties. A Noise Assessment has been provided and reviewed by the Council's Environmental Health Team and is considered satisfactory.**
- (iii) (iv) and (v) The proposal delivers redevelopment of a brownfield site, an affordable housing scheme and a retail development to serve the locality. It is therefore consider that the benefits of the development outweigh the harm. An Ecology appraisal and Tree report have been provided. The scheme has been reviewed by the Council's Biodiversity Officer and appropriate mitigation in the form of replanting and a financial contribution for off-site biodiversity gain have been agreed.**
- (vi) The trees that have been removed did not benefit from any statutory protection. As such consent for their removal was not required.**
- (vii) and (viii) The Council have considered the applications to subdivide the site on their merits and, for the reasons outlined within the reports, consider the development to be acceptable and compliant with relevant Policies as set out.**
- ix) The relationship between the developments is considered acceptable as set out within the report. The Noise Assessment and sound insulation measures have been assessed by the Council's Environmental Health Team and are considered acceptable.**
- x) As above**
- xi) The application has been comprehensively assessed and the development of a retail store on the site is considered to be acceptable as set out within the report.**
- xii) Whilst the proposal represents a departure from the Local Plan in that it seeks to provide retail development on part of a site allocated for housing, it is considered alongside an application for residential development which delivers a scheme of affordable housing and the required s106 contributions towards Open Space, Education, Biodiversity and Employment and Training. The retail element has been fully justified in the submitted Sequential Test and Impact Assessment.**

As set out within the report, the loss of land that could otherwise be developed for housing is acknowledged, but the number of dwellings to be provided on the remainder of the LAPP allocation (62) is considered to be acceptable compared to the LAPP range of 63-87 in the LAPP. The number of homes is included in an appendix rather a LAPP policy, and so the range is indicative, and does not have the weight of Policy.

Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.

Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken.

In recommending the application as a departure from the Development Plan, officers have had regard to the matters set out in the report and consider that the material considerations support such a decision. In particular, regard has been had to the significant employment benefits provided by the scheme, the benefit of a new retail development in a location that serves existing and future local residents, and, together with the accompanying residential application will regenerate a long-standing brownfield site. Regard has also been had to the Council's current position in relation housing land supply, and the homes and other benefits provided by the related application for residential development as part of the comprehensive redevelopment of the site. Overall it is considered that these benefits are significant material considerations that taken together support the granting of planning permission which is a departure from the residential allocation in the LAPP.

As a departure from the Development Plan, the development falls below the relevant thresholds for the decision to be referred to the Secretary of State.

(Additional Background papers: Letter from MRPP dated 14.12.22. Letter from MRPP dated 19.12.22)

4b) Former Chronos Richardson site- MyPad (22/00675/PFUL3)

- i) A query has been raised regarding opportunities for play within the development. With appropriate attention to detailed design and landscaping, the open space that links the residential development to the retail development can be used for informal play. Furthermore, the applicant has confirmed that although described as a 'pond', the attenuation pond will be dry for the majority of the year and can be used during this time as informal play space. A condition requiring details of the layout of the linking open space and the attenuation pond and surrounding area is recommended.
- ii) Further consideration has been given to the use of knee rail fencing to the attenuation pond area and it is recommended that the condition referred to under point (i) above, also requires the submission of details of the means of enclosure.

iii) The exact contribution towards Education, as referred to in the s106 Agreement, is £338, 874.94.