

**REPORT OF DIRECTOR OF PLANNING AND REGENERATION**

**Eagle Building, Riverside Way**

**1 SUMMARY**

Application No: 19/00937/PFUL3 for planning permission

Application by: Rayner Davies Architects Mr Julien McGuinness on behalf of Gilbert & Hall Limited Mr Tewson

Proposal: Demolition of commercial unit and erection of a new four storey apartment building comprising 42 apartments with associated parking

The application is brought to Committee because this is a major development where the required S106 Planning Obligations are proposed to be waived for viability reasons.

To meet the Council's Performance Targets this application should have been determined by 16th October 2019. The applicant has however agreed an extension of time until 19 December 2019.

**2 RECOMMENDATION**

**2.1 GRANT PLANNING PERMISSION** subject to:

The indicative conditions listed in the draft decision notice at the end of this report.

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

**3 BACKGROUND**

3.1 The Eagle Buildings sit on a lozenge shaped site that narrows at either end and is located between Robin Hood Way to the north and Riverside Way to the south. It is predominantly occupied by four industrial units which, apart from one, are currently vacant and in a poor state of repair. An existing telecoms monopole mast located at the western end of the site is to be relocated further to the west on Riverside Way, in a position for which approval has already been granted. Just beyond the western boundary of the site is a small substation which is proposed to remain in situ. Three existing vehicular access points to the site currently exist from Robin Hood Way.

3.2 To the north of Riverside Way and to the east lies the existing Meadows residential estate. To the west are further industrial and commercial units and to the south and south east lies the Victoria Embankment and the River Trent beyond. The NET 2 tram line and a tram stop is located to the east of the site, which runs across the River Trent on Wilford Bridge to the south east.

3.3 The development site has been extended to include a section of grass verge and

footpath that constitutes highway land and sits between the site and the footpath along Riverside Way.

- 3.4 The site is located with Flood Zones 2 and 3a of the River Trent.

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

- 4.1 Planning permission is sought to demolish the existing industrial units and construct a 3 and 4 storey building comprising 42 apartments (7x1 bedroom and 32x2 bedroom units). Undercroft parking for 30 cars, accessed from Robin Hood Way, would be provided at ground floor level.
- 4.2 Pedestrian access would be provided from both Robin Hood and Riverside Way. Bin storage and a cycle store for 42 cycles are proposed within the undercroft parking area.
- 4.3 The apartment building would be contemporary in its design and would largely be constructed in brick with a largely glazed central entrance area and gray cladding system to the top floor.

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

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

The application was advertised by way of 50 individual letters to neighbouring residents, including properties on Soudan Drive, Briar Court, Meadow Bank House, Sweet Leys Road and Carroll Gardens; also by press and site notice.

No comments have been received from local residents as a result of the consultation exercise.

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

**Highways:** No objection. Conditions relating to the provision of vehicle and cycle parking, turning and servicing areas are recommended.

**Environmental Health and Safer Places:** No objection. Conditions relating to contamination and vehicle charging are recommended.

**Environment Agency:** No objection, subject to implementation in accordance with the revised Flood Risk Assessment.

**Education:** No financial contribution towards education is required.

**Drainage:** No objection. A condition relating to surface water drainage is recommended.

**Biodiversity Officer:** No objections. A condition requiring ecological enhancements such as bird/bat boxes is recommended.

**Nottingham University Hospital NHS Trust (NUH NHS Trust):** A financial contribution is requested for additional secondary healthcare services, to meet patient demand.

## **6 RELEVANT POLICIES AND GUIDANCE**

### **National Planning and Policy Framework (2019):**

The NPPF advises that there is a presumption in favour of sustainable development and that applications for sustainable development should be approved where possible. 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:

- a) 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;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) 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);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) 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.

### **Aligned Core Strategies (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 14: Managing Travel Demand

Policy 17: Biodiversity

Policy 19: Developer Contributions

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

Policy ST1: Sustainable Communities

Policy E4: Previously used employment sites

Policy H2: Density

Policy H5: Affordable Housing

Policy R2: Open Space in New Development

Policy NE3: Conservation of Species

Policy NE9: Pollution

Policy NE10: Water Quality and Flood Protection

Policy NE12: Derelict and Contaminated Land

Policy T3: Car, Cycles and Servicing Parking

## **Emerging LAPP (2019):**

Policy CC1: Sustainable Design and Construction  
Policy CC3: Water  
Policy EE3: Change of Use to Non Employment Uses  
Policy DE1: Building Design and Use  
Policy DE2: Context and Place Making  
Policy EN2: Open Space in New Development  
Policy EN6: Biodiversity  
Policy HO1: Housing Mix  
Policy HO3: Affordable Housing  
Policy IN2: Land Contamination, Instability and Pollution  
Policy IN4: Developer Contributions  
Policy TR1: Parking and Travel Planning

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

### **Main Issues**

- (i) Principle of the development
- (ii) Layout, scale and design
- (iii) Impact on residential amenity
- (iv) Impact on highways and parking
- (v) S106 contributions

**i) Principle of the development** (NPPF, Policies A and 8 of the ACS, Saved Policies E4, ST1 and H2 of the Local Plan and Policies EE3 and HO1 of the LAPP)

- 7.1 The application site is located within a Primarily Residential Area as defined by the Local Plan. Currently comprising industrial premises the proposal needs to be assessed against policy E4 of the saved Local and EE3 of the LAPP, both of which permit the redevelopment of redundant employment premises subject to an assessment of the existing buildings being of an appropriate quality, or in an appropriate location, as suitable supply of premises of a similar scale and whether the development would alleviate unacceptable environmental impacts of resulting from the current use.
- 7.2 This is a constrained island site of small industrial units located in close proximity to neighbouring residential properties. The existing buildings are in a very poor state of repair and beyond reuse. It is considered that there is a sufficient supply of similar sized properties in the area and that the redevelopment of the site for residential purposes is a more appropriate use of the site given its size and context.
- 7.3 Saved Policy ST1 of the Local Plan promotes sustainable communities and developments that contribute to the provision of a balanced mix of housing size, type and affordability in an area. Aligned Core Strategy Policy 8 (Housing Size, Mix and Choice) states that residential development should maintain, provide and contribute to a mix of housing tenure, types and sizes in order to create mixed and balanced communities. Outside the City Centre Policy HO1 of the LAPP seeks to encourage the provision of family housing on sites capable and suitable of accommodating family housing. It recognises that an alternative housing mix on some sites may be more appropriate, based on local housing need or to fulfil other regeneration aspirations of the Council.

7.4 The proposed development comprises 42 apartments made up of 7x1 bedroom and 35x2 bedroom units (including 24 duplex apartments) which are proposed to be homes for market sale. The immediate neighbourhood predominantly comprises social housing in the form of two storey houses. The proposed market for sale apartments would contribute towards meeting local housing needs and would be in keeping with the NPPF and the City Council's strategic objectives to create balanced and sustainable communities. The position and constrained nature of the site does not lend itself to a housing development; an apartment scheme however would be suited to both its constraints and the river frontage aspect of the site, the redevelopment of which would represent a significant benefit to the local area in regeneration terms. Additionally, the development is located in a sustainable location, close to local facilities and a range of transport options.

7.5 The proposal therefore accords with the NPPF, policies A and 8 of the ACS, saved policies E4, ST1 and H2 of the Local Plan, and Policies EE3 and HO1 of the LAPP.

**ii) Layout, scale and design** (NPPF, Policy 10 of the ACS, Saved Policy H2 of the Local Plan and Policies DE1 and DE2 of the LAPP)

7.6 The existing buildings are of poor townscape quality and the high quality design of the development would positively contribute towards the enhancement of the street scape along the Trent Embankment. The NPPF and particular paragraph 127, outlined above, recognises the importance of design of the built environment in making places better. It acknowledges that good design is a key aspect of sustainable development and contributes positively to delivering and shaping places that work well, that are safe, inclusive and accessible. Policy 10 of the ACS and Policies DE1 and DE2 of the LAPP seek to ensure that new housing development is of a high design quality, in order to enhance or to create a sense of place and reinforce local distinctiveness.

7.7 The proposed scale of the development, at 3/4 storeys in height, and its density are considered to be appropriate for its context. The development has responded well to the prominence of the site, its highly accessible location, the 'island' nature of the site that is enclosed by Robin Hood and Riverside Way, and the height of existing residential properties on the opposite side of Robin Hood Way.

7.8 The proposed building provides a strong and active built frontage to both Robin Hood Way and Riverside Way and would create a presence and distinctive landmark along the Trent Embankment. The building has been designed as two separate apartment wings linked by a central, triple height glazed entrance atrium, which helps to break up its mass and allows access to the building from both road frontages. The façades of each wing have been further broken down into a series of bays to strengthen the vertical emphasis of the building. Deeply recessed balconies are provided along its south elevation to maximise views of the Trent and provide a high quality outdoor space with a southern aspect for future residents. To maximise the number dual aspect apartments, to minimise internal circulation space and to maintain a lower building height, a split level duplex scheme is proposed which has resulted in 39 out of the 42 apartments having a dual and/or southern aspect.

7.9 Pre-application discussion has resulted in the creation of an active frontage to Riverside Way through the provision of ground floor apartments with direct front door access. The adjacent and very wide grass verge along Riverside Way has also been incorporated into the scheme, which is to be remodelled and landscaped

to enhance both the appearance of this land and the setting of the building. The incorporation of this section of highway land would also help to reduce the visual impact of the required increase in the ground floor levels of the building, needed to mitigate flood risk.

- 7.10 The primary use of brick with elements decorative brickwork detailing, together with a contrasting grey clad third floor, would add to the quality and character of the development.
- 7.11 Overall it is considered that the proposed layout, scale and design of the development is appropriate for the site and its context, creating a distinctive high quality development that would have a positive and regenerative effect on this prominent site. The proposed development therefore accords with the NPPF, policy 10 of the ACS, saved policy H2 of the Local Plan and policies DE1 and DE2 of the LAPP.

**iii) Impact on residential amenity** (Policy 10 of the ACS, Saved Policies NE9 and NE12 of the Local Plan and Policies DE1 and IN2 of the LAPP)

- 7.12 The development is separated from the closest properties in the Meadows Estate by Robin Hood Way. Four properties, located opposite the south western end of the site, have habitable room windows and gardens which face towards the development. These properties are set approximately 25m to 30m from the northern boundary of the site. To ensure that the height of the proposed building would not have an adverse impact on outlook and light reaching these properties, a daylight analysis was undertaken. This resulted in the height of the south western end of the building being reduced to three storeys in height. The daylight analysis concluded that at this reduced height the development would have negligible impact on neighbours' amenity in terms of direct and indirect daylighting effects. The rear elevation and gardens of these neighbouring properties would remain in full sun from the 21<sup>st</sup> March each year.
- 7.13 Environmental Health have raised no objection to the scheme subject to conditions to secure the provision of a remediation strategy for ground contamination. Given the site context, further noise assessment was not considered necessary.
- 7.14 The proposed development therefore accords with policy 10 of the ACS, saved policies NE9 and NE12 of the Local Plan, and Policies DE1 and IN2 of LAPP. ocal Plan.

**iv) Impact on highways and parking** (Policy 14 of the ACS, Saved Policy T3 of the Local Plan and Policy TR1 of the LAPP)

- 7.15 A total of 30 car parking bays are proposed and each apartment would be provided with a cycle parking space in the undercroft parking area. Given the highly sustainable and accessible location of the development, with its close proximity to the tram, these provisions are considered acceptable to the Highways and would be secured through condition.
- 7.16 The proposal would require a stopping up application regarding the highway land on Riverside Way, to which Highways have raised no objection.
- 7.17 The proposed development therefore accords with policy 14 of the ACS, saved policy T3 of the Local Plan and policy TR1 of the LAPP.

**(v) Planning obligations** (Policy 19 of the ACS, Saved Policies H5, R2, CE6 of the Local Plan and Policies HO3, EN2 and IN4 of the LAPP)

- 7.18 The scheme meets the thresholds for securing contributions towards the provision of public open space, affordable housing and employment and training. Contributions have also been requested from the NHS in relation to secondary healthcare provision.
- 7.19 To be policy compliant the scheme requires the following contributions to be secured through planning obligation:
- Public open space - £35,429.94.
  - Affordable housing – 20% on site affordable housing, which equates to 9 units and a figure of £560,583.

The request for secondary health care provision is - £17,114.

- 7.20 Regarding the requested contribution for the NUH NHS Trust, it is accepted that health care provision is a material planning consideration that is referenced in policy CE6 of the Local Plan (The provision of Health Facilities), within chapter 8 of the NPPF (Promoting Healthy & Safe Communities) and within Policy INV4 of the LAPP. Whilst the Council are therefore supportive of the principle of such a contribution, a number of queries and issues arise from the request, in particular that the contribution sought relates solely to secondary/acute care rather than wider healthcare infrastructure, particularly primary care (GP provision). There are also queries over the basis of the calculation being used to arrive at the figure requested, and reassurances required that any monies sought would be spent on healthcare provision reasonably and directly related to this development.
- 7.21 Policy 19 of the ACS states that the viability of a scheme is a key consideration and will be taken into account when negotiating planning obligations with developers. In this instance the applicant has submitted a viability appraisal and an independent assessor appointed to review this document. The conclusions of the assessment are that the development would be unviable with the burden of any S106 contribution. A key factor in reaching this conclusion has been the additional costs associated with providing the necessary flood mitigation measures for the development, which involve raising the floor level of the building. The conclusion of the independent assessor is such that waiving the S106 requirements has been appropriately justified in this instance. The proposal therefore complies with Policy 19 of the ACS and IN4 of the LAPP.

**OTHER MATTERS**

**Flood risk and drainage** (Policy 1 of the ACS, Saved Policy NE10 of the Local Plan and Policies CC1 and CC3 of the LAPP)

- 7.22 The site is located within Flood Zones 2 and 3a. A Flood Risk Assessment (FRA) was submitted with the application and the Environment Agency have no objection to the proposal subject to the development being carried out in full accordance with the revised FRA.
- 7.23 The Drainage team would like to see a reduction in the amount of surface water runoff by 30% compared to the site's previous use, ideally through SuDS. Details of

the drainage scheme can be secured through condition. The proposal therefore complies with policy 1 of the ACS, saved policy NE10 of the Local Plan and policies CC1 and CC3 of the LAPP.

**8. SUSTAINABILITY / BIODIVERSITY (Policies 1 and 17 of the ACS, Saved Policy NE3 of the Local Plan and Policy EN6 of the LAPP)**

- 8.1 The site is located within a highly accessible and sustainable location with close proximity to the NET 2 tram stop and main cycle and pedestrian routes. The building is proposed to exceed current Building Regulations requirements. This is mainly achieved by a 'fabric first approach' involving appropriately insulated walls, floors and roofs to provide a high 'u' value. Other sustainable measures include:
- Orientation of duplex apartments allows for south facing aspects to the majority of units, improving solar gain in winter months to reduce heating loads
  - Splayed roof overhangs and deep recesses to south facing facades temper the risk of overheating in summer months when the sun is at its highest point
  - Natural ventilation is proposed rather than relying on mechanical ventilation systems. The layouts lend themselves to natural ventilation by virtue of most apartments being dual aspect units which allows for cross ventilation
  - It is highly likely that an all-electric system will be explored at technical design stages by the M&E engineer in order to improve energy usage and reduce carbon consumption
  - Low energy LED lighting (on motion sensors where applicable in communal areas) will be utilised to reduce energy consumption
- 8.2 The existing site is largely comprised of built development. The ecological report submitted with the application concludes that the site is of limited ecological value, however in accordance with guidance from the NPPF, ecological enhancement can be achieved through the incorporation of ecological enhancement features being incorporated into the design of the building. Further details of these measures are to be secured via condition.
- 8.3 The proposal therefore complies with Policies 1 and 17 of the ACS, Saved Policy NE3 of the Local Plan and Policy EN6 of the LAPP

**9 FINANCIAL IMPLICATIONS**

The viability appraisal demonstrates that the policy compliant obligations would warrant the scheme unviable. It is recommended that the following S106 developer contributions be waived in this instance for reasons of development viability:

- Public open space - £35,429.94
- Affordable housing - 20% on site affordable housing of 9 units and a figure of £560,583

**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 disused and unsightly brownfield site with a high quality, sustainable residential development

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

Safer Nottingham: The development would contribute to a safer and more attractive neighbourhood through its active frontage and all round natural surveillance

**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: 19/00937/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PQLVF4LYHWM00>

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

Nottingham Local Plan (November 2005)

**Contact Officer:**

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# NOMAD printed map



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## Key

 City Boundary

## Description

No description provided

**My Ref:** 19/00937/PFUL3 (PP-07791778)  
**Your Ref:**  
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Date of decision:

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

Application No: 19/00937/PFUL3 (PP-07791778)  
Application by: Gilbert & Hall Limited Mr Tewson  
Location: Eagle Building, Riverside Way, Nottingham  
Proposal: Demolition of commercial unit and erection of a new four storey apartment building comprising 42 apartments with associated parking

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

**Time limit**

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

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

**Pre-commencement conditions**

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

2. The development shall not be commenced until a construction traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall as a minimum include details of the type, size and frequency of vehicles to/from the site, haul routes (if any), staff parking provision, site security, traffic management plans, wheel cleaning facilities and measures to prevent the deposit of debris on the highway and a timetable for its implementation. Thereafter the 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 ensure that the development has no adverse impact on the local highway network, the NET Tram Line and has no significant impact on neighbouring properties to accord with POLICY 10 of the ACS, Policy NE9 of the Local Plan and Policy DE1 of the LAPP.*



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**Not for issue**

Continued...

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

a) A Preliminary Risk Assessment which has identified:

- i) all previous site uses
- ii) the nature and extent of potential contaminants associated with those uses
- iii) the underlying geology of the site
- iv) a conceptual model of the site indicating sources, pathways and receptors
- v) potentially unacceptable risks arising from ground, groundwater and ground gas contamination at the site.

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

c) A Remediation Plan, based on a) above, giving full details of the remediation measures required and how they are to be undertaken (including a contingency plan for dealing with any unexpected contamination not previously identified in the Site Investigation).

d) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in 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 ensure that any contamination of the site is adequately dealt with and to accord with Policy NE12 of the Local Plan and Policy IN2 of the LAPP.*

4. Notwithstanding the submitted Flood Risk Assessment, the development shall not be commenced, apart from demolition, until a surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the Local Planning Authority.

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

*Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy 1 of the Aligned Core Strategy, Policy NE10 of the Local Plan and Policies CC1 and CC3 of the LAPP.*



5. Prior to the commencement of above ground development, details of all external materials, including details of the windows/doors, means of enclosure and hard surfaced areas of the site, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall thereafter be implemented in accordance with the approved materials.

*Reason: To ensure that the appearance of the development is satisfactory and in the interests of securing a sustainable development in accordance with Policies 10 of the Aligned Core Strategy.*

6. No above ground development shall be commenced until an electric vehicle charging scheme has been submitted to and be approved in writing by the Local Planning Authority.

The approved scheme shall be implemented prior to the first occupation of the development.

*Reason: To promote sustainable forms of travel to comply with Policies 1 and 14 of the ACS and Policies CC1 and TR1 of the LAPP.*

7. No above ground development shall be commenced until a scheme of enhancement measures, which shall have regard to the recommendations of the ecological appraisal have been submitted to and approved in writing by the Local Planning Authority.

Measures shall include details of the following:

- Clearance of vegetation outside of the bird breeding season;
- A bat and bird box scheme;
- Hedgehog friendly fencing throughout the scheme;
- Soft landscaping using native and ecologically valuable species.

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

*Reason: In the interests of ecological enhancement and in accordance with the Policy 17 of the Aligned Core Strategy, Policy NE3 and NE2 of the Local Plan and Policy EN6 of the LAPP*

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

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

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

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

*Reason: To ensure that any contamination of the site is adequately dealt with and to accord with Policy NE12 of the Local Plan and Policy IN2 of the LAPP.*

9. 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 the approved details.

The parking, turning and servicing areas shall then be maintained for the life of the development and shall not be used for any other purpose other than parking, turning, loading, and unloading of vehicles.

*Reason: To ensure that the development has no adverse impact on the local highway network, the NET Tram Line and has no significant impact on neighbouring properties to accord with Policies 10 and 14 of the ACs, Policies NE9 and T3 of the Local Plan and Policies DE1 and TR1 of the LAPP.*

10. 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 42 cycles in accordance with the approved details.

The approved cycle parking facilities shall not be used for any other purpose other than the parking of cycles.

*Reason: To promote sustainable forms of travel to comply with policies 1 and 14 of the ACS and Policy CC1 of the LAPP.*

11. Prior to first occupation of the development a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the type, height, species and location of proposed trees and shrubs, including appropriate replacements for the mature trees to be removed. The approved scheme 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 and Policies DE1 and DE2 of the LAPP*

### **Regulatory/ongoing conditions**

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

12. The development shall be carried out in accordance with the submitted flood risk assessment (Proposed Residential Development, Riverside Way, Nottingham, flood Risk Assessment and Drainage Strategy, BSP Consulting, July 2019, RWNG-BSP-ZZ-RP-C-1000-P2, 18-0442, Rev P2) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 26.46m AOD metres above Ordnance Datum (AOD) for all the proposed more vulnerable development on site. Where less vulnerable development on site is below 26.46m AOD, flood resilience should be implemented up to 26.46m AOD.

These mitigation measures shall be fully implemented prior to occupation of the development and retained and maintained thereafter throughout the lifetime of the development.

*Reason: To reduce the risk of flooding to the proposed development and future occupants and in accordance with the aims of Policy 1 of the Aligned Core Strategy, Policy NE10 of the Local Plan and Policy CC3 of the LAPP.*

## 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 17 July 2019.

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

### Informatives

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

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

### 3. 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.

4. 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).

#### 5. Highways:

i: 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.

ii: It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

iii: In order to carry out the off-site works required you 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 you have no control. In order to undertake the works you 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.

iv: The proposed development appears to require the stopping up public highway. The grant of planning permission for this development does not authorise the obstruction or the stopping up or diversion of this public highway and an unlawful obstruction to the highway is a criminal offence and may result in the obstructing development being required to be removed. A separate application for an Order stopping up the public highway will be required. This is a separate legal process and the applicant will need to contact the Department for Transport at their earliest convenience to discuss this matter further. Their contact details as follows: The National Transport Casework Team, Department for Transport, 2nd Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle upon Tyne, NE4 7YH (T) 0191 226 5216. It is strongly recommended that the applicant liaise with our Rights of Way Officer, John Lee who can be contacted on 0115 876 5246.

v: The development necessitates the repositioning of a street lighting column. Please contact Street Lighting on 0115 876 1850. All associated costs shall be borne by the applicant.

#### 6. Environment Agency Informative to the Applicant:

##### Floating Cars

The following issues are not within our direct remit or expertise, but nevertheless are important considerations for managing flood risk for this development. Prior to deciding this application we recommend that consideration is given to the issues below. Where necessary, the advice of relevant experts should be sought;

- Details and calculations relating to the structural stability of buildings during a flood

We can provide the following information on the characteristics of flooding at this site to help with your decision:

More vulnerable elements of the proposal will remain dry but the less vulnerable below the FFL will be wet with depths up to 725mm (lowest ground level in the undercroft is 25.435m AOD).

This development has been proposed within an area identified as being at risk of flooding, and includes the provision of car parking within buildings. The applicant should be aware that vehicles can start to float in flood depths of less than 60cm - less if it is fast-flowing. The applicant must satisfy themselves that any relevant building will be constructed in such a way that vehicles floating or displaced as a result of flooding, would not jeopardise its structural stability. In addition, the applicant should ensure that any sensitive infrastructure such as gas and water pipes or electrical cabling are located and designed to withstand the potential impacts of floating or displaced vehicles.

#### Flood Warning Service:

The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit <https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up.

Flood warnings can give people valuable time to prepare for flooding - time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities. For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-for-flooding>.

To get help during a flood, visit <https://www.gov.uk/help-during-flood>.

For advice on what to do after a flood, visit <https://www.gov.uk/after-flood>

7. Noise Control: hours of work and equipment during demolition/construction  
To assist with project planning, reduce the likelihood of justified complaint and avoid costly restriction and development delays, 'acceptable hours' are detailed below:-

Monday to Friday: 0730-1800 (noisy operations restricted to 0800-1800)  
Saturday: 0830-1700 (noisy operations restricted to 0830-1300)  
Sunday: at no time  
Bank Holidays: at no time

Work outside these hours may be acceptable but must be agreed with Nottingham City Council's Pollution Control Section (Tel: 0115 9152020).

#### Equipment

All equipment shall be properly maintained, serviced and operated in accordance with the manufacturer's recommendations and with appropriate noise suppression/silencers.

#### Dust/Grit and other fugitive emissions

Construction and demolition work invariably generates grit and dust, which can be carried offsite and cause a Statutory Nuisance, and have a detrimental effect on local air quality.

Contractors are expected to use appropriate methods to minimise fugitive emissions, reduce the likelihood of justified complaint and avoid costly restriction and development delays. Appropriate methods include:-

Flexible plastic sheeting

Water sprays/damping down of spoil and demolition waste

Wheel washing  
Periodic road cleaning

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: 19/00937/PFUL3 (PP-07791778)

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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# **DRAFT ONLY**

## **Not for issue**