

REPORT OF DIRECTOR OF PLANNING AND REGENERATION

Site of Beechdale Swimming Centre, Beechdale Road

1 SUMMARY

Application No: 18/02651/PFUL3 for planning permission

Application by: Lidl UK GmbH

Proposal: Erection of a Lidl store (use class A1), 4no. shop units (use class A1/A2/A3/sui generis (nail salon and/or tanning salon)), 2no. shop units (use class A1/A2/A3/A5), a drive through coffee shop (use class A1/A3/A5) and associated car parking, servicing, infrastructure works and landscaping.

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

To meet the Council's Performance Targets this application should be determined by 25th March 2019.

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

3 BACKGROUND AND SITE

3.1 The site is located at the corner of Beechdale Road and Western Boulevard. It is currently vacant cleared land, but was formerly occupied by Beechdale Baths. The baths were demolished in 2017.

3.2 The site fronts onto Beechdale Road to the north where access is proposed to be taken from. The site is bound to the east by Western Boulevard (A6514), to the south by the railway line and to the west by the East Midlands Ambulance site. To the north, on the opposite side of Beechdale Road, there are offices, a mosque and residential properties to the northwest. From the eastern boundary there is a pedestrian subway which goes beneath Western Boulevard and connects the site to Robert Shaw Primary School and residential properties to the east.

3.3 The site extends to 1.19ha, with the northern part of the site sitting level with Beechdale Road. However, the main part of the site sits approximately 2m below road level and slopes gently downwards from north to south. Where the eastern boundary is parallel to Western Boulevard there is a landscaped embankment

supporting the road, which rises above the site and sits outside the application boundary.

- 3.4 The site lies within Flood Zone 1 at the lowest risk of flooding. There are no listed buildings nearby and there are no statutory ecological designations at the site.

4 DETAILS OF THE PROPOSAL

- 4.1 The application seeks full planning permission for the erection of a Lidl supermarket on the site. In addition to the Lidl, the application also seeks permission for a parade of 6 shop units comprising 4x A1/A2/A3/sui generis (nail salon and/or tanning salon) units, 2x A1/A2/A3/A5 units, a drive through coffee shop (use class A1/A3/A4/A5) along with associated car parking, servicing, infrastructure works and landscaping.
- 4.2 The proposed supermarket would have a Gross External Area of 2,202 m², with a sale area of 1,410 m². The 4 A1/A2/A3/sui generis (nail salon and/or tanning salon) units would have a sale area of 371 m², the 2 A1/A2/A3/A5 units a sale area of 186 m², and the drive through coffee shop (use class A1/A3/A5) a sale area of 134m².
- 4.3 In total, the Lidl supermarket would employ 40 staff (full and part-time equivalent). Although the occupiers of the other retail units have not been confirmed yet, based on the Employment Density Guide and their net floorspace these are likely to create around 44 full time equivalent jobs.
- 4.4 The site layout plan submitted with the application shows the location of the Lidl supermarket to the west of the site. The proposed buildings are located around the periphery of the site, with car parking to the centre and northern parts of the site. Between the Lidl store and the western boundary there is a dedicated service road for the store and access to the adjacent Network Rail land.
- 4.5 Landscaping is proposed along the northern boundary and to either side of both the vehicular and pedestrian accesses. Trees are also proposed within the car parking areas.
- 4.6 The Lidl store would be single storey. The building would comprise a steel frame structure with a combination of metal cladding for the roof and insulated metal/composite cladding panels on the elevations. The other units follow a similar form to create a cohesive appearance to the site.
- 4.7 Vehicular and pedestrian access is retained from Beechdale Road. The development would be served by a single access/ egress point in in the north west corner of the site. Separate pedestrian accesses would be provided in a more central position on the Beechdale Road frontage and from the north east via the subway beneath Western Boulevard. The car park is to provide 153 car parking spaces, including 10 disability spaces and 8 parent and child spaces. A total of 13 Sheffield cycle hoops are to be provided to accommodate up to 26 bikes.
- 4.8 Deliveries will utilise the single site access and then service road that leads directly to the Lidl service area to the west of the proposed store. The service yard would be separated from the customer car park thus minimising the potential for conflict between the two.

- 4.9 The applicants have agreed to work in partnership with the Council to provide local employment and training opportunities during both construction and once the building is operational.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

Site notices were posted, a press advert published and letters sent to neighbouring properties. The applicant has made changes to the description of the development which was received on 12 February 2019. Local residents were re-consulted by letter, with an expiry date of 26 February 2019.

97 representations have been received from the member of public in support for this application. They supported the development as it would deliver many benefits: new jobs, more shopping choice and greater convenience for those living close by. They also consider that the proposals would ensure that a key local site left disused for so long would again play an important commercial role in the future of the area.

1 letter of objection has been received from a member of public who has raised concerns about the traffic impact of the proposals on Beechdale Road and the surrounding area.

A public consultation drop-in event by the applicant was held at Beechdale Community Centre on 18 October 2018, prior to the submission of the application. Key stakeholders and Local residents were invited to attend a preview of the plans on the day. 520 people gave feedback following the public consultation event. Of those, 97% were positive and supported the scheme. Only 2% opposed the proposed plans and 1% were unsure.

The East Midlands Ambulance Service has raised concerns to this proposal as the operator of the Ambulance Station directly adjacent to the proposed store. They stated that the increase in traffic will result in the potential for queuing on Beechdale Road with the possibility of hindering Blue Light response. This in part would be caused by the proximity of access to the store being exactly next to the Ambulance Station access and egress. They have queried whether or not traffic measurements have been considered and whether or not this would impact on Blue Light response times or capability.

Asda Stores Limited has objected to this proposal on the ground that the proposal will have impact on the existing centres, specifically on Hyson Green District Centre and Strelley Local Centre. They consider that the levels of impact shown by the applicants are underestimated and it is strongly recommended that further scenarios be assessed so that the true potential impact of this development can be considered. They have raised concerns regarding the potential traffic impacts of the development, particularly in terms of representing the likely traffic generation of the development compared with a non-existent 'extant' use, which is fundamentally flawed, and moreover in respect of road safety. They consider that the applicant has failed to adequately demonstrate the likely transport planning implications of the development, contrary to the requirements of the National Planning Policy Framework.

Additional consultation letters sent to:

Environmental Health and Safer Places: No objection to the scheme subject to conditions to secure the provision of an electric vehicle charging scheme; a Remediation Strategy to deal with the risks associated with ground, groundwater, ground gas and radon gas contamination of the site; an environmental noise assessment and sound insulation scheme; details of any external lighting scheme; a scheme for the ventilation and means of discharging and dispersing fumes for the Lidl store, drive through and other retail units; a restriction on the hours of operation and servicing for the retail units; and a Noise Management Plan. These matters can be secured through conditions.

Highways: No objection subject to conditions relating to: the provision of parking, turning and servicing areas; cycle parking; a car park management plan including servicing and delivery requirements; provision of 14 parking spaces with electric charging points; submission of a staff travel plan; and a construction management plan.

The Highways team have also requested a review of the existing road markings and traffic regulation orders (TROs), to assist with any issues associated with traffic wishing to make right turns into and out of the site. This would be dealt under highways legislation and can therefore be covered with an informative on the planning decision.

The Highways team supports the principle of providing a pedestrian connection to east of the site to an existing footpath/ramp leading to a subway. However, they consider that alterations could be made to the proposed pedestrian ramp to better accommodate the potential pedestrian desire between the site and the subway. This can be achieved through having the proposed pedestrian ramp closer to the subway than at present. Alternatively, a set of steps could be provided connecting direct to the subway at this location in a similar manner proposed on the pedestrian approach to Beechdale Road to achieve a direct pedestrian desire line.

Environment Agency: No objection subject to provision of a scheme to deal with the risks associated with contamination of the site and an associated remediation strategy, in order to ensure that the development will have no adverse impact on the underlying principle aquifer, including a restriction on using penetrative methods for piling or any other foundation designs.

Biodiversity Officer: No objection subject to a condition relating to submission and implementation of a mitigation strategy should any roosts or suitable features be present and affected by the development.

The submitted arboricultural survey is adequate to assess vegetation losses within the site, but it does not include information on whether the trees have specific ecological value or features. Given the scope to mitigate any low value roost losses within the development proposed (such as under a bat box scheme), checking trees for roosts could be made a condition of permission, but the wording must also include production and implementation of a mitigation strategy should any roosts or suitable features be present and affected by the development.

The Biodiversity team also reviewed the landscaping proposals and welcome the use of native trees as well as fruiting and flowering varieties of ornamental shrubs.

Network Rail: No objection in principle to the development subject to a number of conditions aimed at protecting their land, which can be drawn to the applicant's attention via conditions and informatives.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework (February 2019)

- 6.1 The NPPF emphasises the important role that planning plays in delivering sustainable development. Paragraph 8 explains that key to this is building a strong responsive and competitive economy, supporting strong, vibrant and healthy communities by creating high quality built environments with accessible local services that reflect the communities needs and which supports its social wellbeing by protecting and enhancing the natural, built and historic environment.
- 6.2 Paragraph 11 states that there is a presumption in favour of sustainable development and that development should be approved, without delay, where it accords with the development plan.
- 6.3 Paragraph 124 attaches great importance to the design of the built environment and states that good design is a key aspect of sustainable development. Paragraph 127 encourages developments to establish a sense of place, using streetscapes and buildings to create attractive and comfortable places to work. It advises further that developments should function well and add to the quality of the area over the lifetime of the development.
- 6.4 Section 7 paragraphs 86 to 90 of the NPPF set out the approach to the retail tests. Paragraph 86 requires a sequential test is carried out for main town centre uses which are not located within a town centre. It slightly amends the earlier version of the NPPF and states that "only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered". Paragraph 87 provides further advice on how the sequential test should be carried, including the need to demonstrate flexibility on issues such as format and scale.
- 6.5 Paragraph 89 requires all retail, leisure and office development outside of town centres to be subject to a retail impact assessment if over a proportionate, locally set threshold. Where no local threshold exists the default is 2,500sqm. Impact assessments should include assessment of:
- Impact of the proposed on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and
 - The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Where a development fails the sequential test or will have a significant adverse impact on one or more of the above considerations it should be refused in accordance with paragraph 90.

- 6.6 Paragraph 155 advises that inappropriate development in areas at risk of flooding should be avoided, but where it is necessary it should be made safe for its lifetime without increasing flood risk elsewhere.

- 6.7 Appendix 1 states that the policies in the NPPF are material planning considerations which should be taken into account in dealing with planning applications. For the purpose of decision-taking, the policies in the Local Plan are to be afforded weight in accordance with their consistency with the NPPF.

Aligned Core Strategy (September 2014):

Policy A - Presumption in Favour of Sustainable Development
Policy 1 - Climate Change
Policy 4: Employment Provision and Economic Development
Policy 6: Role of Town and Local Centres
Policy 10 – Design and Enhancing Local Identity
Policy 14: Managing Travel Demand
Policy 17 - Biodiversity

Nottingham Local Plan (November 2005):

Policy S5 – New retail developments on the edge of or outside existing centres
Policy NE5 - Trees
Policy NE9 – Pollution
Policy NE10 – Water Quality and Flood Protection
Policy NE12 – Derelict and Contaminated Land
Policy T3 – Car, Cycles and Servicing Parking

Nottingham City Land and Planning Policies DPD (Local Plan Part 2)

This emerging plan has not yet been adopted, but is at an advanced stage, having been subject to a Local Plan examination. Therefore, whilst policies and allocations do not have the full weight of an adopted Local Plan, they can be regarded as being a material planning consideration.

The application site is a proposed allocation (PA34 - Beechdale Road - Former Beechdale Baths) within this emerging plan. The development principles associated with the proposed allocation identify that a convenience retail store (A1) would be an appropriate use, with scope also for residential (C3).

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

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

i) Principle of the development (Policy 4 of the Aligned Core Strategy)

- 7.1 The site has been vacant since 2017 when the former swimming baths were demolished. The site lies within the urban area where the reuse of brownfield sites is actively encouraged and supported by the national and local planning policy.

- 7.2 The principle of retail development on the site is supported by the emerging Local Plan Part 2 allocation. The proposed development would create significant investment in the local area and enhance the retail offer available locally. This physical investment in a highly visible location would increase confidence in Beechdale and demonstrate the viability and attractiveness of investing in this part of Nottingham.
- 7.3 The proposed development would bring the vacant site back into an economic use and create an estimated 84 new jobs in a range of full and part time roles, leading to direct and indirect benefits to the local economy.
- 7.4 The proposed development would be located in a sustainable location which would be accessible to a large local residential population.
- 7.5 Supporting economic growth and productivity in Nottingham, it is considered that the principle of the development is therefore acceptable.

ii) Suitability of retail use in this out of centre location (Policy 6 of the Aligned Core Strategy and Policy S5 of the Local Plan)

- 7.6 In spite of the allocation of the site for retail use in the emerging Local Plan, the site is located outside of a designated centre. Consequently, Policy 6 of the ACS, Policy S5 of the Local Plan as well as national policy, require the proposed development to be considered against the sequential retail test and a consideration of the potential impact on planned investment and on nearby designated centres.
- 7.7 Paragraph 90 of the National Planning Policy Framework (NPPF) states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on either a planned investment or a nearby designated centre, it should be refused.
- 7.8 The application is supported by a Planning and Retail Statement which includes a sequential test and impact assessment.
- 7.9 Representations have been submitted on behalf of Asda in respect of the retail impacts arising from the proposed development. Points raised in these representations have been considered in the test and assessment.
Sequential Test
- 7.10 The main centre with potential to accommodate the proposed development would be Hyson Green District Centre. However, following review of sites within or to the edge of Hyson Green District Centre, officers agree with the applicant's assessment that there are no sequentially preferable sites that could accommodate the proposed development.

Impact Assessment

- 7.11 The NPPF requires the impact test to be applied to retail proposals that are not in accordance with an up-to-date Local Plan, if the development is over a proportionate, locally set threshold. If there is no locally set threshold, the default threshold is 2,500sqm. Whilst Local Plan Part 2 sets out a threshold of 1000sqm it is not adopted yet. However the gross floorspace of the proposed development exceeds the NPPF threshold. In response to this, the Retail Impact Assessment

has considered the likely effects of the proposed development against the relevant tests defined within paragraph 89 of the NPPF:

a) The impact of the proposed development on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposed development; and

b) The impact of the proposed development on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

7.12 Taking each of these in turn, the following section of the report considers the potential retail impact of the proposed development.

a) The impact on existing, committed and planned investment in a centre or centres

7.13 In considering the impact on investment in centres, the applicant states that they are not aware of any current, committed and planned investment in any defined centre with a defined catchment area surrounding the site.

7.14 In terms of the trade diversion, the impact assessment identified that the majority of the impact will fall on the Lidl at Midland Way and Aldi at Radford Boulevard neither of which are located within a defined centre. Both stores are overtrading, therefore the anticipated trade diversion would not be enough to cause the operators to close either of these stores and as such the impact is not considered to be significant adverse.

7.15 The impact on Hyson Green District Centre including the Asda is anticipated to be 6.3%. However Hyson Green is a healthy and robust centre with a variety of retailers, capable of withstanding the level of impact anticipated. The impact on Hyson Green is therefore not considered to be significant adverse.

7.16 The impact on Strelley Road, which is also anchored by Asda, is likely to be overestimated as the turnover of the centre is based on the results of the household survey, when the anchor tenant was the Co-op. The turnover of the Asda is likely to exceed that of the Co-op, particularly in regard to the comparison floorspace. The anticipated level of impact is therefore not considered to be significant adverse.

7.17 Following advice from the Council's policy team, the applicant's assessment is accepted and it is agreed that the proposed development would not harm any existing business significantly. Also it would not have any significant adverse impact upon any committed or planned in-centre investment.

b) Impact on town centres and vitality and viability

7.18 In considering the impact to town centre vitality and viability, the applicant has used a recent household survey to inform the anticipate role, function and trading characteristics of the proposed development within the defined catchment area. In considering the vitality and viability, the applicant has considered the centres closest to the application site i.e. Beechdale Road, and the centre the proposals are likely to compete most intensely with due to the offer available i.e. Hyson Green District Centre (outside of catchment area).

- 7.19 The nearest centre to the application site is the Beechdale Road, which is located approximately 450m to the west of the application site. The centre comprises 17 units, of which just under a third are retail units (Use Class A1). At the time of the survey in October 2018, there were no vacant units. The centre appeared well used with customers in all of the units that were open at the time of the survey, mid-week, late morning.
- 7.20 The centre is close to resident's homes and provides an extremely convenient location to access a variety of shops and services. These shops co-exist with other existing retail destinations and provide for a different type of shopping function or provide a different offer. For example, it is unlikely the Premier caters for a main food shop and is much more likely to cater for top up shopping trips. The offer available also differs from the proposed Lidl, for example the butcher provides loose, unpacked meat that can be bought in specific quantities or butchered to specific requirements, unlike Lidl which only provides pre-packed meat. The Premier sells lottery tickets which Lidl do not. The proposals are therefore unlikely to significantly affect the trade to these locations which will continue to provide for a different function and offer.
- 7.21 Hyson Green District Centre has a linear form extending approximately 600m along Radford Road, from Palin Street to Berridge Road. There are small commercial units located either side of Radford Road and the Asda is located in the middle of the District Centre. The Retail Study identifies Hyson Green District Centre as a vibrant and vital centre that has developed to meet the needs of its catchment population. The diversity of the offer available is not typical of district centres elsewhere in Greater Nottingham, however this is considered a strength.
- 7.22 With regards to the potential impact on vitality and viability, a number of widely held assumptions have been taken into account, including that retailers compete on a 'like for like' basis. In this case it is reasonable to conclude that a small amount of trade will be drawn to the Lidl from the Asda at Hyson Green, as described previously. However, the size and diversity of the centre means it provides a robust offer that caters for a wide range of needs and consumer demands. It also caters for a larger catchment than the application proposals. For these reasons the proposals are unlikely to significantly and adversely affect the vitality and viability of this District Centre.

Summary and conclusion

- 7.23 The site has an emerging allocation for a convenience store; the Lidl store and associated impact should therefore be acceptable in principle. However, the above analysis considers the impact of the proposals as a whole. The analysis is based on several well-established principles associated with retail impact assessments, including that 'like competes with like' and that most people shop at the stores closest to their homes. The proposals are therefore likely to impact on the existing Lidl, Aldi and Asda stores located closest to the application site.
- 7.24 The Council's household survey demonstrates that these stores are trading strongly. The anticipated trade diversion would not be enough to cause the operators to close these stores and as such the impact is not considered to be significant adverse.
- 7.25 Hyson Green is a healthy centre, with a vibrant mix of shops and services. The robust District Centre is both vital and viable and as such the proposals will not

have a significant adverse effect on the centre. Similarly, Beechdale Road provides for neighbourhood shopping and local services and had no vacant units at the time of the survey. The shops and services provided in the local centre cater for a localised catchment that is unlikely to be significantly and adversely effected by the proposals.

- 7.26 Whilst the proposed development would draw a small amount of trade away from existing stores (inside and outside of catchment area), the level of diversion is not at a level which would be considered a significant adverse impact. On that basis, it is concluded that the proposed development is acceptable in terms of its retail impact and the requirements of the NPPF and relevant local development plan policies have therefore been passed.

iii) Layout, design and appearance (Policy 10 of the Aligned Core Strategy)

- 7.27 The layout of buildings has been designed to create an active frontage towards Beechdale Road, ensuring no hidden areas are created which could potentially be used for anti-social behaviour, and creating natural surveillance throughout the carpark. Natural surveillance is enhanced by the clear and well-defined pedestrian routes from Beechdale Road to the north and the subway to the north east. The layout of the development balances the constraints of the site with the requirements of the retailers to create a viable and deliverable scheme.
- 7.28 At the request of the officers, the applicant has submitted a revised layout which offers a more permeable site for pedestrians. The amended design now enables a straight and continuous path to be provided from the pedestrian site entrance off Beechdale Road, running past the Lidl store entrance and alongside the eastern elevation of the store to the other retail units backing onto the southern site boundary. Landscaping to the site boundaries and within the car park would also enhance the appearance of the site and the setting of the development, including the provision of a low stone wall to the site frontage.
- 7.29 The design of the Lidl store follows a standard format comprising a large glazed elevation facing Beechdale Road, with metal cladding elsewhere which is primarily white but with a grey top to the building, beneath a mono-pitch roof. A canopy runs along the building frontage and wraps around onto the east elevation, focused on the main entrance and primary pedestrian activity around the store. The smaller retail units follow a similar approach in terms of their design and external materials, to provide a cohesive aesthetic, although brick piers are added between the individual shop fronts.
- 7.30 The service area for Lidl would be located on the western side of the store, separating this area from the customer car parking. Refuse storage and external plant is contained within the service area.
- 7.31 In conclusion, the design and layout are considered to be appropriate for the nature of development proposed and in response to site constraints. A focus has been placed on pedestrian routes through the site and landscaping, particularly to the site frontage. The development therefore accords with policy 10 of the ACS in this regard.

iv) Residential amenity (Policy 10 of the Aligned Core Strategy and Policy NE9 of the Local Plan)

- 7.32 Policy 10 of the Core Strategy states that all new development should consider impact on the amenity of nearby residents or occupiers. Policy NE9 of the Local Plan states that development should be sited and designed in a way to avoid adverse impacts on environmental amenity by reason of pollution including noise, light and air quality.
- 7.33 It should be noted that no concerns have been raised by members of the public relating to the impact of the proposed development on their amenity, particularly in terms of noise, lighting proposals and air quality. In fact, a large number of letters received are in support of this proposal.
- 7.34 The site does not lie immediately adjacent to any residential properties. The nearest residential properties lie to the north of the site on the opposite side of Beechdale Road. The proposal is for opening hours to be: Lidl 06.00 - 23.00 Monday to Saturday and 10.00 - 18.00 on Sundays; the six other units 06.00 - 23.00 Monday to Sunday; the drive through coffee shop 06.00 - 24.00 Monday to Sunday. All deliveries & collections are proposed to be 24/7.
- 7.35 It is proposed that the Lidl store would have no more than two deliveries per day & that vehicles would reverse into the service yard. All the other units would be serviced via the car park. Given the location of the development in relation to residential properties it is considered that these arrangements would not create significant concerns apart from:
- where deliveries to the Lidl store take place at unsocial hours any audible reversing warning may affect residents to the south of the development and
 - where waste collections from the other units (particularly for A3 & A5 uses) involve the collection of glass at unsocial hours

Environmental Health have considered this issue and advised that a Noise Management Plan would be required which should include mitigation against the above issues.

- 7.36 Environmental Health have also considered the other amenity and pollution related issues and raised no objection to the scheme subject to conditions to secure the provision of a Remediation Strategy for ground contamination; an Environmental Noise Assessment and Sound Insulation Scheme; details of any external lighting scheme; a scheme for the ventilation and means of discharging and dispersing fumes/odour associated with any A3/A5 use; and a restriction on the hours of operation. The suggested hours of operation by Environmental Health is in accordance with the proposed opening hours by the applicant. These measures can be secured through the recommended conditions as outlined in the draft decision notice.
- 7.37 The site lies adjacent to both a main arterial road and railway line, which create substantial background noise. The setting and lack of residential neighbours adjoining the site would ensure that local amenity would not be significantly impacted upon as a result of the development. The proposal therefore accords with Policy 10 of the Aligned Core Strategy and policy NE9 of the Local Plan in this regard.

(v) Highways and access (Policies 10 and 14 of the Aligned Core Strategy and Policy T3 of the Local Plan)

- 7.38 Concerns have been raised by one of the local residents, East Midland Ambulance Service and Asda regarding potential impacts generated by the traffic movements to and from this development. Asda has also raised significant concerns highlighting a number of deficiencies in the traffic assessment by the applicant, particularly in terms of representing the likely traffic generation of the development compared with a non-existent 'extant' use, and in respect of road safety.
- 7.39 Highways have assessed the proposals, including the Transport Assessment carried out by the applicants. They are satisfied with the content and findings of this report, and that the impact of the development on traffic flows and road safety are acceptable.
- 7.40 The access for the proposal will utilise the existing access road onto Beechdale Road. This access will also form the route for service vehicles, as well as an access point for maintenance purposes to the railway line to the south of the site. The access point is in the same location as the original Beechdale Baths access, and as such, is established. However, Beechdale Road at this location is a four lane road, with vehicles needing to potentially cross multiple lanes to reach the access when making right turns into the site. As a result, Highways have requested a review of the existing road markings and Traffic Regulation Orders. This would also assist in resolving issues raised by the East Midlands Ambulance Service and one of the local residents.
- 7.41 A total of 153 car parking spaces is proposed as part of the development, including the provision of 10 disabled bays, and 8 parent/child spaces. This would equate to a shortfall of 61 car parking spaces for the overall development in accordance with Council's parking standard for retail development. Highways have requested a car park management plan to ensure unauthorised use of the car park is controlled.
- 7.42 In terms of cycle parking, the proposed development includes adequate amount of secure spaces for both staff and visitors, in accordance with the Council's cycle parking standard.
- 7.43 The applicant is currently considering amendments to the pedestrian ramp to the north east corner of the site as suggested by Highways. Any changes made to this ramp will be reported at Committee.
- 7.44 Subject to the conditions requested by Highways, the development is considered to accord with Policy 10 and 14 of the Aligned Core Strategy and Policy T3 of the Local Plan.

(vi) Biodiversity and trees (Policy 17 of the Aligned Core Strategy and Policy NE5 of the Local Plan)

- 7.45 The proposed development would require the removal of total 11 trees from the site. Whilst none of these trees are protected by a Tree Preservation Order, it is considered that replacement planting should be undertaken as part of a landscape strategy of the site in line with Local Plan requirements and to integrate the development into the surrounding landscape. The details of the landscaping, including the planting new trees, can be secured through condition.

- 7.46 As requested by the Biodiversity Officer, all trees requiring removal should be checked for roosting bats prior to any works taking place, which can be secured through condition.
- 7.47 It is considered that the proposed development is in accordance with Policy 17 of the ACS and Policy NE5 of the Local Plan with regards to biodiversity.

(vii) Other issues

Flood risk and drainage (Policy 1 of the Aligned Core Strategy and Policy NE10 of the Local Plan)

- 7.48 The site lies within Flood Zone 1 at the lowest risk of flooding in accordance with the Flood Risk Maps for Environment Agency. However, the site is over 1ha and as such a Flood Risk Assessment (FRA) and Drainage Strategy has been submitted in support of the application. The FRA confirms that the development is categorised as "Less Vulnerable" and that the development proposals are in accordance with national planning policy for the control of flood risk.
- 7.49 SUDs are to be utilised through the provision of below ground attenuation to cater for a worst case 1 in 100 year storm event plus an allowance for climate change.
- 7.50 The Drainage team and Environment Agency have no objection to the proposals. Therefore, the proposal is in accordance with Policy 1 of the Aligned Core Strategy and Policy NE10 of the Local Plan.

Land contamination and ground conditions (Policy NE12 of the Local Plan)

- 7.51 A Remediation Strategy will be required to deal with the risks associated with ground, groundwater, ground gas and radon gas contamination of the site. The proposal is therefore in compliance with policy NE12 of the Local Plan.

8. SUSTAINABILITY (Policy 1 of the Aligned Core Strategy)

The proposed development would incorporate various measures to mitigate and adapt to climate change. The retail units propose various sustainable practices such as lighting activated by motion sensors, night blinds on chill cabinets, powered down lighting in-store at night, flow control devices and water meters fitted etc, all to minimise energy consumption. Electric vehicle charging points are proposed within the car park. Overall the scheme will comply with policy 1 of the Aligned Core Strategy.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

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

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

Neighbourhood Nottingham: Redevelopment of a long term cleared brownfield site with a sustainable development.

Working Nottingham: Opportunity to secure training and employment for local citizens through the construction and operation of the development.

Safer Nottingham: The development is designed to contribute to a safer and more attractive neighbourhood.

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: 18/02651/PFUL3 - link to online case file:
<http://publicaccess.nottinghamcity.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)
Aligned Core Strategy (September 2014)
Land and Planning Policies (LAPP) -Local Plan (part 2) (submission version March 2018)

Contact Officer:

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Key

 City Boundary

Description

No description provided

My Ref: 18/02651/PFUL3 (PP-07419117)
Your Ref:
Contact: Mr Mohammad Taufiqul-Islam
Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

Development Management
City Planning
Loxley House
Station Street
Nottingham
NG2 3NG

Tel: 0115 8764447
www.nottinghamcity.gov.uk

Indigo Planning
FAO Mrs Julie White
Toronto Square
Toronto Street
Leeds
LS1 2HJ

Date of decision:

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

Application No: 18/02651/PFUL3 (PP-07419117)
Application by: Lidl UK GmbH
Location: Site Of Beechdale Swimming Centre, Beechdale Road, Nottingham
Proposal: Erection of a Lidl store (use class A1), 4no. shop units (use class A1/A2/A3/sui generis (nail salon and/or tanning salon)), 2no. shop units (use class A1/A2/A3/A5), a drive through coffee shop (use class A1/A3/A5) and associated car parking, servicing, infrastructure works and landscaping.

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. The development shall not be commenced until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the type, size and frequency of delivery vehicles to/from the site, haul routes (if any), site security, traffic management plans, measures to prevent the deposit of debris on the highway, working times and a timetable for its implementation. This should also include an outline of the proposed method of construction, a risk assessment in relation to the railway and a construction traffic management plan.

Thereafter the construction 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, to safeguard the amenities of existing occupiers and to ensure the safety, operational needs and integrity of the railway in accordance with Policies 10 and 14 of the Aligned Core Strategy and Policies NE9 and T3 of the Local Plan.

3. Prior to the commencement of the development, a Remediation Strategy that shall have regard to the Phase 1 Desk Study by Remada dated Aug 2018 (ref 528.01) and includes the following components to deal with the risks associated with ground, groundwater, ground gas and radon gas contamination of the site, shall be submitted to and be approved in writing by the Local Planning Authority:

a) A Site Investigation and a detailed assessment of the risk to all receptors that may be affected, including those off site.

b) A Remediation Plan, based on a) 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).

c) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in b) 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: To safeguard the health and residential amenity of the occupants of the proposed development and to prevent pollution of controlled waters to comply with Policies NE9 and NE12 of the Nottingham Local Plan.

Pre-occupation conditions

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

4. Prior to the first occupation of any building within the site, an external lighting scheme for the development, which shall have regard to the submission by Signify dated 30/11/2018 (ref O-2254900), shall be submitted to and be approved in writing by the Local Planning Authority. The external lighting scheme shall specify an appropriate external lighting scheme for the development and shall ensure that:
- i. Direct illumination of 'habitable rooms' (i.e. living rooms and bedrooms) does not occur and that any nearby residents are not subjected to glare anywhere within the boundary of their property,
 - ii. There is no significant increase in existing light levels, attributable to the development, at the boundary of any nearby residential properties.

The submission shall also include the design and configuration specification for the external lighting scheme and a prediction of light levels at the boundary of the nearest affected residential properties (vertical and horizontal isolux plots) attributable to the development.

Reason: To protect the amenities of neighbouring residential properties and in the interests of safety of the adjacent railway line and highway users in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

5. 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 and radon 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 order to ensure that the remediation strategy approved under condition 3 is fully implemented to accord with comply with Policies NE9 and NE12 of the Nottingham Local Plan.

6. Prior to the occupation of any of the units for A3 and A5 uses or the ancillary preparation and / or cooking of food within an A1 use, a scheme for the ventilation and means of discharging and dispersing fumes and the prevention of nuisance caused by odour shall be submitted to and be approved in writing by the Local Planning Authority.

The submission shall include an odour risk assessment, the design configuration, odour abatement technology and specification for the scheme for the ventilation and means of discharging and dispersing fumes from development.

Verification that the approved scheme for the ventilation and means of discharging and dispersing fumes and prevention of odour nuisance has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

Reason: To protect the amenities of future occupiers and neighbouring residential properties in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

7. No part of the development hereby permitted shall be brought into use until the parking, turning and servicing areas are provided and are surfaced in a bound material with the parking bays clearly delineated in accordance with plans to be first submitted and approved in writing by the Local Planning Authority. The parking, turning and servicing areas shall be maintained in the bound material for the life of the development and shall not be used for any purpose other than the parking, turning, loading and unloading of vehicles.

Reason: To ensure that the development will provide satisfactory parking and servicing arrangements in accordance with Policy 14 of the Aligned Core Strategy and policy T3 of the Local Plan.

8. No part of the development hereby permitted shall be brought into use until provision has been made within the application site for the parking of 26 cycles in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority. Cycle provision shall be conveniently located, be covered and secure and that area shall not thereafter be used for any purpose other than the parking of cycles.

Reason: To promote sustainable forms of travel in accordance with Policies 10 and 14 of the Aligned Core Strategy.

9. No part of the development hereby permitted shall be brought into use until a car park management plan, including servicing and delivery requirements and the control of parking other than by customers of the development, has been submitted to and approved in writing by the Local Planning Authority. Therefore the car park management plan shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will provide satisfactory car parking, servicing and delivery arrangements in accordance with Policy 14 of the Aligned Core Strategy and policy T3 of the Local Plan.

10. No part of the development hereby permitted shall be brought into use until provision has been made within the application site for a minimum of 7 parking spaces to be supplied with electric charging points in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To promote sustainable modes of travel in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

11. Notwithstanding the approved drawings, details of a secondary pedestrian access to the site from the subway to the northeast, shall be submitted to and approved in writing by the Local Planning Authority. Unless it can be demonstrated that the route cannot technically, legally or without having to acquire rights over or from third party landowners, be provided due to the gas main, the approved details shall be installed prior to the occupation of the first building within the site.

Reason: To promote sustainable modes of travel in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

12. The development shall not be brought into use until measures to enhance the ecological value of the site, including installation of bird and bat boxes to be incorporated into the design of the building, have been submitted to and approved in writing by the Local Planning Authority. The submission shall also include a mitigation strategy should any bat roost or suitable features are identified and affected by the development.

The measures shall be implemented in accordance with the approved details.

Reason: In the interests of conserving protected species and the ecology of the development in accordance with Policy 17 of the Aligned Core Strategy and Policy NE3 of the Local Plan.

13. a) Prior to the first occupation of the retail terrace and drive through, a noise management plan shall be submitted to and be approved in writing by the Local Planning Authority. The noise management plan shall provide sufficient detail to deal with the following noise issues:
- i. where waste collections from the units involve the collection of waste at unsocial hours.

Thereafter the retail terrace and drive thru shall only be operated in accordance with the approved noise management plan.

- b) Prior to the first occupation of the Lidl store, a noise management plan shall be submitted to and be approved in writing by the Local Planning Authority. The noise management plan shall provide sufficient detail to deal with the following noise issues:

- i. where deliveries or waste collections to/from the Lidl store take place at unsocial hours any audible reversing warning may affect residents to the south of the development.

Thereafter the Lidl store shall only be operated in accordance with the approved noise management plan.

Reason: To protect the amenities of future occupiers and neighbouring residential properties in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

Regulatory/ongoing conditions

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



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14. Prior to the installation of any plant and equipment, an environmental noise assessment and sound insulation scheme shall be submitted to and be 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 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).

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

Reason: To protect the amenities of future occupiers and neighbouring residential properties in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

15. The development shall be carried out in accordance with the approved landscape masterplan(drawing no. LBB01 Rev D). The planting and seeding shall be carried out in the first planting and seeding seasons following the completion of the development and any trees which die are removed or become seriously damaged or diseased within a period of five years shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the appearance of the development and ecological value of the site are satisfactory in accordance with Policy 10 of the Aligned Core Strategy.

16. If, during development, 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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that any contamination of the site is adequately dealt with and to accord with policy NE12 of the Local Plan.

17. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the health and residential amenity of the occupants of the proposed development and to prevent pollution of controlled waters to comply with Policies NE9 and NE12 of the Nottingham Local Plan.

18. The development shall be carried out in accordance with the Flood Risk Assessment & Drainage Strategy prepared by Hadfield Cawkwell Davidson Ltd dated November 2018.

Reason: To ensure that the surface water drainage of the site does not give increase the risk of flooding at the site and there is no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts, in order to accord with Policy 1 of the ACS and Policy NE10 of the Local Plan.

19. A full Travel Plan with up-to-date staff travel survey data must be submitted for approval by the Local Planning Authority no later than 3 months after first occupation of the Lidl store. The Travel Plan shall be based on the framework version submitted as part of this planning application and will make reference to schemes and development that have occurred in the interim period. The Travel Plan will use the survey data to inform the development of a future travel planning strategy with a list of actions, implementation dates and revised targets. The Travel Plan shall include a named Travel Plan Coordinator and annual Travel Plan surveys are to be carried out on an annual basis for a minimum of 5 years following initial occupation.

Reason: To promote sustainable modes of travel in accordance with Policy 10 of the Aligned Core Strategy and Policy NE9 of the Nottingham Local Plan.

20. The retail units within the site shall not be operated outside of the following hours:

Lidl

- o 06:00 - 23:00 Monday to Saturday
- o 10:00 - 18:00 on Sunday

Six shop units

- o 06:00 - 23:00 Monday to Sunday

Drive through coffee shop

- o 06:00 - 24:00 Monday to Sunday

Reason: To protect the amenities of neighbouring residential in accordance with Policy 10 of the Aligned Core Strategy and 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 24 December 2018.

Reason: To determine the scope of this permission.

Informatives

1. The Highway Authority considers it prudent that as part of the proposed off site highways works a Traffic Regulation Order is undertaken to provide a safer highway environment. The Order can be made on behalf of the developer by Nottingham City Council at the expense of the developer. This is a separate legal process and the Applicant should contact Liz Hiskens in Highway Programmes in the first instance on 0115 876 5293. All costs shall be borne by the applicant.



2. 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.

3. In order to carry out the off-site works required the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant have no control. In order to undertake the works the applicant will need to enter into an agreement under Section 278 of the Act. Please contact Liz Hiskens in Highway Programmes in the first instance on 0115 876 5293. All costs shall be borne by the applicant.

4. The development necessitates the repositioning of street lighting column(s). Please contact Street Lighting on 0115 876 1850. All associated costs shall be borne by the applicant.

5. The proposal will see the provision of retaining walls as part of the development. It is recommended the applicant contact Chris Capewell (tel 0115 876 5277) or Chris.Capewell@nottinghamcity.gov.uk regarding the structures. All costs associated with the structure (including ongoing maintenance) to be borne by the applicant.

6. 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.

7. 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, CIRIA C735 Good Practice on the Testing & Verification of Protection Systems for Buildings Against Hazardous Ground Gases (2014) 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.

8. Control of Odour & Provision of Adequate Ventilation

The design of the approved scheme for the ventilation and means of discharging fumes shall have regard to the Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust Systems (EMAQ, 2018).

The approved scheme shall be designed to provide for ventilation and means of discharging and dispersing fumes, the prevention of odour nuisance and the minimisation of the risk of ducting fires. The approved scheme must be maintained, serviced and operated in accordance with manufacturer's recommendations and other authoritative guidance while the development continues to be occupied.

Fire safety advice for restaurants, fast food outlets and take away shops may be obtained from Nottinghamshire Fire & Rescue Service (email: fireprotectionsouth@notts-fire.gov.uk). (NB Cheshire Fire & Rescue Service have useful advice on their website See - <http://www.cheshirefire.gov.uk/business-safety/fire-safety-guidance/restaurants-fast-food-outlets-and-take-away-shops>).

The approved scheme must be kept under review by the operator and alterations or improvements may be required to prevent odour nuisance where any subsequent significant change to the operation of the development is proposed which may affect the control of odour or risk of fire:

Significant changes to the operation of the development which may affect the control of odour include:

- i. The intensification of use of the kitchen,
- ii. The nature of the food prepared, served or cooked on site
- iii. The method of preparation and cooking of the food served or cooked on site
- iv. The extension of operating times

It is the duty of the operator to design, install and maintain the ventilation system to prevent an odour nuisance. Adequate measures must be taken to prevent nuisance due to odours passing through windows, floors or walls etc. into adjoining properties.

Adequate Ventilation

The operator of any cooking appliance must ensure that there is effective and suitable ventilation in order to enable the effective combustion of fuel and the removal of the products of combustion. The specification of a ventilation system shall be determined on the basis of a risk assessment, taking account of factors such as the cooking arrangements taking place and the need to replace extracted air.

The ventilation system must be designed, installed and maintained in accordance with manufacturer's instructions. Guidance on the design specifications of kitchen ventilation systems is contained within "DW/172" produced by the Building and Engineering Services Association (formerly the Heating and Ventilating Contractors Association). Supporting guidance has been published by the Health and Safety Executive (HSE) within Catering Information Sheet 10 (CAIS10), available at <http://www.hse.gov.uk/pubns/cais10.pdf> .

Gas appliances are subject to specific legislation and standards. Newly installed gas appliances should be fitted with an interlock to shut the gas supply off in the event of a failure to the ventilation system. Further guidance on gas safety in catering is available within Catering Information Sheet 23 (CAIS23), available at <http://www.hse.gov.uk/pubns/cais23.pdf> .

The onus for ensuring that the system does not cause odour nuisance or present a risk of fire rests with the operator. If the system is found to be causing an odour nuisance or a risk of fire at any point, then suitable modification works will be required to be carried out and an enforcement notice may be served.

9. At least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) of Network Rail must be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Asset Protection Project Manager
Network Rail (London North Eastern)
Floor 3B
George Stephenson House
Toft Green
York
Y01 6JT

Email: assetprotectionineem@networkrail.co.uk

10. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

11. Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

12. Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus reducing the probability of provision and costs of

railway look-out protection, supervision and other facilities necessary when working from or on railway land.

13. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

14. Prior to the first occupation of the development a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) shall be constructed and make provision for its future maintenance and renewal. Network Rail's existing fencing/wall shall not be removed or damaged.

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: 18/02651/PFUL3 (PP-07419117)

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.

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.