

**My Ref:** 17/00231/NFUL3 (PP-05745387)  
**Your Ref:**  
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Date of decision: 5 February 2018

**TOWN AND COUNTRY GENERAL REGULATIONS 1992  
APPLICATION FOR PLANNING PERMISSION**

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Application No: 17/00231/NFUL3 (PP-05745387)  
Application by: NCC  
Location: Land At Beeston Canal, Boots, Thane Road, And Nottingham Tennis Centre, ,  
Proposal: Cycle/pedestrian route from University Boulevard, including a bridge over the  
Midland Mainline railway, to Thane Road. Associated works and means of  
enclosure.

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

**Time limit**

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

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

**Pre-commencement conditions**

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



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2. No development shall commence, including all site preparation works, until a detailed ecological mitigation strategy required to protect great nested newts, has been submitted to and approved in writing by Local Planning Authority. The mitigation strategy shall include detailed method statements, as required, to avoid harm or significant disturbance to the great crested newts that may be impacted by the development works. The mitigation strategy shall include the following:

- a timetable for implementation;
- proposals for compensatory habitat, details of habitat works and additional landscaping;
- trapping/translocation methodology;
- temporary amphibian fencing details;
- overall timings and details of the Ecological Clerk of Works;
- provision for post-development monitoring and reporting for a minimum of 5 years from the first implementation of the mitigation strategy.

The development shall be carried out in full accordance with the approved mitigation strategy.

*Reason: To safeguard and manage protected species and valued habitat in accordance with the aims of Policy 17 of the Aligned Core Strategy and Policies NE2 & NE3 of the Local Plan.*

3. The development shall not be commenced until an Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement shall specify measures to be put in place for the duration of construction operations to protect the existing trees that are shown to be retained on the approved plans.

*Reason: To ensure that existing trees are safeguarded during construction in accordance with Policy NE5 of the Nottingham Local Plan.*

#### **Pre-occupation conditions**

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

4. The development shall not be brought into use until details for the ecological enhancement and management of the amenity grassland underneath the bridge and up to the boundary with the adjacent Beeston Sidings Local Nature Reserve, including a timetable for implementation, have been submitted to and agreed in writing with the Local Planning Authority.

The development shall be implemented and managed in full accordance with the approved details.

*Reason: To safeguard and manage protected species and valued habitat in accordance with the aims of Policy 17 of the Aligned Core Strategy and Policies NE2 & NE3 of the Local Plan.*

5. Prior to installation details of any lighting, to be bat friendly, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in full accordance with the approved details.

*Reason: In the interests of nature conservation and to ensure that the appearance of the development will be satisfactory in accordance with Policies 10 and 17 of the Aligned Core Strategy and Policy NE3 of the Nottingham Local Plan.*

6. The development shall not be brought into use until the temporary culverted access route has been removed and the banks of the brook and removed hedgerow have been reinstated and profiled to their current extent in accordance with details that shall first be submitted to and agreed in writing by the Local Planning Authority. Details shall include mitigation measures for



the stretch of bank between the former culvert and Dunkirk Pond.

*Reason: To safeguard and manage protected species and valued habitat in accordance with the aims of Policy 17 of the Aligned Core Strategy and Policies NE2 & NE3 of the Local Plan.*

**Regulatory/ongoing conditions**

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

7. Notwithstanding the submitted plans, all fencing shall be designed to allow for the free movement of great crested newts and small mammals, the details of which shall be submitted to and agreed in writing with the Local Planning Authority, prior to its installation.

The development shall be carried out in full accordance with the approved details.

*Reason: To safeguard and manage protected species and valued habitat in accordance with the aims of Policy 17 of the Aligned Core Strategy and Policies NE2 & NE3 of the Local Plan.*

8. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment compiled by AECOM Consulting dated May 2017 and the mitigation measures detailed within.

*Reason: To reduce the risk of flooding to the proposed development and future occupants and in accordance with the aims of Policy 1 of the Aligned Core Strategy and Policy NE10 of the Local Plan.*

9. In the event that any section of the cycle way is proposed to fall within 8m of the canal bank, a further survey to assess the presence and potential impact on water voles shall be carried out and submitted to and approved in writing with the Local Planning Authority, prior to the relevant stretch of path being laid.

In the event that the presence of water voles are found, a detailed mitigation strategy shall be submitted to and agreed with the Local Planning Authority. The mitigation strategy shall include detailed method statements, as required, to avoid harm or significant disturbance to the water voles that may be impacted by the development works, a timetable for implementation and provision for post-development monitoring and reporting.

The development shall be carried out in full accordance with the approved mitigation strategy.

*Reason: To safeguard and manage protected species and valued habitat in accordance with the aims of Policy 17 of the Aligned Core Strategy and Policies NE2 & NE3 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:

Plan reference HD19687-102C  
Planning Layout reference HD19687-103B  
Planning Layout reference HD19687-104C  
Planning Layout reference HD19687-105E  
Planning Layout reference HD19687-106D  
Planning Layout reference HD19687-107C  
Planning Layout reference HD19687-108C  
Plan reference HD19687-013  
Plan reference HD19687-10D  
Plan reference HD19687-042B



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

### **Informatives**

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

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

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.



Paul Seddon  
Chief Planner



## **DECISION NOTICE APPENDIX: DELEGATED REPORT**

This report sets out the reason for the decision, taken by officers under the terms of the Council's Scheme of Delegations, and includes a summary of relevant planning policies.

### **LIST OF RELEVANT POLICIES**

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

NE10 - Water Quality and Flood Protection. Seeks to resist development which would damage surface water or groundwater, be at or increase the risk of flooding or compromise access to a watercourse for maintenance or flood defence purposes.

NE2 - Natural Conservation. Seeks to protect the flora, fauna, or geological features of Sites of Importance for Nature Conservation, Local Nature Reserves and other locally important sites.

NE3 - Conservation of Species. Restricts development which would adversely impact on species or habitats protected by law, or of special importance, unless there is an overriding need for the development.

BE10 - Development Around Listed Buildings. Seeks to resist development that would be harmful to the character, appearance or setting of a listed building.

NE4 - Biological/Geological SINCS. Requires the protection of existing flora and fauna 'in situ', or, where retention is impossible, the provision alternative habitats.

R1 - The Open Space Network. Seeks to protect the network from inappropriate development. Applications are considered against criteria relating to the need for, quality and value of the existing land, the effects of the proposal on environmental, landscape and wildlife values, potential for enhancement of the Open Space Network, and the size of the site.

R5 - Playing Fields and Sports Grounds. Resists development causing loss of playing fields or sports grounds (incl. educational sites) unless there is no current or future need; or development does not have any detriment to overall provision and suitably located equivalent or better provision can be made; or proposed site has no effect on visual amenity, wildlife, etc. The proposals should not affect land forming or capable of forming a playing pitch or any part thereof.

T11 - Cycling. Safeguards existing or proposed cycle routes unless satisfactory alternative alignment can be provided.

NE5 - Trees. Seeks to protect existing trees and secure additional planting by the imposition of planning conditions or through planning obligations.

#### **National Planning Policy Framework**

The NPPF advises that there is a presumption in favour of sustainable development and that development which is sustainable should be approved. Paragraph 17 of the NPPF lists the core planning principles that should underpin decision taken on planning applications. Of particular relevance to this application is the need to secure high quality design, contribute to conserving and enhancing the natural environment and support the transition to a low carbon future.

#### **Aligned Core Strategy**



Policy A: Presumption in Favour of Sustainable Development - working proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy 1: Climate Change

Policy 7: Regeneration

Policy 11: The Historic Environment

Policy 14: Managing Travel Demand

Policy 17: Biodiversity

## **SUMMARY OF RESPONSES TO CONSULTATION**

Notices were posted on site and an advert posted in the local newspaper (expired 30.03.17). No comments have been received.

Network Rail: No objections in principle. Separate discussions outside the planning process are taking place.

Notts Wildlife Trust: The Trust manage the adjacent Beeston Sidings Local Nature Reserve (LNR) and have queried the need to culvert the Pasture Lane Brook to form a temporary access road during the construction period. They recommend that an alternative form of access be explored due to concerns relating to impact on existing vegetation, wildlife and a resulting reduction in water flow, which could impact on angling activities in Dunkirk Pond. They recommend that a pre-works ecological walk over survey be carried out prior to the construction phase. They are concerned about potential litter dropping from the bridge and recommend the height of safety fencing along its length be increased. They question the potential tree loss required to accommodate the rail bridge and ramps and wish the western edge of Dunkirk Pond be fenced to reduce access and potential disturbance of the LNR. The Trust suggest that the area under the bridge and between it and the LNR be planted with native shrub planting, to form a graded edge to the adjacent woodland.

In relation to the remainder of the route, they comment that the requested protected species surveys recommended in the ecological survey be carried out and mitigation measures such as new planting and bird boxes be carried out.

Biodiversity Officer: Concern was initially expressed with regard to the impact on Great Crested Newts. A subsequent report has been submitted which proposes additional mitigation land and ecological mitigation proposals, and on this basis it is now accepted that the impact could be satisfactorily mitigated. A range of conditions are recommended including the production of a detailed mitigation strategy for protected species and the temporary loss of habitat caused by the culvert and shading from the bridge further protected species surveys ie. water voles, bat friendly lighting, and management and monitoring plans.

Sport England: No objections.

Environment Agency: No objection subject to the development being carried out in accordance with the recommendation of the submitted Flood Risk Assessment.

Conservation Officer: No objections.

Tree Officer: No objections. A condition relating to the submission of an arboricultural method statement is recommended.



## APPRAISAL

### SITE AND SURROUNDINGS

The site runs between University Boulevard and Thane Road. It is a thin strip of land which runs from the end of George Green Way, an unused section of unadopted highway that sits between Nottingham Tennis Centre to the west and land allocated for the extension of Nottingham Science Park to the east. It crosses a drainage channel, locally known as Pasture Lane Brook, onto playing fields (now accommodating enclosed tennis courts) and then crosses the Midland Mainline railway to run along the eastern edge of the Boots campus and southwest to the side of Beeston Canal to Thane Road.

Both Nottingham Science Park and the Boots campus are designated Enterprise Zones. The affected playing fields form part of the Open Space Network and Beeston Sidings Local Nature Reserve (LNR) is located to the east. The Beeston Canal is also allocated as a Local Wildlife Site (LWS). The Grade II\* listed building D90 in the Boots campus is located to the west.

### PROPOSAL

Planning permission is sought for the construction of a shared usage path (cycle and footway) from University Boulevard to Thane Road/the Beeston Canal. The cycle way would be approximately 3m in width, be surfaced in tarmac, with concrete edging and would be lit using lighting columns.

A key element of the scheme is the construction of a new bridge, with ramped access, to cross the Midland Mainline railway and Pasture Lane Brook. To provide access for heavy machinery required to construct the bridge, it is proposed to temporarily culvert and fill in part of the brook. This would be removed upon completion of the bridge. A permanent timber bridge would then be installed across the brook to provide access for maintenance of the tennis courts and remaining play field area by Nottingham Tennis Centre.

The western boundary of the cycle way adjoining the Boots campus is proposed to be fenced with a 2.4m weld mesh fencing and 1.8m metal railings to the front south side of the listed D90 building.

### APPRAISAL

i) Principle of the development, Impact on the Open Space Network and Playing Fields (Policies 7 and 14 of the Aligned Core Strategy and Policies R1, R5 and T11 of the Local Plan)

This planning application is part of a £9.1 million scheme (funded by the Local Economic Partnership (D2N2)) to provide sustainable transport access between the Nottingham Enterprise Zone Boots Campus, the wider transport network and other Enterprise Zone sites such as the Science Park, QMC and Medi Park.

The overall scheme would provide:

- A walking and cycling bridge connecting three Enterprise Zone sites (Boots, Nottingham Science Park and Medi-Park), with links to the tram network;
- Highway improvements to connect the Enterprise Zone to the existing sustainable transport network;
- Enhancement of public transport provision for those who work and will live within the campus.

The Midland Mainline railway is a significant barrier between the Boots Campus and the other Enterprise Zone sites. The new bridge across the railway is a key element of the scheme and helps to reduce severance, enabling access to the site for pedestrians, cyclists and providing wider travel options by connecting to the tram/bus network.



An independent economic assessment of the programme, to support its funding case, with the bridge and the path forming the bulk of the expenditure, showed that the investment would provide a Benefit Cost Ratio of between 3.26 and 7.01. For every pound spent on the programme a return of up to £7 would therefore come back in benefits to the local economy.

The principal of creating this strategic sustainable cycle/pedestrian access route is therefore considered acceptable and accords with Policies 7 and 14 of the ACS and T11 of the Local Plan.

A section of the ramped access to the new railway bridge would be positioned on part of the former playing field (now tennis courts), which also forms part of the Open Space Network. Following the construction of the new tennis court enclosure, this area of former playing field is no longer able to be used as a pitch. The ramp would be elevated above the grass area underneath on steel trestles. This would ensure that the open grassed nature of the site underneath would be retained and ecological enhancements would improve the wildlife value of this unused area.

Furthermore, the cycle/pedestrian route in itself would make a beneficial contribution to physical activity as both a recreational and commuter route linking to other recreational routes and providing a link from the university campus to the riverside sports pitches.

Sport England have raised no objections on this basis and the proposal is not considered to have an adverse impact of the integrity of the open space network at this point.

The proposal would therefore be in accordance with Policies R1 and R5 of the Local Plan)

ii) Impact on the setting of the adjacent Listed Building (Policy 11 of the ACS and Policy 10 of the Local Plan)

The listed D90 building is set within a formal open grassed parkland, which allows key views across from Thane Road to the building.

The new path would be available at all times and the Boots company have requested that the current level of security be retained through the provision of security along the western edge of the route. A key consideration has therefore been to ensure that the fencing to the front of the listed D90 is sympathetically designed to protect the setting and views through it.

Rather than continue the 2.4m weld mesh fencing at this point, it is proposed to provide a 1.8m high vertical barred metal fencing to the front of the listed building, painted black. The Conservation Officer has raised no objections on this basis and the proposal would accord with Policy 11 of the ACS and Policy BE10 of the Local Plan.

iii) Impact on Nature Conservation Interests (Policy 17 of the ACS and Policies NE2, NE3, NE4 and NE5 of the Local Plan)

The ecology survey found evidence of Great Crested Newts (GCN) in a pond within the Botts campus and considered the surrounding habitat suitable for them during their terrestrial phase. GCN are fully protected under both UK and European legislation, and a licence would be required from Natural England for necessary mitigation and compensation of lost habitat. A mitigation strategy, which includes compensatory habitat, has subsequently been submitted and the Councils' Biodiversity Officer is satisfied with the broad mitigation proposals. Subject to the submission of a more detailed mitigation strategy, by way of condition, they therefore consider that the impact of the development can be appropriately controlled during both the construction and when operational. A condition is also proposed to ensure the proposed security fencing is newt and small mammal friendly.



The route of the path has now been realigned to be over 8m from the top of the canal bank. The Biodiversity Officer has confirmed that the revised line of the route would be unlikely to have an adverse impact on water voles and their habitat. A water vole survey is therefore not required at that stage. It has been agreed that if the route, at a later stage falls within 8m of the canal bank, a water vole survey and mitigation strategy would then need to be submitted. This can be dealt with by condition.

The temporary culvert of the brook would involve the loss of marginal and bankside vegetation. Alternative methods to straddle the brook have been investigated but given the size and weight of machinery required to construct the railway bridge, the culverting of the brook is the only viable option. This area and sections immediately upstream and downstream are the only ones along the brook that are regularly wet and support aquatic vegetation. The Biodiversity Officer is satisfied with the details of the culvert and recommends that upon completion of the works and removal of the culvert, that the banks are profiled to their current extent and vegetation be allowed to naturally regenerate. This would be dealt with by condition.

The area of amenity grassland underneath the bridge and between it and the LNR would make an ideal area of new meadow/ grassland to extend the habitats within the boundary of adjacent LNR. This would not impact upon recreational activities but would make a positive use of the space and contribute to ecological mitigation. This would be dealt with by condition.

In relation to trees, the proposals generally safeguard the trees along the south eastern boundary of the Boots campus, which is by far the area of greatest concentration. The retention of trees in this part of the site will be important in creating an enhanced canal corridor and the proposal is considered to accord with Policy NE5 of the Local Plan in this regard, subject to the submission of an aboriciultural method statement by way of condition.

No evidence was found of bat roosts in trees to be removed. Bats however forage in the adjacent LNR, along the brook and canal. Lighting along the route should therefore be bat friendly. This would be delat with by condition.

In conclusion, the proposal would accord with Policy 17 of the ACS and Policies NE2, NE3, NE4 and NE5 of the Local Plan.

## OTHER MATTERS

Flood Risk (Policy 1 of the ACS and Policy NE10 of the Local Plan): The route is partially located with Flood Zone 3 of the River and a Flood Risk Assessment (FRA) has been submitted with the planning application. A floodplain storage sensitivity test has been undertaken which determined that the proposed earth bund located to the south of the cycleway would displace a floodwater volume of approximately 75 m<sup>3</sup> during the 1 in 100 year plus 30% climate change fluvial flood event. Considering this very low volume and the opportunity for this to be spread over a large area in vicinity of the proposed cycle footbridge, the FRA considers it unnecessary to provide compensatory floodplain storage as part of this development. The residual risk to the site could be managed through provision of suitable warning signage for users of the cycleway/footpath. The site is located within an area that benefits from the EA's flood warning service. On this basis, the Environment Agency has raised no objections to the proposal.

## OTHER MATTERS

