



## The Nottingham Park Estate Limited

Park Estate Office, 7a Lenton Road, The Park, Nottingham NG7 1DP  
Telephone: 0115 9474273 Email: enquiries@nottinghamparkestate.co.uk

Wednesday 27<sup>th</sup> August 2025

### BY EMAIL

Dear Mr Mountain,

**25/00065/PFUL3 | Partial redevelopment to create Purpose Built Student Accommodation and Retail units, retaining existing facade to Castle Boulevard and 49/51 Fishpond Drive | Dominion House Castle Boulevard Nottingham NG7 1FN**

I write on behalf of Nottingham Park Estate Limited (NPEL) and residents within The Park Estate with regard to the proposed development above at Dominion House, henceforth known as the 'Site'. We understand that the Application is due to proceed to a forthcoming planning committee with your recommendation for approval.

NPEL provided a formal consultation response on the 19<sup>th</sup> February 2025. Since this date further documentation and evidence has been submitted by the Applicant which is relevant to the impact of the development upon The Park Conservation Area alongside other heritage assets. For this reason, alongside matters of statutory procedure, I write to you with a further consultation response. Following consultation with our heritage and planning consultants it has come to our attention that Nottingham City Council (NCC) appears not to have undertaken required consultation with statutory consultees, nor given due regard to the impact of the proposed development upon the significance of heritage assets in accordance with prevailing law, policy and established Case. It is our view that should the Council fail to adhere to the requirements it would both fail to take advantage of the expert industry opinion of statutory consultees and leave any decision open to judicial review.

### Duty to Consult

We understand that NCC have not consulted with Historic England nor any National Amenity Society (NAS). Due to the location of the major development Site within the Castle Boulevard Conservation Area and in the setting of the Grade I listed Building of Nottingham Castle Museum and Gallery (NHLE Ref: 1271188), there are specific notification requirements that apply as set out within the Planning (Listed Buildings and Conservation Areas) Regulations 1990, reg. 5A as amended by SI 2015/809.

Under the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2015 for proposals involving the erection of a building with a floor space of more than 1,000 square metres within a conservation area, the local planning authority is required to consult with Historic England. The proposed development Site is some 2,500 square metres.

As the development unequivocally falls within the setting of the Grade I listed building of Nottingham Castle, consultation with Historic England is separately required under the same Regulations.

In addition, where the proposals involve the demolition of a building in a conservation area, the authority must notify Historic England pursuant to section 15(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, together with the national amenity societies (NAS).

Given the legislative framework requiring the timely engagement of Historic England and NAS in relation to the Site we would request that Historic England, and any other relevant parties, are engaged and provided with the relevant information to make informed comment with immediate effect. Any comments arising should be accounted for prior to the determination of the Application.



Given that the evidence provided by the Applicant still does not assess the impact of the proposed development upon the Grade I listed building of Nottingham Castle Museum and Gallery (discussed further below) we request that in the interest of full disclosure, Historic England are made aware of our previous consultation response and furthermore that this correspondence is made publicly accessible via the planning portal.

### **Statutory Duty to have Special Regard**

Further to our correspondence of 19<sup>th</sup> February 2025, the Site unequivocally lies within the surroundings of Nottingham Castle and, by virtue of clear views of the castle from the designed approach of Castle Boulevard over and in relation to the Site, it makes a positive contributions to the setting and significance of the Grade I listed building and the scheduled monument upon which it sits.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on decision-makers to have “special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” The courts have consistently interpreted this as requiring *considerable importance and weight*<sup>1</sup> to be given to the desirability of preserving the setting of listed buildings. Any harm to setting creates a **strong presumption against the grant of permission**, which must be demonstrably outweighed by public benefits if permission is to be given.

The courts have also clarified how this duty operates in planning judgments. In the case of *Forge Field*<sup>2</sup> the High Court held that failure to show the heritage duty carried proper weight rendered the decision unlawful<sup>2</sup>.

Upon review of the information submitted by the Applicant since our consultation of 19<sup>th</sup> February 2025, it is apparent that no further information or evidence has been provided to the Council in respect of the Site’s contribution to the setting and significance of the Grade I listed building of Nottingham Castle Museum and Gallery. This despite the submission of a series of CGI photomontages of multiple aspects of the proposed development, except in relation to Nottingham Castle. Furthermore, despite the Site clearly lying within the setting of the Castle, the Heritage Impact Assessment submitted by the Applicant has not been updated with any information about Nottingham Castle in accordance with Paragraphs 207 and 208 of the NPPF.

For the sake of clarity, I reproduce the image of Nottingham Castle taken from Castle Boulevard in relation to the Site with an indicative (red) line showing the approximate height of the proposed development. The full extent of the Ducal Palace is apparent, revealing its strategic and elevated setting upon Castle Rock. The view is from a designed boulevard that takes its name from the monument and is designated as a conservation area for its character as a planned approach to the base of Castle Rock. There can be no escaping the positive contribution the Castle Boulevard approach makes to the listed building and scheduled monument, including in views across the Site. I note also that a Key Vista from the Castle set out in the Nottingham City Centre Urban Design Guide (May 2009) falls directly upon the Site, demonstrating the need to account for outward views and indicating that there is a reciprocal visual relationship between the Site and the heritage assets.

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<sup>1</sup> *Barnwell Manor Wind Energy Ltd v East Northamptonshire DC* [2014] EWCA Civ 137.

<sup>2</sup> *R (Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin).



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Figure 1 View of the Site from Castle Boulevard with an approximate height of proposed development (red)

### Local Policy Context – the Development Plan

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, decisions on planning applications must be taken in accordance with the development plan unless material considerations indicate otherwise.

Looking to the Nottingham Aligned Core Strategy (Adopted 2014), Policy 11 (2e) states that *'Elements of the historic environment which contribute towards the unique identity of areas and help create a sense of place will be conserved and, where possible, enhanced....including... prominent Listed Buildings and Scheduled Monuments with a wider visual and economic benefit such as **Nottingham Castle** (my emphasis), Wollaton Hall, Newstead Abbey, Bennerley Viaduct and buildings D6 and D10 on the Boots campus'*.

Spatial Objective VI of the same Core Strategy states *'Protecting and enhancing the area's individual and historic character and local distinctiveness: to preserve and enhance the distinctive natural and built heritage, by protecting and enhancing the historic environment, by promoting high quality locally distinct design, and by valuing the countryside for its productive qualities and ensuring its landscape character is maintained and enhanced. Strategic historic assets will be protected including Wollaton Park, **Nottingham Castle** (my emphasis) and Newstead Abbey.'*



Looking to Part 2 of the Local Plan, Policy HE1 Paragraph 2 states that *'Where proposals **could affect** (my emphasis) a heritage asset and/or its setting, **the applicant will be expected to describe the asset's significance (including the contribution made by its setting)** (my emphasis) in a proportionate level of detail to the asset's significance that allows the impact of the proposals on its significance to be sufficiently understood'. Paragraph 6 of the same policy states that 'Proposals affecting any heritage asset and/or its setting will be considered against the following criteria, where relevant: d) whether the proposals would respect their relationship with the historic street pattern, topography, urban spaces, gardens, landscape, **views and landmarks** (my emphasis);*

It is clear, that in order for the Council to fulfil its statutory duties and meet the requirements of both national and local policy, a thorough setting assessment must be undertaken by the Applicant in relation to the Grade I listed building of Nottingham Castle and the scheduled monument of Nottingham Castle upon which it sits. To comply, this must be undertaken prior to any decision by the Council or recommendation by its officers. It is our view that such a study should be undertaken in advance of any consultation with Historic England and any NAS so that the findings of the report can inform the process.

In conclusion, from the review above is regrettably clear that the Council have failed to fulfil its statutory duties in respect of engaging with consultees on more than one count. Nor has the Applicant of Council demonstrably given the necessary special regard to the setting of Nottingham Castle Museum and Gallery or the scheduled monument of Nottingham Castle, both of which are designated heritage assets of the highest significance in accordance with Paragraph 213 of the NPPF.

We would urge the Council to reconsider determining the Application until due process has been followed and the impact of the proposed development upon the setting of the city's most revered heritage assets has been appropriately assessed by all relevant parties.

With kind regards,

A handwritten signature in black ink, appearing to read 'Adam Lloyd'.

Adam Lloyd  
General Manager