

JJ 11/10/07

**My Ref:** 07/01170/PFUL3  
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**TOWN AND COUNTRY PLANNING ACT 1990**  
**APPLICATION FOR PLANNING PERMISSION**

11 OCT 2007 *h*

**Application No:** 07/01170/PFUL3  
**Application by:** Gladedale (East Midlands) Ltd  
**Location:** Site Of 11 - 67 Consec, Oakford Close, Nottingham  
**Proposal:** Erection of 51 dwellings comprising 40 three bed and 11 two bed houses.(affects public right of way)

Nottingham City Council as Local Planning Authority hereby **GRANTS PLANNING PERMISSION** for the development described in the above application subject to the following conditions:-

1. The development to which this planning permission relates shall be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. The development shall not be commenced until the following have been submitted to and agreed in writing with the Local Planning Authority:-
  - a. Details of all external materials and eaves treatment.
  - b. Proposals for surfacing those parts of the site which will not be landscaped.
  - c. Proposals for enclosing the boundaries of the site and plots;
  - d. Details of bin storage.
  - e. A detailed landscaping and planting scheme for the development indicating the type, height, species and location of proposed trees and shrubs.
  - f. A detailed scheme to deal with contamination of the site, which shall include an investigation and assessment to identify the nature and extent of contamination and the measures to be taken to avoid any risk to health and safety when the site is developed. In particular the scheme shall include:
    - i) details of how the site investigation and the analysis of chemical contaminants are proposed to be carried out, prior to implementation
    - ii) details of the results of the site investigation including the results of all sampling/site testing, and an assessment of the conditions found
    - iii) proposals (including timescales for implementation) for dealing with any conditions or contamination which might be present on the site, and details of the proof testing regimes to be used to ensure that the remedial measures are effective;



iv) a contingency plan for dealing with any contamination, not previously identified in the site investigation, encountered during the development.

g. Notwithstanding the submitted plans further revisions to the detailing of the proposed front elevations of house types 255, 259, 365, 366, 368.

3. The dwellings shall not be occupied until the following have been carried out in accordance with the details submitted to and approved in writing by the Local Planning Authority:-

- a) The means of access has been constructed.
- b) The means of enclosure for the site boundaries and individual plots have been provided.
- c) The land within the site other than that to be landscaped has been surfaced.
- d) The sound insulation scheme for the proposed dwellings has been completed.
- e) Remedial or precautionary measures required to deal with ground contamination have been completed, and the approved regime of proof testing has been implemented to demonstrate the effectiveness of the remediation work, and the results have been submitted to and approved in writing by the Local Planning Authority.
- f) The bin stores have been completed.
- g) The proposed parking/garaging and servicing areas have been surfaced and laid out and shall thereafter be provided for this purpose.

4. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner, and any trees or plants which die or are removed or become seriously damaged or diseased within five years shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

5. Existing trees on the site, shown to be retained on the approved plan, shall be protected until the completion of the development as follows:

a)  
No equipment, machinery or materials shall be brought onto the site in connection with the development unless all trees shown on the approved plan to be retained have been protected with fencing. The fencing shall be in accordance with BS 5837:2005 Trees in relation to construction Recommendations figure 2: located at a distance of four (4) metres from the centre of the trunk of the retained tree(s) unless alternative measures have been first submitted to and approved in writing by the Local Planning Authority. The fencing shall remain in place for the duration of the development and shall not be removed until all equipment, machinery and surplus materials have been removed from the site.

b)  
No work or storage of materials (including the removal or deposit of top soil), or excavations, shall be carried out within the fenced area(s) without the prior written permission of the Local Planning Authority.

c)  
Poisonous or noxious materials e.g. oil, bitumen, cement shall not be stored or discharged, and no concrete mixing shall take place within 10 metres of any tree shown on the approved plan to be retained.

6. Prior to the commencement of the development on site a schedule of tree work for the existing trees shall be submitted to and approved by the Local Planning Authority.

7. Notwithstanding the details provided in the submitted energy statement and prior to the commencement of the development further details shall be provided by the applicant identifying how the predicted CO<sub>2</sub> emissions of the development will be reduced by at least 10% through the use of on site renewable energy equipment.

8. Before any unit of the development hereby approved is occupied the renewable energy system agreed to meet the 10% target shall have been installed and the local planning authority shall be satisfied that their day to day operation would provide energy for the development. The approved renewable energy system shall be permanently retained and maintained so as to continue to provide energy for the development for as long as the buildings remain.

9. The development permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in section 56(4)(a)-(d) of the Town and Country Planning Act 1990 in relation to the development until a planning obligation pursuant to section 106 of the said Act relating to the land has been made and lodged with the local planning authority and the local planning authority has notified the person(s) submitting the same that it is to the local planning authority's approval. The said planning obligation will provide that the sum of £94,063.81 will be paid to the local planning authority for the purposes of providing and/or enhancing public open space in the locality of the development.

10. 20% of the overall number of units shall be affordable as defined by the PPS3: Housing, the details of which shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of the development on site. The affordable housing scheme shall include, the number of units, the location and house type proposed, together with the mechanism by which the affordable housing is to be secured.

11. No more than 50% of the market housing units shall be occupied before the affordable housing units are provided and made available for occupation in accordance with the details approved under condition 10.

12. Notwithstanding the provisions of and Town & Country Planning General or Special Development Order for the time being in force relating to 'permitted development' dwellings identified on the approved site plan as plots 9-15 and 42-48 shall not be enlarged and no ancillary buildings shall be erected without the prior express permission of the City Council.

The reasons for the condition(s) are:-

1. In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. (Condition 1)
2. To ensure that the appearance of the development will be satisfactory. (Conditions 2a-2e, 2g, 3b,3c, 3f and 4)
3. In the interests of public health and safety. (Condition 2f and 3e ).
4. In the interests of vehicular and pedestrian safety in the area. (Conditions 3a and 3g)
5. To ensure that the occupants of the development do not experience noise nuisance (Condition 3d).
6. The local planning authority would not be prepared to permit the development unless provision has been made for affordable housing and public open space in accordance with the requirements of policies H5 and R2 of the Nottingham Local Plan (November 2005). (Condition 9, 10 and 11)
7. In the interests of sustainable development (Conditions 7 and 8).
8. To avoid harm to the existing TPO trees on the site (Conditions 5, 6 and 12).

Reason for Decision:

The Council considers that the proposal accords with the policies of the development plan set out. It has taken into consideration all other material matters and the matters raised in response to consultation and publicity. Subject to the conditions imposed, the development is acceptable.

Summary of Planning Policies the City Council has had regard to in reaching this decision:

ST1 - Sustainable Communities. Seeks to ensure that all new development contributes to the creation and maintenance of sustainable communities, particularly by the provision of a balanced mix of housing size, type and affordability, particularly promoting housing for families with children and appropriate dwellings which allow older and disabled people to stay in their local community.

H2 - Housing Density. Aims to achieve as high a density on development sites as is compatible with characteristics of the site and its surroundings, the need to safeguard living conditions and with regard to public transport accessibility.

H3 - Appropriate Housing Types. Seeks to ensure the provision of a mix of dwelling size and types for new residential developments having regard to the characteristics of the surrounding area. 10% of new homes to be developed to 'Lifetime Homes Standards'.

H5- Affordable Housing. Seeks to identify the size thresholds for affordable housing where appropriate, i.e., 1 hectare or 25 dwellings.

BE1 - Design Context. Grants planning permission subject to criteria on public/private space, community safety, minimisation of conflict between traffic, pedestrians and cyclists, and co-ordination of street scene.

BE2 - Layout and Community Safety. Seeks to ensure that development respects public access and safety and does not increase traffic, parking or congestion.

BE3 - Building Design. Seeks to achieve appropriately designed developments providing acceptable standards of amenity for neighbouring occupiers, and enhance community safety. The policy also seeks to ensure that developments do not prejudice comprehensive development of a larger area. It also considers whether proposals include waste disposal and recycling facilities and allow for safe and convenient access, especially for people with disabilities.

R2 - Open Space in New Development. Sets out the criteria whereby the Council will require on site open space or financial contributions towards the provision or improvements of off site open space where the development creates such need.

T3 - Car, Cycle and Servicing Parking. Seeks to minimise car parking levels on new development sites subject to criteria on neighbour amenity, public transport provision, generation of extra traffic, land use and likely levels of car ownership.

Please note:-

1. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.
2. Prior to commencement of the development on site the developer should have entered into a Section 38 agreement of the Highways Act 1980 for the adoption of the housing layout as Public Highway. As part of the Section 138 Agreement the applicant will need to agree revisions to the layout to make provision for parking for visitors on the highway without restricting access to properties further into the development. Details of swept paths of the largest vehicle likely to visit the site to ensure that the highway is of appropriate dimensions to facilitate turning manoeuvres of servicing/ refuse vehicle will also be required. As part of the Section 38 Agreement details of the final highway surface treatments, street lighting, drainage, traffic calming features and landscaping

will need to be agreed. For further information please contact Charles Woolsey, Senior Engineer, Highway Network Management on Tel: 0115 9156663.

3. The applicant is advised that prior to the commencement of development on site a stopping up order under Section 257 of the Town and Country Planning Act 1990 of the existing public footpaths which cross the site and a road closure order (footways and carriageways) under Section 247 of the Act has been secured and agreed in writing with the Government Office for the East Midlands. Please contact Chas Woolsey Tel 0115 9156663 of the Highways Network Management to discuss further the information required.

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

5. It should be noted that the City Council granted this permission subject to a condition requiring the signing of an agreement between the Council and the applicant in accordance with the provisions of Section 106 of the Town & Country Planning Act 1990, Section 111 of the Local Government Act 1972 or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982. *The terms of the agreement bind successors in the title and assigns and can be enforced against them.*

6. The responsibility and subsequent liability for ensuring that the building (s) is not inhabited by a species of bat prior to the commencement of demolition rests with the developer and/or the landowner. The developer is strongly recommended to instigate a thorough investigation of existing trees for the presence of bats as all species of British bat are protected from injury, disturbance and damage to roosts (even when bats are not present) under both UK and EU law.

7. Noise Control: hours of work and equipment

To assist with project planning, reduce the likelihood of justified complaint, and avoid costly restriction and development delays, 'acceptable hours' are detailed below:-

Monday to Friday:	0730 -1800 (noisy operations restricted to 0800-1800)
Saturday:	0800 -1600 (noisy operations restricted to 0830-1600)
Sunday:	at no time
Bank Holidays:	at no time

Work outside these hours may be acceptable but must be agreed with Nottingham City Council's Pollution Control Section (Tel: 0115 9156410; Fax 0115 9156020)

Equipment

All equipment shall be properly maintained, serviced and operated in accordance with the manufacturer's recommendations and with appropriate noise suppression/silencers.

Dust/Grit and other fugitive emissions

Construction and demolition work invariably generates grit and dust, which can be carried off-site and cause a Statutory Nuisance, and have a detrimental effect on local air quality.

Contractors are expected to use appropriate methods to minimise fugitive emissions, reduce the likelihood of justified complaint and avoid costly restriction and development delays. Appropriate methods include:-

Flexible plastic sheeting

Water sprays/damping down of spoil and demolition waste

Wheel washing

Periodic road cleaning

8. This decision relates to the application as amended by additional information and plans received on 4 October 2007.

9. For the avoidance of doubt the definition of affordable housing as defined in PPS 3: Housing includes, social rented and intermediate housing provided to specified eligible households whose needs are not met by the market. Affordable housing should:

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted for the subsidy to be recycled for alternative affordable housing provision'.

10. In reference to condition 10 and 11 of this approval relating to the provision and retention of affordable housing, the applicant is advised that heads of terms outlined in the draft Section 106 Agreement dated 8 October 2007 and agreed in the applicants letter dated 10 October 2007 is acceptable to the Local Planning Authority and would meet the affordable housing requirement for the site.

Your attention is drawn to the rights of appeal set out on the attached sheet.

One copy of your plans is enclosed stamped with the decision.

A handwritten signature in black ink, appearing to read 'S. Neville'. The signature is written in a cursive, slightly stylized font.

Manager

## **RIGHTS OF APPEAL**

Application No: (07/01170/PFUL3)

If the applicant is aggrieved by the decision of the City Council to impose conditions on the grant of permission for the proposed development, then he or she can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Any appeal must be submitted within six months of the date of this notice. You can obtain an appeal form from the Customer Support Unit, The Planning Inspectorate, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Phone: 0117 372 6372. Appeal forms can also be downloaded from the Planning Inspectorate website at <http://www.planning-inspectorate.gov.uk/pins/index.htm>. Alternatively, the Planning Inspectorate have introduced an *online appeals service which you can use to make your appeal online*. You can find the service through the Appeals area of the Planning Portal - see [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay.

The Secretary of State need not consider an appeal if the City Council could not for legal reasons have granted permission or approved the proposals without the conditions it imposed.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

## **PURCHASE NOTICES**

If either the City Council or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. This procedure is set out in Part VI of the Town and Country Planning Act 1990.

## **COMPENSATION**

In certain limited circumstances, a claim may be made against the City Council for compensation where permission is refused or granted subject to conditions by the Secretary of State. The circumstances in which compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.