

**REPORT OF DIRECTOR OF PLANNING AND REGENERATION**

**Studio House, 22 Mount Street**

**1 SUMMARY**

- Application No: 18/01998/PFUL3 for planning permission
- Application by: Hockley Developments Ltd on behalf of Mr Alan Forsyth
- Proposal: Conversion from office (B1) and recording studio (D2) to 31 residential apartments (C3).

The application is brought to Committee because it is an application recommended for approval but where planning obligations are proposed to be waived on the grounds of viability.

To meet the Council's Performance Targets this application should have been determined by 13<sup>th</sup> March 2019 but an extension of time has been agreed until 19<sup>th</sup> April 2019.

**2 RECOMMENDATIONS**

- 2.1. **GRANT PLANNING PERMISSION** subject to the indicative conditions listed in the draft decision notice at the end of this report.
- 2.2. The power to determine the final details of the conditions be delegated to the Director of Planning and Regeneration.

**3 BACKGROUND**

- 3.1 The application site is a three-storey, brick factory built in the nineteenth century. The building faces Mount Street with a further part of the factory running behind to form an L-shape and enclosing a car park. To the south are houses on Gladstone Street and to the east houses on Mount Street. To the west and north are further industrial buildings. The area has no allocation in the Local Plan and is in the New Basford Archaeological Constraints Area.

**4 DETAILS OF THE PROPOSAL**

Conversion of building to thirty-one apartments. The apartment mix comprises 7 one-bed flats, 21 two-bed flats and 3 three-bed flats. Fourteen of these flats occupy two floors, including use of the roofspace of the part of the building facing Mount Street. Access to the flats is from the car park, partly using the existing cylindrical stair core.

## 5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

### Adjoining occupiers consulted:

Twenty-two letters sent to neighbouring occupiers on Mount Street, Palm Street and Gladstone Street. Two site notices have been posted and two press adverts published. The notification period expired on 13 January 2019. One letter of support welcomes the regeneration benefit to the area. Nottingham Civic Society supports the principle of the conversion of the Victorian Lace Factory to apartments, giving the historic building new life and safeguarding the character of the New Basford area but expressed concern about the number of rooflights in the original proposal.

### Additional consultation letters sent to:

**Highways:** No objection.

**Environmental Health and Safer Places:** No objection subject to conditions regarding environmental noise assessment and sound insulation scheme and ground gas contamination remediation.

**City Archaeologist:** No objection.

## 6 RELEVANT POLICIES AND GUIDANCE

### **National Planning Policy Framework (February 2019)**

- 6.1 The NPPF advises that there is a presumption in favour of sustainable development and that applications for sustainable development should be approved where possible and paragraph 11 indicates that development proposals that accord with an up-to date development plan should be approved without delay. A number of sections of the NPPF are relevant to this application.
- 6.2 **Delivery of a sufficient supply of homes** - Paragraphs 59-61 support the Government's objective of significantly boosting the supply of homes where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. Paragraph 62 indicates that when the need for affordable housing is identified it should normally be expected to be met on-site.
- 6.3 **Promoting healthy and safe communities** - Paragraph 91 requires decisions to achieve healthy, inclusive and safe places which, amongst other things, promote social interaction, are safe and accessible, and support healthy lifestyles. Paragraph 94 stresses the importance that a sufficient choice of school places is available to meet the needs of existing and new communities. Great weight should be given to the need to create, expand or alter schools through the preparation of plans and decisions on applications. Paragraph 98 states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.
- 6.4 **Making effective use of land** - Paragraphs 117-123 state that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

- 6.5 **Achieving well- designed places** - Paragraphs 124-132 are focused on achieving the creation of high quality buildings and places. Paragraph 124 notes that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); optimise the potential of the site to accommodate and sustain an appropriate amount and mix of; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.6 **Conserving and enhancing the natural environment** - Paragraphs 170-183 states (amongst other things) that planning decisions should protect and enhance sites of biodiversity.

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

ST1 – Sustainable Communities

H2 – Housing Density

H5 – Affordable Housing

E4 – Redevelopment of Employment Use

NE3 – Conservation of Species

NE9 – Pollution

NE12 - Contamination

BE16 – Archaeology

R2 – Open Space in New Development

**Aligned Core Strategy (ACS) (September 2014):**

Policy A - Presumption in Favour of Sustainable Development

Policy 1 – Climate Change

Policy 8 – Housing Size, Mix and Choice

Policy 10 - Design and Enhancing Local Identity

Policy 17 – Biodiversity

Policy 19 – Developer Contributions

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

### **Main Issues**

- (i) Principle of residential conversion
- (ii) Quality of accommodation provided
- (iii) Design and impact on the streetscene
- (iv) Impact on residential amenity
- (v) Planning obligations

### **Issue (i) Principle of Residential Conversion** (Policy E4 and H2 of the Local Plan)

- 7.1 The application site is located in an area that has no specific use allocation in the Nottingham Local Plan. As existing employment premises, the change of use is subject to Policy E4 of the Nottingham Local Plan. This policy sets out criteria for proposals involving the loss of land and buildings to employment use.
- 7.2 The proposed conversion will bring the building into full use and would not inhibit or prejudice the activities of neighbouring occupiers or businesses.
- 7.3 Whilst the applicant has not carried out a comprehensive assessment of the impact of the loss of the building to employment uses, since the adoption of this policy the government has extended permitted development rights to allow the conversion of B1 uses to residential. Class O Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 allows the conversion of Class B1 office uses to Class C3 dwellinghouses, subject to the prior approval of the Local Planning Authority.
- 7.4 The application building falls primarily within Class B1, but with a small area having been used as a Class D2 recording studio. This means that the conversion of the large majority of this building to residential is effectively 'permitted development', with the presence of the small recording studio requiring the submission of a full planning application. Against the 'fallback' position of carrying out the majority of the conversion under permitted development, it is considered that a comprehensive residential conversion of the whole building is preferable and acceptable.

### **Issue (ii) Quality of Accommodation Provided** (Policies ST1 and H2 of the Local Plan and Policies 8 and 10 of the Aligned Core Strategies)

- 7.5 The proposed conversion makes good use of the existing form of the building and provides a mix of primarily two-bed flats, with some one- and two-bed flats. The flats would be of a good size and would have good levels of light and amenities. The proposal therefore complies with Policies ST1 and H2 of the Local Plan and Policies 8 and 10 of the Aligned Core Strategies.

### **Issue (iii) Design and Impact on the Streetscene** (Policy 10 of the Aligned Core Strategies)

- 7.6 The concerns of the Civic Society regarding rooflights is noted but it is considered that use of the roofspace of the building on Mount Street is a reasonable one, allowing the provision of larger flats – this is the location of the three-bed units – with some rooms having ceilings rising into the roofspace. It is considered that this renders these flats more attractive and 'aspirational'. Other external alterations are

principally at ground floor level, providing front doors to flats and converting doors to windows. In terms of external alterations to the building, the proposal complies with Policy 10 of the Aligned Core Strategies.

**Issue (iv) Impact on Residential Amenity** (Policy 10 of the Aligned Core Strategies)

- 7.7 It is noted that some potential for overlooking exists from the upper floor units in the south-facing western section of the building over the gardens of houses on Gladstone Street. It is important to note, however, that the government's position on residential conversions of such buildings noted earlier precludes potential overlooking as a matter of concern. This is part of the building which could be converted as 'permitted development'. It is noted that the authorised use of the application building is as offices and the potential would exist for overlooking from occupation of the building in this manner.
- 7.8 Fifteen parking spaces would remain available in the car park and this is considered acceptable in this relatively sustainable location with good access to amenities and public transport routes. Bin storage is to be provided close to the Mount Street entrance to the site. It is therefore considered that the proposed development would comply with Policy 10 of the Aligned Core Strategies.

**Issue (v) Planning Obligations** (Policies H5 and R2 of the Local Plan)

- 7.9 For this development the policy compliant planning obligations that would be required would be:
- An off-site financial contribution of £27,247 towards public open space.
  - An off-site financial contribution of £214,800 towards affordable housing.
- 7.10 The applicants have however, submitted a viability appraisal indicating that the proposed development would not be viable based upon the provision of the full range of S106 developer contributions that the scheme would otherwise be required to meet. The appraisal has been submitted for review to the District Valuer who has concluded that the proposed scheme cannot afford the payment of any Section 106 contributions. An allowance for developer's profit based on 20% of the gross development value has been adopted, which is considered reasonable by the District Valuer. It is also noted that 'permitted development' conversions from B1 to residential do not attract such planning obligations.

**8. SUSTAINABILITY / BIODIVERSITY**

A bat survey of the building has been undertaken and no evidence of roosting bats was found and no features were considered suitable for roosting bats. This is considered acceptable in accordance with Policy NE3 of the Local Plan.

**9 FINANCIAL IMPLICATIONS**

Whilst such a scheme would normally be subject to planning obligations regarding public open space and affordable housing, the District Valuer has concluded that the scheme would not be viable with these added costs.

**10 LEGAL IMPLICATIONS**

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

**11 EQUALITY AND DIVERSITY IMPLICATIONS**

None.

**12 RISK MANAGEMENT ISSUES**

None.

**13 STRATEGIC PRIORITIES**

Neighbourhood Nottingham: requirement to provide a high quality and sustainable residential development.

**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: 18/01998/PFUL3 - link to online case file:  
<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PFLKP4LYLZS00>
2. Highway observations dated 15<sup>th</sup> November 2018.
3. Environmental Health and Safer Places observations dated 17<sup>th</sup> December 2018.
4. Email from Civic Society dated 1<sup>st</sup> November 2018.

**17 Published documents referred to in compiling this report**

Nottingham Local Plan (November 2005)  
Aligned Core Strategies (September 2014)

**Contact Officer:**

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Key  
 City Boundary

Description  
 No description provided

**My Ref:** 18/01998/PFUL3 (PP-07135732)  
**Your Ref:**  
**Contact:** Mr Phil Shaw  
**Email:** development.management@nottinghamcity.gov.uk



**Nottingham  
City Council**

Development Management  
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Date of decision:

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

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Application No: 18/01998/PFUL3 (PP-07135732)  
Application by: Mr Alan Forsyth  
Location: Studio House , 22 Mount Street, New Basford  
Proposal: Conversion from office (B1) and recording studio (D2) to 31 residential apartments (C3).

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

**Time limit**

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

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

**Pre-commencement conditions**

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



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

The environmental noise assessment shall be carried out whilst any premises and/or activities in the vicinity that are likely to have an adverse effect on noise levels are operating. In addition it shall include predicted noise levels for any plant and equipment which will form part of the development, octave band analysis and all assumptions made (e.g. glazing and façade areas).

The sound insulation scheme shall include the specification and acoustic data sheets for glazed areas of the development and any complementary acoustical ventilation scheme and be designed to achieve the following internal noise levels:

- i. Not exceeding 30dB LAeq(1 hour) and not exceeding NR 25 in bedrooms for any hour between 23.00 and 07.00,
- ii. Not exceeding 35dB LAeq(1 hour) and not exceeding NR 30 for bedrooms and living rooms for any hour between 07.00 and 23.00,
- iii. Not more than 45dB L<sub>Amax</sub>(5 min) in bedrooms (measured with F time weighting) between the hours of 23.00 and 07.00,
- iv. Not more than 50dB LAeq(1 hour) for garden areas (including garden areas associated with residential homes or similar properties).

*Reason: In the interests of the living conditions of future residents in accordance with Policy NE9 of the Local Plan.*

3. The development shall not be commenced until a Ground Gas Risk Assessment has been carried out in accordance with CLAIRE RB17 A Pragmatic Approach to Ground Gas Risk Assessment (2012).

Where ground gas precautions or further investigation is required by the Ground Gas Risk Assessment, a Remediation Strategy that includes the following components to deal with the risks associated with ground 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: in the interests of public health and safety in accordance with Policy NE12 of the Local Plan.*

**Pre-occupation conditions**

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

4. The development shall not be occupied as residential accommodation until:

- a) Verification that the approved sound insulation scheme has been implemented and is fully operational has been submitted to and be approved in writing by the Local Planning Authority.
- 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 gas contamination of the site has been fully implemented and completed has been submitted to and be approved in writing by the Local Planning Authority.

*Reason: In the interests of the living conditions of future residents and in the interests of public health and safety in accordance with Policies NE9 and NE12 of the Local Plan.*

**Regulatory/ongoing conditions**

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

There are no conditions in this section.

**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 12 December 2018.

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

**Informatives**

1. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

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

**3. Environmental Noise Assessment**

The environmental noise assessment shall be suitable and sufficient, where appropriate shall consider the impact of vibration, and shall be undertaken by a competent person having regard to BS 7445: 2003 Description and Measurement of Environmental Noise and any other appropriate British Standards. The internal noise levels referred to are derived from BS 8233: 2014 Sound Insulation and Noise Reduction for Buildings.

The approved sound insulation scheme must be maintained &, in the case of mechanical ventilation, must be maintained, serviced and operated in accordance with manufacturer's recommendations.

**4. Ground Gas Contamination**

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

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authoritative guidance. The Remediation Strategy must also provide details of how gas precautions including any radon gas precautions will be validated.

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 gas contamination of the site.

Any ground gas protection measures included in the original development are designed for the buildings as originally constructed to protect against possible dangers to public health and safety arising from any accumulation of methane, carbon dioxide or other gas and to ensure that the site can be developed and used without health or safety risks to the occupiers of the development and/or adjoining occupiers. These protection measures may be compromised by any future extension of the footprint of the original building or new building structures within the curtilage of the site including the erection of a garage, shed, conservatory or porch or similar structure. Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought should future extension of the footprint of the original building or new building structures within the curtilage of the site be proposed (regardless of whether the proposed construction requires planning permission or building regulation approval).

It is a requirement of current Building Regulations that basic radon protection measures are installed in all new constructions, extensions conversions & refurbishments on sites which are Radon Class 3 or 4 and full radon protection measure are installed on site which are Radon Class 5 or higher. Advice from the Council's Environmental Health Team regarding appropriate gas protection measures must be sought where there are both radon issues and ground gas issues present.

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

5. A key theme of the National Planning Policy Framework (DCLG 2012) is that developments should enable future occupiers to make green vehicle choices and it explicitly states that low emission vehicle infrastructure, including electric vehicle (EV) charging points, should be provided (paragraph 35).

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: 18/01998/PFUL3 (PP-07135732)

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](http://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.



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