

REPORT OF DIRECTOR OF PLANNING AND REGENERATION

Site Of Fairham House, Green Lane

1 SUMMARY

Application No: 18/01050/PFUL3 for planning permission

Application by: WYG Planning Limited on behalf of Cedar House Investments Ltd

Proposal: Change Of Use Of One Unit From Retail (A1) to Tanning Salon
(Sui-Generis)

The application is brought to Committee because it has generated significant public interest that is contrary to the officer recommendation.

To meet the Council's Performance Targets this application should be determined by 31 August 2018.

2 RECOMMENDATIONS

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

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

3 SITE & BACKGROUND

- 3.1 The application relates to part of the Fairham House site which is triangular in shape and is bounded by Green Lane to the south west and Langstrath Road which runs along the east and north boundaries of the site.
- 3.2 There are residential properties surrounding the Fairham House site, on the opposite sides of Green Lane and Langstrath Road. These dwellings are two storey and a mix of terraced and semi-detached properties. The site is in close proximity to the Clifton District Centre which starts to the south east of the site, beyond a pair of semi-detached properties on Green Lane.
- 3.3 A hybrid planning permission (reference 16/02648/PFUL3) was granted on 19/04/2017 for 24 apartments with associated car park and other works (outline); a food store, 4 non-food retail units and a cafe/restaurant with associated car park, alteration to the site access and other works (full), following demolition of Fairham House. The planning permission was implemented.
- 3.4 A non-material amendment application 18/01125/PNMA was also approved on 25/06/2018. This covered external alterations that enabled the applicant to create

an additional A1 unit (from 4 to 5) in the block located to the north-west side of the site.

4 DETAILS OF THE PROPOSAL

Planning permission is sought for the change of use of one unit from Retail (A1) to Tanning Salon (Sui- Generis). As mentioned early the proposed unit has already been approved as part of an amendment to the original scheme, to operate as a separate unit.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

Neighbouring properties have been notified in writing of the proposal. The application has also been publicised through site notices. As a result of this publicity, 87 representations have been received, 86 of which raise objection to this proposal. The objections are summarised as follows:

- There is no need for a further tanning salon in Clifton, there are already plenty of salons that offer this service
- There are health risks that come with tanning. It doesn't need to be encouraged
- Local residents require shops, as the development originally intended e.g. for clothes and shoes, both for adults and children. They are a large community and have to travel into the city centre to buy such products.

Additional consultation letters sent to:

Environmental Health and Safer Places: No objections but recommend that the following are secured by condition: environmental noise assessment, hours of operation and deliveries.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework (July 2018):

The NPPF advises that there is a presumption in favour of sustainable development and approving development proposals that accord with an up-to-date development plan without delay. Of particular relevance to this application are sections 6 (Building a stronger competitive economy) and 7 (Ensuring the vitality of town centres).

Nottingham Local Plan (November 2005):

S6 – Non-retail uses

NE9 – Pollution

Aligned Core Strategy (September 2014):

Policy 4: Employment Provision and Economic Development - aims to strengthen and diversify the local economy.

Policy 6: Role of Town and Local Centres - aims to maintain and enhance the vitality and viability of all centres.

Policy 10: Design and Enhancing Local Identity - new development should be designed to: create an attractive, safe, inclusive and healthy environment.

7 APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- i) Principle of the development;
- ii) Design and impact on the street scene;
- iii) Impact on residential amenity;
- iv) Impact on Highways & Parking

Issue (i) Principle of the Development (Policies 4 & 6 of the ACS; Policy S6 of the Local Plan)

- 7.1 The principle of the development as a retail site has already been established by permission 16/02648/PFUL3. The floorspace that this planning application relates to already has extant planning permission for A1 use.
- 7.2 The current proposal is for a tanning salon which is another use appropriate to and commonly found in district and local centres. There are no restrictions within the current planning permission relating to the type of A1 retailing that can be carried out from this floorspace, for example, there is no requirement to sell items such as clothes or shoes. Other types of businesses which could operate from the unit without further permission include hairdressers, dry cleaners, travel agents and undertakers, all of which fall within the A1 use class. Whilst there may be a local desire to see clothes shops on the Green Lane site, tenants can only be selected from those expressing an interest in the site. The applicant has employed specialist retail property agents FHP and JLL to attract retailers to the development, who advise that the major retailers in the clothing and footwear sector do not have a requirement for Clifton. Notwithstanding, B&M, who have committed to taking a large unit on the site, would sell clothing and footwear as part of their comparison goods offer.
- 7.3 The consultation responses have raised the issue that there are already plenty of tanning salons offering the service and no need for a further tanning salon in Clifton. It should be noted that competition is not a material planning consideration and there is no other tanning salon within this new retail park.
- 7.4 Although classified as a Sui generis use (i.e. one that does not fall within any of the use classes), a tanning salon clearly has similarities to a number of retail uses that would fall within the A1 (retail) use class, such as hairdressers.
- 7.5 Policy S6 of the Local Plan and policy 6 of the ACS seek to protect the vitality and viability of shopping centres. This new retail park is not within the defined District Centre of Clifton but constitutes a recent and significant expansion of its retail offer. The proposal relates to the smallest unit in the park, in a parade of 5 units and alongside the other two larger units. As currently approved all are A1 use with the exception of one A3 use in the parade of smaller units. The proposal would not

therefore have a significant impact on the predominance of A1 units, in accordance with the aforementioned policies.

- 7.6 Clearly it is desirable to find tenants for these units in a challenging retail market, rather than seeing longer term vacant units which would not enhance the vitality of this new retail park. An occupied unit would also bring jobs in accordance with ACS policy 4.
- 7.7 Considering the above issues, the proposed change of use to tanning salon is acceptable in principle and accords with policies 4 and 6 of the ACS and S6 of the Local Plan.

Issue (ii) Design and Impact on the Streetscene (Policy 10 of the ACS)

- 7.8 The proposed unit has already been approved as an amendment to the original scheme and is entirely compatible with the parade within which it sits. Moreover, having the building in an active use would be to the benefit to this retail park and the wider area.
- 7.9 The proposed tanning salon would be the smallest unit within this retail park would not have any adverse impact on the street scene. The proposal is considered to be of an appropriate scale and design and complies with policy 10 of the ACS.

Issue (iii) Impact on neighbouring amenity (Policy NE9 of the Local Plan and Policy 10 of the ACS)

- 7.10 There are residential properties surrounding the site. The original application for the retail park development assessed its impact on the local residents and concluded that their amenities would not be significantly affected in terms of vehicular and pedestrian movements, general noise and disturbance, loss of light, privacy or an overbearing impact. The proposed change of use to tanning salon would not alter the previous assessment of impact on the amenities of the local residents.
- 7.11 The applicant has not proposed any alteration to the proposed hours of operation that the entire site is subject to. It is therefore considered that the opening hours and associated activities of the proposed tanning salon would not differ from a retail use, nor would the proposed use create such level of activity that would result in a detrimental impact on the amenities of nearby residential properties.
- 7.12 In terms of the noise, the Environmental Health Officer has requested an environmental noise assessment and sound insulation scheme which could be secured through conditions. Subject to these conditions, the proposal therefore complies with policy NE9 of the Local Plan and policy 10 of the ACS.

Issue (iv) Impact on Highways & Parking (Policy 10 of the ACS)

- 7.13 All vehicular traffic would access the application site from Green Lane, which would be the same as the existing arrangement for the entire site. The site is in a sustainable location and well-designed public access routes are in place for the wider site. Therefore this application for the change of use from retail to tanning salon is acceptable from a highways perspective.

Other Issues

- 7.14 Local residents have raised concern about the perceived dangers of tanning salons. The operation of tanning salons is controlled through separate legislation and this matter is not a material planning consideration that can have a bearing on the decision-making process for this application.

8 FINANCIAL IMPLICATIONS

No financial implication.

9 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.

10 EQUALITY AND DIVERSITY IMPLICATIONS

None.

11 RISK MANAGEMENT ISSUES

None.

12 STRATEGIC PRIORITIES

None.

13 CRIME AND DISORDER ACT IMPLICATIONS

None.

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

1. Application No: 18/01050/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

15 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

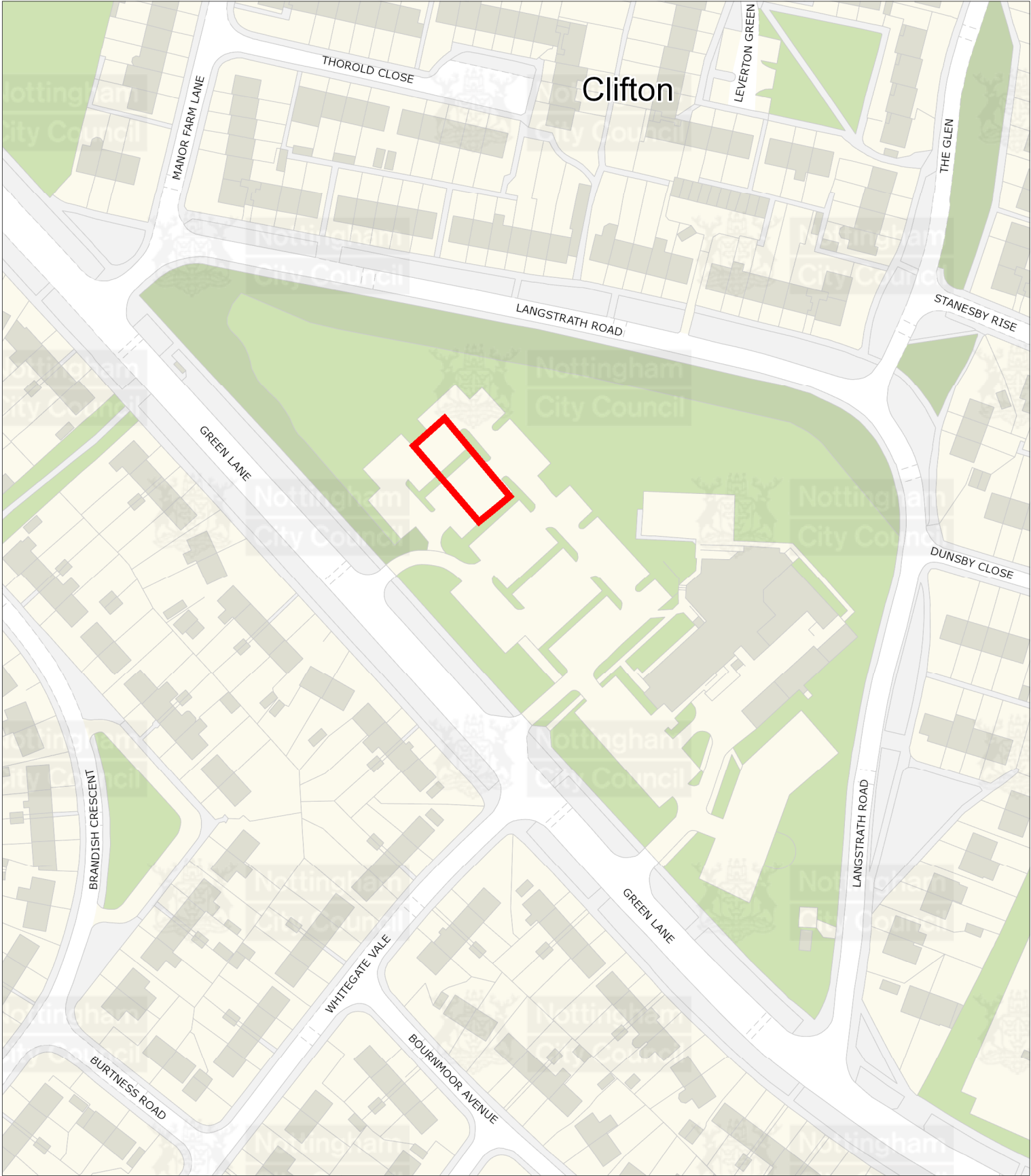
Nottingham City Aligned Core Strategy adopted September 2014

Contact Officer:

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NOMAD printed map



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Key

 City Boundary

Description

No description provided



Nottingham
City Council

My Ref: 18/01050/PFUL3 (PP-06708705)

Your Ref:

Contact: Mr Mohammad Taufiqul-Islam

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**Nottingham
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Date of decision:

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

Application No: 18/01050/PFUL3 (PP-06708705)
Application by: Cedar House Investments Ltd
Location: Site Of Fairham House, Green Lane, Nottingham
Proposal: Change Of Use Of One Unit From Retail (A1) to Tanning Salon (Sui-Generis)

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. <i>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.</i>
Pre-commencement conditions (The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)
There are no conditions in this section.
Pre-occupation conditions (The conditions in this section must be complied with before the development is occupied)



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Nottingham
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DRAFT¹ ONLY
Not for issue

Continued...

2. The development shall not be occupied until an environmental noise assessment and sound insulation scheme have been submitted to and approved in writing by the Local Planning Authority.

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

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

Reason: To safeguard the health and residential amenity of the occupants of the existing and proposed residential accommodation to comply with Policy NE9 of the Nottingham Local Plan.

3. The applicant shall submit written verification to the Local Planning Authority that the approved mechanical services plant or equipment (including any air handling plant) specified to serve the development, including any mitigation measures, have been implemented prior to occupation of the development.

Reason: To safeguard the health and residential amenity of the occupants of the existing and proposed residential accommodation to comply with Policy NE9 of the Nottingham Local Plan.

4. The development shall not be occupied until the cycle shelters approved under permission 16/02648/PFUL3 have been provided.

Reason: In the interests of highway safety and to promote sustainable modes of transport in accordance with Policy 10 of the Aligned Core Strategy.

5. The development shall not be occupied until the hard landscaped areas of the retail park have been completed in accordance with the details approved under permission 16/02648/PFUL3.

Reason: To ensure that the appearance of the development is satisfactory to comply with Policy 10 of the Aligned Core Strategy.

6. Prior to the first occupation of the development, the management plan that covers litter and security for the retail park, approved under permission 16/02648/PFUL3, shall be implemented and fully operational.

Reason: To ensure that the appearance of the development is satisfactory, and to safeguard residential amenity to comply with Policy 10 of the Aligned Core Strategy.

Regulatory/ongoing conditions

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

7. The development hereby permitted shall not be open to customers outside the hours of 8am to 11pm Monday to Saturday, and 10am to 11pm on Sundays and Bank Holidays.

Reason: To safeguard the health and residential amenity of the occupants of nearby property to comply with Policy NE9 of the Nottingham Local Plan.

8. The development hereby permitted shall not allow deliveries outside the hours of 7am to 7pm

on any day.

Reason: To safeguard the health and residential amenity of the occupants of nearby property to comply with Policy NE9 of the Nottingham 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 forms, drawings and other documents comprising the application as validated by the council on 29 May 2018.

Reason: To determine the scope of this permission.

Informatives

1. Commercial Noise

The environmental noise assessment must be suitable and sufficient and must be undertaken with regard to BS 7445: 2003 Description and Measurement of Environmental Noise.

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

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

2. The tanning salon hereby permitted is part of the wider retail site permitted under 16/02648/PFUL3 permission. The applicant is required to comply with all the planning conditions attached with this original planning permission.

3. 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.

4. 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.

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: 18/01050/PFUL3 (PP-06708705)

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/pes.

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.