

**REPORT OF CHIEF PLANNER**

**Site Of Warehouse Rear Of 369, Haydn Road**

**1 SUMMARY**

Application No: 17/01018/PFUL3 for planning permission

Application by: Staniforth Architects Ltd on behalf of T Visaman And Sons Limited

Proposal: Erection of 29 dwellings

The application is brought to Committee because the applicant is requesting that s106 contributions are waived due to viability and as such the development would not be policy compliant.

To meet the Council's Performance Targets this application should have been determined by 7th November 2017. An extension of time agreement is in place.

**2 RECOMMENDATIONS**

- 2.1 **GRANT PLANNING PERMISSION** subject to the indicative conditions substantially in the form of those listed in the draft decision notice at the end of this report.
- 2.2 The power to determine the final details of the conditions to be delegated to the Chief Planner.

**3 BACKGROUND**

- 3.1 The application relates to a brownfield site to the rear of 369 Haydn Road. The site is allocated as housing development land within the Nottingham Local Plan (site H1.9). The site was previously occupied by Ellis and Everard Ltd for many years and used for the distribution and storage of chemicals. Between 2000 and 2015, the site underwent an environmental clean-up. This included regular monitoring, investigation, remediation and reporting to the Environment Agency and Nottingham City Council Pollution Control. The site was used as a recycling centre until 2012. All services were decommissioned and the buildings were demolished in 2014 (ref.14/00323/PADA)
- 3.2 The site has common boundaries with residential properties to the east, south and west. To the north, (fronting Haydn Road,) there is a car dealership and industrial workshops, along with two retail units with residential accommodation above. The application site has two distinct levels reflecting the topography of the concrete bases of the recently removed building. There are also changes in level in the immediate area, with Camelot Avenue being substantially lower than the site. A tall retaining wall runs along the north eastern edge of the site. Ford Street North, Gladys Street and Central Avenue are approximately 1.2 metres higher than the

application site and are bounded by palisade fencing and some trees along this western side. The southern boundary is treated with palisade fencing at the entrance to the site.

- 3.3 Outline planning permission was granted for 29 dwellings on the site in 2015 (ref. 15/03103/POUT). There have been no further applications for approval of the reserved matters though these could still be sought and that permission implemented up until September 2019. This permission was accompanied by a S106 agreement requiring the payment of a commuted sum for open space (to be calculated by reference to a formula) and the provision of on-site affordable housing.

#### **4 DETAILS OF THE PROPOSAL**

- 4.1 The current application seeks permission for 29 dwellings on the site comprising 21 three-bed houses and 8 two-bed houses. These would be a mix of detached and semi-detached, two storey dwellings and would be predominantly brick construction with tiled roofs and stone detailing. The layout would be similar to that approved under application 15/03103/POUT with access off Haydn Road. The road would extend through the centre of the site with a turning head, forming a cul-de-sac at the top end of the site. The access road would be constructed to adoptable standards, and would include parking bays and street trees.
- 4.2 The layout has been amended to increase garden sizes, reduce the expanse of hard surface to the frontage and increase separation distances between the proposed dwellings and existing residential properties. All dwellings would benefit from in-curtilage parking for two cars.

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

##### **Adjoining occupiers consulted:**

10, 12, 17 and 19 Ford Street North  
363, 367, 369, 373, 372-378 (evens) Haydn Road  
6-44 (evens) Camelot Avenue  
9 and 11 Gladys Street  
84, 105-111 (odds) Central Avenue

The application has also been advertised by way of a site notice and a press advertisement.

Two representations have been received raising the following queries and concerns:

The rear of no. 40 Camelot Avenue would be overlooked  
Would like reassurance that the development will not result in subsidence of the gardens to the rear of the site  
What will the mix of housing be – private, social or a combination?  
Would like assurances that there will be no vibrations for surrounding properties during construction and no burning of materials on site.

### **Additional consultation letters sent to:**

**Pollution Control:** No objection subject to conditions

**Highways:** No objection to the revised layout. Conditions requiring a Construction Traffic Management Plan, road layout details, reinstatement of redundant footways and residential travel packs are recommended.

**Environment Agency:** No objection subject to conditions relating to boreholes and piling.

**Drainage:** No objection. Drainage strategy is acceptable in principle. Detailed drawings to be approved by condition.

**Biodiversity Officer:** The Ecological survey is satisfactory. Conditions are recommended to secure Ecological enhancements.

**Others:**

## **6 RELEVANT POLICIES AND GUIDANCE**

### **National Planning Policy Framework (March 2012)**

National Planning Policy Framework (NPPF) sets out the Government's planning policies. While planning applications still need to be determined in accordance with the development plan unless material planning considerations indicate otherwise, the NPPF is a material consideration in the assessment of this application.

The NPPF advises that there is a presumption in favour of sustainable development. Paragraph 17 of the NPPF lists the core planning principles that should underpin decision making on planning applications. Of particular relevance to this application is the need to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Paragraphs 56-64 of the NPPF sets out the approach for achieving good quality design, including responding to local character, creating a strong sense of place and resisting poor design that fails to take opportunities to improve the character and the quality of an area.

### **Nottingham Local Plan (November 2005):**

H1 - New Housing Development.

ST1 - Sustainable Communities

H5 - Affordable Housing.

R2 - Open Space in New Development.

NE3 - Conservation of Species.

NE10 – Water Quality and Flood Protection

T3 – Car, cycle and servicing parking

## **Greater Nottingham Aligned Core Strategies (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

### **7. APPRAISAL OF PROPOSED DEVELOPMENT**

#### **Main Issues**

- (i) Principle of the development
- (ii) Layout and design
- (iii) Residential Amenity
- (iv) Highways considerations
- (v) Flood Risk and Drainage
- (vi) Planning Obligations

**Issue (i) Principle of the development** (Policies ST1 and H1 of the Local Plan and Policy 8 of the Aligned Core Strategies)

- 7.1 The application site is located upon land allocated for housing development on the Proposals Map of the Local Plan (Policy H1). The principle of residential development on the site has also been established through the granting of planning permission 15/03103/POUT.
- 7.2 Policy ST1 aims to secure the creation and maintenance of balanced communities, including a balanced mix of housing size, type, and affordability. The policy supports the use of previously developed land and buildings and development at an appropriate density to help support local services and to ensure the efficient use of land.
- 7.3 Policy 8 of the Aligned Core Strategy emphasises the need to develop sustainable communities and, in Nottingham's case, places further emphasis on the provision of innovative family housing on the fringes of the city centre and a broader mix of housing elsewhere. Policy 8 also recognises that the appropriate housing mix will be informed by a number of factors including local housing strategies, demographics, need and demand, site specifics and accessibility.
- 7.4 The proposal would deliver quality housing of an appropriate size and design for occupation by families, offering a mix of two and three bedroom properties with private rear gardens and some with garages. The development would benefit from good public transport links to the city centre being located close to a primary bus route along Sherwood Rise. It is therefore considered that the proposed development would comply with policies ST1 and H1 of the Nottingham Local Plan and Policy 8 of the Aligned Core Strategies.

## **Issue (ii) Layout and Design** (Policies 8 and 10 of the Aligned Core Strategies)

- 7.5 The NPPF recognises the importance of design in making places better. It states that decisions should not attempt to impose architectural styles and that great weight should be given to schemes that raise the standard of design in the area. The commentary accompanying Policy 10 of the Aligned Core Strategy states that all new development should aspire to the highest standards of design, make a positive contribution to the public realm and create an attractive, safe, inclusive and healthy environment and the Policy itself sets the criteria that applications are to be measured against.
- 7.6 The proposed development, as amended, provides a legible layout with an appropriate number of dwellings and the density and grain is in keeping with that of the surrounding area, which typically displays detached and semi-detached dwellings. The proposed dwellings are of a good size providing a mix of two and three bedroom properties suitable for family occupation. Changes to the layout have improved the strength of the street frontages, removing excess hard surfacing and introducing boundary enclosures between the plots in front gardens. Further amendments seeking front boundary enclosures in the form of railings and hedges, to the properties along the northern side of the site have been sought. Amendments to simplify the proposed porch design have also been sought.
- 7.7 The dwellings would provide in-curtilage parking for two vehicles as well as landscaped front gardens. A condition requesting further details of the landscaping scheme is recommended. The proposed palette of materials has been simplified to the use of two brick types and tiled roofs. A condition requesting samples of all external materials is recommended.
- 7.8 Bin storage has been incorporated within rear gardens for all properties. In view of the above, it is considered that the proposed development complies with policies 8 and 10 of the Aligned Core Strategies.

## **Issue (iii) Residential Amenity** (Policy 10 of the Aligned Core Strategies)

- 7.9 The proposed development has been amended to increase separation distances between the proposed dwellings and the existing dwellings that back onto the site on Camelot Avenue. As amended, the relationship between the proposed development and the properties beyond the site is considered acceptable.
- 7.10 The development would provide good-sized houses, with adequate outlook and access to natural light, and with private rear gardens. The proposal is therefore considered to provide a satisfactory quality living environment for future occupiers. The proposed development would therefore comply with Policy 10 of the Aligned Core Strategies.

## **Issue (iv) Highway considerations** (Policy 10 of the Aligned Core Strategy)

- 7.11 The revised scheme demonstrates an acceptable road layout which provides adequate access and turning space for vehicles to enter, exit and manoeuvre within the site. All plots provide off street parking provision for two vehicles and additional visitor parking is provided in the form of on-street bays. Highways have recommended the submission of a Construction Traffic Management Plan to ensure that the development does not adversely affect the existing public highway and this

can be requested by condition. A residential travel plan is also required by condition to promote the use of sustainable transport. Other details such as a road safety audit and road markings and street lighting will be agreed through a separate Highways Agreement.

**Issue (v) Flood Risk and Drainage (Policy NE10 of the Local Plan)**

- 7.12 A drainage strategy has been submitted and the developer's drainage consultant has been in discussion with the City's drainage Engineers with regard to a detailed scheme for sustainable drainage for the site. The Drainage section has confirmed that it will be acceptable to secure the final details by way of a condition and a condition to this effect is therefore recommended.
- 7.13 The Environment Agency have also commented on the proposals. They do not object to the proposed development but have recommended a number of conditions requiring the submission of further details in relation to piling, boreholes and contamination in order to prevent risk to controlled waters across the site. Subject to the recommended conditions, it is considered that the development would comply with Policy NE10 of the Local Plan.

**Issue (vi) Planning Obligations (Policies R2 and H5 of the Local Plan, Policy 19 of the Aligned Core Strategies)**

- 7.14 The proposed development of 29 dwellings exceeds the thresholds requiring s106 contributions towards open space and affordable housing as set out within policies R2 and H5 of the Local Plan. Policy 19 of the Aligned Core Strategies also sets out that developments will be expected to meet the reasonable cost of new infrastructure required because of the proposal, including affordable housing, open space and education. Consultation with the Education Team identified a need to seek contributions towards the provision of education facilities for the new development.

- 7.15 In order to comply with the above policies, the following contributions would ordinarily be required to comply with those policies:-

Commuted sum in lieu of on-site provision of Public Open Space	£37,538.32
Commuted sum in lieu of on-site provision of Affordable Housing	£214,800
Contribution towards the provision of Education	£155,385

- 7.16 The applicant submitted a viability appraisal which is to be considered alongside the proposed development and which seeks to demonstrate that the development would be unviable in the event that s106 contributions are sought in line with the above policies.
- 7.17 In accordance with agreed practise and in agreement with the applicant, the viability appraisal was submitted to District Valuer Services (DVS) for review and verification. The DVS conclusions found the level of profit to be generated by the development to be below that which is usually accepted (As such, it is recommended that the s106 contributions for this development are waived.
- 7.18 The findings of DVS support the claim that the development would be unviable and unlikely to proceed should the s106 contributions, as set out above, be sought. The appraisal further indicates that the proposed development would not be viable if any level of s106 contribution were to be sought. The City currently has a shortage of

family housing and has pledged, within the Council Plan 2015-19 to deliver an additional 2500 homes that Nottingham people can afford by 2020. It is considered that the benefits of the additional family and other housing provided by this development, together with the benefit of regeneration of a brownfield site, outweigh the harm due to the lack of policy compliance in relation to Section 106 obligations.

- 7.19 Whilst a s106 was previously entered into in connection with the outline planning permission, no assessment of viability was undertaken at that time, and it is noted that the permission has not progressed to reserved matters stage. This application for full planning permission has been appraised in the light of known information about costs and sales values.

### **Other Matters**

- 7.20 Concerns have been raised by neighbours in relation to the environmental impacts of works on the site including the risk of subsidence and the noise and vibrations arising from construction. The site is retained along the boundary with properties on Camelot Avenue and it will be the responsibility of the developer to ensure that this is structurally sound. Noise, disruption and vibrations from construction work are not material planning considerations and as such cannot be afforded weight in the consideration of the application. However, statutory noise and nuisance complaints can be investigated by Environmental Health.

8. **SUSTAINABILITY / BIODIVERSITY** (Policy NE3 of the Local Plan and Policy 17 of the Aligned Core Strategies)

An ecological appraisal has been submitted and reviewed by the Biodiversity Officer. The appraisal makes recommendations for series of ecological enhancements and for the installation of bat and bird boxes. Conditions to ensure that these measures are implemented are recommended. A condition requiring the use of 'Hedgehog friendly' fencing within rear gardens is also recommended. With these conditions, the proposed development complies with policy NE3 of the Local Plan.

### **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: requirement to provide a high quality and sustainable residential development.

Safer Nottingham: designing a development that that contributes to safer and more attractive neighbourhoods.

**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: 17/01018/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OPMO98LYJJV00>

**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](mailto:zoe.kyle@nottinghamcity.gov.uk).     Telephone: 0115 8764059



# NOMAD printed map



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## Key

 City Boundary

0 0.02 0.04 km 

## Description

No description provided



Nottingham  
City Council

**My Ref:** 17/01018/PFUL3 (PP-06038506)

**Your Ref:**

**Contact:** Mrs Zoe Kyle

**Email:** development.management@nottinghamcity.gov.uk



**Nottingham  
City Council**

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Staniforth Architects Ltd  
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The Warehouse  
1A Stamford Street  
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United Kingdom

Date of decision:

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

Application No: 17/01018/PFUL3 (PP-06038506)  
Application by: T Visaman And Sons Limited  
Location: Site Of Warehouse Rear Of 369, Haydn Road, Nottingham  
Proposal: Erection of 29 dwellings

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

**Time limit**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

**Pre-commencement conditions**

(The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)

2. Notwithstanding the approved details, the development hereby permitted shall not commence until details, including samples, of all external materials, have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

*Reason: To ensure that the appearance of the development is satisfactory in accordance with policy 10 of the Aligned Core Strategies.*

3. Notwithstanding the approved details, the development hereby permitted shall not commence until large scale details of the windows and window reveals have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

*Reason: To ensure that the appearance of the development is satisfactory in accordance with Policy 10 of the Aligned Core Strategies.*

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

- a) A Preliminary Risk Assessment which has identified:
  - i) all previous site uses
  - ii) the nature and extent of potential contaminants associated with those uses
  - iii) the underlying geology of the site
  - iv) a conceptual model of the site indicating sources, pathways and receptors
  - v) potentially unacceptable risks arising from ground, groundwater and ground gas contamination at the site.
- b) A Site Investigation, based on a) above, and a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c) A Remediation Plan, based on a) and b) above, giving full details of the remediation measures required and how they are to be undertaken (including a contingency plan for dealing with any unexpected contamination not previously identified in the Site Investigation).
- d) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in c) above are complete.

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

*Reason: In the interests of health and safety and residential amenity in accordance with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategy.*

5. The development shall not be commenced until details of any piling or other foundation designs using penetrative methods have been submitted to and approved in writing by the Local Planning Authority demonstrating that there is no resultant unacceptable risk to groundwater.

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

*Reason: To prevent contamination to ground water in accordance with Policy NE10 of the Local Plan.*

6. The development hereby permitted shall not be commenced until a remediation strategy confirming details of the methodology for the decommissioning of the deep and shallow site boreholes has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out in accordance with the approved details and timetable.

*Reason: To ensure the protection of the underlying sandstone Principal Aquifer and ensure that the potential preferential pathways for contaminants on the site will be adequately dealt with in accordance with Policy NE10 of the Local Plan.*

7. The development hereby permitted shall not be commenced until a verification report documenting, recording and providing written and photographic evidence of how the borehole decommissioning works were undertaken to remove preferential pathways for contamination has been submitted to and approved in writing by the Local Planning Authority.

*Reason: To ensure the protection of the underlying sandstone Principal Aquifer and ensure that the potential preferential pathways for contaminants on the site have been adequately dealt with in accordance with Policy NE10 of the Local Plan.*

8. Notwithstanding the approved details, prior to the commencement of development a scheme to show the disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning Authority.

*Reason: To reduce the risk of flooding in an area with known problems in accordance with Policy NE10 of the Local Plan.*

9. The development shall not be commenced until a construction traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall as a minimum include details of the type, size and frequency of vehicles to/from the site, staff parking provision, site security, traffic management plans, wheel cleaning facilities and measures to prevent the deposit of debris on the highway and a timetable for its implementation. Thereafter the plan shall be implemented in accordance with the approved details and timetable unless otherwise agreed in writing by the Local Planning Authority.

*Reason: To avoid prejudice to traffic conditions within the vicinity of the site and to safeguard the amenities of neighbours in accordance with Policy NE9 of the Local Plan and policy 10 of the Aligned Core Strategies.*

10. Prior to the commencement of development details of the design of the road and pavements, including the layout geometry and 'Swept Path Analysis' shall be submitted to and agreed in writing by the Local Planning Authority.

*Reason: In the interests of Highway Safety in accordance with Policy 10 of the Aligned Core Strategy.*

11. Prior to the commencement of development details of all hard surface treatments, including the roads, foot/cycle paths and parking areas, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with details to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of a high quality development in accordance with Policy 10 of the Aligned Core Strategy.*

12. Prior to the commencement of development a detailed landscaping and planting scheme, for the development indicating the type, height, species and location of proposed trees and shrubs shall be submitted to and approved in writing by the Local Planning Authority.

*Reason: To ensure a high quality development in accordance with Policy 10 of the Aligned Core Strategy.*

13. Notwithstanding the details shown on the submitted plans, details of hedgehog friendly timber fencing to be installed along the side boundaries of private rear gardens, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

*Reason: To improve habitats for hedgehogs in accordance with policy NE3 of the Nottingham Local Plan.*

**Pre-occupation conditions**

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

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

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

*Reason: In the interests of health and safety and residential amenity in accordance with Policy NE9 of the Local Plan and Policy 10 of the Aligned Core Strategy.*

15. Prior to the first occupation of the development any redundant footway crossings and/or damaged or altered areas of footway or other highway shall be reinstated.

*Reason: To ensure a high quality development in accordance with Policy 10 of the Aligned Core Strategy.*

16. Prior to the first occupation of the development dropped kerbs and ramps, suitable for wheelchairs and prams, shall be provided at footway crossings in accordance with details submitted to and agreed in writing with the Local Planning Authority.

*Reason: In the interests of Highway Safety in accordance with Policy 10 of the Aligned Core Strategy.*

17. Prior to the first occupation of the development all parking areas shall be provided and be available for use in accordance with the approved details.

*Reason: To ensure a high quality development in accordance with Policy 10 of the Aligned Core Strategy.*

18. No part of the residential development hereby permitted shall be occupied until such time that the design and contents of a Residential Travel Pack to promote the use of sustainable transport and the mechanism for providing the pack to residents within the development, have been submitted to and approved in writing by the Local Planning Authority. The Residential Travel Pack shall be distributed according to the mechanism agreed.

*Reason: In the interests of sustainable development in accordance with Policy 1 of the Aligned Core Strategy.*

19. The dwelling(s) shall not be occupied until the individual plots have been enclosed in accordance with the approved details.

*Reason: In the interests of residential amenity in accordance with Policy 10 of the Aligned Core Strategy.*

20. The individual dwellings hereby permitted shall not be occupied until the bin storage for that dwelling has been provided in accordance with the approved details.

*Reason: To ensure that adequate bin storage is provided in accordance with Policy 10 of the Aligned Core Strategies.*

21. The development hereby permitted shall not be occupied until electric vehicle charging points have been provided within the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of sustainable development in accordance with Policy 1 of the Aligned Core Strategy.*

22. The development hereby permitted shall not be occupied until the Ecological Enhancements identified within section 6 of the Submitted Preliminary Ecology Appraisal dated July 2017, have been implemented on site.

*Reason: In the interest of nature conservation in accordance with Policy NE3 of the Local Plan.*

### **Regulatory/ongoing conditions**

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

23. In the event that contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

*Reason: To ensure the protection of the underlying Sandstone Principal Aquifer in accordance with Policy NE10 of the Local Plan.*

### **Standard condition- scope of permission**

- S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the following drawings/documents:  
Drawing reference 1463 P02 revision a, received 6 February 2018  
Drawing reference 1463 P03 revision a, received 6 February 2018  
Drawing reference 1463 P04 revision a, received 6 February 2018

Drawing reference 1463 P05 revision a, received 6 February 2018  
Drawing reference 1463 P06 revision a, received 6 February 2018  
Drawing reference 1463 P07 revision a, received 6 February 2018  
Drawing reference 1463 P08 revision a, received 6 February 2018  
Drawing reference 1463 P09 revision a, received 6 February 2018

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

## Informatives

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. Advice to the applicant - Piling

Where deep foundations are proposed we recommend the developer follows the guidance set out within our document 'Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination' which is available on our website at the following address:  
<http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/scho0501bitt-e-e.pdf>

### Advice to the applicant - Land Contamination Guidance

We recommend that the developer undertakes any further works in line with the guidance provided within 'CLR11 Model Procedures', 'Guiding Principles for Land Contamination' and 'Groundwater Protection' guidance which are available on our website at the following addresses:  
<https://www.gov.uk/government/collections/land-contamination-technical-guidance>  
<https://www.gov.uk/government/collections/groundwater-protection>

### Advice to the applicant - Waste to be reused on site

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

Position statement on the Definition of Waste: Development Industry Code of Practice and; website at <https://www.gov.uk/government/organisations/environment-agency> for further guidance.

### Advice to the applicant - Waste to be taken off site

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

Duty of Care Regulations 1991

Hazardous Waste (England and Wales) Regulations 2005

Environmental Permitting (England and Wales) Regulations 2010

The Waste (England and Wales) Regulations 2011



Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standards BS EN 14899:2005 'Characterisation of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

3. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring. If the development works will have any impact on the public highway, please contact Highways Network Management on 0115 876 5238 or by email at [highway.management@nottinghamcity.gov.uk](mailto:highway.management@nottinghamcity.gov.uk). All associated costs will be the responsibility of the developer.

The Highways Network Management team at Loxley House must be notified regarding when the works will be carried out as disturbance to the highway will be occurring and licences may be required. Please contact them on 0115 8765238. All costs shall be borne by the applicant.

Planning consent is not consent to work on the highway. To carry out off-site works associated with the planning consent, approval must first be obtained from the Local Highway Authority. Approval will take the form of a Section 278 Agreement and you should contact Highways Network Management on 0115 8765293 to instigate the process. It is strongly recommended that you make contact at the earliest opportunity to allow time for the process to be completed as you will not be permitted to work on the Highway before it is complete. All associated costs will be borne by the developer. We reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway.

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottingham City Council's current highway design guidance and specification for roadworks. The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible. It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the City Council in writing before any work commences on site. For further information please contact Network Management on 0115 876 5293.

The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. All trees to be planted on highway will be subject to commuted sum payments for their maintenance. The commuted sum for a street tree is £938.61 per tree. Trees that will have a dual purpose as use for drainage will incur greater costs. For further



information regarding the collection of commuted sums the applicant should contact Network Management on 0115 876 5293.

TRO advice and further information the applicant is advised to contact Scott Harrison on 0115 8765245.

Please contact Robert Smith 0115 8763604 robert.smith3@nottinghamcity.gov.uk to discuss sustainable transport, and the Travel Plan and measures.

Please contact Chris Capewell 0115 8765277 regarding level changes and structures on site.

#### 4. Contaminated Land, Ground Gas & Groundwater

The Remediation Strategy (including its component elements) must be undertaken and implemented in accordance with Defra and the Environment Agency's guidance 'Model Procedures for the Management of Land Contamination, CLR 11' and other authoritative guidance. The Remediation Strategy must also provide details of:

- 'Cut and fill' operations on site
- How trees retained on site will be dealt with
- How gas precautions including any radon gas precautions will be validated
- Any asbestos surveys carried out, the method statement for removal of asbestos and subsequent validation of air and soil following asbestos removal and demolition.

Following completion of the development, no construction work, landscaping or other activity must be undertaken which may compromise the remediation measures implemented to deal with ground, groundwater and ground gas contamination of the site. Any ground gas protection measures included in the original development are designed for the buildings as originally constructed to protect against possible dangers to public health and safety arising from any accumulation of methane, carbon dioxide or other gas and to ensure that the site can be developed and used without health or safety risks to the occupiers of the development and/or adjoining occupiers. These protection measures may be compromised by any future extension of the footprint of the original building or new building structures within the curtilage of the site including the erection of a garage, shed, conservatory or porch or similar structure. Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought should future extension of the footprint of the original building or new building structures within the curtilage of the site be proposed (regardless of whether the proposed construction requires planning permission or building regulation approval).

It is a requirement of current Building Regulations that basic radon protection measures are installed in all new constructions, extensions conversions & refurbishments on sites which are Radon Class 3 or 4 and full radon protection measure are installed on site which are Radon Class 5 or higher. Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought where there are both radon issues and ground gas issues present. The responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or the landowner. The developer is required to institute a thorough investigation and assessment of the ground conditions, nature and degree of contamination on the site to ensure that actual or potential risks to public health and safety can be overcome by appropriate remedial, preventive or precautionary measures. The developer shall provide at his own expense such evidence as is required to indicate clearly that the risks associated with ground, groundwater and ground gas contamination of the site has been addressed satisfactorily.

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

Where a condition specified in this decision notice requires any further details to be submitted for approval, please note that an application fee will be payable at the time such details are submitted to the City Council. A form is available from the City Council for this purpose.

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

## **RIGHTS OF APPEAL**

Application No: 17/01018/PFUL3 (PP-06038506)

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.



# **DRAFT ONLY**

## **Not for issue**