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**PLANS PANEL (WEST)**

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Meeting to be held in Civic Hall, Leeds on  
Thursday, 7th October, 2010  
at 1.30 pm

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**MEMBERSHIP**

**Councillors**

N Taggart (Chair)	B Chastney	A Castle	T Leadley
J Akhtar	J Matthews	R Wood	
M Coulson			
J Hardy			
J Harper			

# A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p>	
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward	Item Not Open		Page No
3			<p><b>LATE ITEMS</b></p> <p>To identify items which may have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p><b>DECLARATIONS OF INTEREST</b></p> <p>To declare any personal/prejudicial interest for the purpose of Section 81 (3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive any apologies for absence</p>	
6			<p><b>MINUTES</b></p> <p>To approve the minutes of the previous meeting held 9<sup>th</sup> September 2010 as a correct record</p> <p>(Copy attached)</p>	3 - 12
7	Headingley; Hyde Park and Woodhouse;		<p><b>APPLICATIONS 08/04214/OT; 08/04216/FU; 08/04220/LI; 08/04219/FU AND 08/04217/CA - RESIDENTIAL DEVELOPMENT AT LEEDS GIRLS HIGH SCHOOL, HEADINGLEY</b></p> <p>To consider the report of the Chief Planning Officer on the residential development proposals for the site of the former Leeds Girls High School, Headingley. Panel previously considered this matter on 12 August 2010</p> <p>(Report attached)</p>	13 - 34

Item No	Ward	Item Not Open		Page No
8	Guiseley and Rawdon;		<p><b>APPLICATION 10/00708/LA - GREENLEA MOUNT, YEADON LS19</b></p> <p>To consider the report of the Chief Planning Officer on a retrospective application for the laying out of a car parking area for bungalows at Greenlea Mount, Yeadon</p> <p>(Report attached)</p>	35 - 42
9	Headingley;		<p><b>APPLICATION 10/03806/FU - 111 OTLEY ROAD, LEEDS LS6</b></p> <p>To consider the report of the Chief Planning Officer on an application for the change of use of a vacant retail unit (Class A1) to a restaurant (Class A3) to facilitate an extension to the adjoining Italian restaurant at 111 Otley Road, Headingley</p> <p>(Report attached)</p>	43 - 52
10	Guiseley and Rawdon;		<p><b>APPLICATION 10/01838/FU - GORDON MILLS, NETHERFIELD ROAD, GUISELEY LS20</b></p> <p>To consider the report of the Chief Planning Officer on an application for the change of use of part of a B2/B8 industrial unit to an indoor Kart Arena at Gordon Mills, Guiseley</p> <p>(Report attached)</p>	53 - 66
11	Adel and Wharfedale; Guiseley and Rawdon; Horsforth; Otley and Yeadon;		<p><b>LEEDS BRADFORD INTERNATIONAL AIRPORT - MONITORING REPORT OF NIGHT TIME AIRCRAFT MOVEMENTS, NOISE LEVELS AND AIR QUALITY</b></p> <p>To consider the report of the Chief Planning Officer on monitoring of night time aircraft movements, noise levels and air quality associated with Leeds Bradford International Airport</p> <p>(Report attached)</p>	67 - 72

Item No	Ward	Item Not Open		Page No
12	Kirkstall;		<p><b>APPLICATION 10/01289/FU - LAND ADJACENT TO 419 &amp; 421 KIRKSTALL ROAD, BURLEY LS4</b></p> <p>To consider the report of the Chief Planning Officer on an application for the erection of a detached single storey drive-through restaurant with associated car parking and landscaping on land adjacent to 419 to 421 Kirkstall Road, Burley</p> <p>(Report attached)</p>	73 - 84
13	Horsforth;		<p><b>APPLICATION 10/03129/FU - 20 ROCKERY ROAD, HORSFORTH LS18</b></p> <p>To consider the report of the Chief Planning Officer on an application for a four storey side extension with terrace at the fourth floor, attached single garage with terrace over, new roof light to front and alterations including removal of front and rear dormer windows to a property at 20 Rockery Road, Horsforth</p> <p>(Report attached)</p>	85 - 94
14	Headingley;		<p><b>APPLICATIONS 10/03603/FU &amp; 10/03604/CA - THE FORMER LOUNGE CINEMA, NORTH LANE, HEADINGLEY LS6</b></p> <p>To consider the report of the Chief Planning Officer on an application for the part demolition of cinema and erection of mixed use development of up to 4 storeys comprising retail, restaurant, 12 two bedroom apartments and ancillary extension; and smoking terrace to the existing Arc Café Bar and external works at the site of the former Lounge Cinema, Headingley</p> <p>(Report attached)</p>	95 - 108

Item No	Ward	Item Not Open		Page No
15	Headingley;		<p><b>APPLICATION 10/00779/EXT - 45 ST MICHAELS LANE, HEADINGLEY LEEDS LS6</b></p> <p>To consider the report of the Chief Planning Officer on an application for an extension of time of planning application 06/02738/FU for 3 and 4 storey block of 3, 5 and 6 bed apartments (47 beds in 11 clusters) with 14 car parking spaces at 45 St Michaels Lane, Headingley</p> <p>(Report attached)</p>	109 - 118
16			<p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>To note the date and time of the next meeting as Thursday 4<sup>th</sup> November 2010 at 1.30 pm</p>	

**Chief Executive's Department**  
Democratic Services  
4<sup>th</sup> Floor West  
Civic Hall  
Leeds LS1 1UR

To:

Members of Plans Panel (West)  
Plus appropriate Ward Members and  
Parish/Town Councils

Contact: Helen Gray  
Tel: 0113 247 4355  
Fax: 0113 395 1599  
helen.gray@leeds.gov.uk  
Your reference:  
Our reference: ppw/sitevisit/  
29th September 2010

Dear Councillor

**PLANS PANEL (WEST) – SITE VISITS – THURSDAY 7<sup>TH</sup> OCTOBER 2010 AT 1.30 pm**

Prior to the next meeting of Plans Panel West there will be site visits in respect of the following;

- 1 **10:55 am** Application 10/00708/LA – Retrospective application to lay out car parking area to bungalows, Greenlea Mount, Yeadon. (meet on street if travelling independently)(Guiseley & Rawdon ward)  
(to 11:10)
- 2 **11:35 am** Application 10/03806/FU – Change of Use of Vacant Retail Unit (Class A1) to Restaurant (Class A3) to facilitate an extension to the adjoining Italian Restaurant General , 111 Otley Road, Headingley. (meet at entrance to unit if travelling independently) (Headingley ward)  
(to 11:50)
- 12 noon Return to the Civic Hall for 12 noon approximately

**A minibus will leave the Civic Hall at 10.30 am prompt.** Please contact Steve Butler Area Planning Manager (West) Tel: (0113) 2243421 if you are intending to come on the site visits and meet in the Civic Hall Ante Chamber at 10:25 am

Yours sincerely

**Helen Gray**  
**Governance Officer**

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## PLANS PANEL (WEST)

THURSDAY, 9TH SEPTEMBER, 2010

**PRESENT:** Councillor N Taggart in the Chair

Councillors J Akhtar, A Castle, B Chastney,  
M Coulson, C Fox, J Hardy, J Harper,  
T Leadley and J Matthews

**34 Chairs Opening Remarks**

The Chair welcomed all parties to the meeting and invited Panel Members and officers to briefly introduce themselves

**35 Late Items**

There were no late items of business

**36 Declarations of Interest**

The following Members declared personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct:

Councillor Akhtar - Application 09/05365/FU Unit 1a Leeds Bradford Industrial Estate – declared a personal interest as Branch Secretary for the Yorkshire Private Hire Association, part of the GMB union (minute 41 refers)

Councillor Akhtar – Application 10/02661/FU Stonegate Road - declared a personal interest as he stated he knew the owner of the site (minute 43 refers)

Councillor Castle – Application 09/04512/FU Sentinel Car Park – declared a personal interest as she had used this facility when flying from Leeds Bradford International Airport (minute 40 refers)

Councillor Coulson - Application 09/04512/FU Sentinel Car Park – declared a personal interest as a member of West Yorkshire Integrated Transport Authority as METRO had commented on the application; and as a member of the Leeds Bradford Corridor Working Group. (minute 40 refers)

Councillor Coulson – Application 09/05365/FU – Unit 1a Leeds Bradford Industrial Estate – declared a personal interest as a member of WYITA as METRO had commented on the proposals; and as a member of the Leeds Bradford Corridor Working Group (minute 41 refers)

Councillor Fox - Application 09/04512/FU Sentinel Car Park – declared a personal interest as a member of West Yorkshire Integrated Transport Authority as METRO had commented on the application; and as a member of Bramhope Parish Council, which he noted from the report had not objected to the proposals (minute 40 refers)

Councillor Fox - Application 09/05365/FU – Unit 1a Leeds Bradford Industrial Estate – declared a personal interest as a member of WYITA as METRO had commented on the proposals; and as the report outlined the local ward Councillor briefing held on 19 January 2010 and his comments were reported at para. 6:4. plus as a member of Bramhope Parish Council which he noted from the report had not objected to the proposals. (minute 41 refers)

Councillor Matthews - Application 09/04512/FU Sentinel Car Park – declared a personal interest as a member of West Yorkshire Integrated Transport Authority METRO had commented on the application (minute 40 refers)

Councillor Matthews - Application 09/05365/FU – Unit 1a Leeds Bradford Industrial Estate – declared a personal interest as a member of WYITA as METRO had commented on the proposals (minute 41 refers)

**37 Apologies for Absence**

Apologies for absence were received from Councillor Wood. The Chair welcomed Councillor C Fox as substitute

**38 Minutes**

**Minute 25 Leeds Girls High School** - The Panel recalled their detailed discussions and agreed the minute should be amended to more robustly express Members dissatisfaction over the loss of the playing pitches in Headingley and their replacement with pitches outside of the immediate locality. It was also noted the resolution to minute 25 should refer to playing pitches, not fields

**RESOLVED** – That the minutes of the previous meeting held 12<sup>th</sup> August 2010 be agreed as a correct subject to the amendments outlined above

**39 Application to register Yeadon Banks, Yeadon, Leeds, as a Town or Village Green under the provisions of Section 13 of the Commons Registration Act 1965 - Judicial Review**

The Panel considered the report of the Chief Officer (Legal, Licensing and Registration) on the progress of an application to register Yeadon Banks, Yeadon, as a Town or Village Green. The Panel had previously considered the matter on 22<sup>nd</sup> February 2007. Officers reported the outcome of a Judicial Review that took place in March 2010 and the landowners' subsequent application to appeal to the Supreme Court in November 2010

**RESOLVED** – To note the contents of the report and that a further report will be presented in due course on the outcome of the appeal to the Supreme Court

**40 Application 09/04512/FU - Use of land as a secure off-site car park, Sentinel Car Park, Warren House Lane, Yeadon LS19**

The Panel considered a report setting out proposed reasons to refuse a retrospective application seeking to regularise the use of land at Sentinel Car Park, Yeadon as a secure off-site car park for Leeds Bradford International Airport (LBIA). It was noted this application site was situated very close to the site of the next matter on the agenda but that each matter should be

considered separately and on their own merits. Members had visited the site prior to the meeting

Officers highlighted the key policy issues for Members to consider as:

- Employment land use – the site lay within a UDP Key Employment Site which afforded the site a higher level of protection from non-employment uses. Under Policy E7 such sites were normally retained for employment use. The car park use was not regarded as “employment use” as defined by the UDP although it is economic development.
- Transport policy – Policy T24A of the UDP maintains that permission for long stay car parking would not normally be granted outside the curtilage of employment premises. Officers acknowledged the current public transport access difficulties at LBIA and that private car transport remained the principle mode of transport to LBIA, however urged Members to consider whether there was a compelling reason to set aside the Policy presumption against the grant of a long term car park usage.
- LBIA Surface Access Policy - Officers further discussed the issue of LBIA related car parking and the current take-up of offsite car parking at Sentinel. A survey completed on 31 July 2010 by Sentinel indicated 1700 Airport related cars parked in off-airport locations, 1400 of which occupied the Sentinel site. The comments of LBIA challenging the suggestion of a shortfall in spaces were reported, as LBIA had stated additional car parking could be provided on-site and had submitted a plan showing 600 new possible spaces. Officers confirmed that under Permitted Development (PD) rights, LBIA could provide car parking, within the airport’s operational boundary, without the need for a planning application. LBIA would need to formally consult with the Council before exercising PD rights but, after taking into account any matters raised by the Council, following the consultation LBIA could then proceed to exercise its PD rights.

Officers referred to the proposed reasons to refuse the application and requested they be amended to include reference to the following additional Policies:

- SA2 of the UDP (Revised) (relating to sustainable transport)
- TA30A of the UDP (Revised) (acceptable uses)
- Government Guidance in PPS1 and PPG13

Members made the following comments:

- The view that public transport services to LBIA were inadequate which created a greater need for private car use and parking facilities
- Concern that no enforcement action had been taken given the car parking facility had operated from this site for a number of years. In response officers stated that both the Authority and LBIA had presumed the site did have permission, and car parking statistics for the Sentinel site had been included in the LBIA 2005 Transport Assessment. Further investigation of the Coney Park site had revealed a number of temporary uses and had resulted in this application for a

permanent facility. No Certificate of Lawful Use for the operations had been obtained by the operator and so the lawfulness of any operations at the site could not be assumed in determining the planning application

- The option available to LBIA to create additional car parking facilities on site without the need for express planning permission from the Authority although Members noted that as yet, LBIA had not sought to exploit its PD rights
- The merits of a temporary permission to allow time to assess the seasonal car parking requirements and the informal plan submitted by LBIA for on-site car parking balanced against the applicants request for permanent permission

(Councillor Akhtar joined the meeting at this point)

The Panel went on to further discuss:

- The recent informal submission by LBIA of a plan showing an additional 600 possible spaces by LBIA and the fact that it did not amount to the exercise by LBIA of its PD rights and therefore it had no bearing on Members' deliberations at this meeting
- The length of time the site had operated as a car park
- Whether any harm could be demonstrated by the use of the site
- The impact of the refusal of the application and subsequent closure of the site in terms of site users and where their vehicles could be parked
- any possible enforcement action to be taken by the Authority. Officers pointed out that in the event of a refusal of planning permission the Council was obliged to consider what enforcement action (if any) was appropriate.

Members voiced their sympathy with the applicant and considered the merits of overturning the officers' recommendation in order to allow the grant of the application. Members however indicated that they were minded not to support the application for a permanent planning permission although they were not prepared to refuse the application at this Panel meeting. Rather, they were minded to support the principle of a temporary planning permission (although it was acknowledged that any decision of this Panel could not bind a future Panel who would need to consider any application on its own merits). Possible timescales of 5 or 10 years for the use, landscaping and measures to off-set the carbon footprint were also discussed.

The Panel was aware that this approach would represent a material change to the application before them which would require an amendment to the application should the applicant wish to proceed on the basis of a temporary permission.

**RESOLVED** – That determination of the application be deferred to allow officers time to discuss the Panels comments and suggested approach with the applicant and a further report be presented in due course

**41 Application 09/05365/FU - Change of use of general industrial unit to off Airport car parking, Unit 1A, Leeds Bradford Airport Industrial Estate, Harrogate Road, Yeadon LS19**

The Chief Planning Officer submitted a report setting out proposed reasons to refuse an application seeking the change of use of a general industrial unit at Leeds Bradford International Airport Industrial Estate to off-airport car parking. Members had visited the site prior to the meeting. Aerial photographs and site plans were displayed at the meeting.

Officers referred to the proposed reasons to refuse the application and requested they be amended to include reference to following additional Policies:

- SA2 of the UDP (Revised) (relating to sustainable transport)
- TA30A of the UDP (Revised) (acceptable uses)
- Government Guidance in PPS1 and PPG13

The following key issues were highlighted for consideration:

- Employment use. Although the site did not have a specific UDP allocation for employment use, the area did fall within Policy E7 of the UDP (Revised) as an existing employment site and district wide consideration must be given to whether there was an adequate supply of employment land. It was noted that some empty units were identified on the industrial estate, however this was felt to be as a result of the current economy and the retention of the units would be required for the economic recovery in the long term
- Transport policy – Policy T24A of the UDP maintained that long term car park permission would not normally be granted outside the curtilage of employment premises. Officers acknowledged the current public transport access difficulties at LBIA and that private car transport remained the principle mode of transport to LBIA, however urged Members to consider whether there was a compelling reason to set aside the Policy presumption against the grant of a long term car park usage.
- LBIA Surface Access Policy - The comments of LBIA challenging the suggestion of a shortfall in spaces were reported, as LBIA had stated additional car parking could be provided on-site and had submitted a plan showing 600 new possible spaces. Officers confirmed that under Permitted Development (PD) rights, LBIA could provide car parking within the airport's operational boundary without the need for a planning application although the submission of the plan by LBIA not amount to a formal request by LBIA that it wished to exercise its PD rights
- Temporary Use – this was not the application that was before the Panel so granting of a temporary planning permission was not an option for Members at today's meeting
- Passengers – the Authority was concerned about the proposed access arrangements from the site to the airport terminal. The drop off/pick-up point on Whitehouse Lane was considered to be an unsatisfactory arrangement for passengers accessing the airport terminal

The Panel heard from Mr J Everett, agent for the applicant who stated the units had been marketed to attract tenants but the decreased occupancy of the units was part of a 10 year decline. The applicant was struggling to achieve viability on the estate and sought a short term solution. Mr Everett stated the applicant would be willing to consider a temporary 3 year permission in order to retain the Unit for long term manufacturing use. Mr Everett also responded to Members questions regarding the drop-off/pick-up point and the style of covered parking operation proposed.

The Panel then heard from Mr K Gibbs on behalf of Leeds Bradford International Airport who stated LBIA could introduce a similar block parking proposal within the curtilage of the airport using PD rights and supported the officer view that the best way to approach the provision of long term car parking was through the Airport Masterplan and the Access Strategy. He also supported the view that it was not possible for the Panel to consider a temporary use and pointed out that a temporary use was not in accordance with Circular guidance. Mr Gibbs also responded to queries regarding the perceived car parking space shortfall within the airport curtilage and access arrangements and referred to other examples of Airports providing car parking using their PD rights and the fact that it could be provided in months and not years at the Airport.

(Councillor Akhtar declared a personal interest at this point as Branch Secretary for the Yorkshire Private Hire Association, part of the GMB union)

The Panel went onto consider whether a temporary permission would be acceptable, given the safety concerns regarding the Whitehouse Lane drop-off/pick-up point and the difficulty of the walk from that point to the terminal building for passengers with luggage. The highways officer responded regarding road safety issues and the results of the 2009 Transport Assessment compared to the 2010 Transport Assessment.

Members expressed their dissatisfaction with the lay-by proposed on Whitehouse Lane in terms of safety; access for passengers to the terminal and particularly with regard to passengers with mobility issues  
**RESOLVED** – That the application be refused for the reasons as set out in paragraphs 1, 2 & 3 of the submitted report with amendments to include reference to Policies SA2 and TA30A of the UDP and Government Guidance in PPS1 and PPG 13

(Councillor Fox withdrew from the meeting at this point)

**42 Application 10/02643/FU - Two storey side extension and garage to rear, 1 Spen Gardens, West Park LS16**

The Chief Planning Officer submitted a report on proposals to extend a residential property at 1 Spen Gardens, West Park. Members visited the site prior to the meeting. Plans and photographs of the site were displayed along with architect's drawings of the proposals.

Officers reported the content of 4 further letters of objection and one e-mail from local ward Councillor Bentley received since the despatch of the agenda for the meeting. Members noted the request by Councillor Bentley to restrict any future expansion of the house through the removal of permitted development rights and to restrict the future use of the house by students.

Officers reported that, following the site when a "to let" sign had been visible in the grounds, an approach had been made to the agent to clarify whether the house was still with a letting agent and seeking confirmation the applicant would accept a condition relating to student occupancy. The agent had requested the application be deferred until he had been able to discuss the matter with the applicant

The Panel heard representation from Mr A Richards, a local resident who set out his concerns regarding the impact of increased traffic on Spen Road that he anticipated due to the expansion of the house and the possibility the house could be used for student occupancy

Members considered matters relating to:

- the space within the site to accommodate car parking
- the scale of the extension and whether it was appropriate to the size of the house
- whether measures to ensure non student occupation of the house were enforceable
- concerns regarding the future use of the dwelling which could not be addressed in the absence of the applicant

**RESOLVED** – That determination of the application be deferred until the next Panel meeting

**43 Application 10/02661/FU - Change of use of Cafe to a Bar (A4 Use) including external alterations at 4 Stonegate Road, Meanwood LS6**

The Chief Planning Officer submitted a report on an application for the change of use of a café to bar (A4 use) at 4 Stonegate Road, Meanwood. Members had visited the site prior to the meeting and had noted the unit adjoined a dwelling located to the rear.

Officers reported the applicant had reduced the intended hours of operation since the application had first been made and the hours would be conditioned should permission be granted. Officers requested that Condition No 5 be deleted from the 6 suggested conditions.

Seven further letters of support had been submitted since the agenda for the meeting had been despatched. The Panel had concerns about noise generated by persons congregating and smoking and with regard to bins/waste management. Members were not convinced by the proposed use of signage to encourage patrons to be quiet

(Councillor Akhtar declared a personal interest at this point as he stated he knew the owner of the site)

The Panel considered whether they could restrict permission to the use by this applicant through an additional condition. The Chair noted the Panel's comments and following a break, invited Mr Gyngell, the applicant to address the meeting.

Mr Gyngell described the nature and likely capacity of the proposed operation, and discussed measures to address the Panels concerns including

- Measures to prevent patrons congregating to smoke either to the rear/side of the premises near to Bay Cottage or to the front
- noise attenuation measures proposed to insulate the party wall
- the internal layout ensuring the rooms nearest to the party wall were office and toilets, not a bar area

The Panel discussed the merits of a personal condition. Mr Gyngell responded with concern about such a guarantee and suggesting the noise inaudibility clause should future proof the premises should another licensee take over. Members considered the merits of creating a gated access to the side driveway in order to prevent patrons congregating, however noted the response of the Highways officer regarding access/egress and the required setbacks for gated access off such a busy road

(Councillor Coulson withdrew from the meeting at this point)

Members were minded to approve the application subject to additional conditions

**RESOLVED** – That the application be granted subject to the conditions within the report (with the deletion of No.5) plus additional conditions to cover submission of

- a management plan to cover external activities to be agreed in writing with the Local Planning Authority
- further details of the bin store to be submitted to show how the levels change will be managed
- assessment of noise attenuation measures

**44 6 Applications - 10/02792/LA: 10/02791/LA: 10/02886/EXT; 10/02790/LA: 10/02789/LA and 10/02950/EXT - 4 applications to vary conditions relating to number of dwellings, delivery of affordable housing, greenspace requirements, education provisions, public transport provision & land contamination; and 2 applications to extend the time limit of applications for Residential Development on 2 Little London sites at 53 Carlton Gate, Meanwood Street, and at Oatland Lane, Sheepscar LS7**

The Chief Planning Officer submitted a report on six applications relating to residential development proposals on two sites within Little London. The applications sought to revise previous permissions and related to the delivery of affordable housing, greenspace requirements, education provision, public transport provision and land contamination and sought a revised timetable for the implementation of the schemes.

Appended to the report was a schedule containing conditions to be attached to the permissions should they be granted.



Four schemes for the Little London area Public Finance Initiative redevelopment had been granted permission on 19 September 2008. Since then the scheme had been reduced with the Leicester Place and Cambridge Road schemes no longer going forward.

Applications 10/02792/LA; 10/02791/LA and 10/02886/EXT related to permission 08/02857 at Carlton Gate.

Applications 10/02790/LA; 10/02789/LA and 10/02950/EXT related to permission 08/02852/LA at Oatland Lane.

Aerial photographs and plans showing the revised schemes were displayed at the meeting. Plans showing the original submissions were also available for reference.

Officers highlighted the quantum of development had been significantly reduced including the deletion of the 8-10 storey apartment blocks. Delivery of 125 family type council homes was now proposed through a phased approach. Subsequently the existing conditions required amendment to take account of the reduced scheme and to ensure the conditions were still applicable to the development.

Officers requested a further amendment to Condition 8 (public transport improvements and highway, pedestrian and cycle measures) to ensure a Transport Assessment was undertaken on completion of Phase 1 to cover the revised Phase 2 works. Any highway works shown to be required by that Transport Assessment were to be provided at the appropriate time through the Phase 2 scheme. It was noted the Reserved Matters applications were expected to be submitted by the end of the calendar year with development to commence on site by the end of 2011.

**RESOLVED** – That the applications be granted subject to the specified conditions contained within Appendix 1 of the submitted report and an amendment to Condition No.8 to require a Transport Assessment is undertaken following completion of Phase 1 of the development to support Phase 2 of the development and that any works arising are funded through Phase 2 of the scheme.

#### **45 Date and Time of Next Meeting**

**RESOLVED** – To note the date and time of the next meeting as Thursday 7<sup>th</sup> October 2010 at 1.30 pm

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Originator:	Mathias Franklin
Tel:	24 77019

## Report of the Chief Planning Officer

### *PLANS PANEL WEST*

Date: 7<sup>th</sup> October 2010

Subject: RESIDENTIAL REDEVELOPMENT AT LEEDS GIRLS HIGH SCHOOL, HEADINGLEY

APPLICANT	DATE VALID	TARGET DATE
The Morley House Trust	11.07.2008	10.10.2008

#### Electoral Wards Affected:

Headingley & Hyde Park and Woodhouse

Y

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION:** Members are asked to consider the development proposals in the light of the previous recommendation presented to the Panel at the meeting on 12 August 2010, and in the light of the additional information and analysis in this addendum to that report and if Members are minded to approve subject to the previously recommended planning conditions and obligations under Section 106 and subject to the following amended obligation and additional conditions listed below:

1. Provision of Ford house Gardens for a period of 15 years as public open space together with a commuted sum for minor improvements to the access.

#### Additional Conditions

1. (Outline and change of use applications). Highways works including the footpath and cycle way links from Victoria Road to Headingley Lane to be provided to adoptable standards prior to commencement of building works on new housing or conversion works.
2. (Outline application). Numbers of dwellings not to exceed 51 houses and 15 flats.
3. (Outline application),. Development to be commenced within 3 years or 2 yrs of final approval of reserved matters.
4. Details of provision for disabled access within all publicly accessible areas of the site to be submitted and implemented prior to development being brought into use.

5. Survey of gate piers, steps and railings and other features of interests and scheme for the retention and restoration of these to be submitted and implemented.

## **1.0 INTRODUCTION AND UPDATE**

- 1.1 Members will recall these planning applications were presented before the Panel on the 12th August 2010 with a recommendation to defer and delegate approval of all applications subject to the completion of a S106 agreement and conditions attached to the August Panel report and those additional conditions verbally reported by Officers at the Panel and now set out in the recommendation above.
- 1.2 This Panel report should be read in conjunction with the report of the August Panel which is appended. It is intended to update Members with the matters that have been considered by Officers since the August Panel meeting and further comments that have been made on the application by local residents, interest groups, Sport England and Councillors and Greg Mulholland and Hillary Benn MP. Below is a summary of the resolution of the August Panel meeting and the actions of Officers in response along with comments from the applicant in response to Panel's comments in August.

## **2.0 MEMBER'S COMMENTS FROM THE PANEL MEETING OF 12 AUGUST 2010**

- 2.1 The application was deferred at the meeting and the Chief Planning Officer was asked to submit a further report to the next meeting dealing with matters which are summarised below. The applicant has been asked to comment further on the following points:
  - The loss of the land proposed as playing pitches is a very significant concern. This is potentially a valuable resource for the local community and local schools and in addition it provides welcome visual relief in an otherwise densely developed area
  - Concern that the lack of detail in the outline application makes it difficult to come to a view on the proposals.
  - The density of the development is generally too high. Tall buildings fronting onto Victoria Road appear over-dominant and obstruct views of the open space and listed buildings.
  - Strong objections to the 4 storey apartment block in the SW corner of the site – this is too large and over-dominant.
  - There is a potential for harmful impact on the highway network – especially at the junction of Victoria Road and Headingley Lane.
  - The proposed 10 year lease period for Ford House Gardens is too short.
  - Affordable housing. – there was some support for provision off-site through purchase of existing HMO's for conversion to family use – other members were doubtful and thought that provision should be on-site.
  - Main School Building: Members wanted to see further investigations into retaining more of the school building than is being proposed, in particular the well-detailed former library element to the east end of the building

- Rose Court: No objections to the conversion were raised although there were some comments regarding the design of the modern extension.

### **3.0 APPLICANT'S RESPONSE TO THE PANEL'S COMMENTS**

3.1 Members should note that the applicants have chosen not to alter the design, layout and number of dwellings proposed from that presented to Members at the August Plans Panel meeting other than some additional drawings to show possible design options for the 4 storey apartment block. One layout change which is very minor in nature relates to the proposed row of terraced town houses next to the Main School building. Previously there was a 1m maintenance gap between the School building and the proposed town houses. It is now proposed to connect the town houses to the Main School building but this has a very minimal impact on the appearance of the scheme overall.

#### Ford House Gardens

3.2 The applicant has extended the lease offer period from 10 years to 15 years for public access to Ford House Gardens. Officers acknowledge this increase is a positive step but had requested the applicant consider a longer period up to 25 years, a period which might allow further funding opportunities to be opened up with bodies such as Sport England and the Football Association. It should be noted that Ford House Gardens is designated in the UDP Proposals Maps as N6 protected playing pitches and the public access to this land is in accordance with the aims of Policy N3 of the adopted UDP. The applicant has written to confirm it is their intention to shortly submit a planning application at the Victoria Road swimming pool site. The applicant has stated that if that application were successful then Ford House Gardens could potentially be transferred in perpetuity to the Council.

#### Re-use of Main School Building

3.3 The developer has explored the possibilities of retaining and converting the Main School Building extension and attached Library building. The additional information submitted includes layout drawings of options to retain the front facade of the Main School building and an option to retain the Library building (the plans are appended to this report). The applicant considers that if these elements of the Main School building were retained then their likely re-use would be for apartments. Also, retaining these elements of the building would result in the loss of up to 4 townhouses, reducing the overall viability of the scheme in the applicant's view. The developer notes that Members and the local community wanted to see more family housing and fewer apartments and the retention of the school would push the balance towards more flats as well as reducing substantially the development potential of the site

#### Proposed four storey apartment block in south west corner of the Site

3.4 The applicant has supplied further indicative images of the potential design and appearance of the proposed 4 storey block in the south west corner of the site adjacent to Victoria Road. The images show that this block could have a pitched roof design with a strong gable fronting onto Victoria Road. The applicant's architect considers this picks up some of the local characteristics of the terraced housing located along Victoria Road. (Members should note that this element of the scheme relates to an Outline application where Siting and Scale are to be considered at the Outline state whereas Appearance is a matter which is reserved for further approval).

### **4.0 ADDITIONAL PUBLIC/LOCAL RESPONSE:**

- 4.1 Following the submission of further information by the applicant on the 13<sup>th</sup> September the applications have been re-advertised on site by the means of a site notice. In addition the Headingley and Hyde Park Ward Members along with MPs Greg Mulholland and Hillary Benn and the community groups; South Headingley Residents Association, Leeds Girls High School Action Group, Friends of Woodhouse Moor and the Leeds HMO lobby have been sent a letter informing them of the additional information received, and inviting any further comments to be made by the 4th October.
- 4.2 Members should note that as Officers take the view that the changes that have been proposed to the design or layout of the scheme are not material in the context of the overall scheme, it has not been considered necessary to undertake a further full public consultation with local residents.
- 4.3 Since the August Plans Panel the following additional representations have been received.

Greg Mulholland MP

- 4.4 Mr Mulholland has written to both the Chief Planning Officer and the agent for the applicant outlining his desire for further community engagement on the part of the applicant with the local residents in an attempt to bridge the gap and find a solution by which all parties can agree on a suitable way forward for these applications. The MP's letter to the applicant outlined a process for a meeting with stakeholders being presented from all sides of the debate. The MP notes that unfortunately the applicant has not been willing to attend such a meeting. The MP in his letter again extended the offer of facilitating this meeting.

Hillary Benn MP

- 4.5 Mr Benn has written to express his concern over the high numbers of representations and objections that have been received to this application and is concerned about the intensity of the development and the lack of family homes being provided.
- 4.6 Since the August Plans Panel the following Ward Members have made comments on the planning applications, their comments are summarised below:

Councillor John Illingworth

- 4.7 Councillor Illingworth has confirmed his objection to the planning applications and is concerned about the impact of the loss of the playing pitches upon the local community and in particular ethnic minority communities within the inner north west wards of the City. He is concerned that the applications should not be determined until the results of the City Council's PPG17 audit have been published and digested as he considers that when the UDP was published in 1996 the calculation for the Greenspace requirements per head in the City were inaccurate. In addition he considers the impacts on health and equality have not been considered. Councillor Illingworth has also provided an extract of a 2007 article from a medical journal relating to the higher rates of diabetes and high disease amongst South Asian people. In addition clarification on the Greenfield/brownfield areas of the site was requested. Finally, Councillor Illingworth also provided a map showing the application site in relation to the primary schools that do not have on site playing

fields. The map also shows the concentrations of ethnic minority communities within the City. A response to Councillor Illingworth to his concerns has been provided.

#### Councillor Monaghan

- 4.8 Councillor Monahan has recently commented on the issue regarding the lease offer of Ford House Gardens. He considers that the applicant could potentially give Ford House Gardens in perpetuity to the Council. Subject to an Order to sanction the disposal of the land to the Council being granted by the Charities Commission would be in accordance with the legislation governing the disposal of land. A legal view is being sought on this matter and the applicant has been asked to respond. A verbal update will be brought to Members at Panel on the outcome of this matter.

#### Councillor Atha

- 4.9 Councillor Atha objects to the applications on the following grounds: that the application for the main school site is decided in isolation from the Swimming Pool site and for the Ford House Garden Pitch, to any building on the protected pitches of the Leeds Girls High due to the very poor provision of sports pitches in this area. The Alwoodley pitches do not constitute replacement playing pitches in his view of the requirements of UDP policies N6 and N3 or PPG17. Councillor Atha considers the lease of Ford House Gardens is not an appropriate trade off. The application site should be retained as an education use, he considers residential use to be problematic on this site, due to potential student occupiers, HMO concerns and impact on the surrounding highway network. Councillor Atha notes the large community opposition.

#### 4.10 Amenity Groups and local residents:

South Headingley Community Association has written expressing their concerns regarding the loss of the protected playing pitches. Their letter explains that they consider that the loss of the tennis courts on the former LGHS would be detrimental to the health of the local community of South Headingley. The Community Association consider that up to an extra 9 tennis courts are needed in the locality. The letter also raises concern that the Panel Report in August did not make reference to UDP policy N3. The letter objects to the August Report which accepted the replacement playing pitch provision at Alwoodley as a suitable replacement site in accordance with UDP policy N6. The letter also objects to the assertion that the Woodhouse Moor tennis courts that were converted into MUGAs cannot be seen as a justification for no demand locally for tennis courts. The letter notes that the absence of a City Wide Audit on open space and playing pitch provision should not be used to justify the development on the LGHS protected playing pitches. Finally the letter also notes that PPG17 at paragraph 10 states that developers should be able to show local support for their proposals

- 4.11 Letters of objection from local residents have also been received. The following bullet points are new objections which refer to the August Panel report and outline the following concerns:

- Object to the amount of demolition proposed on the Main School Building and that the report does not make clear the extent of demolition proposed.
- The tennis courts on the LGHS were not in use as tennis courts and had been used as such and had been given over to car parking. The objector provides a satellite image showing no cars parked on the courts in June 2006.

- Objects to the loss of the protected playing pitches as the local community do not support the proposals. PPG17 para 10 refers to the developer being able to show community support. The object considers this given residents a veto over the loss of the pitches.
- The report and officers made no mention of UDP Policy N3.
- UDP policy N6(ii) states, “Development of playing pitches will not be permitted unless there is no shortage of pitches in an area in relation to pitch demand locally.” That there’s a shortage of pitches in our area is demonstrated by the fact that the six schools within one mile of the Leeds Girls High site have just 29% of the playing pitch requirement of the Education (School Premises) Regulations 1999 (SPRs). The report and officers made no mention of the SPRs.
- The report contains no technical appraisal to establish that the tennis courts are not needed. So, in the absence of a planning department appraisal, we prepared our own technical appraisal (identical to a PPG17 audit) and this shows that Headingley, Hyde Park and Woodhouse need 8 or 9 more tennis courts, which means that the 7 on the Leeds Girls High site are not surplus to requirements
- There is no mention made of the fact that Ford House Garden has itself N6 Protected status in the UDP.
- Objects to replacement playing pitch provision at Alwoodley being used as a justification for the loss of the pitches at the LHGS. The objector disagrees with the August Panel report and Officers statement that the Alwoodley site can be considered in the ‘same locality’ as the schools catchments extends into neighbouring Local Authority boundaries.
- Objects to the proposal on the grounds that 5 out of the 6 local primary schools have asked for use of the LGHS playing fields. The objection does not support the position of Education Leeds who have not agreed to purchase the playing pitches for the use by the local schools.
- PPG17 paragraph 18 states, “Where recreational land and facilities are of poor quality or under-used, this should not be taken as necessarily indicating an absence of need in the area.” The objection relates to the August Panel report and Officer statement that the courts weren’t used and therefore this showed no demand. In addition the conversion of the courts to MUGAs was done without community consultation.
- Paragraphs 2.13 and 10.24 of the report give details of the School’s offer to grant a ten year lease on Ford House Garden. This offer is conditional on the planning applications being given approval, and does not make good the inherent deficiencies in the planning applications themselves. It is a bribe. Paragraph B6 of Government Circular 05/2005: Planning Obligations states: “the use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold. It is not therefore legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.”

## **5.0 CONSULTATIONS RESPONSES:**

5.1 The following additional consultation comments have been received since the August Panel meeting. Please note the comments made in the August Panel report are still material to the determination of this application.

### **5.2 HIGHWAY AUTHORITY**

Members expressed concern about the following:



- the impact of the proposals on both Victoria Road and the junction with Headingley Lane which was a cause for concern due to the high volume of traffic the area experienced.
- whether the highway proposals would provide sufficient turning space for emergency and refuse vehicles. Also as stated in the August report the highways response at panel was:

The level of traffic generated by the residential scheme is not dissimilar to that which was previously generated by the Girl's High School and there is therefore no reason why the development will impact detrimentally on Victoria Road or Headingley Lane.

To add to that, the school generated significant levels of drop off and on street parking which will not be generated by the residential scheme. Although junction works were previously considered necessary this was because of the additional impact caused by extra development on the sports hall / swimming pool site. This element is no longer under consideration but will be re-addressed in any future planning applications.

The access road on the western side of the site is constrained in width due to the desire to keep mature trees. 2 way passing is not possible along part of the road and the turning and maneuvering space is constrained. However the route has been tracked and a large refuse vehicle can enter and be turned in the turning area provided (with some vehicle body overhang over the footways). In addition the footway / cycleway route can be used as an emergency vehicle route if required. The central access road is wider and less constrained.

### 5.3 SPORT ENGLAND

Sport England have formally withdrawn their statutory objections to the change of use application for the Main School Building and the conversion of Rose court (reference: 08/04216/FU & 08/04219/FU). They retain their non statutory objection on both of these applications requesting that a financial contribution towards formal playing pitch provision in the locality in made to compensate for the impact on the existing playing pitch provision by future occupiers of the development. The developer has declined to make these contributions. Sport England has also stated that the withdrawal of their statutory objections to these application in accordance with exceptions criteria E4 of PPG17 does not mean the Council has satisfied the requirements of either its own UDP or PPG17. Sport England state they would expect the Council to still have regard to these policies during the determination of the planning applications.

### 6.0 MAIN ISSUES

1. Loss of playing pitches
2. Delivery of Ford House Gardens as a public amenity
3. Greenfield/Brownfield Status of the site
4. Retention of more of the Main School Building
5. Design of the proposed four storey flats block
6. Highways Issues
7. Affordable housing.

### 7.0 APPRAISAL

- 7.1 This section of the report provides a response from the Chief Planning Officer to the discussion and comments of the Plans Panel from the meeting of 12 August 2010, and to further comments received from elected council members, members of parliament, community groups and others under the Main Issues headings above.

### **Loss of playing pitches**

7.2 Careful consideration was given to the potential loss of the privately owned former tennis courts on the Leeds Girls High School site in the report on the applications and the presentations to the Plans Panel. A very detailed explanation to the Plans Panel members and to those attending the meeting of the open space issues in the context of both the UDP and PPG17 as well as the studies submitted in support of the applications and the comments made by Councillor Illingworth were discussed during the Panel meeting of the 12<sup>th</sup> August.

### Policy Guidance in PPG17

7.3 As part of the applications a detailed PPG17 assessment of playing field provision and replacement was submitted by the applicants. This approach accords with the provisions of PPG17 in circumstances where a District wide PPG17 audit is unavailable. This was the subject of consultation to the statutory body – Sport England and careful analysis by the City Council. Initially, Sport England objected to the potential loss of playing fields but, following the submission of further information by the applicants and a visit to the Alwoodley site, Sport England withdrew their objections. They were of the view that the provision of the new playing fields at the Alwoodley site met the policy requirements of exceptions criteria of E4 of PPG17.

7.4 Further to Panel's comments in August the paragraphs below aim to provide further information in relation to the PPG17 and UDP policy N6 assessment process and also to provide a response on the local Primary Schools aspirations of using some or all of the LGHS playing pitches and sport facilities.

7.5 The current planning application only concerns the main school site, located between Headingley Lane and Victoria Road. In terms of the recreational space the site contains, there are two sets of tennis courts separated by an open informal area of Greenspace. The developer wishes to build on this land but the local community & Ward Members asked Officers to explore again the potential use of this land by local Primary Schools who do not have their own playing fields.

7.6 Education Leeds responded to an earlier request to purchase the LGHS site in an email dated 4th April 2008, in which states that:

"there is no identified funding vested with Education Leeds to support the cost of this purchase and, since the fields are not linked to any of the local existing primary schools, I would foresee implications in both the management and maintenance of the fields if they were linked to the schools." In addition Education Leeds states that "the absence of playing fields (at the primary schools) does not of itself constitute a breach of any regulation or legislation".

7.7 The replacement facilities created at the Grammar School at Alwoodley are considered to meet Exception E4 of Sport England's Playing Fields Policy and Policy N6(i) of the Council's Unitary Development Plan Review (2006) for the reasons previously set out. Sport England has confirmed the withdrawal of their earlier objection following a site visit to the School to inspect and quantify the replacement facilities.

7.8 However, the issue of compliance with the last sentence of paragraph 10 of PPG17 has been raised by objectors. The gist of what this says is essentially that irrespective of an assessment to show that land is surplus to requirements or that adequate replacement facilities have been provided to the satisfaction of the local planning authority and Sport England, "developers will need to consult the local community and demonstrate that their proposals are widely supported by them."

7.9 As with all PPG's and more recent Planning Policy Statements, the above extract from PPG17 represents a material consideration which must be taken into account when applications are determined and balanced with other PPG17 considerations.

1. The School and their consultants have carried out a number of detailed and lengthy public consultation events to explain the emerging proposals for the site and has taken the views expressed into account, for example by seeking to promote more family housing and fewer apartments across the site.

2. The fact that a significant number of people in the local community have opposed the principle of developing on any of the playing fields from the outset meant that the prospect of the community "widely supporting" development proposals on that part of the site was unlikely to ever be achieved. It is not considered that paragraph 10 provides a community veto over development of protected playing pitches as stated by objectors, rather it is considered that this sentence is a material consideration in the determination of any planning application where protected playing pitches are involved. The starting point for determination of a planning application is the Development Plan in this case Policy N6 of the adopted UDP, not PPG17 which is a material planning consideration.

3. The site concerned was not accessible to the public, it was private, and the local community will suffer no loss of access to the facilities at the School playing fields should they be developed. Community support for alternative uses on playing pitches that were in public use would of course be of relatively greater importance.

4. The School was a part of that same community and the need to ensure that the interests of existing and future pupils were not prejudiced has been achieved by the replacement facilities created at the Alwoodley site.

7.10 Clearly, the determination of a planning application of such complexity requires careful analysis of all relevant issues and the weighing of all policies and material considerations that apply. The fact that a landowner cannot necessarily demonstrate widespread community support for a proposal does not in itself mean that it is automatically refused, particularly if that proposal can be shown to accord with the aims of the Development Plan and PPG17.

#### Need for tennis courts

7.11 In response to the representations concerning the 'need' for tennis courts in the area, officers view is that there is sufficient court provision to meet demand from the courts at Woodhouse Moor which is only 300 metres from the application site. In addition it is noted these courts are free to use and are considered high quality. In investing public funds at Woodhouse Moor, the Parks and Countryside Section of the Council have had regard to competing interests from a cross section of the local community for a range of facilities to be provided and a balanced approach has been taken to meet these aspirations. Officers consider that the provision of the 6 high quality tennis courts at Woodhouse Moor is sufficient to meet the demand locally for the foreseeable future. Furthermore the courts that were upgraded off Moorland Road are adjacent to the refurbished pavilion, shared with crown green bowlers, which provides changing and toilet facilities. As such it is considered that the quality and quantity of provision of tennis courts is sufficiently provided for when taking all these factors into consideration. Following on from this matter the requirements of PPG17 paragraph 18 are highlighted by one of the objection comments. Paragraph 18 relates to pitch quality and where pitches are of poor quality or under used this should not be taken as a lack of need. The upgrading of

the 6 courts at Woodhouse Moor is considered an appropriate provision of courts in the locality and the Parks and Countryside Section of the Council is of the view this was responding to the needs of tennis players who used the courts and had complained about the courts which were sited at the Hyde Park Corner end of Woodhouse Moor.

#### UDP Policy N6 considerations

7.12 Responding to the representations about the matter of re-provision of sports pitches in the 'locality' in relation to Policy N6 criteria (i) officers clearly stated in the August Panel report and during the presentations at Plans Panel West on the 12<sup>th</sup> August that as the application site was a private school with no public access to the playing pitches (or the tennis courts) on Victoria Road, the replacement facilities at Alwoodley could be classed as being in the same 'locality'. Members will recall that the same argument would not apply to a community based school. Sport England agree with this interpretation. For clarity, Officers did not refer to the catchment being the whole of the Leeds District and the objector's comments that the replacement playing pitch provision could be provided in another City is a not accurate or in accordance with the Officers presentation on the 12<sup>th</sup> August. Furthermore the comments about potential provision of replacement playing pitches in another District to Leeds would be outside of the Council's control and is not something that is material to the determination of this application.

7.13 The objectors comments also refer to the criteria of Policy N6 (ii) which seeks to ensure that local demand for playing pitches is safeguarded before development of protected playing pitches can be accepted. In addition to the content of the August Panel report which covers this matter Members may recall the extensive enquiries made by Officers to attract an organisation to acquire the playing pitches. Both Leeds Metropolitan University and Leeds University were approached about the sites and declined to acquire them as did Leeds City College. Accordingly Officers consider that there is no reasonable prospect of facilitating a recreational use for the land.

#### Health and Equalities considerations

7.14 It is agreed that access to public open spaces promotes exercise to the benefit of both individual and public health. It is also noted that there is a significant number of residents of Asian background living in the area near to the application site and a proportion of these ethnic groups suffer from high cases of diabetes.

7.15 Officers are not of the of the view that these health problems can be directly related to the provision of playing fields and the potential loss of the Leeds Girls High School site. Already, there is significant playing field provision in the area (eg at Woodhouse Moor) and the tennis courts at the High School have never been available for public use. It is therefore concluded that there is no evidence of a direct relationship between the health problems experienced by these ethnic groups and the potential loss of the privately owned playing fields within the High School site itself.

7.16 In relation to the matter of equality the Council has a general duty under s71 of the Race Relations Act 1976 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. A recent Court of Appeal decision involving Haringey Council has confirmed that where the requirements of section 71 form - in substance – an integral part of the decision-making process then it is necessary to demonstrate that the particular requirements of Section 71 have been taken into account in coming to a decision on a planning determination. Accordingly it is the responsibility of the Local Planning Authority to consider whether the requirements of

the Section 71 are integral to a planning decision. . It is important to note that Section 71 is concerned with promoting equality of opportunity and good relations between different racial groups – the Court of Appeal in its decision stressed that this is not the same as the promotion of the interests of a particular racial group or racial groups. In the circumstances Officers do not consider that Section 71 requirements are integral to these decisions. Moving away from Section 71 considerations it is considered there is no direct correlation between ill health and Type II Diabetes in the Asian population in Hyde Park\Kirkstall and the lack of availability or otherwise of the privately owned playing pitches on the LGHS site which have never been available for community use in the area. Members are asked to note there are other issues of equality relating to the applications beyond that of the playing field provision. These include the availability of affordable housing – which could be made available to people with disabilities and/or from minority ethnic backgrounds, access to and within the site and access within the buildings – which is controlled by Part M of building regulations. A planning condition is proposed to ensure that accessibilities needs for disabled users into and around the site is appropriately planned for.

#### **Delivery of Ford House Gardens as a Public Amenity**

7.17 Policy N3 of the adopted UDP states that priority will be given to improving greenspace provision within the priority residential areas indicated, which include the area of the application site. It is considered that the use of Ford House Gardens for public access would accord with the objectives of this policy. The community would like to see the retention of the schools protected playing pitches, which would be in accordance with the objectives of UDP policy N3. However, Officers consider that the redevelopment of the protected playing pitches at the application site is not contrary to policy N3 as this policy does not require every parcel of existing Greenspace to be acquired for public use rather it states that priority will be given to improving Greenspace provision. In this particular case the delivery of public access to Ford House Gardens can be viewed as according with this policy and the redevelopment of the playing pitches is not contrary to policy N3.

7.18 Whilst Officers and Members have both suggested that the lease period for the public use of Ford House Gardens is extended to 25 years the applicant has chosen to offer 15 years. It should be noted that the use of Ford House Gardens by the public is a separate matter to the planning consideration of the protected playing pitches at the Main School site. Accordingly a 15 year lease allowing public use of this land will help to improve access to the Greenspace in the locality for the public and/or local schools. It should also be noted that Ford House Gardens is designated in the UDP Proposals Maps as N6 protected playing pitches and the public access to this land is in accordance with the aims of Policy N3 of the adopted UDP. It should be noted that the proposed lease would satisfy the legal and policy tests for the imposition of planning obligations in that this obligation would be necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind to the development.

#### **Clarification of Greenfield/brownfield status**

7.19 Councillor Illingworth has requested further clarification of the brownfield\greenfield status of the site. This was clarified at the meeting. Part of the site is brownfield (and the subject of previous development) and part is playing fields (and therefore Greenfield) as indicated earlier in this response. Officers apologise for any confusion that may have arisen as a result of previous statements given by planning officers involved in the application on this matter.

#### **Main School building proposals**

- 7.20 The extent of demolition of the Main School Building was discussed at the August Plans Panel meeting and within the August report. It is considered that the exterior front elevation of the building is the main positive feature of this building and although much of the building is proposed to be demolished the front facade of the original part of the building is to be retained. The element to be demolished has been assessed by Conservation Officers and whilst it is not without merit it is not considered that its loss causes harm to the extent that refusal of permission would be justified.
- 7.21 Furthermore, in considering the impact of the retention and re-use of these elements of the Main school Building the applicant's Conservation consultant has appraised this part of the building and overall concludes that it does not make a positive contribution to the Conservation Area and due to its scale, massing, design of the third floor extension results in an extension that competes with the original element of the Main School Building to the detriment of the building's character and appearance. The Council's Conservation Officer has also assessed the merits of the retention of this part of the building and whilst noting that the Library building in particular has some quality does not consider that refusal is justified if these elements of the building are not retained. Officers are of the view that the proposal for the retention of the front facade of the original element of the Main School Building is sufficient to preserve or enhance the character and appearance of this part of the Headingley Conservation Area. It is also noted that the building has been declined for listing by English Heritage.

#### **Four storey flats building**

- 7.22 Officers have concerns that the images supplied do not clearly portray the true impact of the scale of this building given the change in ground levels whereby the building would appear 5 storey's when viewed from Victoria Road and 4 storey's when viewed from the north of the site looking down towards Victoria Road. In addition, the images supplied do not clearly show how the undercroft car parking would be accessed or how it would affect the character and appearance of this part of the Conservation Area. This concern has been communicated to the applicant. Having said this the concerns expressed by Officers do not affect the recommendation to the principle of and to support the development of the site. The proposed apartment block in the south west corner of the site is submitted as an outline application with details of Siting and Scale included for consideration. The appearance of the block is a matter which would be considered at Reserved Matters application stage (assuming the Outline is approved). As has been requested Officers have discussed the concerns relating to the legibility of the images supplied and the lack of clarity relating to the access into the undercroft car parking with the applicant but Officers are not of the view that these concerns are so serious that a recommendation to refuse the application should result.

#### **7.23 Highways Issues**

The Local Highway Authority have considered the comments made by Members at the August Plans Panel meeting and it is considered that the level of traffic generated by the residential scheme is not dissimilar to that which was previously generated by the Girl's High School and there is therefore no reason why the development will impact detrimentally on Victoria Road or Headingley Lane. The car parking provision on site is considered acceptable considering the sites constraints and the highly sustainable location of the site and measures to promote alternative forms of transport.

- 7.24 The access road on the western side of the site is constrained in width due to the desire to keep mature trees. 2 way passing is not possible along part of the road and the turning and maneuvering space is constrained. However the route has

been tracked and the large refuse vehicle can enter and be turned in the turning area provided (with some vehicle body overhang over the footways). In addition the footway / cycleway route can be used as an emergency vehicle route if required. The central access road is wider and less constrained.

### **Affordable Housing**

- 7.25 Members will recall there were mixed responses to the recommendation to provide a commuted sum to enable the purchasing of HMOs in the Area of Housing Mix to be brought back into family use. Officers outlined that the fall back position should this proposal not deliver sufficient numbers of properties was to default to on site provision of affordable housing. The contribution would be 15 % of the total number of developments provided across the site in accordance with the requirements of the SPG on Affordable Housing. The use of the affordable housing contribution to purchase HMOs is an attempt to address an existing problem in the Area of Housing Mix and to assist in the rebalancing of the housing stock away from HMOs and back towards family houses.

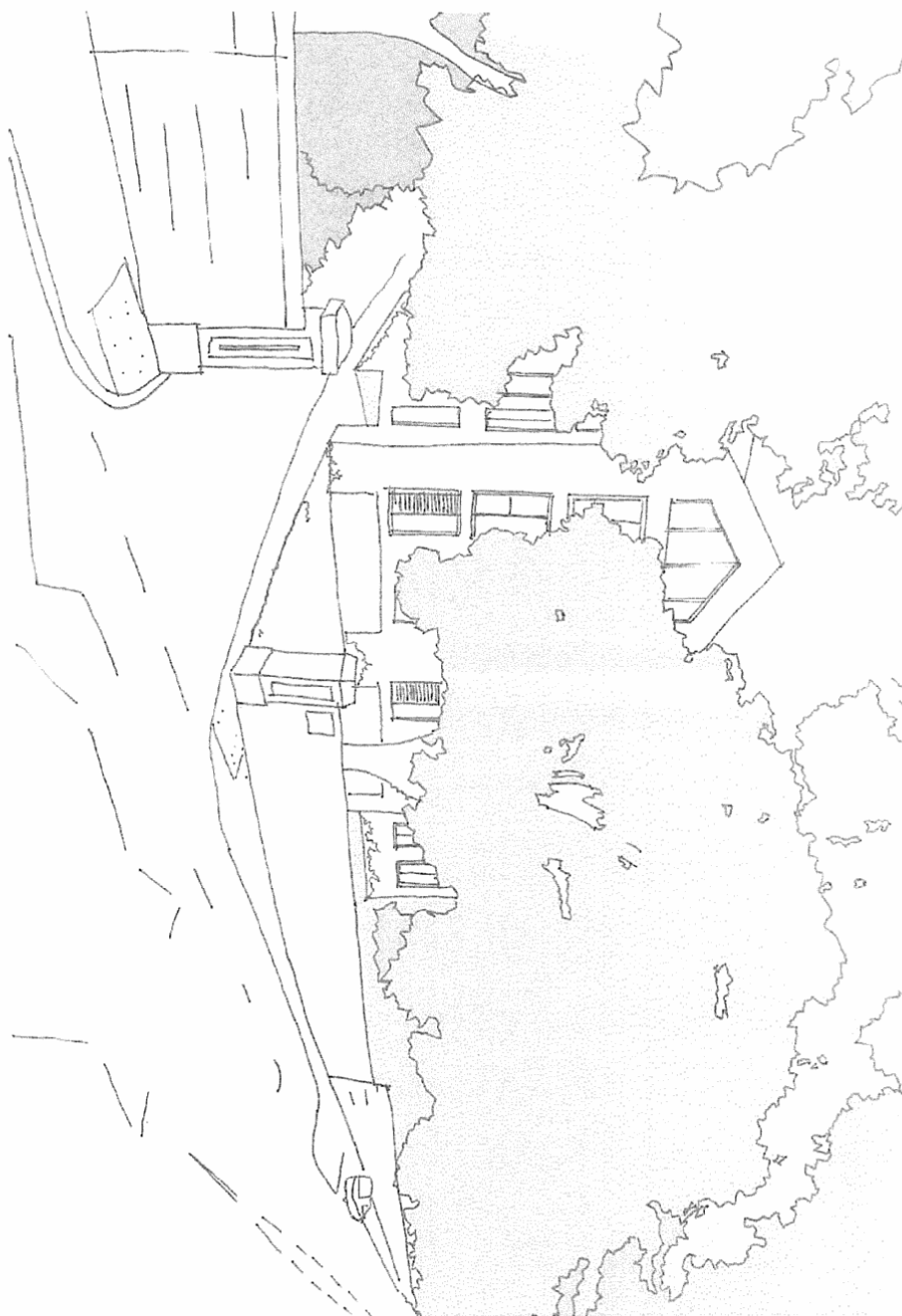
### Conclusion

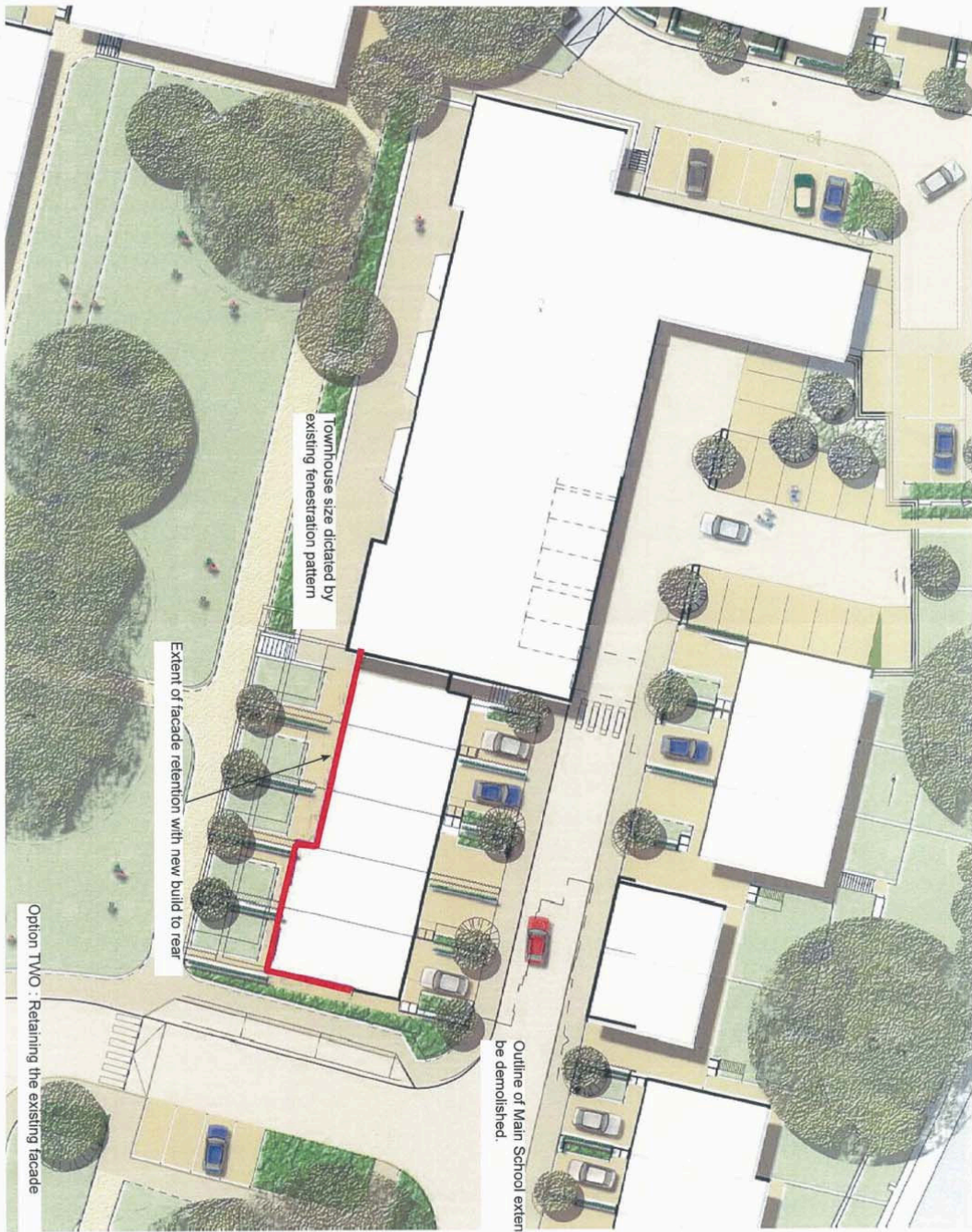
- 7.26 Officers have had very careful regard to the very substantial weight of public opposition to this scheme, and in particular the desire to retain the N6 allocated playing pitch areas in community use. PPS1 seeks to promote and deliver balanced mixed and sustainable communities and the planning system has become community focused in this regard. However, there has never been community use of the former tennis courts whereas there is provision at the Alwoodley school site – albeit 5 miles distant from the Headingley site. Given that Sport England has withdrawn its objection to the scheme officers do not consider on balance that refusal of the application on grounds of the loss of the N6 playing pitch land could be justified. The aspiration of securing Ford House Gardens for public use which is also designated as N6 protected playing pitches in the UDP is a separate planning consideration to the redevelopment of the protected playing pitches at the Main School site. In this context the offer to allow a 15 year lease allowing public access to this privately owned land accords with the aims of policy N3 of the adopted UDP and represents a proportionate benefit which would be gained as a result of the proposed development.
- 7.27 As Members acknowledged at the August Panel Meeting, the former Girls High School is in need of development. The proposals for the refurbishment and use of the listed building and refurbishment of the existing buildings on the site is to be welcomed. The balance between the provision of family housing and the apartments has been increased in favour of family housing as a result of views expressed by local councilors and the community. Notwithstanding the strong local representations of local political representations and many local resident it is not considered that the loss of the tennis courts can constitute a reason for refusal and this point is re-enforced by the stance of Sport England.
- 7.28 There are important additional fairly and reasonably related benefits arising from the proposals. These include affordable housing (with the potential to buy back some HMO's in the Headingley Hyde Park areas for family use) to financial contributions for Greenspace and improved public transport provision and the proposed 15 year license agreement which like allow access for the public and potentially local schools to Ford House Gardens.

- 7.29 Members will also need to consider carefully the extent of demolition and new build (especially the former library building) and to the further implications of the impacts of the four storey block to the character and appearance of this part of the Headingley Conservation Area and the Setting of the Listed Building.
- 7.30 The application schemes are not considered to result in a detrimental impact upon the existing highway network. The applications provide sufficiently in relation to on street car parking requirements and the application schemes promote sustainable forms of travel through the travel plan and public transport infrastructure contribution.
- 7.31 In conclusion the applications have been considered against the issues of health and equality and overall the applications are not considered to be contrary to the aims and objectives of promoting health and equality within the local community.



Sketch view looking at the SW block from the Victoria Road entrance



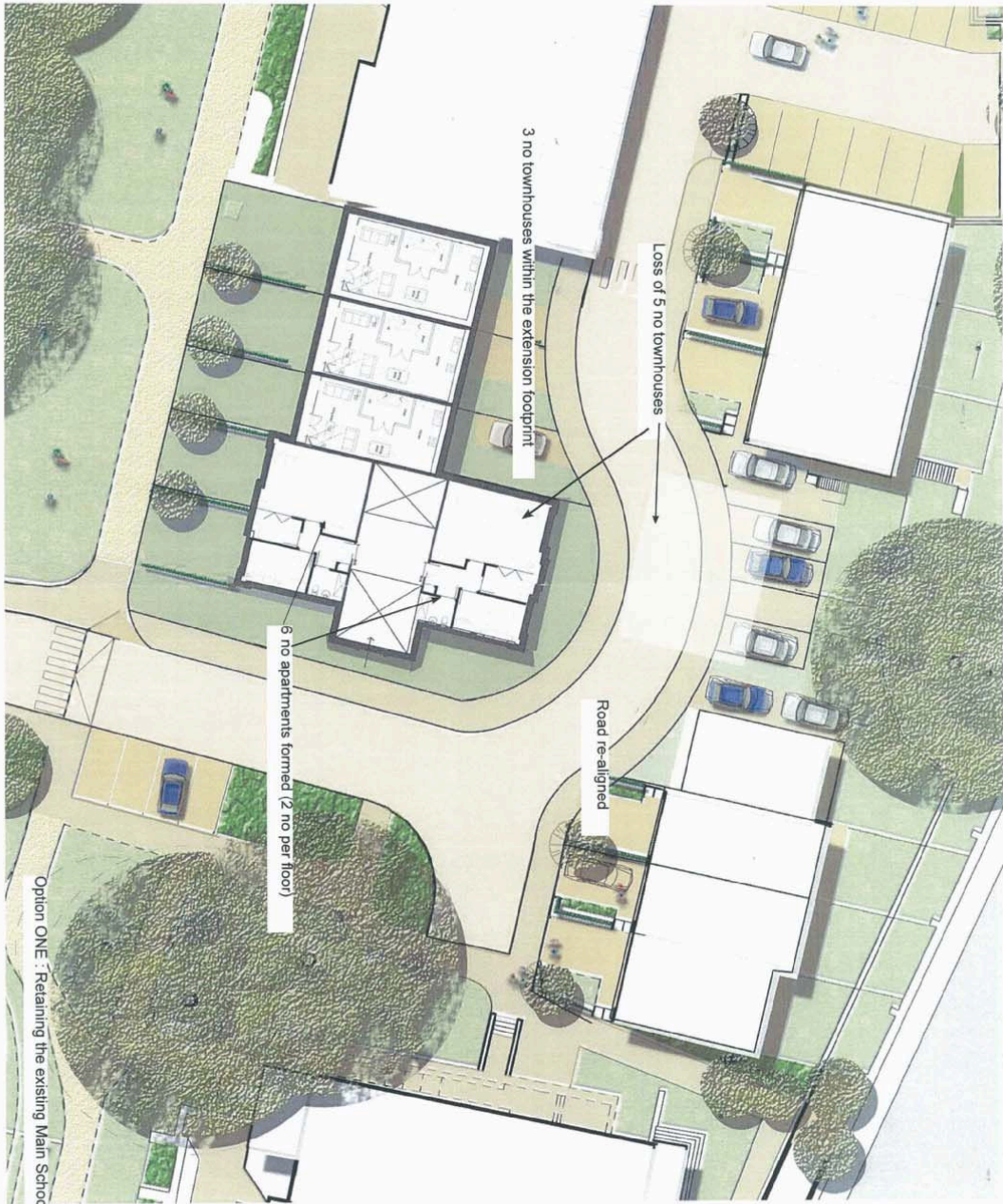


Townhouse size dictated by existing fenestration pattern

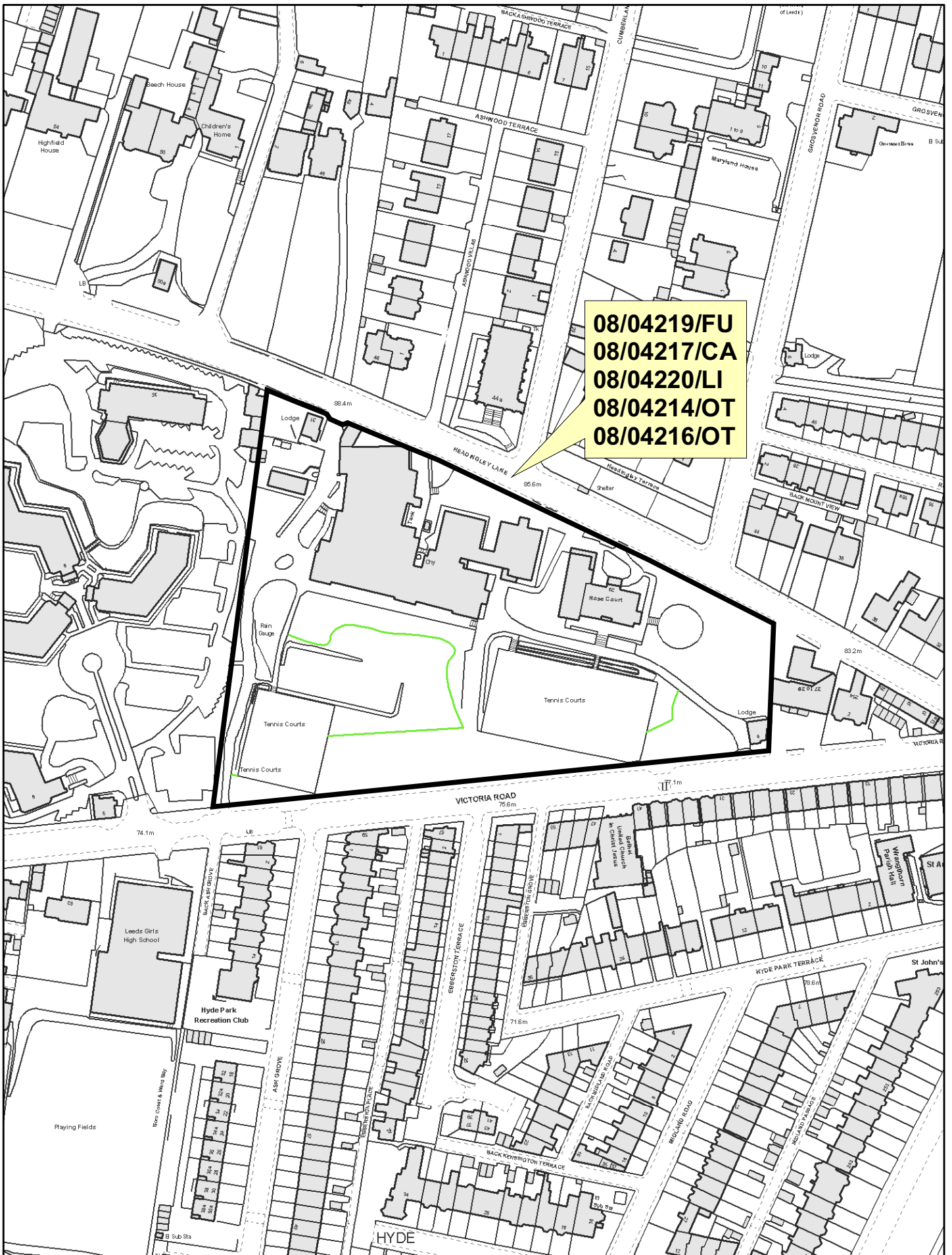
Extent of facade retention with new build to rear

Outline of Main School extension to be demolished.

Option TWO : Retaining the existing facade



Option ONE : Retaining the existing Main School extension



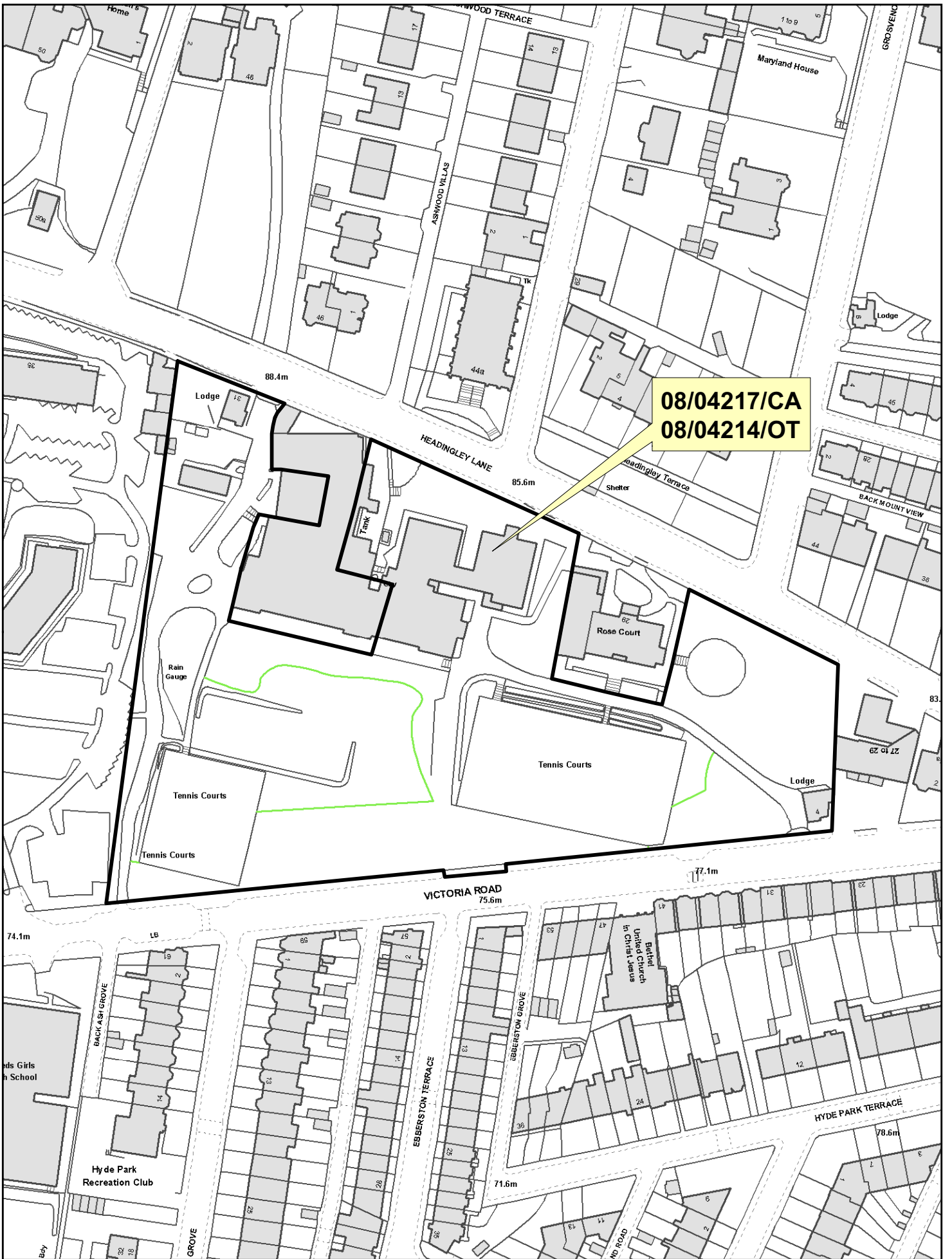
# WEST PLANS PANEL



Scale 1 / 2000

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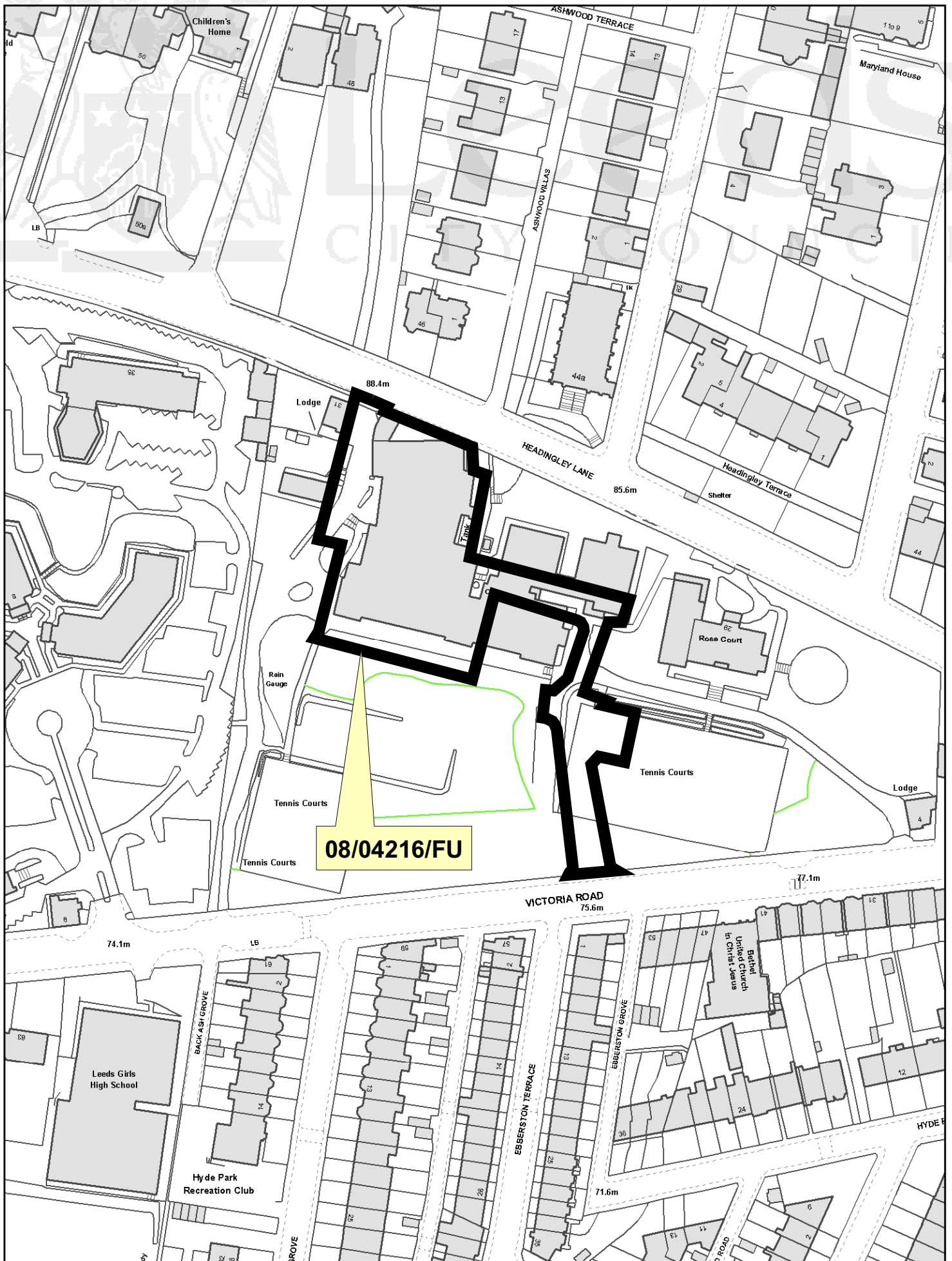




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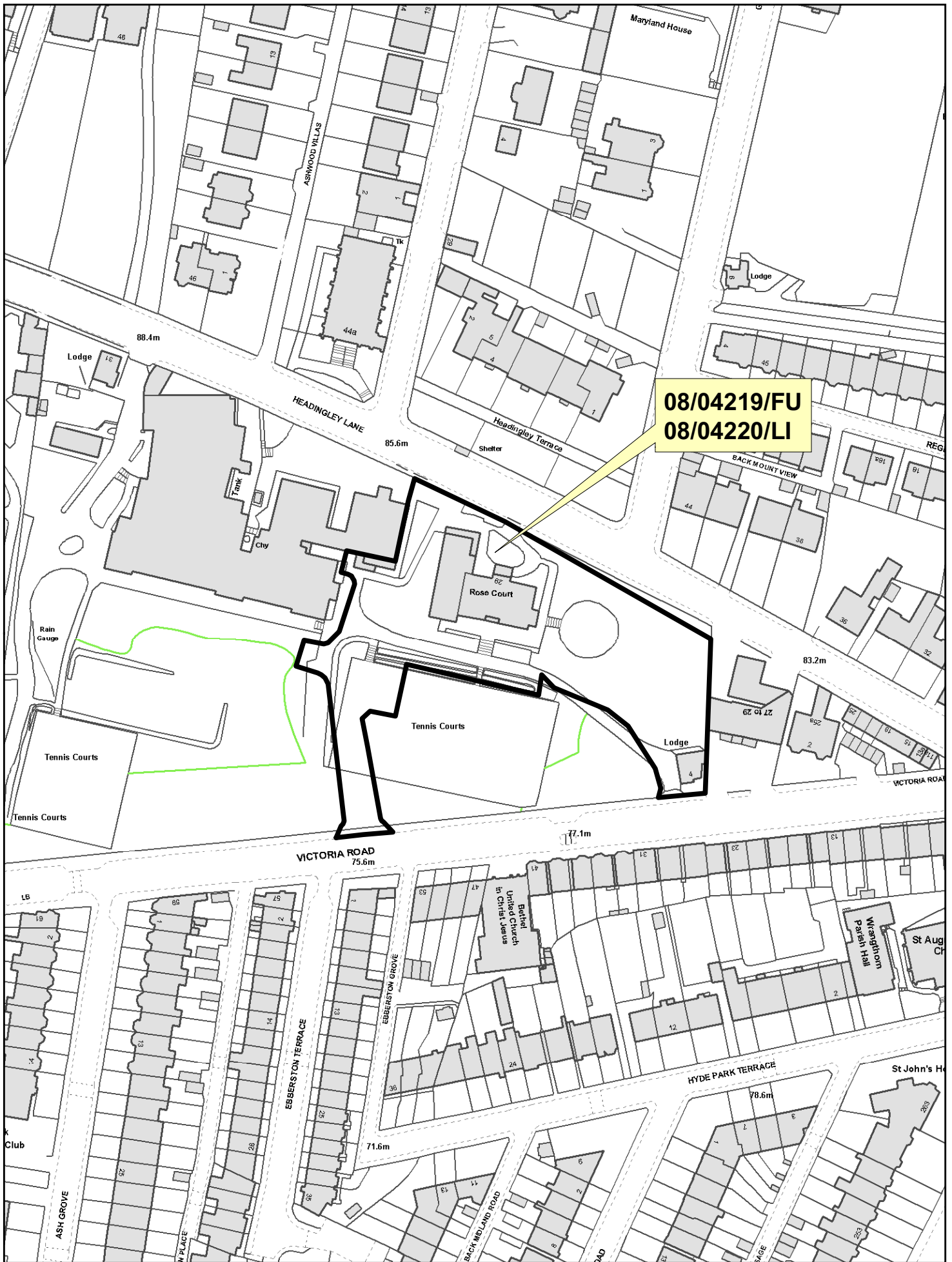
# WEST PLANS PANEL





# WEST PLANS PANEL

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# WEST PLANS PANEL



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Originator: Tim Poupard

Tel: 0113 2475647

## Report of the Chief Planning Officer

### **PLANS PANEL WEST**

Date: 7 October 2010

**Subject: APPLICATION 10/00708/LA – RETROSPECTIVE APPLICATION TO LAY OUT CAR PARKING AREA TO BUNGALOWS AT GREENLEA MOUNT, YEADON, LEEDS, LS19**

#### **APPLICANT**

West North West Homes

#### **DATE VALID**

17 February 2010

#### **TARGET DATE**

10 May 2010

#### **Electoral Wards Affected:**

Guiseley & Rawdon

Y

Ward Members consulted  
(referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

#### **GRANT PERMISSION Subject to the following conditions**

- 1) Works to be commenced within 3 months of the date of this permission and completed in accordance to an agreed timescale
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.
- 3) The detailed design of the highway works must be approved by Leeds City Council Highway Design Services prior to the commencement of the development.
- 4) All of the areas to be used by vehicles must be hard surfaced and drained, such that surface water from within the site does not discharge onto the highway.
- 5) The development hereby permitted shall not be used until a Management Plan for the car park has been submitted to, and approved in writing by the Local Planning Authority.
- 6) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority.

No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority.

No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority.

- 7) If, within a period of 5 years from the planting of any trees or plants, those trees or plants or any trees or plants planted in replacement for them is removed, uprooted, destroyed or dies or becomes seriously damaged or defective another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to a variation.
- 8) Before development commences details of works for dealing with surface water discharges from the proposed development including any off-site watercourse works shall be submitted to and approved by the Local Planning Authority.
- 9) No piped discharges of surface water from the application site shall take place until the surface water drainage works, including any off-site watercourse works, approved under the foregoing conditions have been completed.
- 10) Reason to Grant Planning Permission

## **1.0 INTRODUCTION:**

- 1.1 The Chief Planning Officer considers that this application should be referred to the Plans Panel for determination following the request of a Local Ward Member (Councilor Graham Latty – Guiseley & Rawdon Ward) and because of the degree of public interest in this matter.

## **2.0 PROPOSAL:**

- 2.1 The application seeks to regularise an existing private car park that was constructed in May 2007 without the required planning permission. The scheme was to provide parking for elderly residents of the surrounding bungalows and for visitors.
- 2.2 Although the application proposals seek to regularise an unauthorised development, significant alterations are also proposed to the layout and drainage of the site.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site consists of 15 bungalows managed by West North West Homes for elderly residents in a courtyard arrangement.
- 3.2 The existing car park was formally open grassland with footpaths used as general amenity space for the residents. The site slopes down east to west.
- 3.3 The private car park proposes 21 oversized spaces with footways and footpaths linking in to the surrounding area. The car park is accessed off Greenlea Mount, which is an adopted highway. The surrounding area is residential.

#### **4.0 RELEVANT PLANNING HISTORY:**

4.1 A retrospective planning application was originally submitted in July 2007 to lay out car parking area to front of bungalows, under reference 07/04401/LA. This application was refused for the following reasons:

4.1.1 *The Local Planning Authority considers that insufficient and inaccurate information has been submitted to determine the application as the scheme incorporates the Public Highway within the scheme and this is unacceptable. The proposed scheme is therefore contrary to Policies GP5 and T2 of the Unitary Development Plan (Review 2006).*

4.2 A further retrospective application to lay out a car parking area to the front of the bungalows was submitted in January 2009, under reference 09/00146/LA. This application was however withdrawn in April 2009 as it also failed to provide sufficient information.

#### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 West North West Homes have stated that they were unaware that the works which were undertaken in 2007 needed planning permission. They have stated they undertook the work at the request of the existing residents. Since West North West Homes were made aware of the breach, discussions have taken place with the Local Planning Authority to attempt to find a solution through negotiation.

5.2 Originally West North West Homes applied for planning permission for what they had built (2007) and this was considered unacceptable by the Local Planning Authority. The applicant re-applied (2009) to try and overcome objections raised in terms of surface water drainage and highway safety. This resulted in a revised application being submitted that was also considered unsatisfactory for similar reasons.

5.3 Both the 2007 and 2009 applications were submitted by West North West Homes themselves. Following recommendations from officers, professional advice was sought by the applicants' and therefore professional planning consultants, highway and drainage engineers were engaged to provide the technical detail and information required and to propose solutions and this has led to the current submission.

5.4 To ensure that this situation does not occur again, a new procedure is now in place between North West Homes and the Local Planning Authority to assess whether other improvement works proposed for their site(s) require permission and for planning officers to provide guidance. Members are asked to note that this new procedure has resulted in 10 planning applications being submitted this year.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

6.1 The application has been advertised on site by the means of a site notice and neighbouring properties (36 addresses) have been written to directly. These addresses also include the interested parties who made representations on the 2007 and 2009 applications.

6.2 10 letters of objection have been received from surrounding residents and their objections can be summarised as follows: -

- Surrounding residents were never consulted before the work took place;

- Planning permission was never obtained prior to the car park being laid out;
- 3 years has now passed and retrospective planning permission has been applied for on more than one occasion;
- Why has no enforcement action taken place?;
- Footpaths are not acceptable and could cause accidents due to children using them as short cuts;
- Car park looks like an eyesore;
- Car park has caused increase surface water run off and problems of flooding to surrounding properties;
- Increased traffic cause by people perceiving the area as a through-road and using the site as a park and ride;
- Most of the residents in the bungalows, for whom the additional parking was created, do not possess cars. Why do they need all this additional car parking?;
- There is no need for the car park. Prior to the new area, there was already a number of spaces provided on Woodlea Approach; these are designated and signed for sheltered bungalows use only;
- Believe that the area should be reinstated to a grassed area with paths;

6.3 On the 07/04401/LA, we received 7 letters of objection from surrounding residents on the same grounds as above. The Council also received 10 letters of support from the elderly residents who use the car park.

6.4 On the 09/00146/LA, we received 6 letters of objection from surrounding residents on the same grounds as above. The Council also received 8 letters of support from the elderly residents who use the car park.

## **7.0 CONSULTATIONS RESPONSES:**

### **Statutory Consultees:**

7.1 YORKSHIRE WATER:  
Awaiting response to the revised drainage layout. Their response will be reported verbally at Panel.

### **Non Statutory Consultees:**

7.2 HIGHWAYS:  
No objections, subject to conditions.

7.3 ACCESS:  
No objections subject to conditions.

7.4 MAINS DRAINAGE:  
Awaiting response to the revised drainage layout. Their response will be reported verbally at Panel.

## **8.0 PLANNING POLICIES:**

8.1 The application should be determined in accordance with the Development Plan by virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, unless material considerations indicate otherwise.

## **Regional Planning Policies:**

- 8.2 As confirmed by the Department of Communities and Local Government on the 6 July 2010, the Secretary of State has announced the revocation of the Regional Strategies. Therefore the Development Plan now consists of the Leeds Unitary Development Plan (Review 2006).

## **Local Planning Policies:**

- 8.3 Locally Leeds City Council has begun work on the Local Development Framework ("LDF") with the Local Development Scheme most recently approved in July 2007. This provides a timetable for the publication and adoption of the Local Development Documents.
- 8.4 In the interim period a number of the policies contained in the Leeds Unitary Development Plan ("UDP") have been 'saved'. The Leeds UDP Review was adopted in 2006. The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below.
- Policy GP5: Development proposals should resolve detailed planning considerations;
  - Policy T2: Development should not create problems of highway safety; and
  - Policy T24: Parking standards should be met;
  - Policy A4: refers to development and refurbishment proposals designed to ensure safe and secure environment; and
  - Policy N12: refers to all development proposals should respect fundamental priorities for urban design.

## **9.0 MAIN ISSUES:**

- 9.1 It is considered that the main issues in this case are:
- The principle of the development;
  - Highway access, pedestrian safety and parking;
  - Surface water drainage;
  - Residential amenity

## **10.0 APPRAISAL:**

### **Principle of development:**

- 10.1 It is clear that given the age of the estate, the original design rational would not have taken into account current levels of car use. The application site was general amenity space for the residents in an open-plan layout with pathways connecting to the surrounding area. The applicant did set out to improve matters for residents, in allowing them parking near their front doors, access for medical care they may need and emergency access if required. The original parking for the bungalows was limited to 4 on-street spaces on Woodlea Approach. Residents could then access the estate via footpath link. There may also be benefits for other surrounding residents in reducing on-street car parking. The works that were implemented were however unauthorised and completed to an unacceptable standard.
- 10.2 The site is unallocated within the adopted Leeds Unitary Development Plan (UDP). There are no specific policies which relate to a proposal of this nature, i.e. the change of use of land from amenity space to the laying out of a private residential parking area. Proposals which which are not identified by any specific policy or

proposal should normally retain their existing uses or conform to the predominant use of the immediate area.

- 10.3 It is considered that the proposal is acceptable in principle, as providing necessary parking for residents, subject to normal development control considerations including impact on amenity, highway safety, and in this case surface water drainage.

**Highway access, pedestrian safety and parking:**

- 10.4 The construction and layout of the car parking area as existing cannot be supported due to the lack of manoeuvring space for some spaces, lack of drainage to prevent water discharge onto the public highway and because some footpaths are blocked by the car parking area reducing safe passage for pedestrians.
- 10.5 Since the original retrospective application was submitted, there has been significant and lengthy communication between the applicant and the Council's Highways Section. Whilst the car parking is private it would still need to be designed so that it provides satisfactory access and provision for pedestrians, cyclists, disabled people and others with mobility problems.
- 10.6 It is considered that with the revisions to the scheme proposed under this application, the applicant has now addressed these safety issues and the layout is now acceptable.

**Surface water drainage:**

- 10.7 As previously stated the application site was open grassland with footpaths used as general amenity space for the residents and as such surface water drainage was not an issue. As the site slopes down east to west, and is now primarily hard surfaced, surface water run off has increased and although the existing works do have some rudimentary drainage provision, this is inadequate and is understood to result in surface water flooding onto surrounding dwellings.
- 10.8 A drainage solution is now proposed within this revised application that includes a piped drainage layout, below ground storage tanks and connections (to an agreed rate) to the existing drains. Provided that works are conditioned and monitored, it is considered that these can resolve the drainage issues and allow the car park to remain.

**Residential Amenity:**

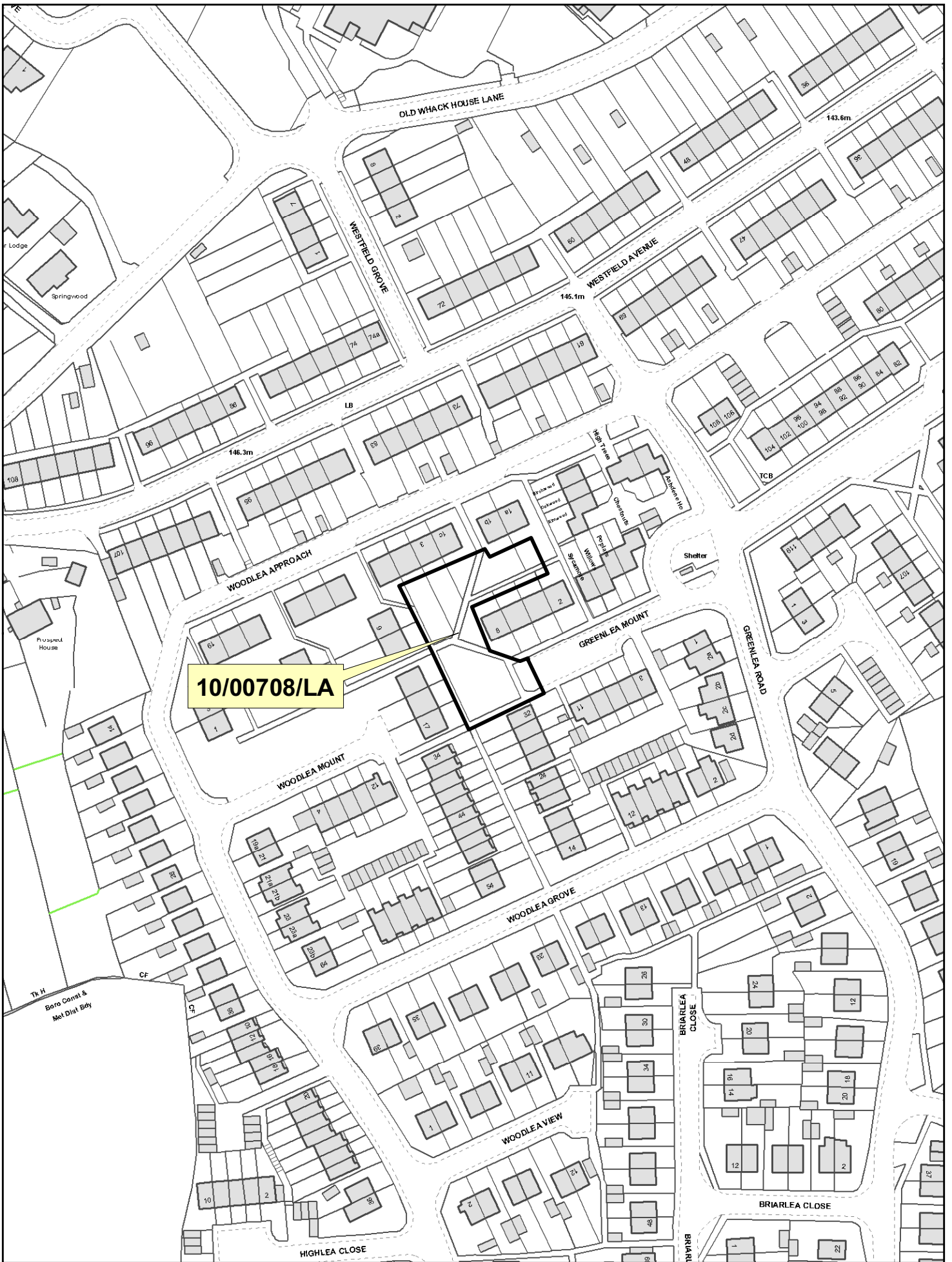
- 10.9 It is considered that the car park, given its location and size is unlikely to generate noise and disturbance that would have a detrimental impact on immediate neighbour's amenity.
- 10.10 Although the car park will eat into general amenity space, it is considered that the existing residents will not lose any private amenity space as this is in existence and unaffected up the additional parking. The revised scheme has increased distances from car parking bays to the existing dwellings. The revised scheme also proposes additional landscaping. It is considered that the amenity of the existing residents will not be adversely affected.

## **11.0 CONCLUSION:**

- 11.1 It is considered that the proposal is an ancillary residential use which provides necessary parking for existing residents that is now in an acceptable form that does not have a unacceptable impact on amenity, highway safety or surface water drainage. Although there have been objections from surrounding residents, the occupiers of the dwellings for whom the parking is provided are supportive.
- 11.2 The application is considered to comply with the relevant policies of the Unitary Development Plan and National Planning Guidance and as such the recommendation is that the application be approved.

### **Background Papers:**

Application file 07/04401/LA;  
Application file 09/00146/LA; and  
Application file 10/00708/LA.



**10/00708/LA**

# WEST PLANS PANEL







Originator: Terry Moran

Tel: 0113 39 52110

## Report of the Chief Planning Officer

### *PLANS PANEL WEST*

Date: 7<sup>th</sup> October 2010

**Subject: APPLICATION NUMBER 10/03806/FU –  
CHANGE OF USE OF VACANT RETAIL UNIT (CLASS A1) TO RESTAURANT (CLASS  
A3) TO FACILITATE AN EXTENSION TO THE ADJOINING ITALIAN RESTAURANT AT  
111 OTLEY ROAD, LEEDS 6.**

#### **APPLICANT**

Salvo's Restaurant –  
J Dammone

#### **DATE VALID**

18 August 2010

#### **TARGET DATE**

13 October 2010

#### **Electoral Wards Affected:**

Headingley

Y

Ward Members consulted  
(referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

**To defer and delegate refusal to the Chief Planning Officer for the reasons specified.**

1. The Local Planning Authority considers that the proposed use of the premises would further contribute to the proliferation and dominance of non-retail uses within this shopping parade and the wider Headingley Town Centre. This is considered to result in a significant impact, both individually and cumulatively, on the retail vitality and viability of this parade of shops and the wider defined district centre. The scheme is therefore considered contrary to Policies GP5, S2 and SF8 of the Leeds Unitary Development Plan (UDP) Review (2006) and also contrary to national planning guidance contained within Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 4.
2. There is insufficient off-street parking associated with the proposed use, which is likely to lead to an increase in on-street parking. This would be to the detriment of highway safety contrary to Policies T2 and T24 of the Leeds Unitary Development Plan (UDP) Review (2006).

## **1.0 INTRODUCTION:**

- 1.1 This application is brought before Members at the request of Ward Councillor Sue Bentley due to the high level of local interest which the proposal has generated.

## **2.0 PROPOSAL:**

- 2.1 The proposal seeks to change the use of a vacant Travel Agency (which is a shop within Class A1) to become part of the adjoining restaurant (Class A3).
- 2.2 The proposal will result in an increase in covers of the existing restaurant to a total of 88 from 66 and incorporates an enlargement of the existing restaurant toilet facilities.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The unit is within a crescent of commercial units categorised as a secondary shopping frontage within the district centre of Headingley. The parade is at the northern edge of the (S2) defined district centre. There is an existing diversity of uses within the parade with food related outlets being particularly prominent. The adjoining unit to the northern side is currently occupied by Salvo's restaurant. There is a narrow access road to the front of the unit with limited vehicular access. At the rear of the unit is a hard-surfaced area used as parking for the commercial units. This area is separated from adjacent residential properties by mature trees.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 Following a review of the Council's records the following planning history on the site is considered relevant:-
- 26/61/01/FU, 2 St Anne's Road, Change of use of shop to café (approved).
  - 08/04299/FU: 2A St Anne's Road - Change of use of flat above shop to offices. (approved).
  - 07/00702/FU 6 St Annes Road - Change of use from vacant shop to an estate agents office (approved).
  - 09/04400/FU 10 St Anne's Road - Change of use of shop to Estate Agent. Refused and dismissed at Appeal, 28/06/2010.
  - 26/49/96/FU, 10 St Anne's Road, Change of use of shop to HFTA (refused)
  - 26/141/01/FU, 12 St Anne's Road, Change of use of hairdresser to HFTA (approved).
  - 06/04543/FU - 103 Otley Road, Change of use of shop to Financial Services (A2) (refused but allowed on Appeal).
  - 26/549/05/FU, 107 Otley Road, Change of use of shop to mixed A1/A3 use (approved).
  - 26/195/97/FU, 109 Otley Road, Change of use of hairdresser to dentist (approved).
  - 90/26/00107, 109 Otley Road, Change of use of shop to HFTA (takeaway) (refused).

- 26/61/94/FU, 113 Otley Road, Change of use of shop to restaurant (approved).

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Prior to submission of this application, the agent contacted the Case Officer at which point the Case Officer appraised him of the recent history of the site, indicating that such a Change of Use would be unlikely to gain officer support given the recent dismissal on appeal at 10 St Anne's Road.
- 5.2 The agent indicated that he intended to submit an application on the basis that the proposal had strong local support and differed significantly from the aforementioned Appeal decision.

## **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 This application was advertised via site notices and also with an advert in the Press. 55 letters of support have been received from local residents and other interested parties, all emphasising that the restaurant is considered an important asset to the Headingley area and that its enlargement should be encouraged.
- 6.2 Councillor Sue Bentley has also commented on this application, requesting that it should be brought to Panel in light of the level of local interest..

## **7.0 CONSULTATIONS RESPONSES:**

### **Statutory Consultees**

- 7.1 None – due to the minor nature of the application.

### **Non- Statutory Consultees**

- 7.2 HIGHWAYS:  
Objects as the proposal would result in additional on street car parking to the detriment of highway safety.

### **7.3 CITY SERVICES**

No objections as the proposal is unlikely to result in any impact on current refuse collection arrangements.

## **8.0 PLANNING POLICIES:**

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Leeds Unitary Development Plan (Review 2006) unless material considerations indicate otherwise.

### **Development Plan:**

- 8.2 The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below.
- 8.3 The adopted Leeds UDP (Review 2006) Proposals Map identifies the site as a Secondary Shopping Frontage within Headingley District Centre. A number of policies in the adopted Leeds UDP Review (2006) are relevant, as follows:

- Policy GP5 refers to detailed planning considerations and states that development proposals should seek to avoid loss of amenity.
- Policy S2: The vitality and viability of the following town centres (which includes Headingley) will should be maintained and enhanced. Non-retail development will not normally be permitted where it would reduce significantly the shopping function of a centre. Retail development will be encouraged unless it would undermine the vitality and viability of the centres or adversely affect the range of services and functions within the centres.
- Policy SF8: In secondary shop frontages changes of use of retail to non-retail will be determined on their merits.
- Policies T2 and T24 seek to maintain adequate levels of vehicle parking provision with no undue detriment to other highway users.

### **National Guidance/Statements:**

8.4 In addition to the principal elements of planning policy other advice contained in Planning Policy Guidance Notes and replacement national Planning Policy Statements (PPS) may be relevant, including;

- PPS-1: Delivering Sustainable Development This PPG sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.
- PPG-13 Transport: This PPG's objectives are to integrate planning and transport at the national, regional, strategic and local level, to promote more sustainable transport choices both for carrying people and for moving freight, to encourage the active management of the pattern of urban growth and improve accessibility on foot and cycle.
- PPS-4 Planning for Sustainable Economic Growth. This sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas.

### **9.0 MAIN ISSUES:**

9.1 Having considered this application and representation, it is the considered view that the main issues in this case are:

- Impact of the proposal on the retail vitality of the parade and the wider district centre;
- Highway Safety;
- Community Involvement
- Representations;
- Summary and recommendation.

### **10.0 APPRAISAL:**

10.1 The existing property is within a designated secondary frontage of the defined district centre of Headingley. The centre is defined within the proposals map which is an annexe to the Unitary Development Plan. Policy S2 gives general advice in relation to the retail character of such defined centres. In such designated areas the retail vitality and viability should be maintained or enhanced. Non-retail development will be resisted where it would reduce the main shopping function of such centres.

Policy SF8 is also of particular relevance as this gives guidance in respect of secondary shop frontages. Applications of this type i.e. Changes of use from A1 to any other Use will be determined on their merits with the aim of safeguarding the overall retailing character of the shopping centre whilst recognising that uses other than A1 should be made available as a secondary element. The general thrust of the relevant retail policies is to safeguard and prevent the intrusion and over proliferation of non-retail functions within designated district centres.

- 10.2 This parade is already well served by non-retail premises as is the rest of the district shopping centre. Particularly noticeable within the Headingley Town Centre is the prevalence of food related outlets and estate agencies. If planning permission were granted, it would result in only three of the fourteen units on this parade remaining in A1 use with a subsequent likelihood that foot-traffic would thereby decline even further as there would be a marked loss of passing interest or variety for shoppers. This is particularly significant as the proposal would result in a contiguous run of three non-retail units which would be separated by only one retail unit (a hairdresser) from the remainder of the Otley Road frontage which is already in non-retail use between Salvo's café and the Thai restaurant on the corner. This would have a further detrimental impact on retail viability and appearance and prove even less appealing to future tenants of the parade. This particular parade is currently well-served by non-retail outlets, which is considered to have resulted in the noticeable decline in the viability of the remaining A1 units.
- 10.3 Whilst acknowledging that the unit is currently vacant, it is considered that the vacant state of the application site shows that there has indeed been a marked decline in recent years and that any further loss of retail units would be severely injurious to the viability of this parade, contrary to the aspirations of both PPS-4 and PPS-1. Furthermore, the unit has only been empty for less than three months. As such, the use of marketing may be a means by which to ensure that the unit can still be successfully rented out, which means that an argument that the use of the unit for A1 is unviable is not sufficient to warrant its loss in Planning terms. In addition, as the unit has not been vacant for a substantial period of time, it is not considered that the non-viability of this unit has been demonstrated. Moreover, the isolated location of this parade is such that any additional loss of retail units would further serve to accentuate the effect of the erosion in retail function. Indeed, the viability of A1 uses in this location is the key consideration of this application. This parade of shops is fairly isolated from the rest of the centre and as such it is of even greater importance that for it to retain an individual retail function to serve the retail and daily needs of the large residential estate located to the rear of the shopping parade.
- 10.4 It is considered that there is already an excessive provision of non-retail functions in the locality. This is reinforced by the recent Appeal Decision on 26<sup>th</sup> June this year, which dismissed an application within this parade for Change of Use from retail to non-retail, stating that the loss of a retail unit "would compound the change in balance so that the parade would be even more predominantly non-retail in make up" adding that this would "reduce its attractiveness and footfall and make it harder in future to resist the further loss of retail outlets". It is considered appropriate to attach substantial weight to this appeal decision.
- 10.5 The Highways Authority has objected to the proposal on the grounds that the proposed change of use from A1 to A3 would lead to an increase in on street car parking which cannot be accommodated in the vicinity and would be detrimental to road safety. The Highways authority has conducted daytime and evening site visits to this parade and has observed no free parking space, obstructive footway parking and illegal parking on existing waiting restrictions on both occasions. It is

considered that any intensification of this situation would be detrimental to pedestrian safety and general highway safety.

- 10.6 Planning Policy Statement 1 stresses the need to ensure that development proposals are carried out with the support of the local community. The developer states that local consultations have been carried out both with community groups and individuals, indicating that there is strong local support within the Headingley community. It is important, when considering the involvement of communities, to try to see the wider picture. In this case, the Local Planning Authority considers that this parade in fact has a wider role to play in the community than to simply provide non-retail services, whether those be Financial and Professional, medical or restaurants. Historically, this parade has formed an important local centre for all elements of society, hence the importance of retaining a strong retail presence in this position. It is considered, therefore, that the needs of the wider community are best served by resisting any further loss of retail units and therefore resist any changes of use which would further harm the retail vitality of this parade.
- 10.7 26 letters of support have been received, referring to the important role which Salvo's plays in maintaining the character of Headingley and requesting that the proposal be supported. It is considered that the points raised in those representations have been addressed within the body of this report.

## **11.0 CONCLUSION:**

- 11.1 As discussed above, it is considered that the loss of one of the few remaining A1 units in this parade would prove unduly harmful to the continued retail vitality of this local parade with the likelihood that the parade would then only have 3 out of 14 units occupied in retail use, to the significant detriment of local amenity. It is considered that the retention of this unit in retail use is therefore important in attempts at revitalising the parade and of protecting the retail vitality of this secondary shopping frontage. It is not considered that the level of local support for the proposal is sufficient to override significant Policy concerns as although the existing restaurant is reported to have high level of local community involvement, with clear loyalty from both local and more distant patrons, it is considered that the retail vitality of the parade and its attractiveness to shoppers must take precedence so as to comply with the stated aims of PPS-1 which requires that Local Planning Authorities should ensure successful, safe and inclusive towns and cities for all members of the community. It is important to note that the relevant planning consideration is whether a restaurant use is appropriate to this particular unit in this location as the merits of any particular operator are of limited relevance as any planning permission would run with the premises rather than the current applicant. There is also an unacceptable parking provision associated with the proposal, with refusal being also recommended on Highways grounds. Refusal is therefore recommended, for the reasons set out at the head of this report.

## **Background Papers:**

Application and history files.



# Appeal Decision

Site visit made on 9 June 2010

by **P J Asquith** MA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Temple Quay House  
2 The Square  
Temple Quay  
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Decision date:  
28 June 2010

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**Appeal Ref: APP/N4720/A/10/2121714**  
**10 St Anne's Road, Headingley, Leeds, LS6 3NX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Patricia Bradley against the decision of Leeds City Council.
- The application Ref. P/09/04400/FU, dated 5 October 2009, was refused by notice dated 7 December 2009.
- The development proposed is described as the change of use of retail shop to A2 estate agent's office.

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## Decision

1. I dismiss the appeal.

## Main issues

2. I consider the two main issues in this case to be: first, the impact of the proposal on the vitality and viability of the defined Headingley town centre; and secondly, its effect on highway safety and the free flow of traffic.

## Reasons

### *Vitality and viability*

3. The main element of the appeal site is a vacant shop in a parade of units at the northern end of Headingley town centre, as defined in the Leeds Unitary Development Plan (Review 2006) (UDP). The parade fronts onto both St Anne's Road and Otley Road and is separated from the rest of the centre by the junction of these roads with Shaw Lane. Within the UDP the parade is designated as a Secondary Shopping Frontage in regard to which saved Policy SF8 indicates that changes of use of retail to non-retail, including use class A2, will be determined on their merits. The justification to the policy explains that the aim of the Secondary Frontage policy is to safeguard the overall retailing character of shopping centres, whilst recognising that non-retail and specialist uses do provide a service and should be made available to the public as a secondary element of a shopping centre. UDP saved Policy S2 seeks to maintain and enhance the vitality and viability of town centres such as Headingley.
4. There are 14 ground floor units in the parade of which the appeal site is one of currently only four A1 shop uses and the only vacant property. The other units include five estate agencies, three restaurants/cafes and a hot food takeaway. If the appeal property was to be converted to the proposed use this would leave only one A1 unit fronting onto St Anne's Road, with the majority being

estate/letting agents. The appellant suggests that the present mix of these uses is a response to the specific demand in Headingley arising from the significant increase in the student population within recent years, which has also meant the reduction in the viability in some traditional suburban retailing. Whilst I note that it is claimed that the unit has been marketed for at least six months with no interest from retailers, I have been provided with no evidence of the marketing campaign. In the present economic climate I do not consider six months to be a particularly long period to demonstrate an absence of retail demand.

5. I have taken account of my colleague Inspector's decision to allow an appeal for the change of use of a shop to an A2 use within the same parade at No. 103 Otley Road<sup>1</sup>. He concluded that the change would not detract from the viability of the retail function as a whole or that the use as a legal and professional office would damagingly alter the balance of uses that were then present. He also felt that it would bring about an improvement to the appearance of the vacant unit and the parade, generating some additional activity which would contribute to the vitality of the centre overall. However, in my view the situation now is considerably different to when my colleague made his decision in early 2007. At that time it is apparent that five of the units within the parade were vacant. In light of this it was felt that the high proportion of vacant units would not curtail opportunities for shops to open, thereby retaining a retail function in the parade; the change of use of one unit would not be responsible for a collapse in the remaining retail function. Now the appeal property is the only vacant unit and the balance of retail to other services has considerably altered.
6. I acknowledge that Policy EC3 of Planning Policy Statement 4, *Planning for Sustainable Economic Growth* indicates that local planning authorities should set flexible policies for their centres which are able to respond to changing economic circumstances. However, it appears to me that Policy SF8 does already sufficiently reflect this advice. The change of use would compound the change in balance so that the parade would be even more predominantly non-retail in make up. In my view this would serve to undermine the vitality of this parade, could reduce its overall attractiveness and footfall and would make it harder in future to resist the further loss of retail outlets within it. This would run counter to the thrust of Policy SF8, which, whilst recognising that non-retail and specialist uses do provide a service within centres, indicates the aim of the Secondary Frontage policy is to safeguard the overall retailing character.
7. The Council argues that the further loss of A1 uses in the parade would impact on the needs of elderly residents, presumably from the residential area to the immediate west, for which it claims there is a dearth of retail outlets. I share my colleague's view that shops on Otley Road, including those in the Arndale Centre, are not far beyond the junction with St Anne's Road and can be readily reached on foot from this housing area. In its own right this would not be a significant point against the proposal. Nonetheless, neither this nor the appellant's reference to the Council's granting of permission for the change of use to non-retail of No. 105 Otley Road in 2009, the detailed circumstances of which I have not been provided, deflect from my overall conclusion on this first

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<sup>1</sup> Ref. APP/N4720/A/06/2031161



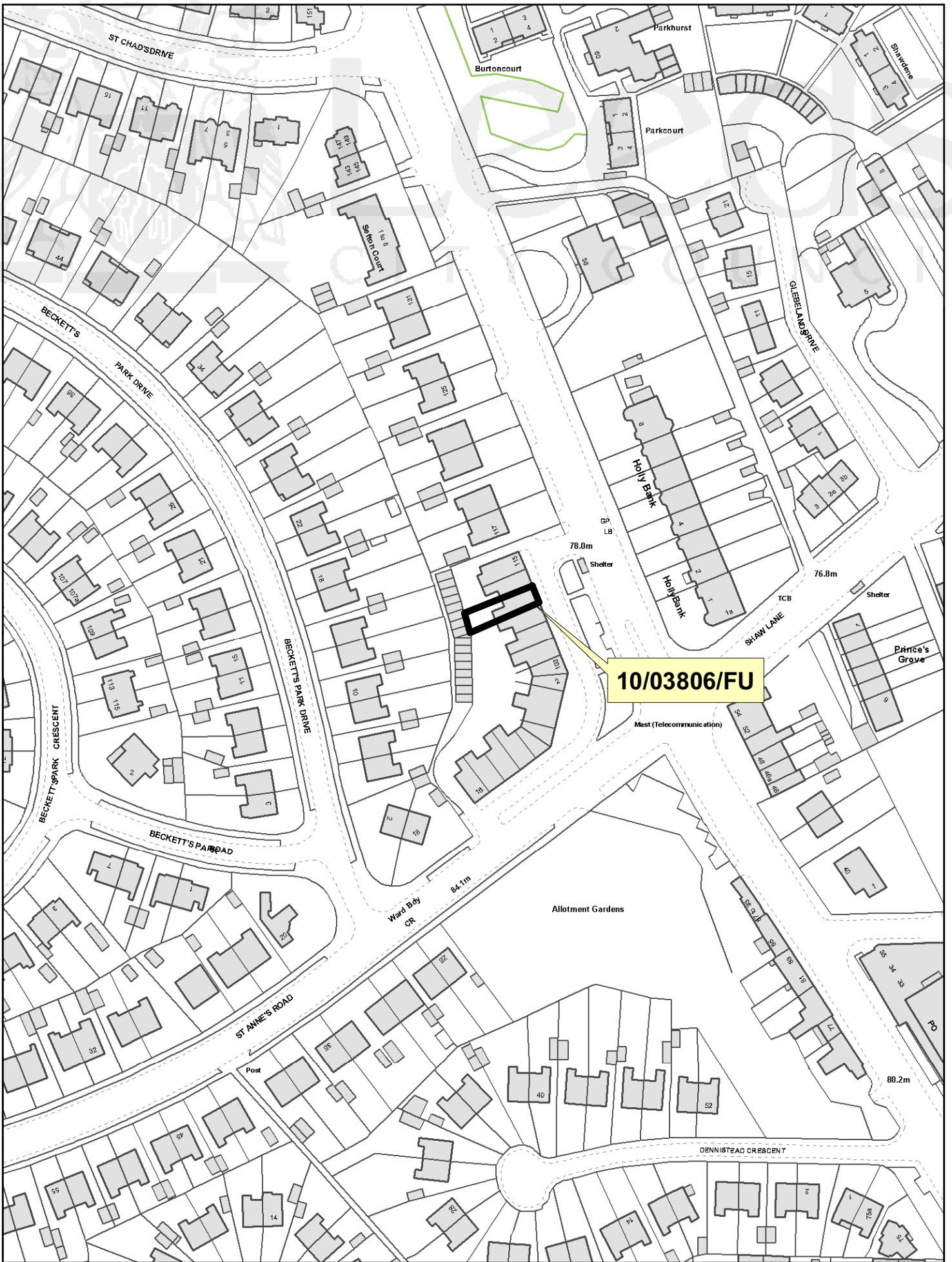
issue that the present proposal would harmfully impact on the vitality of the Headingley centre contrary to Policies S2 and SF8.

*Highway safety*

8. The Council indicates that the parking requirement for the proposed A2 use, as set out in the UDP, would be a maximum of four spaces, the majority for staff. This would be two more than the requirement of the existing shop use. One parking space is shown within the application site as being within one of a series of lock-up garages in an unmade service yard to the rear of the parade. To its front the parade has a one-way service road. On my visit in the middle of a weekday I noted that the rear service yard, the front service road and flanking verges and footways were heavily and, in places, somewhat haphazardly parked with little free space. These were clear of the busy and parking-restricted Otley Road and its lights-controlled junction with St Anne's Road/Shaw Lane but this situation appears to confirm the Council's evidence that there is a high demand for, and incidence of, parking close to the parade. Whilst there is additional on-street parking close-by within St Anne's Road this is short-term.
9. There is also some limited pay-and-display off-street parking on land to the south of this road which, by contrast to the service road and yard, was little used at the time of my visit. I am not convinced that the majority of customers to an estate agents would arrive on foot, as suggested by the appellant might be the case. It is likely that an A2 use would generate more parking demand than an existing A1 use and this would be concentrated close to the unit where parking is free; the increased demand would, in part, be likely for staff use (as reflected in the Council's guidance) which would be long-term and therefore even more liable to be in areas that are unrestricted and free to park. I consider that in the light of the above situation the likely increase in parking demand arising from the proposal would exacerbate the existing parking regime which would be harmful to both pedestrian and driver safety. In these circumstances the proposal would conflict with saved UDP Policies T2 and GP5 which, respectively, require development to not create or materially add to problems of safety, environment or efficiency on the highway network, and maximise highway safety. Additionally, there would be conflict with Policy T24 since the proposal would not reflect the UDP's detailed guidelines on parking provision.
10. I have taken account of all other matters raised, including concerns that the proposal would exacerbate the tendency to encourage the rental element of the local housing market which some see as problematic. However, I view the proposal as a response to a current situation rather than a cause of it and this has little relevance to my consideration of the change of use. Nonetheless, neither this nor any other matter raised is sufficient to outweigh my conclusions on the two main issues that the scheme is unacceptable.

*P J Asquith*

INSPECTOR



# WEST PLANS PANEL





Originator: Tim Poupard

Tel: 0113 2475647

**Report of the Chief Planning Officer**

***PLANS PANEL WEST***

Date: 7<sup>th</sup> October 2010

**Subject: APPLICATION 10/01838/FU – CHANGE OF USE OF PART OF B2/B8 INDUSTRIAL UNIT TO INDOOR KART ARENA AT GORDON MILLS, NETHERFIELD ROAD, GUISELEY, LEEDS, LS20 9PD.**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
T B Ramsden And Co	19 April 2010	19 July 2010

**Electoral Wards Affected:**

Guiseley & Rawdon

N Ward Members consulted (referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION:**

**GRANT PERMISSION Subject to the following conditions**

- 1) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.
- 2) The lighting and signage details within the site approved under application 08/00312/FU shall be retained for the life of the development and not altered without the written consent of the Local Planning Authority.
- 3) The existing hedge to either side of the access shown on to Netherfield Road should be regularly maintained to ensure that it does not exceed 1m in height;
- 4) The laying out and de-marcation of car parking provision associated with this use approved under application 08/00312/FU shall be retained for the life of the development and not altered without the written consent of the Local Planning Authority.
- 5) The access provision off Ings Avenue, including vehicle movements measures, traffic circulation and traffic management details approved under application 08/00312/FU shall be retained for the life of the development and not altered without the written consent of the Local Planning Authority.

- 6) Within 3 months of the date of this permission, details of a pedestrian route shall be submitted to and approved in writing by the Local Planning Authority.
- 7) The noise levels from activities on site shall not, when measured from the site boundary edged in blue on the approved plan, exceed 45 dBA at any time.
- 8) The noise insulation and attenuation measures approved under application 08/00312/FU shall be retained for the life of the development and not altered without the written consent of the Local Planning Authority.
- 9) The ventilation and odour control measures approved under application 08/00312/FU shall be retained for the life of the development and not altered without the written consent of the Local Planning Authority.
- 10) The litter bin details approved under application 08/00312/FU shall be retained for the life of the development and not altered without the written consent of the Local Planning Authority.
- 11) The facilities provided for the parking of cycles which belong to members of staff and the public approved under application 08/00312/FU shall be retained for the life of the development and not altered without the written consent of the Local Planning Authority.
- 12) The use of the premises hereby approved shall only be open to the public between the hours of 10.00 - 2200hrs Monday to Saturday and from 10.00 - 20.00 on Sunday.
- 13) Within 6 months of the date of this permission, a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.
- 14) Within 3 months of the date of this permission a management scheme for the land edged in blue as shown on the approved plan shall be submitted to and approved in writing by the Local Planning Authority.
- 15) No more than 10 go karts shall be used at any one time.
- 16) No vehicles or ancillary equipment associated with this use hereby permitted shall be stored outside at any time.
- 17) No microphones or tannoy system shall be operated on the site.
- 18) All doors shall remain closed at all times except for the purposes of entering and leaving the building.
- 19) No vehicle maintenance/repairs shall take place outside the building hereby permitted.
- 20) Reason to grant planning permission

## **1.0 INTRODUCTION:**

- 1.1 This application is brought to the Plans Panel as the original temporary consent was determined by Plans Panel West at the request of Local Ward Members.
- 1.2 This application seeks permanent planning permission for the change of use of part of B2/B8 industrial unit to indoor kart arena at Gordon Mills, on Netherfield Road in

Guiseley. An application was originally submitted under reference 08/00312/FU in January 2008 for this proposal.

- 1.3 The previous application was presented to Plans Panel West on the 27 April 2008, Whilst Members were minded to support this application in principle, a temporary planning consent was granted for a period of two years to ensure that the development is appropriately monitored and reviewed. This temporary two year permission lapsed on 13 May 2010.

## **2.0 PROPOSAL:**

- 2.1 This proposal is for a permanent change of use of part of a former woollen mill to a indoor kart arena. There are no proposals to change the external appearance of the building. When the original application was submitted and following the substantial scaling down of manufacturing operations on this site the resultant buildings were essentially empty. In terms of wider operations, the units to the south of the site remain in a manufacturing use and essentially around a 1/3 of the original textile business remains operational and employs around 70 people. In an attempt to retain the vacant buildings and in to help subsidise the remaining manufacturing operation, a number of diversification proposals have been presented to the Local Planning Authority for consideration.

- 2.2 In this context Members should be aware that two other applications for changes of use to a children's play centre (08/00476/FU) and an application for a dance studio (08/00361/FU) were both approved at the February 2008 Plans Panel.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site lies within the urban area of Guiseley. The application site contains various commercial buildings and additions which currently fall into a B1/B2/B8 use with supporting ancillary buildings used for office purposes.
- 3.2 The design of these buildings are in a traditional industrial style albeit the building subject to this application has a partial stone façade to the front and side to reflect the local style of material in the area.
- 3.3 This particular unit is situated to the north east of the site with part of its frontage overlooking Netherfield Road. The proposed means of access is off Netherfield Road which is the central access into the site. Parking provision is provided to the immediate south of this access/egress point and also to the west of the site.
- 3.4 The site lies in a predominately residential area, close to Guiseley Town centre to the south. The site is close to residential dwellings, with the nearest to the east of Netherfield Road which at the nearest point are situated some 29m away. To the west is the Leeds – Menston railway line. To the immediate north and south lies other similar commercial buildings which form part of this planning unit.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 Following a review of the Council's records the following planning history on the site is considered relevant:-
- 4.2 As stated above, temporary planning permission was granted on the 13 May 2008 for the change of use of part of B2/B8 industrial unit to indoor kart arena at Gordon

Mills, under reference 08/00312/FU. This temporary permission ran out on the 13 May 2010.

- 4.3 Other relevant planning history for the site include:
- 08/00361/FU: Change of use of former woollen mill to dance school – Approved;
  - 08/00476/FU: Change of use of unit 2A to a children’s play centre – Approved;
  - 07/06323/FU: Change of use of part of B2/B8 industrial unit to indoor kart arena – Refused 5<sup>th</sup> December 2007; and
  - 07/07093/FU: Change of use of part of former woollen mill to dance school – Withdrawn 14.1.08.
- 4.4 There is no other relevant planning history for the site.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 As referred to above, a planning application (07/06323/FU) was submitted and refused by Leeds City Council on the grounds of potential noise nuisance to adjacent residential properties. A second application (08/00312/FU) was submitted with a noise report and was approved on a temporary basis by Panel in May 2008. The decision followed a site visit where Panel could hear for themselves the effect of the karts running on a track inside the building.
- 5.2 In the negotiation of the approval with officers it was agreed that the approval should be temporary to allow the LPA to reconsider the impact on the environment when the facility had been trading for an extended period.

### **Planning Conditions and Monitoring:**

- 5.3 The planning decision notice included a number of conditions to ensure that the development was appropriately monitored and reviewed. These can be summarised as:
- Details and implementation of lighting and signage (Condition 03);
  - Details and provision of visibility splays (Condition 04);
  - Details of laying out and demarcation of car parking provision (Condition 05);
  - Details of access provision off Ings Avenue (Condition 06);
  - Maximum noise levels (condition 07);
  - Details of noise insulation/attenuation measures (Condition 08);
  - Details of ventilation measures (Condition 09);
  - Provision of litter bins (condition 10);
  - Details of staff cycle parking (condition 11);
  - Opening Hours 10.00 to 2200 Mon to Sat and 10.00 to 20.00 on Sun (Condition 12);
  - Travel Plan (Condition 13);
  - Management Plan (Condition 14);
  - Code of conduct for patrons (condition 15);
  - No more than 10 go karts shall be used at any one time (Condition 16);
  - No outside car storage (Condition 17);
  - No microphones or tannoy system (Condition 18);
  - All doors shall remain closed at all times (Condition 19);
  - No vehicle maintenance/repairs shall take place outside the building hereby permitted (Condition 20);

- 5.4 Whilst the applicant has stated that the conditions imposed (i.e. conditions requiring detail to be submitted prior to commencement of works) were seen by them as unreasonable “*since the Local Planning Authority knew that the facility would start to trade the day after the Panel decision*” an application was made to discharge all the conditions”.
- 5.5 A discharge of condition application was submitted in March 2009 under reference 09/01193/COND. The Local Planning Authority (on the 10 June 2009) approved details of the following conditions;
- Details and implementation of lighting and signage (Condition 03);
  - Details of laying out and demarcation of car parking provision (Condition 05);
  - Details of noise insulation/attenuation measures (Condition 08);
  - Details of ventilation measures (Condition 09);
  - Provision of litter bins (condition 10);
- 5.6 The following conditions were refused by the Local Planning Authority for the following reasons:
- 5.7 Details and provision of visibility splays (Condition 04): “The proposed visibility splays are unacceptable and do not comply with the requirements specified in the condition. A plan is required to show splays of 2.4 x 45m in both directions with the boundary treatment set back within the splay and confirmation that the existing hedge will be regularly maintained to ensure that it will not exceed 1m in height.”
- 5.8 Details of access provision off Ings Avenue (Condition 06): “The scheme submitted is unacceptable. At the time of visiting the site no electronic barrier system was in place and the submitted scheme does not include any timetable for implementation of such.”
- 5.9 Details of staff cycle parking (condition 11): “No scheme has been submitted and therefore this condition is not discharged.”
- 5.10 Travel Plan (Condition 13): “No travel plan details have been submitted and this condition is not discharged.”
- 5.11 Management Plan (Condition 14): “No adequate and regular maintenance programme is included in the submitted scheme. This is unacceptable. The condition is not discharged.”
- 5.12 Code of conduct for patrons (condition 15): No details of this scheme have been provided. The condition is not therefore discharged.
- 5.13 The following conditions were ongoing throughout the life time of the development;
- Maximum noise levels (condition 07);
  - Opening Hours 10.00 to 2200 Mon to Sat and 10.00 to 20.00 on Sun (Condition 12);
  - No more than 10 go karts shall be used at any one time (Condition 16);
  - No outside car storage (Condition 17);
  - No microphones or tannoy system (Condition 18);
  - All doors shall remain closed at all times (Condition 19);
  - No vehicle maintenance/repairs shall take place outside the building hereby permitted (Condition 20);

### **New permanent submission:**

5.14 Included within the current application submission, the applicant has stated the following in relation to the outstanding conditions:

#### **VISIBILITY SPLAYS (CONDITION 04):**

5.15 The principal access to the site is from Netherfield Road. The applicant contends that this has been the principal access since the site started in industrial use. They have stated that "The public footpath is relatively narrow and since the last approval, the fence adjacent to the access has been cleared of signage and the hedge beyond maintained at a height which shows reasonable sight lines in both directions".

#### **ACCESS PROVISION OFF INGS AVENUE (CONDITION 06):**

5.16 There is a secondary entrance to the site as a whole from Ings Lane. The applicant contends that this entrance is acceptable but Highways officers expressed concern over the very substandard sight lines on Ings Lane. The applicant believes that the sight line problem only affects vehicles exiting from the site. Vehicles entering the site from Ings lane are visible and can see in both directions and it has been accepted by the Local Planning Authority that this entrance can be maintained provided egress is controlled.

5.17 The applicant has stated that since the last approval, one way ramps and signage internal to the site have been fitted to this entrance.

#### **DETAILS OF STAFF CYCLE PARKING (CONDITION 11):**

5.18 The applicant has stated that since the last approval, three 'Sheffield type' cycle stand have been fitted adjacent to the main pedestrian entrance to the building.

#### **TRAVEL PLAN (CONDITION 13):**

5.19 It is officers' understanding that the facility employs six persons and of these, three are full time and three part time. The three part timers are local youngsters and generally cycle or walk to Netherfield Road." Of the three full time employees two are married and travel together to work by car. The third lives in Baildon and the applicant has stated that there are no public transport links between Baildon and Guiseley.

5.20 It is contended by the applicant that, "the number of patrons visiting the kart facility is limited by the capacity of the track. Neither the landlord nor the operator are aware of any issue of patrons overloading the local transport network."

5.21 The applicant, upon officers request for a travel plan has stated that "whilst a comprehensive travel plan may be appropriate for a facility attracting a substantial number of patrons, in this situation it could be seen as overkill." They have therefore declined to submit a travel plan.

#### **MANAGEMENT PLAN (CONDITION 14):**

5.22 The applicant contends that when the first application was being considered, building work on other buildings on site resulted in materials being deposited but not secured in a skip. These were caught by wind and resulted in the entire Gordon Mills site having the appearance of dereliction when local councillors became aware of the application.

5.23 The applicant believes that, whilst the site is in transition, maintenance is happening and its appearance from the public domain is of a well managed site. The



application has stated that “the requirement for a formal management plan can perhaps be seen as an intervention by the planning system which is neither justified nor necessary.”

#### CODE OF CONDUCT FOR PATRONS (CONDITION 15):

- 5.24 The applicant has stated that “Since the facility opened neither the landlord nor the operator has been made aware of any nuisance caused by patrons. In any case there are other agencies of the Council which have powers to control nuisance should such a situation ever arise. So again the requirement for a formal code of conduct for patrons can perhaps be seen as an intervention by the planning system which is neither justified nor necessary.”

#### **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application has been duly advertised on site by the means of major site notices (x 3) on Ings Avenue, Netherfield Road and Nethercliffe Road. The application has been made available for public inspection at Guiseley Library and notice was also published in the local press (Wharfe Valley Times). All the above publicity started from the 13 May and ran until 3 June 2010.

- 6.2 In addition, all the neighbouring properties (x 29) who made representation on the previous planning application have been written to directly on the 11 May 2010 making them aware of the current application proposals.

- 6.3 2 letters of objection have been received from local residents and their objections can be summarised as follows: -

- There is a workshop for car repairs operating on the site and it will soon become a vehicle MOT Testing Station;
- There is a constant stream of vehicles for repair/maintenance throughout the day and we can often smell exhaust fumes in the air when the door is open and car spraying odours not to mention the noise of cars coming and going.
- A unit named 4A has been created over the last few weeks right next to our garden, in which we are told by the tenant, a large lorry is to be kept, and a business run repairing go karts.
- The owners have cut a huge hole in the side of the mill and then fitted a large roller shutter door. Even closer, another entrance has been created in the side of the mill not 10 feet from our garden, which will cause more comings and goings and even more nuisance to our family life,
- To our knowledge the site still does not have planning permission and regularly operate 12 plus hours a day.
- Effect on trees and the landscape. Since the karting track opened approximately two years ago the present owners have cut back all hedging and trees including the hedge and trees next to our property in order to make the karting track more visible from Netherfield Road;
- The owners have also put large flags advertising the karting track at various intervals along Netherfield Road along with A board advertising and in doing so have changed the character of the area; and

- These A boards obstruct the footpath and make it extremely difficult to walk along the path and it is even more difficult to push a pram or buggy.

## **7.0 CONSULTATIONS RESPONSES:**

### **7.1 HIGHWAYS:**

No objections subject to conditions.

### **7.2 ENVIRONMENTAL HEALTH:**

No objections subject to conditions.

## **8.0 PLANNING POLICIES:**

This application should be determined in accordance the Development Plan by virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, unless material considerations indicate otherwise

### **Regional Planning Policies:**

- 8.1 As confirmed by the Department of Communities and Local Government on the 6 July 2010, the Secretary of State has announced the revocation of the Regional Strategies. Therefore the Development Plan now consists of the Leeds Unitary Development Plan (Review 2006).

### **Local Planning Policies:**

- 8.2 Locally Leeds City Council has begun work on our Local Development Framework ("LDF") with the Local Development Scheme most recently approved in July 2007. This provides a timetable for the publication and adoption of the Local Development Documents.

- 8.3 In the interim period a number of the policies contained in the Leeds Unitary Development Plan ("UDP") have been 'saved'. The Leeds UDP Review was adopted in 2006. The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below..

- Policy E7: Seeks to protect potential employment sites;
- Policy GP5: Development proposals should resolve detailed planning considerations;
- Policy T2: Development should not create problems of highway safety; and
- Policy T24: Parking standards should be met.

### **Supplementary Planning Guidance:**

- 8.4 Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Unitary Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- Travel Plans.

## **National Planning Policy:**

- 8.5 In addition to the principal elements of planning policy other advice contained in Planning Policy Guidance Notes and replacement national Planning Policy Statements (PPS) may be of relevance to the submitted proposal. This includes:
- PPS1: Delivering Sustainable Development;
  - PPS6: Town Centres; and
  - PPG13: Transport.

## **9.0 MAIN ISSUES:**

- 9.1 It is the considered view that the main issues in this case are:
- Principle of development;
  - Impact upon Living Conditions;
  - Access, Parking and Highway Safety

## **10.0 APPRAISAL:**

### **Principle of development:**

- 10.1 The application site lies within the urban area of Guiseley and is unallocated with no specific land use allocation. The Unitary Development Plan Review states that land or buildings which are not identified by any specific policy or proposal should retain their existing uses or conform to the predominant use of the immediate area. The site lies within an industrial complex in a mixed use commercial and residential area although some previously commercial sites in the vicinity are now being developed for housing purposes.
- 10.2 Policy E7 seeks to protect potential employment sites and encourages B1, B2 and B8 land uses. In planning terms the use proposed is sui generis and would in effect result in the loss of some of this land to employment purposes.
- 10.3 Consideration was previously given to attempts to market the site for employment purposes. The applicant also submitted an employment land assessment report with the previous application. In addition consideration was given to the fact that the reuse of these buildings will assist in supporting the existing wool manufacturing business which has recently been downsized.
- 10.4 At the time of determining the last application, it was accepted that the manufacturing operation currently employs around 70 people, and the owner of the site indicated that if the existing buildings are not brought back into beneficial use, to support the whole business, the future of the existing operation would have been in serious jeopardy.
- 10.5 It was previously considered that (In terms of National Government Policy PPS6: Town Centres – now superseded by revised guidance in PPS4), leisure uses should normally be located in town or city centre locations where there is the greatest accessibility to a range of transport. However it was recognised that although the site is not within an existing centre it is fairly close to Guiseley town centre and is close to bus stops and a rail facility. Where proposals fall outside of existing centres a sequential approach should be undertaken. No formal sequential approach was carried out to support the last development.

10.6 In this context, and given the relatively small size of the development and given its position close as it is to the edge of centre, it is was considered that a commercial scheme of this nature could be supported and would still create some employment use as well as introduce a use which will help sustain and retain industrial buildings. In the light of the above it is considered that the principle of permanent development is acceptable.

**Impact upon Living Conditions:**

10.7 The original application submitted under reference number (07/06323/FU) was refused on the grounds that the applicant had failed to demonstrate that there were no noise issues associated with the introduction of this proposed use which may have caused demonstrable harm to surrounding residents. In this context the development was refused as it was contrary to the requirements of PPG24 and UDP policy GP5. In the approved temporary re-submission, the applicant submitted a noise assessment to assess the potential impact upon the nearest residential units and was calculated on the basis of 10 go karts using the track simultaneously. The report concluded that the likely impact of such will be minimal and was unlikely to give rise to complaints of noise nuisance.

10.8 It was against this background and given the fact that the original planning unit has established use rights for industrial purposes, and without any planning regulation in terms of hours of use and noise limitation, that the previous application was considered. Following further consultation with the Council's Housing and Environmental Health Section and following the receipt of further information supplied by the applicant in response to both noise and ventilation issues, the objection on noise grounds was withdrawn.

10.9 However, there were still concerns regard to the potential for clients and particularly groups leaving the premises during the evening to cause disturbance and nuisance issues. To mitigate this concern, a management condition was imposed which required users of the facility to comply with a suitable code of conduct and appropriate signage to be erected to direct clients to enter/leave the building in an appropriate manner. As a further safeguard, a temporary planning consent for a period of two years was issued to ensure that the development is appropriately monitored and reviewed.

10.10 With regard to air quality issues, the Council Scientific Officer was of the opinion that the new ventilation and extraction system which has been fitted is suitable to serve a development of this scale without causing harm to air quality or have a detrimental impact upon surrounding residential amenity. In addition to the above a further condition was imposed to help improve the existing amenity and provide better regulation. A further noise condition was imposed to ensure that noise levels do not exceed 45db on the site boundary and that no microphones or audible equipment is to be used inside the building. Finally, a management scheme was introduced to secure reasonable noise insulation and attenuation measures as well as wider visual improvements to the building and the general site.

10.11 As stated in paragraph 5.5, the details of the noise insulation & attenuation, ventilation measures and provision of litter bins have been agreed and provided on site. Further conditions could be imposed to ensure these are retained and not altered.

10.12 Although a code of conduct for patrons has never been agreed, the Council's Housing and Environmental Health Section has stated that, the venue has now

been operational for around 2 years and they are unaware of any complaints being received regarding noise or other such issues. It would therefore be reasonable to assume that this shows the business has been operated in a professional manner with due thought for the neighbours and that noise levels have not exceed 45db on the site boundary.

- 10.13 The applicant has also stated that *“when the first application was being considered, building work on other buildings on site resulted in materials being deposited but not secured in a skip. These materials were caught by wind and resulted in the entire Gordon Mills site having the appearance of dereliction when Local Councillors became aware of the application. The site is in transition but maintenance is happening and its appearance from the public domain is of a well managed site”*.
- 10.14 Whilst the applicants’ comments are accepted in terms of maintenance as working is ongoing to improve the external appearance of the site as a whole. It is considered that the site is still in transition (as accepted by the applicant) and that a condition should be re-imposed to secure a management scheme for the land edged in blue as shown on the submitted plans. This can be conditioned to a reasonable timescale and can include key areas to be kept clean with obsolete materials and waste removed from the site, as well as the continued retention, cleaning and enhancement of the on site pond.
- 10.15 In this context and in the light of these requirements and existing safeguards it is considered that the introduction of such a permanent use is acceptable and will not cause any further demonstrable harm to the living conditions of the occupants of surrounding properties. The proposal will not therefore conflict with policy GP5 of the Revised UDP.

#### **Access, Parking and Highway Safety:**

- 10.16 The application when submitted originally was accompanied by a transport assessment which indicates historical traffic movements, current traffic levels and projected traffic flows. In summary it concluded that in comparison with historical operations, the development will generate significantly less traffic than at the time the factory was operating a full capacity.
- 10.17 With regard to car traffic and given the industrial usage is now reduced, it was considered that a facility of this nature could easily accommodate such a number of vehicle movements and provide sufficient levels of parking on site without placing further pressure on the highway network. This is site the view for a permanent consent.
- 10.18 The means of access and egress is off Netherfield Road and is now accompanied with supporting signage directing customers to the designated parking area to the immediate south of this entrance point and also to the rear of the site.
- 10.19 As part of approval of application 08/00312/FU, a condition was implemented to set back the boundary treatment within the visibility splay and to maintain the existing hedge so that it would not exceed 1m in height in the interests of visibility at the junction with Netherfield Road. From recent site visits, it is clear that the hedge has been maintained in the past, however it has started to become overgrown. A new condition to ensure that the hedge will be regularly maintained should be imposed.
- 10.20 The Council’s Highway officers have raised no objection to the existing secondary entrance controls on Ings Lane or to the implemented cycle parking. However a

pedestrian route is required from the entrance of the building to the parking area to the west of the site.

- 10.21 Whilst the applicants' comments are noted with regard to the number of staff on site, a Travel Plan is still considered to be required to ensure that employees and more importantly in this case, visitors have a choice of travel modes to and from the development.
- 10.22 Against this background, the permanent proposal raises no specific road safety concerns providing there is a pedestrian route provided to the car parking area and visibility splays are retained at the access as stated above.

#### **Other material considerations:**

- 10.23 The temporary permission has conditioned opening hours of use from 10:00hrs to 22:00hrs Monday to Saturday and 10:00hrs to 20:00hrs on Sunday. The temporary permission and the current proposals for permanent use do not include the provision of a bar. Colleagues in Housing and Environmental Health have confirmed that no application has been made for a license to sell alcohol.
- 10.24 In response to comments from neighbours, the applicant has stated the following:-
- 10.24.1 "The MOT facility mentioned in third party comments is a plan which is being developed to diversify. The business plan is not sufficiently developed to give our client confidence to submit a planning application. To obtain a licence to offer MOT tests one of the documents required by DVLA is a copy of a planning approval. Therefore the MOT facility (if the business plan proves robust) will be the subject of a separate planning application."
- 10.24.2 "The cutting back of the hedge to Netherfield Road was a requirement of the LPA Highways department. The boundary to the bungalow at 1A Netherfield Road has a line of trees which had a high cover. The applicant discussed the principle of pollarding these trees with the resident in 1A – by cutting the tops the lower growth would thicken and give a better visual separation between the bungalow and the industrial area. The neighbour agreed with this course of action. Indeed one tree was taller than could be pollarded by the company involved and the neighbour with our clients approval employed another company to pollard the remaining tree at the neighbours expense."
- 10.24.3 "The aspect of the upper floor of the two storey shed which faces the bungalow (not part of the current application) has been improved by the recent installation of new double glazed windows. A condition to maintain the hedge to Netherfield Road would be acceptable."
- 10.24.4 "Confirm that the intention is to trade as the Karting facility. There is no thought of any alternative leisure use should at some time in the future the karting cease to trade. The applicant would be happy with a suitable condition restricting the use to karting rather than a general leisure use."

#### **11.0 CONCLUSION:**

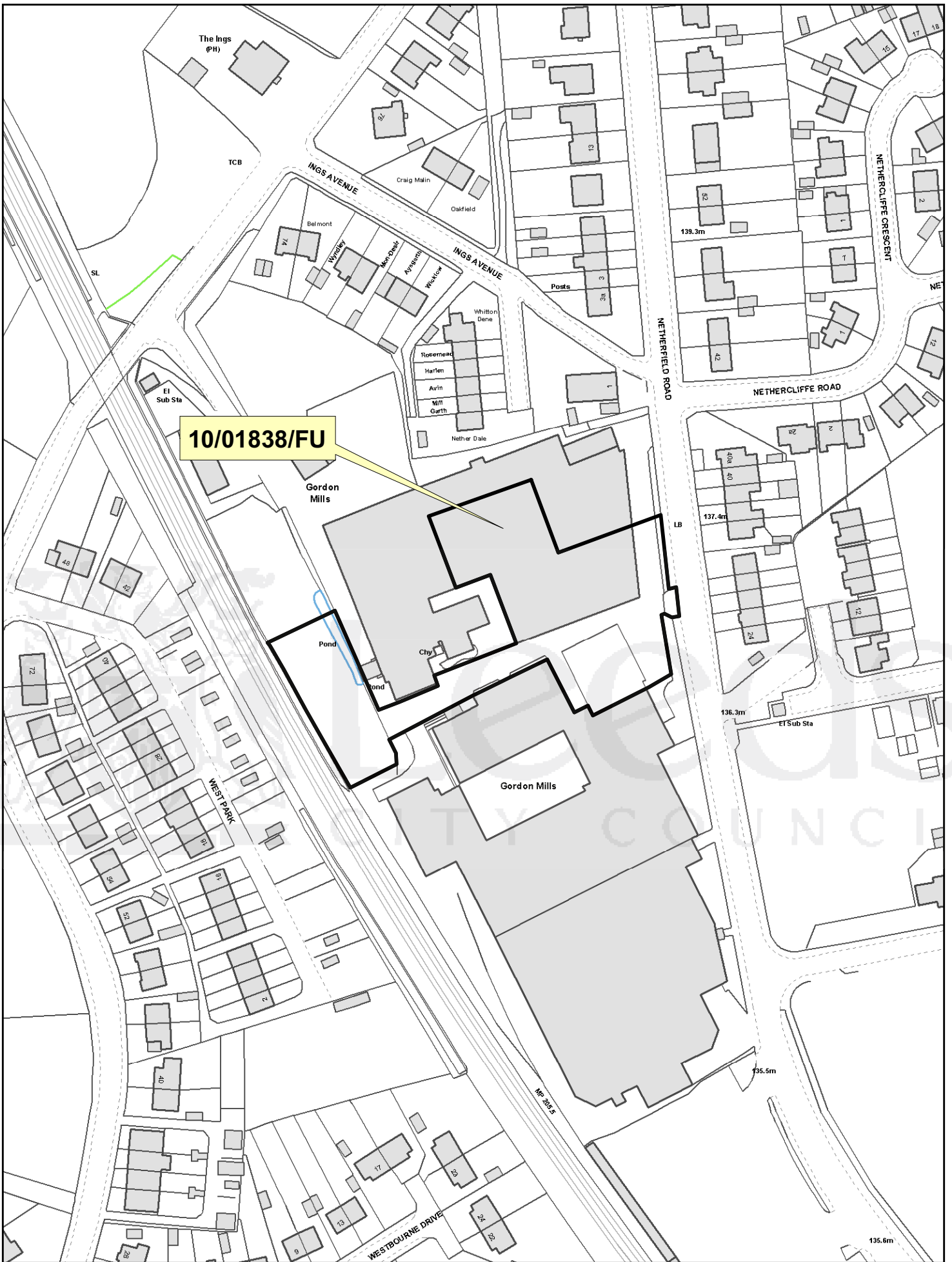
- 11.1 After careful consideration of all relevant planning matters it is considered that the proposed permanent development is generally acceptable. As previously determined, the development is located outside of the town centre and PPS4

indicates that such uses should in the first instance be located in such centres. However given the small scale nature of the development and its general proximity to the town centre and the site's links to public transport, it is considered that the approval of this permanent application will not undermine the vitality or viability of Guiseley centre or conflict or prejudice the planning objectives of the Development Plan.

- 11.2 On this basis, and given the continued potential to help retain existing wider employment uses and improvements to the appearance of the site and amendments to the site access arrangements, on balance, it is considered that the application should be supported. Having due regard to the matters raised in this report it is noted that the applicant has not been 100% compliant with the temporary conditions previously imposed. That being said, it is considered that a permanent use on the site is acceptable and will have not have an unacceptable impact upon the living conditions of the occupants of neighbouring properties.

**Background Papers:**

Application and history files.



# WEST PLANS PANEL







Originator: Tim Poupard

Tel: 0113 2475647

## Report of the Chief Planning Officer

### *PLANS PANEL WEST*

Date: 7 October 2010

**Subject: LEEDS BRADFORD INTERNATIONAL AIRPORT - MONITORING REPORT OF NIGHT TIME AIRCRAFT MOVEMENTS, NOISE LEVELS AND AIR QUALITY**

#### **APPLICANT**

Leeds Bradford International Airport

#### **DATE VALID**

Not applicable

#### **TARGET DATE**

Not applicable

#### **Electoral Wards Affected:**

Otley and Yeadon  
Guiseley and Rawdon  
Adel and Wharfedale  
Horsforth

N

Ward Members consulted  
(referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

Members are requested to note the contents of this report in relation to night time aircraft movements, noise, and the air quality monitoring. Members are also advised to note that formal action is preceding with regard to breaches of planning control as outline in paragraph 4.6.

Officers will update Members on these issues and report again on the night time movements, noise and air quality monitoring in six months time.

#### **1.0 INTRODUCTION:**

- 1.1 Plans Panel West (15 April 2010) considered the report of the Chief Planning Officer on the monitoring of night time aircraft movements, noise and air quality in relation to Leeds Bradford International Airport (LBIA). This previous report covered periods from November 2007 to January 2010.
- 1.2 This current monitoring report covered reporting periods, between February 2010 and August 2010. The report also made reference to the proposed LBIA Noise Action Plan.

- 1.3 At the Plans Panel, members resolved to authorise the Chief Planning Officer to write to the Airport and request an update and firm timescale on the initiatives that LBIA and PIA have committed to, these being:-
- 1.3.1 The introduction of a B777 aircraft for the Pakistan International Airlines (PIA) flights;
  - 1.3.2 The reduction of the numbers of departures per week of the PIA Flight;
  - 1.3.3 The re-scheduling and earlier departure time of the PIA flights; and
  - 1.3.4 The implementation of the Noise Action Plan.
- 1.4 Members also resolved to:-
- 1.4.1 Note that officers will present an update report on these issues in 6 months time and report again on night time movements, noise and air quality monitoring in 6 months time;
  - 1.4.2 To request officers also include detail of the mechanism for recording departure times in that report; and
  - 1.4.3 To note the request that LBIA Noise Action Plan updates be presented to appropriate Plans Panel West meetings in the future.

## **2.0 LBIA UPDATE AND TIMESCALE RESPONSE:**

- 2.1 Martin Sellens (Head of Planning Services) wrote to LBIA on 21 May 2010 regarding the specific matters as described in Paragraph 1.3 above, so they are clearly on record.
- 2.2 This letter informed LBIA that almost all the movements (During Winter 2007/8 to February 2010) which exceeded the night time noise quota restrictions related to Pakistan International Airline (PIA) flights. This letter also stated that Panel recognised steps have been taken by the airport to resolve this issue and the Panel are keen that the message should clearly be given to PIA that further breaches should not occur and if they do then formal enforcement action will follow.
- 2.3 LBIA responded formally to the matters as described in Paragraph 1.3 dated 28 May 2010 and stated the following:-
- Introduction of a B777 aircraft for the PIA flights:**
- 2.4 LBIA are continuing discussions with PIA with respect to the change of aircraft to a B777. LBIA will however, keep Members informed as soon as there is any further development with this.
- The reduction of the numbers of departures per week of the PIA Flight:**
- 2.5 There are only two PIA departures per week at present and this will remain unchanged for the foreseeable future.

### **The re-scheduling and earlier departure time of the PIA flights:**

- 2.6 The change of departure time from 2100hrs to 1930hrs came into force at the start of the summer schedule (28 March 2010). This new scheduled departure time will remain in place for the remainder of the summer season at least.

### **The implementation of the Noise Action Plan:**

- 2.7 LBIA have confirmed that the consultation on the draft Noise Action Plan closed on 27th April 2010. A copy of the draft Noise Action Plan together with a summary of the comments that were received from the local community and interested organisations has been sent to Defra and the DfT.
- 2.8 Defra and the DfT are reviewing the draft Noise Action Plan and LBIA hope to receive a response from them in the next month.
- 2.9 A summary of consultation responses and the finalised Noise Action Plan will then be publicised on the airport's web site. The airport has sent a letter to everyone who provided comments on the draft noise Action Plan explaining these next steps.

### **Mechanism for recording departure times:**

- 2.10 LBIA have stated that the recording of aircraft departures is undertaken by Air Traffic Control. The time of departure is inputted into the computer System as soon as the aircraft has left the runway. This data is available electronically and is used to match noise events with runway usage.

### **3.0 NIGHT TIME MOVEMENTS, NOISE AND AIR QUALITY:**

- 3.1 As Members are aware, planning permission to allow 24 hour availability at Leeds Bradford International Airport was granted subject to conditions in January 1994 (Application Reference 29/114/93/FU).
- 3.2 The planning approval contains a number of detailed conditions regarding night flying and its monitoring and prohibits departures and landings in the night-time period by specific types of aircraft.
- 3.3 As part of the 1994 permission the number of night time movements is restricted to 1200 for each winter season and 2800 for each summer season. The night time period is defined as 23.00 to 0700 hours local time and a movement is defined as a landing or departure.
- 3.4 Condition 12 on application 29/114/93/FU stated that "No aircraft movements in the night-time period shall take place until a scheme has been submitted and approved in writing by the Local Planning Authority for the monthly monitoring and reporting to the Local Planning Authority of the number of night-time aircraft movements by type of aircraft. The scheme shall allow for reference to the numbers of and reasons for delayed landings and emergency departures and landings."
- 3.5 A monitoring scheme has been approved with regular reporting on the following matters:
- 3.5.1 Monthly reporting of the number of night-time aircraft movements by type of aircraft with reasons for any delayed or emergency movements being supplied.

3.5.2 Noise monitoring at both the boundary of the Noise Insulation scheme area (at night) and at fixed gateways, to check compliance with agreed Target Noise Levels (TNLs) which are set at 6 to 8 decibels (dB(A)) lower than daytime equivalents.

3.5.3 Air quality as measured by nitrogen dioxide (NO<sub>2</sub>) concentrations in and around the airport with two locations inside the airport boundary and four at residential locations close to the main flight paths (two of these four sites are near to existing roads to establish ambient NO<sub>2</sub> levels).

3.6 This monitoring report covers reporting periods:

3.6.1 February 2010 to August 2010 inclusive;

#### 4.0 MONTHLY NIGHT TIME MOVEMENTS:

4.1 During the periods covered by this report, the night-time movements have been as follows:

Month	Number
February 2010	75
March 2010	105
April 2010	147
May 2010	248
June 2010	281
July 2010	294
August 2010	290

4.2 During these periods there have been a total of three movements which were in breach of the planning conditions, which sets down in detail restrictions on the type of aircraft which can operate in the night time period (0.3% of a total of 1440 movements).

4.3 Members should be aware that all 3 movements which exceeded the night-time noise quotas count restrictions were the Pakistan International Airline (PIA) flights to Islamabad. (see table below).

Date	Departure	Operator	Runway
20/04/2010	00:51:00	PIA	14
22/05/2010	23:30:00	PIA	32
02/06/2010	22:39:00	PIA	32

4.4 Officers wrote to LBIA to request an explanation for these further contraventions of the planning condition. LBIA replied to officers apologising for the PIA flight breaches and giving explanations for three occasions of the late departure of this aircraft. (see table below).

Date	Time	Reason
20/04/2010	00:51	The late arrival of the inbound aircraft forced a late departure.
22/05/2010	23:30	The late arrival of the inbound aircraft forced a late departure.
02/06/2010	22:39	Hydraulic fuel leak from the main wheel bay and PIA had to

		get a replacement from Manchester.
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4.5 LBIA stated that the late departures were due to exceptional circumstances beyond the control of the airport and that on all three occasions, the aircraft was authorised (by senior management) to depart to minimise any further distress and discomfort to passengers. The airport also stated that they received only one noise complaint from a local resident.

4.6 Members should be aware that the Local Planning Authority have determined to undertake formal enforcement action against LBIA with regard to these alleged breaches of planning control.

#### **Overall Night Time Aircraft Movements:**

4.7 Members should note that there are current maximum night time aircraft movement limits at LBIA. In Winter Period (November to April) there is a maximum of **1,200** movements, While in the summer period (May to October) there is a maximum of **2,800** movements. The figures for each period indicate that the overall number of night time movements are well below the numbers permitted by the planning approvals.

#### **5.0 NOISE MONITORING:**

5.1 The results of environmental monitoring at the airport carried out by the Environmental Studies section of the City Development Department have been received for the periods covered in this report. The table of results give details of:

5.1.1 Noise monitoring at the boundary of the noise insulation scheme 1994;

5.1.2 Aircraft which exceeded the night-time Target Noise Levels (TNL's) measured by the permanent monitoring system; and

5.1.3 Air quality monitoring around the airport.

5.2 The noise monitoring has been carried out at the following places around the airport:

5.2.1 Tarn View Road, Yeadon;

5.2.2 Wood Hill Road, Cookridge;

5.2.3 Westbrook Close, Horsforth;

5.2.4 Beacon House Farm, Yorkgate; and

5.2.5 Majentta Farm, Carlton.

5.3 A number of aircraft have been monitored using both runways over the periods to produce an average noise level. The average values for the aircraft types allowed to operate at night were below the boundary criterion of 90 dB(A). However, the breaches to the planning conditions mentioned in section 4 above resulted in the boundary criterion of 90dB(A) being exceeded on some occasions.

5.4 The results continue to confirm the accuracy of the CAA noise footprints on which the noise insulation scheme was based, as the vast majority of aircraft arriving and departing comply with the criteria.

- 5.5 The permanent monitoring system at the airport records which aircraft exceeded the night time target noise levels. Over the periods covered by this report the system recorded the following aircraft:

	1 <sup>st</sup> February 2010 – 31 <sup>st</sup> August 2010		
	TNL (dB(A))	Number	Levels
Departures Runway 32	77.0	2	78 – 80
Departures Runway 14	84.0	0	n/a
Arrivals Runway 32	79.0	18	79 - 82

- 5.6 The above figures represent a very small percentage (1.4%) of overall jet aircraft movements at night.

## 6.0 AIR QUALITY:

- 6.1 Air quality monitoring survey results show low average concentrations of nitrogen dioxide (NO<sub>2</sub>) in and around the airport. The general results at the six locations where diffusion tube tests have been carried out over most of the year are summarised as follows:

Location	NO <sub>2</sub> (µg/m <sup>3</sup> )
	1 February 2010 to 31 July 2010
Brownberrie Lane	22
Scotland Lane	14
Victoria Avenue	20
Novia Farm	22
Terminal Building	24
Main Runway	21

- 6.2 Note The NO<sub>2</sub> concentration is an annual average and is measured as µg/m<sup>3</sup> (microgram's per cubic metre). Under the Air Quality regulations 2000 the annual average NO<sub>2</sub> concentration should not exceed 40 µg/m<sup>3</sup> by 21<sup>st</sup> December 2005 and relates to background levels in residential areas. The results show that NO<sub>2</sub> levels are well below this level and are highest at the terminal building.

## 7.0 RECOMMENDATION:

- 7.1 Members are requested to note the contents of this report, in relation to the night time movements, the noise and the air quality monitoring. Members are also advised to note that formal action is preceding with regard to breaches of planning control as outline in paragraph 4.6.
- 7.2 Officers will update Members on these issues and report again on the night time movements, noise and air quality monitoring in six months time.



Originator: Philippa Simpson  
Tel: 2478018

## Report of the Chief Planning Officer

### **PLANS PANEL WEST**

Date: 7 October 2010

**Subject: APPLICATION 10/01289/FU. – Detached single storey drive through restaurant with associated car parking and landscaping at land adjacent to 419 and 421 Kirkstall Road, Burley, Leeds LS4 2EZ**

#### **APPLICANT**

Duffield Properties Ltd – M  
Duffield

#### **DATE VALID**

19 March 2010

#### **TARGET DATE**

14 May 2010

#### **Electoral Wards Affected:**

**Kirkstall**

Yes

Ward Members consulted  
(Referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

**Members are asked to grant planning permission subject to the following conditions:**

1. Time limit on full permission, (3years).
2. Plans to be approved
3. Samples of all walling and roofing materials to be submitted.
4. Sample panel of brickwork
5. Samples of surfacing materials to be submitted.
6. Submission of door and window frame details.
7. Details of all boundary treatment (including to the flood risk mitigation area) to be submitted
8. Details of external lighting to be submitted
9. Submission of a service management plan for the car park area
10. Permanent closure of the access from Airedale House car park
11. Area used by vehicles to be laid out, surfaced and sealed
12. Restriction on the height of boundary treatment on Kirkstall Road frontage
13. Cycle parking details to be submitted
14. Details of storage and disposal of litter to be provided including details of bin stores

15. Standard opening hours (08.00 to 23.30 hours Monday to Saturday, 11.00 to 23.00 hours Sunday)
16. Details of extract ventilation system to be submitted
17. Details of sound insulation of plant and machinery to be submitted
18. Provision of grease trap
19. Submission of a detailed scheme for the flood risk mitigation area to include details of proposed ground levels, measures to protect existing riverside trees and further planting and long term management
20. Submission of landscaping details
21. Landscape implementation
22. Landscape maintenance scheme to be submitted
23. Submission of information relating to contamination and remediation
24. Amendment of remediation statement
25. Reporting unexpected contamination
26. Submission of verification reports
27. Development to be carried out in accordance with the approved Flood Risk Assessment
28. Separate system of drainage on and off site
29. Submission of details of work for dealing with surface and foul water discharges from the development
30. No infiltration of surface water drainage into the ground without prior approval.
31. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the consent of the Local Planning Authority
32. Details and provision of oil interceptor

**Reasons for approval:** The application is considered to comply with policies SP3, GP5, N8, N11, N12, N13, N24, N49, N50, T2, T24, A4, BD5 and LD1 of the UDP Review 2006, with the Core Strategy 'Preferred Approach' of the emerging Local Development Framework, and having regard to all other material considerations, as such the application is recommended for approval.

## **1.0 INTRODUCTION:**

This application seeks approval for a single storey detached drive through restaurant, to be operated by 'Subway' (sandwich sales). The application is brought to the Plans Panel West at the request of Ward Councillor John Illingworth.

## **2.0 PROPOSAL:**

- 2.1 This is a full application and seeks approval for a single storey detached drive through restaurant on the south western side of Kirkstall Road. The submitted plans indicate that the proposed restaurant will be operated by 'Subway'. The submitted plans also show a large totem sign adjacent to the Kirkstall Road frontage. This sign does not form part of the current application and would be subject of a future application for advertisement consent.
- 2.2 The proposed restaurant building will be set back into the site by approximately 9 metres from the Kirkstall Road frontage. The proposed building will be of brick construction with large powder coated aluminium windows to the north eastern (front) elevation and much of the south eastern (side) elevation. Circular 'feature lights' will be used to break up sections of solid wall elsewhere on the building. The building will have a flat roof. Metal roofing with projecting canopies will be provided over the window areas to add interest to the building.
- 2.3 The main entrance into the building will be through a glazed door on the south eastern elevation. A pedestrian ramp protected by steel railings will provide level



access to this entrance. Two serving hatches, (approximately 1.7 metres wide and 1 metre deep and faced in render), for drive through customers will project from the north western (side) elevation. A solid door in the south western (rear) elevation provides a second entrance into the building.

- 2.4 There will be one combined vehicle entrance/exit point into and out of the site. This will be towards the end of the no through road, which runs from Kirkstall Road alongside the south eastern site boundary. This road also provides vehicular access to the adjacent shopping centre and commercial buildings at the rear. A pedestrian entrance into the site will be provided from Kirkstall Road.
- 2.5 Within the site, the drive through route will run round the building and through the rear car park. Fourteen parking spaces, including one disabled space, will be provided within the site at the rear of the building and alongside the south eastern boundary. The submitted site layout plan also shows a bin storage area concealed by a high timber fence to the rear and an external patio area to the front of the building, where cycle parking facilities and benches will be provided.
- 2.6 Tree, shrub and low level planting is proposed along the Kirkstall Road frontage and elsewhere within the site. The existing brick boundary wall, which runs along the much of the site boundary will be retained and extended.
- 2.7 The application site includes a substantial area of undeveloped land to the south west of the proposed restaurant. This land, (the flood risk mitigation area), will remain undeveloped but ground levels will be reduced in accordance with measures detailed in the Flood Risk Assessment, which was submitted with the application.

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site consists of two very distinct areas of land located between Kirkstall Road and the River Aire – the proposed restaurant site and the proposed flood risk mitigation area to the south west.
- 3.2 The proposed restaurant site consists of a flat hard surfaced area of land located on the south western side of Kirkstall Road. The land is currently disused but was last used as a drive through car wash. The buildings and structures associated with this use have been cleared although road markings within the site provide evidence of the former use. The land is surrounded by low brick walls to the north eastern, north western and south eastern boundaries and temporary railings to the south eastern boundary. Vehicle access is currently through the car park to Airedale House (421 Kirkstall Road). There is also an access from the side road to the south eastern boundary, which has been temporarily blocked off.
- 3.3 The second area of the site is an undeveloped area of land to the south west of the site, which runs down to the River Aire. This part of the site is overgrown with vegetation. The mature trees adjacent to the river bank are protected by Tree Preservation Order.
- 3.4 The application site is located within an area of mixed land uses. On the southern western side of Kirkstall Road, commercial uses predominate.
- 3.5 Adjoining the application site to the south east is a modern single storey shopping centre comprising a supermarket and several smaller shop units. The shopping centre is of brick construction with a steep roof with overhanging eaves and two roof tower features. There is a large car park in front of the shopping centre. The adjoining buildings to the north west are 419 and 421 Kirkstall Road, which are also

within the applicant's ownership. 421 Kirkstall Road, (Airebank House), is a large two storey brick building with a saw tooth roof and large car parks to either side. It is occupied by the Duffield Printers at ground floor level with offices for letting above. 419 Kirkstall Road is a detached three storey brick building set back from Kirkstall Road and is occupied by Media Innovations. To the rear of the site is 415 Kirkstall Road, a two storey brick industrial building, occupied by auto engineers.

- 3.6 The north eastern side of Kirkstall Road is of more mixed character. Opposite the application site is Kirkstall Valley Primary School, a single storey brick building, at a much higher level separated from the main road by extensive grounds and a high brick boundary/retaining wall with metal railings on top. Either side of the school, traditional brick terraces of houses predominate with some end units converted into retail or business uses.
- 3.7 The nearest fast food outlet to the application site is a fish and chip shop at 402 Kirkstall Road, approximately 100 metres away. There are also several hot food takeaways and restaurants along Kirkstall Road, which are within easy walking distance of the application site. These include a drive through McDonalds restaurant at Cardigan Fields leisure complex
- 4.0 RELEVANT PLANNING HISTORY:**
- 4.1 H26/221/86 – Planning permission was granted on 15 September 1986 for a car wash centre, comprising detached was hall including control room, store, toilet, pump room and re-circulation.
- 4.2 10/01559/FU – This application, which was submitted by Netto Food Stores, (who occupy the adjoining supermarket at 385 Kirkstall Road), proposed alterations to the access, (which will also serve the proposed restaurant), including installation of signals, pedestrian crossing point and relocation of bus stop. The application was withdrawn on 1 June 2010 prior to determination.
- 5.0 HISTORY OF NEGOTIATIONS:**
- 5.1 The application was submitted following pre-application discussions with the applicant's agents, in summer 2009. These discussions focussed on the principle of development and the scope of the assessment required under Planning Policy Guidance PPS6 'Planning for Town Centres.' (This document is now superseded by Planning Policy Guidance 'Planning for Sustainable Economic Growth – PPS4). Detailed design issues were not discussed.
- 5.2 Negotiations have also taken place with the agents during consideration of the current application. As originally submitted, the proposed development was considered unacceptable with highway, landscape, design and access officers being unable to support the application. The applicant has taken positive action to address outstanding concerns and as a result the submitted plans have been revised twice during assessment of the application.
- 6.0 PUBLIC/LOCAL RESPONSE:**
- 6.1 The application was advertised by a site notice dated 1 April 2010. The publicity period expired on 22 April 2010. Several representations were received; these are summarised below. Contributors were also notified about the submission of the latest set of revised plans on 19 August 2010 but to date no further representations have been received.
- 6.2 Councillor John Illingworth has objected to the application – in summary impact on traffic congestion and the bus priority scheme on Kirkstall Road, increased traffic in

close proximity of a primary school and the area is already saturated with drive through facilities and fast food outlets. He also declares his interest as a governor of Kirkstall Valley Primary School and asks if the application could be discussed by school governors.

6.3 Councillor Bernard Atha is generally supportive of the application. He considers that the proposed development would have no detriment to the immediate area and would result in a considerable improvement.

6.4 A petition signed by five Kirkstall residents and two individual letters objecting to the proposed development has been received raising the following issues:

- The proposed development will increase concerns about child safety as children will cross the road to get to it
- There will be increased smells and traffic
- The proposed development will result in increased crime, disorder and public nuisance and the restaurant will become a meeting point for youths.
- Given the number of food outlets which already exist between Cardigan Fields and the application site, adding another will turn the area into a fast food ghetto at the expense of industrial and retail activity
- Litter will increase with customers discarding food wrappers – pedestrians close to the site and motorists further along Kirkstall Road
- The design and access statement seems to imply extending recreational use along a longer stretch of Kirkstall Road with a view to supplanting the industrial usage of other sites in the vicinity thereby changing the character of the area.
- The site is opposite a primary school, which is inappropriate in the light of childhood obesity concerns and will encourage young children to cross an extremely busy road in search of snacks.
- Most pedestrian trade will come from houses on the north side of Kirkstall Road and as the pelican crossing is over 150 metres away there is a high risk of accidents.
- The difficulties faced by traffic turning onto Kirkstall Road from the adjacent shopping centre will increase.
- The design of the building, which looks like every other drive through in England, is out of character with the area. (Note – the design has subsequently been revised).
- The proposed restaurant will impact adversely on other businesses on Kirkstall Road.

6.5 The applicant, Martyn Duffield, has submitted a statement, and has requested this be brought to Plans Panel' attention together with copy of a letter sent to an objector in response to his concerns. He makes the following points:

- He also declares an interest in Kirkstall Valley Primary School in relation to provision of free printing and factory visits for pupils and has sent a copy of his statement to the head teacher so that the school is aware of the proposal.
- The former car wash with its associated blow up clowns and flapping signs caused nuisance to Kirkstall Valley Primary School. The nature of the brand is for the healthier food option. In any case, the children are not at liberty to leave school during the day and cross the busy Kirkstall Road to purchase snacks.
- A number of local residents, businesses and other local Councillors are in favour of the development. Service infrastructure is required to attract much needed development to the area.
- The proposed development will create 22 local jobs and is in place of a car wash, which employed one person. In addition the proposal will provide an essential facility to the new business centre on the upper floor of Airedale House that will potentially attract 18 new businesses and up to 100 new jobs along and to the 40 existing employees at the printing works.
- Duffield have had a presence on Kirkstall Road for 50 years and have responsibly maintained its building and locality. There will be a clause in the lease of the restaurant covering collection and disposal of all discarded waste in keeping with Duffield's example.
- A comprehensive survey has concluded there will not be a significant impact on traffic congestion on Kirkstall Road.
- There is only one other drive through restaurant along Kirkstall Road.
- An objector's comments about inappropriate design have been taken on board in the preparation of revised plans.

## 7.0 CONSULTATION RESPONSES:

### **Statutory:**

#### Yorkshire Water

No objections subject to conditions

#### Environment Agency

The proposed development will only be acceptable if measures detailed in the Flood Risk Assessment submitted are implemented. Environment Agency has therefore requested conditions to cover this.

### **Non-statutory:**

#### Sustainable Development Unit – Landscape

Objected to the proposals as initially submitted – in particular the design of the building, the inadequate landscape buffer between Kirkstall Road and the turning circle/building apron, lack of landscaping in the car park and poor pedestrian connectivity with Kirkstall Road. These issues have now been addressed on the latest revised plans. Also concerned that the reductions in levels for flood storage will have a serious impact on the riverside trees – suggest that a buffer zone around the trees is maintained at current levels.

### Sustainable Development Unit – Nature Conservation

The site lies next to the River Aire, which is an important wildlife corridor and has been identified as a biodiversity priority area in West Yorkshire. The proposed reduction in ground levels may have an impact on riverside trees, which provide some useful cover for otters and feeding habitat for bats. A landscape scheme for this part of the site will be required and should include native tree and shrub planting to screen the development from the river and provide additional cover. A boundary fence should be provided to restrict access to the flood mitigation area. These issues can be covered by conditions.

### Sustainable Development Unit – Design

Objected to the proposed design of the building as initially submitted. The revised proposals are much better and the building design is now considered acceptable. Requests conditions to cover submission of building materials for future approval.

### Sustainable Development Unit – Land Contamination

No objections subject to conditions.

### Architectural Liaison Officer

There have been a number of fatal road traffic accidents along this section of Kirkstall Road so it is important that highway officers are satisfied that the proposed development does not compromise road safety. Does not consider that the proposed development and internal access arrangements will detrimentally impact on local crime.

### Access Officer

Initially objected to the design of the disabled parking space and the access ramp. These issues have been addressed on the revised plans – now no objections.

### Local Plans

The site lies outside a designated town centre on the Leeds Unitary Development Plan (Review 2006). Although Local Plans have reservations about the PPS4 sequential approach which the applicant has adopted, they are not objecting to the proposed development. The site lies close to Kirkstall Local Centre as defined in the Core Strategy (Preferred Approach). Although boundaries are not given in the Core Strategy to the extent of Local Centres, it could be argued that the site lies next to the Local Centre, which includes the properties close to Cardigan Fields Leisure Park and the shopping centre adjoining to the site. Also flood risk restrictions limits alternative uses for site – the only appropriate uses which are not main town centre uses would be a B2 industrial use or a motor related use.

### Environmental Protection

No objections subject to conditions.

### Highways

Initially had concerns about the accuracy of the junction capacity assessment and the site layout. However these concerns have since been resolved through the submission of revised plans and highways officers no longer have any objections but request conditions covering a service management plan for the site, closure of the access to Airedale House car park, hard surfacing and draining of areas used by vehicles, restrictions on the boundary treatment height across the site frontage and details of secure cycle parking.

### Mains Drainage

No objections subject to conditions.

## Waste Management

The proposed refuse arrangements are acceptable.

### **8.0 PLANNING POLICIES:**

#### Leeds Unitary Development Plan (Review 2006) (UDPR)

The site of the proposed restaurant is located within the main urban area with no specific allocation on the Leeds Unitary Development Plan (Review 2006). The river bank area is within a wider area designated urban green corridor and other open land in built up area and Leeds Local Nature Area, (Kirkstall Valley 'Nature Reserve'). The following policies are considered relevant:

- SP3 Development location strategy
- GP5 Requirement of development proposals
- N8 Urban Green Corridors
- N11 Open land in built up areas
- N12 Priorities for urban design
- N13 Design and new buildings
- N24 Development next to Green Corridors
- N49 Nature conservation
- N50 Nature conservation and protected sites
- S9 Small retail developments (sequential test)
- T2 Transport provision to development
- T24 Parking provision and new development
- A4 Safety and security provision
- BD5 Amenity and new buildings
- LD1 Landscaping schemes

Core Strategy 'Preferred Approach' of the Leeds Development Framework  
Identifies Kirkstall Road as a local centre in the Leeds Centre Hierarchy

#### Central Government Guidance

- PPS1: Delivering Sustainable Development.
- PPS4: Planning for Sustainable Economic Growth
- PPS9: Biodiversity and Geological Conservation
- PPG13: Transport
- PPS25: Development and Flood Risk

### **9.0 MAIN ISSUES**

The main issues are:

- Principle
- Building and landscape design
- Transport and access issues
- Flooding
- Nature conservation and landscaping issues
- Impact on residential amenity

### **10.0 APPRAISAL**

#### Principle

The proposed use as a drive through restaurant is classified as a main town centre use in PPS4 and as such should be assessed under the requirements of PPS4. The application site is not within a town centre area as defined in policy S2 of the UDPR.

The applicant therefore submitted a sequential assessment as part of the application documentation in line with the requirements of PPS4 to justify the development.

Local Plans consider that it would be difficult to justify refusal of the application on policy grounds given that Core Strategy 'Preferred Approach' of the Leeds Local Development Framework Preferred identifies a new Leeds Centre Hierarchy within the main urban area of Leeds city centre, town centres and local centres. Kirkstall Road is identified as a local centre. Although the Core Strategy does not give precise boundaries, the Local Centre includes the properties close to Cardigan Fields Leisure Park and the shopping centre next to the application site. Local Plans are therefore of the view that the application site is located at the edge of the emerging local centre.

The application site is accessed from the same side road as the shopping centre and physically could be seen as an extension to the shopping area. It is also in a sustainable location – several bus routes to various destinations run along Kirkstall Road and the site is within easy walking distance of the residential properties on the north eastern side of Kirkstall Road .

Furthermore, if the proposed restaurant use is considered to be unacceptable, consideration needs to be given to other appropriate uses for this vacant site. As it is located outside a main town centre, office development is likely to be resisted. Flood risk restrictions hinder development further. Therefore the only alternative uses likely to be acceptable in principle are B2 industrial use or a motor related use, which could be problematic in other respects, for example in terms of traffic and noise.

It is therefore considered the principle of a restaurant on this site is acceptable.

#### Building and landscape design

As originally submitted, the application proposed a brick flat building of 'brick box/American diner design'. The proposed building failed to take account of the local built form and did not enhance the quality of the built environment along this section of Kirkstall Road. Furthermore landscaping along the Kirkstall Road frontage was lacking so the internal road round the building dominated the site frontage. By contrast the McDonalds drive through restaurant at Cardigan Fields has substantial landscaping to the Kirkstall Road frontage.

The applicant's response to these concerns has been positive. Possible design options were explored with his architect and the building has been re-designed and revised plans submitted. It is considered that the proposed building is now of a better design, which will stand out on its own merits and thereby play a positive role in the enhancement and regeneration of this section of Kirkstall Road. To turn to the external environment around the building, landscaping is now proposed along the Kirkstall Road frontage and elsewhere within the site together with a pedestrian access direct from Kirkstall Road.

#### Transport and access issues

A transport statement was submitted with the application – however highway officers had concerns about the internal site layout and the capacity of the junction of the side road with Kirkstall Road in view of traffic congestion particularly at peak times along Kirkstall Road. A traffic statement addendum and revised plans were submitted in response to these concerns. In addition highway officers have considered the junction independently of the Transport Statement. Their conclusion is that the proposals are now acceptable on highway grounds and they have now withdrawn their previous objection.

The revised plans also resolve the access officer's previous concerns regarding disabled car parking space and ramp design.

### Flooding

The site is located within Flood Zone 3a where there is a high risk of flooding. The land use proposed by the application is defined as a 'less vulnerable use' by PPS25. Such uses will only be permitted in Zone 3a where the sequential test and exception test have been applied.

Whilst there are sequentially preferable sites available outside Flood Zones 2 and 3 which could accommodate the proposed use, as stated earlier in this report PPS25 makes it difficult to find an alternative use for the site. Given that Environment Agency have no objection to the proposed development provided the measures detailed in the submitted Flood Risk Assessment are implemented, it would be difficult to justify refusal of the application on flooding issues. The site incorporates a substantial area of undeveloped land located between the proposed restaurant and River Aire, which will be used for flood risk mitigation.

### Nature conservation and landscaping issues

Ground levels will be reduced in the flood risk mitigation area to meet Environment Agency requirements. It is considered important to ensure that these works do not impact adversely on the long term health of the protected trees as they are a very attractive feature along the river bank and provide cover for otters and feeding habitats for bats. As detailed proposals for this area have not been submitted, they have been conditioned.

The proposed development also represents an opportunity to carry out further planting in this area to enhance biodiversity and secure better management of this land. These matters can also be addressed through condition.

The flood risk mitigation area will remain undeveloped and will therefore continue to provide an effective transition between the built environment and the urban green corridor/open land adjoining the river.

### Impact on residential amenity

The nearest houses are on the opposite side of Kirkstall Road. Whilst Kirkstall Road is a busy road during the day, the volume of traffic reduces significantly at night with a resultant drop in noise levels. Environmental protection officers consider that noise from within the restaurant is unlikely to be a problem but disturbance could arise from the volume of cars accessing the drive through facility and have therefore suggested that opening hours are restricted from 08.00 to 23.30 hours Monday to Saturday and from 19.00 to 23.00 hours on Sunday. Given the nature of the restaurant it is considered that it would not be unreasonable for it to open during the day on Sunday so 11.00 to 23.00 hours is considered to be an acceptable compromise.

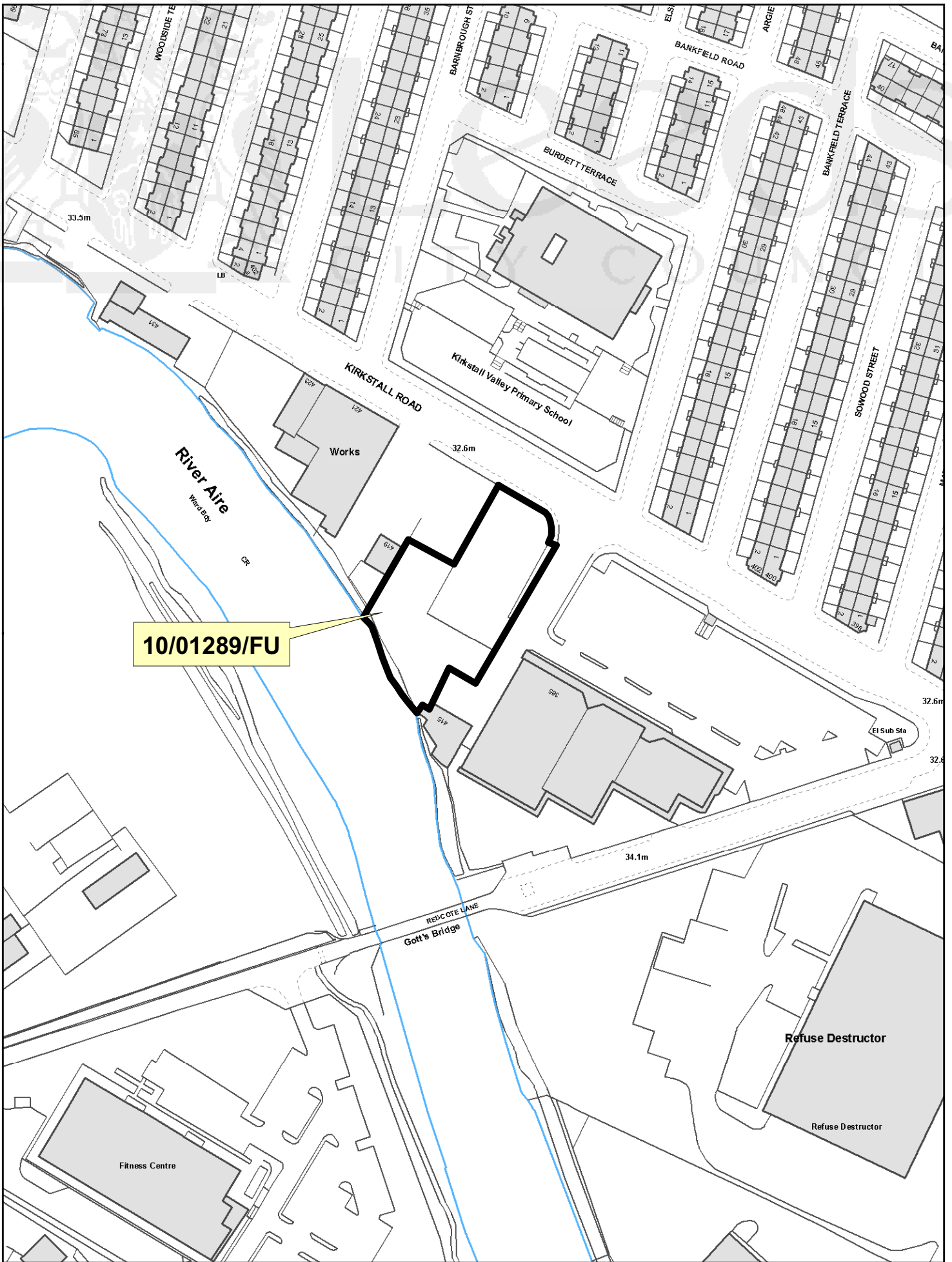
## **11.0 CONCLUSION**

The application as initially submitted was unacceptable and would have been recommended for refusal given highway, access, design and landscape officers' concerns. However the applicant through his agents has responded positively to officers' concerns and has submitted revised plans, which are now acceptable. It is therefore recommended that planning permission is granted.

### **Background Papers:**

Application and history files – application file 10/01289/FU  
Certificate of Ownership...Certificate A on application form completed





10/01289/FU

# WEST PLANS PANEL



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Originator:	Steven Wilkinson
Tel:	0113 247 8000

## Report of the Chief Planning Officer

### **PLANS PANEL WEST**

Date: 7<sup>th</sup> October 2010

**Subject: APPLICATION 10/03129/FU – Four storey side extension with terrace at third floor, attached single garage with terrace over, new rooflight to front and alterations including removal of front and rear dormer windows at 20 Rockery Road, Horsforth, Leeds, LS18 5AS**

APPLICANT	DATE VALID	TARGET DATE
J Snellgrove	7 <sup>th</sup> July 2010	1 <sup>st</sup> September 2010

<p><b>Electoral Wards Affected:</b></p> <p>Horsforth</p> <p><input checked="" type="checkbox"/> Ward Members consulted (referred to in report)</p>
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<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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### **RECOMMENDATION:**

**Grant planning permission, subject to the following conditions:**

1. Time limit: 3 years
2. CPLAN
3. Materials (including window frames) to be submitted – stipulating ashlar stone
4. Conservation style rooflights
5. P.D rights removed: All classes and new window openings
6. Rooflight within the zinc addition and first floor window within the west elevation to be obscure glazed
7. Garage door not to overhang the highway when opened or closed
8. Garage door to be dark stained
9. Provision of parking before occupation
10. Full landscaping details
11. Existing dormers to be removed and replaced with conservation style rooflights prior to the first occupation of the extension

- 12. Bat Survey
- 13. Bird protection
- 14. Justification

## **1.0 INTRODUCTION**

The application is brought to Plans Panel given that the previous planning application of a similar nature (08/06627/FU) was formerly brought before Plans Panel on 15<sup>th</sup> April 2010 following a site visit and provoked mixed views with Members voting narrowly to refuse permission, the application was subsequently withdrawn.

## **2.0 PROPOSAL**

The application relates to the construction of a modern four storey side extension with terrace at third floor and attached single garage with terrace over. The proposal will be constructed of stone with hardwood framed contemporary style window openings throughout.

The extension consists of two main rectangular blocks, one three storey and the other single storey. The small lower block incorporates a single integral garage with a hardwood door which opens towards Far Reef Close. A large garden terrace is present at first floor level above the integral garage. The terrace is enclosed by low glass balustrading. The larger block contains three storeys of habitable rooms with a zinc clad gable feature on top which encloses a small roof terrace accessed via the converted attic. The extension is setback 400mm from both the front and rear walls of the property, exposing the extent of the existing gable end of the terraced row.

The proposal will also result in the loss of the existing front and rear dormer windows, seeking to enhance the existing terrace by replacing them with conservation style rooflights. Furthermore; the existing detached pre-fabricated garage which is situated on detached garden land to the rear of the site will also be demolished as part of the scheme. The garage will be replaced by two off-street car parking spaces and landscaping will be retained.

## **3.0 SITE AND SURROUNDINGS:**

The existing property is an attractive Victorian end-terraced dwelling constructed of natural stone with a slate roof. The surrounding area is predominantly residential consisting of a mixture of terraced, semi-detached and detached properties of varying scale and design. The majority of the surrounding dwellings are constructed of similar natural stone and natural slate materials, which are characteristic of the Horsforth Conservation Area in which the property lies. The majority of the buildings within the conservation area date from the latter half of the 19<sup>th</sup> Century. Many of the buildings are large detached structures but a small smattering of historic terracing also exists, such as at the application site. The site is located within Character Area 3 – Long Row and Bachelor Lane of the conservation area where the area is representative of the domestic development that took place around the historic core of the Horsforth. The area also contains some of the oldest houses in residential Horsforth, which are primarily of local sandstone construction.

The property has a good sized garden area to the side which is situated in an elevated position above Far Reef Close. The property also has a further garden

area to the rear which is located on the opposite side of the highway. The dwelling has an existing large box style dormer window to the front and pitched roof dormer window to the rear, both of which appear to be clad in white Upvc. A detached pre-fabricated garage is also present on the detached land to the rear of the site. Land levels differ significantly between the front and rear elevations of the terraced row. Consequently; the property is two storey's in height to its front elevation (Rockery Road) and three storey's in height to its rear elevation (Far Reef Close). The side gable of the property is also situated in an elevated and prominent location within the streetscene, when viewed from Far Reef Close which is an unmade highway. The property is also visible from wider views across the locality to the east of the site.

#### **4.0 RELEVANT PLANNING HISTORY:**

08/06627/FU - Part three storey part single storey side extension with roof terraces at first floor and fourth floor levels (Withdrawn - 16.04.2010)

27/7/01/FU - Dormer window to front and rear (Refused - 06.03.2001)

27/75/01/FU - Dormer window to front and rear (Approved - 22.08.2001)

#### **5.0 HISTORY OF NEGOTIATIONS:**

No amendments have been sought during the course of the planning application. However; the development has evolved significantly since the previous planning application (08/06627/FU) in light of comments received from members during the previous Plans Panel and discussions with the planning and conservation officer at the pre-application stage. The main changes include creating an extension which was less stark to the previous proposal in particular removing the flat roofed element. Furthermore; the garage door has been recessed so that it does not overhang the carriageway, in reference to previous highways concerns.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

In total three letters of representation have been received. All three of the letters are in objection to the proposal. Two of the letters are from neighbouring occupants

##### ***The objection letters raised the following main concerns:***

- (i) Design is out of keeping with the conservation area/streetscene
- (ii) Privacy/overlooking.
- (iii) Parking.
- (iv) Ancillary disturbances from building work (such contractors parking, access during construction)
- (v) Impact on a legal right of way.

Horsforth Town Council also considered that the design is out of keeping with the conservation area/streetscene

#### **7.0 CONSULTATIONS RESPONSES: Key points**

##### ***Design Officer:***

- Overall, do not formally object to the scheme as it is not out of context or visually discordant.

- The scheme now appears to be a watered down version of the original intentions and is now neither modernist nor complementary in approach.
- Concerns that the roof structure is inappropriate and blocks any sense of the original gable. The previous scheme incorporated a flat roofed terrace which created a strong decisive statement respect the end gable feature. Disappointed that this approach was not pursued more rigorously.

***Conservation Officer:***

- Substantially content with the scheme as it manages a tricky balance between contextualism and innovation by respecting the existing terrace, whilst presenting a new building of distinction.
- Some concerns regarding the division of the apex. It is considered that a more symmetrical pattern is more appropriate.
- It is also important that the extension is clad in ashlar stone.

***Rights of Way (from previous application):***

- Map indicates that no Public Right of Ways are situated across the site.

***Nature Conservation (from previous application):***

- A reasonable likelihood of a bat roost is present. As such a bat survey is required.
- If approved, a condition also has to be attached to protect wild birds during breeding season.

**8.0 PLANNING POLICIES:**

***National:***

- Planning Policy Statement 1 - Delivering Sustainable Development (PPS1) sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.
- Planning Policy Statement 5 – Planning for the Historic Environment (PPS5) sets out the Governments policies on the conservation of the historic environment.

***Local:***

- Policy GP5 of the Leeds Unitary Development Plan (Review) 2006 - seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
- Policy BD6 of the Leeds Unitary Development Plan (Review) 2006 - All alterations and extensions should respect the scale, form, detailing and materials of the original building.
- Policy N19 of the Leeds Unitary Development Plan (Review) 2006 – refers to development within conservation areas.
- Policy BC7 of the Leeds Unitary Development Plan (Review) 2006 – refers to the use of building materials within conservation areas.
- Policy N12 of the Leeds Unitary Development Plan (Review) 2006 – Proposals should respect the fundamental priorities of urban design.
- Policy N13 of the Leeds Unitary Development Plan (Review) 2006 – The design of all new buildings should be of high quality and have regard to the character and

appearance of their surroundings. Good contemporary design which is sympathetic or complementary to its setting will be welcomed.

**Supplementary:**

- SPG: Neighbourhoods for Living: A guide for residential design in Leeds (2003).
- Horsforth Conservation Area Appraisal and Management Plan (2008) – sets out the features that contribute to its distinctiveness and identifies opportunities for its protection and enhancement. The appraisal document is a material consideration in the determination of planning decisions. The draft appraisal went through a six-week consultation process and was amended in light of the comments received. The appraisal document was approved by Leeds City Council in November 2008 and endorsed by the Planning Board.

**9.0 MAIN ISSUES**

- Impact on Conservation Area (Streetscene/design and character)
- Privacy
- Overshadowing/Dominance
- Parking Provision/Highway Safety
- Representations

**10.0 APPRAISAL**

**10.1 Impact on Conservation Area (Streetscene / Design and Character)**

The property is located within the Horsforth conservation area. The property along with the rest of the Victorian terraced row is identified as a positive structure within Character Area 3 of the Horsforth Conservation Area Appraisal and Management Plan (2008). The property is situated within an elevated and prominent location in the streetscene and is also visible from wider views into the conservation area from the east. As such the proposal is situated within a sensitive setting.

The proposed extension is of contemporary design and seeks to define the old and the new by highlighting the quality of the historic structure and optimising its integrity with contrasting materials and opening detailing. In particular the proposed scheme incorporates strong corners and its front and rear walls are slightly set-in to express the original gable. The proposed fourth floor gable feature is also a direct reference to the existing terrace and its setback form ensures that it is subservient and frames the historic gable. Furthermore; the use of a robust palette of high quality materials such as natural stone, zinc, hardwood timber and toughened glass is considered to compliment the attractive surroundings.

Adhering to the concept of highlighting the old and new the proposal will seek to help return the original terrace back to its attractive simple form by removing the existing large dormers, pre-fabricated garage and timber fencing which are of little architectural merit and presently detract from the conservation area. These will be replaced by conservation skylights, stone walling and landscaping along with the re-

instatement of the chimney. These features are considered to be more sympathetic to the surrounding historic context, restoring the dwelling back to its previous form. The notion of highlighting the old and new within the proposal is welcomed given the significant difficulties associated with more traditional style extensions such as achieving a good materials match. This can often lead to new extensions seeming discordant within the historic context and appearing as strident additions.

In conclusion it is considered that the proposal is an appropriate development as it sufficiently respects the existing historic terrace, whilst presenting a new addition of distinction and significant architectural merit. Consequently it is considered that the proposal will not be unduly out of context or visually discordant within the surrounding area. Thus, on balance, the development will not be detrimental to the character or appearance of the Horsforth Conservation area, present streetscene or the original dwelling.

## 10.2 Privacy

The proposal contains main windows within its side and rear elevations. However; the windows will be situated over 45 metres from the nearest neighbouring dwellings to the north and east of the site. Even taking account the proposals elevated position within the streetscene, these distances vastly exceed the distance recommendation of 21 metres contained within Neighbourhoods for Living (Supplementary Planning Guidance). It is therefore considered that no significant overlooking of these neighbouring dwellings will occur as a result of the proposal. It is noted that the neighbouring dwelling at 23 Far Reef Close is situated in closer proximity to the proposal. However; the neighbouring front elevation is situated at a significant angle to the proposed side and rear window openings which reduces the overlooking potential. Additionally the proposed ground level side/rear wrap-around window will be situated over the recommended 21 metres from the neighbouring dwelling. It is therefore considered that the proposed side and rear openings will not be unduly detrimental to the privacy of any neighbouring properties. The proposal also incorporates window openings within its front elevation. However; the first floor window opening will serve a dressing room and will be obscure glazed effectively preventing any overlooking adjacent to the side wall of the original dwelling. Furthermore; the windows are also situated towards the original dwelling and directly face the host dwellings existing front garden area, approximately 9.5 metres from the common boundary with the neighbouring amenity space to the west. Thus; the proposal complies with the recommended distance of 7.5 metres. It is therefore considered that the proposed front windows will not be unduly detrimental to the privacy of any neighbouring dwellings.

The proposal incorporates the formation of a substantial garden terrace above the integral garage. The terraced area is situated on a higher land level than the side garden area, however it will be situated over 7.5 metres from the nearest neighbouring amenity space and 18 metres from the nearest neighbouring dwelling to the north and east of the site. The neighbouring dwelling at 23 Far Reef Close also contains some significant vegetation along its front boundary, which will further reduce any overlooking. No significant overlooking will occur to the west of the site given that the terraced area will be screened by the existing stone boundary wall which is situated on higher land level and will stand over 1.8 metres above the garden terrace. A smaller terraced area is also proposed on the roof of the side extension at third floor level. It is noted that the terraced area is situated in an elevated position above neighbouring dwellings and land. However; the terraced area will be enclosed by a zinc gable shell to the front, with the exception of a skylight. This skylight will be obscure glazed given its low cill height. It is noted that the rear and side of the gable



feature incorporates clear glazing. However; these elements will be slightly recessed from the edges of the extension and given the previously mentioned substantial distances to the nearest neighbouring dwelling to the north and east of the site it is considered that the terraced area will not have the opportunity to significantly overlook any adjacent neighbouring amenity space of properties at close quarters. The proposal also incorporates the installation of rooflights to the existing property. It is considered that the rooflights will have a significantly lower potential for overlooking than the existing dormer windows which they will replace. It is therefore considered that the proposal will not be unduly detrimental to the privacy of any neighbouring occupants.

### 10.3 Overshadowing /Dominance

The proposal is of significant scale/bulk and is located on a significantly higher land level than the neighbouring dwellings to the north and east. However; the proposed four storey extension will be located over 20 metres from the nearest neighbouring property and is of reduced height compared to the original dwelling. At this substantial distance it is considered that the proposal will not have a detrimental impact on any of the neighbouring dwelling in terms of over-dominance and consequently the neighbouring occupants will retain an adequate outlook from their front habitable room windows. Furthermore; given the neighbouring dwellings orientation in relation to the proposal and the significant distances to the neighbouring land and habitable room windows it is considered that the neighbouring dwellings should still receive a substantial amount of sunlight for the majority of daylight hours.

It is noted that the proposed extension is situated in close proximity (2 metres at its nearest point) to some neighbouring land to the north-west. As a consequence the proposal is likely to result in an increased level of overshadowing to a small part of this land during the morning period. However; the proposal incorporates a pitched roof design which is lower than the roofline of the original dwelling. The neighbouring amenity space provision to the north-west is also expansive and the proposal is likely to only impact on a small area of this land for less than half of the day. Furthermore; the affected area is also situated well away from the main neighbouring dwelling and adjacent to a public footpath, as such it is unlikely to be a primary area of amenity space for the neighbouring occupants. It is therefore considered, on balance, that the proposal will not result in significantly overshadowing or over-dominate any neighbouring properties/amenity space.

### 10.4 Highway Safety/Parking

The proposed extension incorporates an integral single garage to its rear elevation which is accessed from Far Reef Close. The garage measures at least 3 x 6 metres internally and as a consequence it is considered to be large enough to accommodate a standard car off-street. Two additional off-street car parking spaces will also be created on the detached land to the rear of the property. As such it is considered that the proposal will retain an adequate off-street car parking provision. Furthermore; the proposal is considered to be a significant improvement on the existing car parking arrangements at the site which are situated within the detached garage and on the hardstanding to the rear of the property. Consequently; the proposal is unlikely to result in any undue pressure for further on-street parking within the locality, which could be detrimental to highway safety. Additionally; the rear of the property is located along an unmade road (Far Reef Close), which has low traffic volumes. As such manoeuvring into the proposed parking spaces, even in a reverse gear is unlikely to

be significantly detrimental to highway safety. Furthermore; the garage door is also setback 1.3 metres from the front boundary wall of the site which will prevent it from obstructing the highway when it is opened or closed. As such it is considered that the proposed development will not be unduly detrimental to highway safety.

## 10.5 Representations

As mentioned previously three letters of representation have been received. Two of the letters are from neighbouring households in objection to the proposal. The remaining letter is from Horsforth Town Council also in objection to the proposal.

### ***The objection letters raised the following main concerns:***

- (i) Design is out of keeping with the conservation area/streetscene
- (ii) Privacy/overlooking.
- (iii) Parking.
- (iv) Ancillary disturbances from building work (such contractors parking, access during construction)
- (v) Impact on a legal right of way.

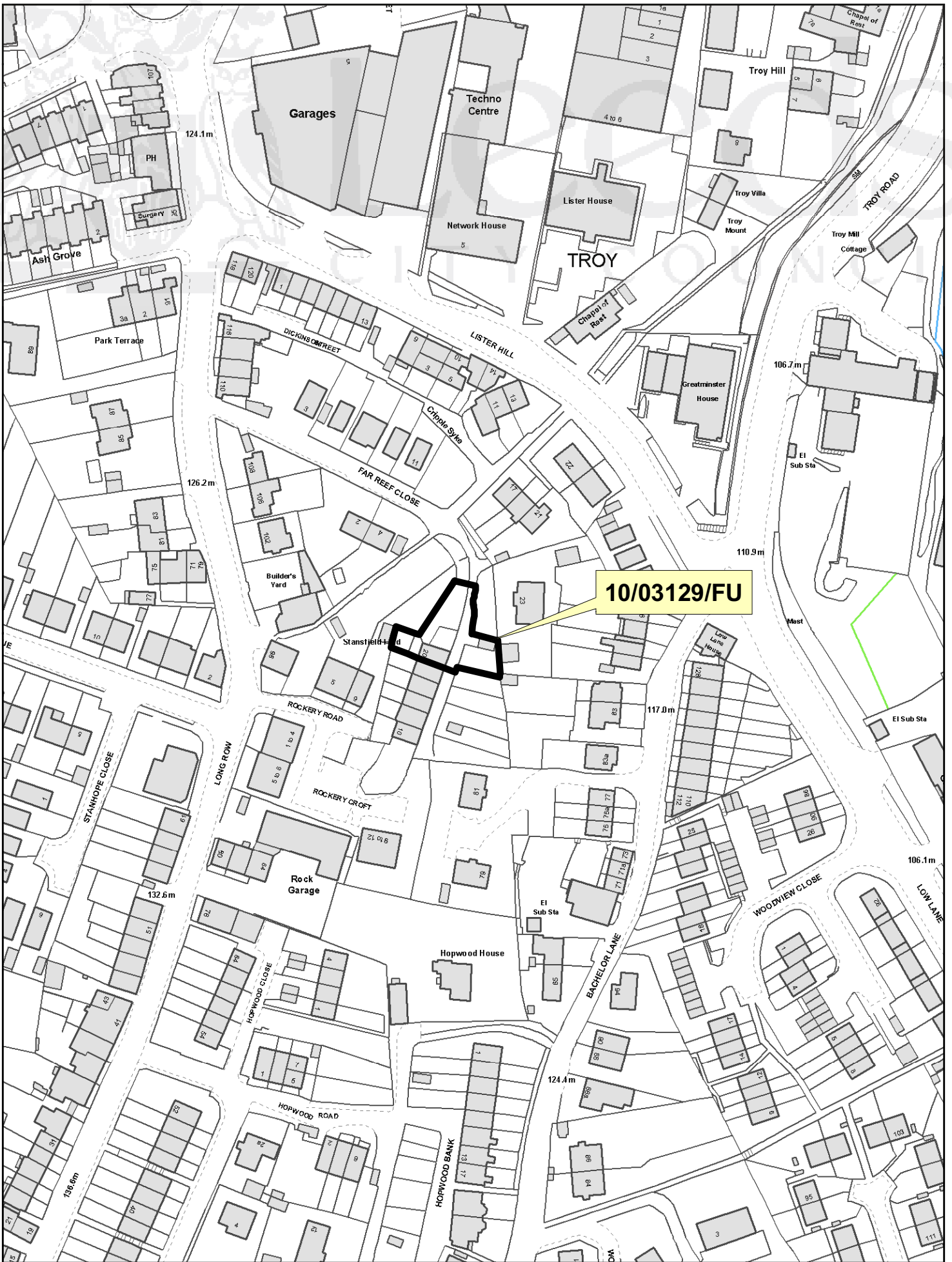
*In response:* Issues (i - iii) have been covered within the appraisal above and as a result will not be discussed further.

iv – Ancillary disturbances from building work: - These issues are not considered to be material matters for planning consideration.

v – Impact on a legal right of way: No Public Right of Way will be obstructed as a result of the proposal. The presence of neighbouring access across the site has been noted by the objectors as being within their deeds. However; this is considered to be a private/legal matter between neighbouring occupants and not an issue for planning consideration.

## 11.0 **CONCLUSION**

For the reasons outlined in the above report and taking into account all other material considerations it is recommended that planning permission should be **approved** for the aforementioned reasons, subject to conditions.



# WEST PLANS PANEL

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Originator:	Mathias Franklin
Tel:	0113 24 77019

**Draft Report of the Chief Planning Officer**

***PLANS PANEL WEST***

**Date: 7<sup>th</sup> October 2010**

**Subject: APPLICATION NUMBER 10/03603/FU & 10/03604/CA - Part demolition of cinema and erection of mixed use development up to 4 storey's comprising, retail, restaurant, 12 two bedroom apartments and ancillary extension and smoking terrace to the existing Arc Cafe Bar and external works, at the former Lounge Cinema, North Lane, Headingley**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
ATC Properties Ltd	19.08.2010	03.11.2010

<p><b>Electoral Wards Affected:</b></p> <p><b>HEADINGLEY</b></p> <div style="border: 1px solid black; display: inline-block; padding: 2px;">Y</div> Ward Members consulted (referred to in report)	<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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**RECOMMENDATION:**

**To defer and delegate approval to the Chief Planning Officer subject to the conditions specified (and any others which he might consider appropriate and the completion of a legal agreement within 3 months from the date of the resolution, unless otherwise agreed in writing by the Chief Planning Officer, to include the following obligations:**

- 1. Travel plan - £7000 for metro cards and car club contributions**
- 2. Travel plan monitoring fee - £2500**
- 3. Public Transport Contribution - £38,469**
- 4. Green space; £27,706 for off site Greenspace provision in the locality**
- 5. Public car parking to be made available for retail shopper for a 2 hours free parking (subject to detailed method for refunding car park users)**

**Or, if agreement cannot be reached on the S106 matters, defer and delegate refusal.**

**Suggested Conditions:**

1. Three year time limit on permission.
2. Samples of external materials to be submitted.
3. Samples of surfacing materials to be submitted.
4. Sample panel of all external materials to be approved.
5. Windows details to be submitted and approved prior to commencement of development.
6. Boundary treatments to be approved.

7. Area used by vehicles to be laid out/surfaced/drained.
8. No external storage of plant/materials/products.
9. Submission/approval/implementation of refuse disposal facilities.
10. Prevention of mud/grit/dust being pulled onto highway.
11. Full details of hard/soft landscaping to be submitted.
12. Implementation of landscaping.
13. The landscape details to be submitted shall provide full construction details of tree pits and raised planted areas to be provided in paved areas.
14. Details of a sustainable development statement to be approved.
15. Provision of access and conveniences for disabled.
16. Disabled parking provision.
17. 19 no. spaces in the rear car park to be made available for public use and an associated package of signing and lining to inform motorists that the spaces are for short stay use only.
18. Car Park Management Plan
19. Cycle parking facilities and access to them to be provided.
20. Contamination land conditions
21. Noise attenuation measures to be carried out in accordance with submitted scheme.
22. Details of loading/unloading/servicing provision, including hours, to be agreed.
23. Proposals to minimise dust during construction.
24. Construction management plan
25. One-way route through the site clearly signed.
26. Separate system of drainage along with flow and attenuation details to be approved prior to commencement
27. Prior to the commencement a survey and recording of any historical features within the building to be undertaken and submitted to the LPA for approval. The report will outline the method to retain or protect any identified historical features
28. Details of Lighting to be submitted.
29. No sale of hot food for consumption off the premises for the A3 unit.
30. Restriction on hours of use of external terrace area.
31. No external playing of amplified music.
32. Glazing to west and north side of small business units to be translucent.
33. No physical opening link between A3 use and existing Arc building.
34. A3 and Arc to be operated as separate units.
35. Notwithstanding the information shown on the approved plan. Render shall NOT be used to clad the upper floors of the North Lane façade.
36. Prior to the commencement of development a method statement for the creation of windows in the North Lane facade shall be submitted to and approved in writing by the LPA. The statement will detail the method used for creating the openings and also how the windows will be inserted and the reveal depths etc shall be explained.
37. Off site highway works to be completed prior to the commencement of development.

On balance, the City Council considers the proposal would not give rise to any unjustified consequences for the character and appearance of the conservation area. In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the Planning Policy Guidance Notes and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan consisting of The Leeds Unitary Development Plan Review 2006 (UDPR).

BC7 , BC8 , BD5, GP5 , N12, N13, N18, N18B, N19, N20, N21, N22, S2-S6, SF8, T2, T5, T6, T24, H15 and H4.

Neighbourhoods for Living SPG

Public Transport Contribution SPD

SPG4 Greenspace

Headingley & Hyde Park Neighbourhood Design Statement (draft)

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

### **10/03604/CA**

1. Three year limit on permission.

2. No demolition to occur without the letting of a contract for redevelopment.

In granting Conservation Area Consent the City Council has taken into account all material matters relating to the building's contribution to the architectural or historic interest of the area and the wider effects of demolition, including those arising from the comments of any statutory and other consultees, public representations about the application and Government guidance and policy as detailed in the Planning Policy Guidance Notes and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), and The Development Plan consisting of the Leeds Unitary Development Plan Review 2006 (UDPR).

N18A (UDP)

N18B (UDP)

## **1.0 INTRODUCTION:**

1.1 Members may be aware that the site is covered by two extant permissions which are both also for a mixed use development. The first was approved by Panel on the 9<sup>th</sup> January 2008 under application number 26/457/05/FU. Consent was also granted for a related application for demolition in a conservation area approved on the 13<sup>th</sup> July 2006 . The scheme for full consent comprised of a development containing office (B1) and retail (A1) part 3 and part 4 storey with business units to the rear and basement parking of 39 spaces and rear surface parking of 29 spaces as well as a service area.

1.2 The second extant permission is for the partial demolition of the cinema with retention of entrance facade and erection of mixed use development up to 4 storey's comprising of retail, restaurant, offices and extension to Arc café bar to form external smoking area, with basement and surface car parking, application 08/04482/FU was granted planning permission in November 2009.

1.3 The applicants have engaged with officers in pre-application discussions as they have stated that due to the downturn in the economy the commercial office market makes the redevelopment of this site no longer viable. Accordingly a mixed use residential scheme has been discussed with officer and the local community through a pre-application process. Members are asked to consider both the Full Application and the Conservation Area Consent for the partial demolition of the Lounge Cinema.

## **2.0 PROPOSAL:**

2.1 The new proposal will involve the partial demolition of the cinema building with the retention of the entrance façade and the majority of the North Lane frontage and erection of a four storey mixed use development comprising retail, restaurant, twelve two bedroom apartments and an extension, and addition of a smoking terrace, to the existing Arc Café Bar. The current proposal consists of two applications:

10/03603/FU – the full planning application; and,  
 10/03604/CA – an application for conservation area consent which is required to demolish part of the existing building. This application is also brought to Panel for a determination with a recommendation to approve.

2.2 The full planning application is an evolution of the previously approved scheme 08/04482/FU. The significant changes include:

- The overall massing and height of the building has been reduced slightly;
- The proposed use of the first, second, and third floors has changed from offices (B1) to residential (C3) use;
- The third floor will also be reduced in size to become a mezzanine floor;
- The removal of the basement car park;
- Alterations to the layout of the surface car park; and
- Retention of the entire North Lane facade.

2.3 A table provided by the applicant showing a comparison between the proposed floor space of the previously approved and currently proposed schemes is shown below:

Approved Office Scheme <b>08/04482/FU</b>	Residential Scheme <b>10/03603/FU</b>
343m <sup>2</sup> A1 Retail	386m <sup>2</sup> A1 Retail
372m <sup>2</sup> A3 Restaurant	418m <sup>2</sup> A3 Restaurant
1426m <sup>2</sup> B1 Offices	975m <sup>2</sup> 12 two bedroom apartments
70m <sup>2</sup> External Smoking Terrace	70m <sup>2</sup> External Smoking Terrace
3m <sup>2</sup> ATM	3m <sup>2</sup> ATM
95m <sup>2</sup> Arc expansion to form storage	47m <sup>2</sup> Arc ancillary
88m <sup>2</sup> Access corridors and bin stores	55m <sup>2</sup> Access corridors and bin stores
520m <sup>2</sup> Basement Car Park	-
45 Car Parking Spaces in total	37 Car Parking Spaces in total
<b>2917m<sup>2</sup> gross internal development</b>	<b>1954m<sup>2</sup> gross internal development</b>

### 3.0 SITE AND SURROUNDINGS:

3.1 The application site is located within the defined town centre of Headingley and is partially within the Conservation Area. The principal frontage is North Lane to the south of the site.

3.2 The site slopes gently downhill from Ash Rd in the north to North Lane in the south. The car park fills the western half of the site and residential units in Derwentwater Terrace back on to the western boundary and are set approximately 1m higher than the level of the car park. These are 2 storey semi-detached houses with single storey rear additions. There is a 1.8m wooden fence along the boundary with some landscaping on the car-park side. The area immediately to the rear of the Arc and Trio is a continuous run of external refuse storage, air conditioning units, skips and free-standing storage containers which create an unpleasant environment.



- 3.3 The former cinema is within the Headingley Conservation Area, with the car park to the rear being outside the boundary. It has a blank brick ground floor elevation to North Lane with a more decorative upper level containing faience (glazed terracotta) pilaster detailing and eaves line. The cinema was built in 1916 but has had its interior removed and refitted in recent years.
- 3.4 To west and east are mixed commercial parades containing retail use, professional services, food and drink units and take away facilities. The site, therefore, lies within the commercial centre of Headingley which brings with it the benefit of being easily accessible by public transport.

#### **4 RELEVANT PLANNING HISTORY:**

- 4.1 08/04482/FU: Demolition of cinema and erection of mixed use development up to 4 storey's comprising of retail, restaurant, offices and extension to Arc café bar to form external smoking area, with basement and surface car parking. Approved November 2009.
- 4.2 26/457/05/FU: Partial demolition of cinema and replacement with a part 3 and part 4 storey building with offices (B1) with ground floor retail units (A1) to North Lane frontage, and attached 2 and 3 storey (B1) building to rear containing small business units. Basement car parking area of 39 spaces and rear surface parking of 29 spaces and service area. Approved 14<sup>th</sup> January 2008.
- 4.3 26/458/05/CA: Conservation area application to demolish part of cinema and part rear wall of bar / restaurant. Approved 14<sup>th</sup> January 2008.

#### **5 HISTORY OF NEGOTIATIONS:**

- 5.1 The developer engaged with Officer in a formal pre-application process and also undertook community consultation prior to submitting this application. Consisting of pre-application meeting with officers and a community exhibition held by the developer. Ward Members were also briefed during the pre-application process.

#### **6 PUBLIC/LOCAL RESPONSE:**

- 6.1 This application was advertised via site notices and also with an advert in the Press. One letter of objection has been received from Councillor Monaghan and 3 letters of objection and one letter of support has been received from a resident.
- 6.2 The grounds for objection are summarised as:
- Design and appearance of the proposed 4 storey building is not in keeping
  - The scale and massing is out of context
  - Windows not in keeping
  - The use of render is not appropriate or the flat roof element
  - The proposal does not accord with the Neighbourhood Design Statement
  - Demolition of the building and in particular the North Lane facade is not supported.
  - No more apartments needed
  - The site should be developed as a multi-storey car park
  - Proliferation of drink establishments

- Litter, noise and anti social behaviour

The letter of support considers that this development will not add to the existing issues in Headingley town centre.

- 6.3 The representations from Councillor Monaghan includes concern over the height of the building and the use of render. Councillor Monaghan is also concerned over another restaurant opening in Headingley and is also concerned regarding the impact of the smoking terrace on the amenity of residents living in the proposed development and nearby. The Councillor suggests conditions that should be attached should the application be approved. The S106 money for greenspace should be spent in the locality not allocated to Rose Park. The Arc balcony should be restricted to a 9pm close time and no speakers should be audible outside and the car park should be publicly available and managed in accordance with the Headingley Car Park Strategy.

## 7 CONSULTATIONS RESPONSES:

### Statutory Consultees

- 7.1 **Highways** – The scheme is acceptable in principle subject to the provision of off-site highway works, the provision of free on-site public car parking and the provision of an acceptable car park management plan.
- 7.2 **Drainage** – Do not object and recommend conditions to ensure drainage discharge from the development is not increased from current levels

### Non- Statutory Consultees

- 7.6 **West Yorkshire Metro** - Request contributions towards Metro Cards for future occupiers
- 7.7 **West Yorkshire Archaeological Service** – Objects to the demolition of the building due to the cinema being a rare example of art deco architect constructed during World War 1 but request a condition for archaeological fabric appraisal prior to the demolition of the building should the Council grant planning permission.
- 7.8 **Environmental Health** – Do not object and recommend conditions to cover hours of use, details of the air conditioning units and grease traps and details of the ventilation system

## 8 PLANNING POLICIES:

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan which consists of the Leeds Unitary Development Plan (Review 2006) unless material considerations indicate otherwise.

### Development Plan:

- 8.1 The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below.

The application site is unallocated within the UDP.  
The adopted Leeds UDP (Review 2006) Proposals Map identifies the site within a defined shopping and conservation area. There are a number of relevant policies in the adopted Leeds UDP Review (2006) as follows:

BC7 Development within Conservation Areas will be expected to be in traditional local materials.

BC8 Certain features of buildings may require to be salvaged.

BD5: Seeks to ensure appropriate design.

GP5: Seeks to ensure development proposals resolve detailed planning considerations.

N12: Seek to achieve appropriate urban design.

N13: Seeks to ensure that the design of the buildings is of a high quality and respects urban design.

N18, N18B, N19, N20, N21, N22: all advocate high quality design which, especially in Conservation Areas, respects it's surroundings. N18 seeks to ensure that buildings which contribute to the character of a Conservation Area are retained.

N18B requires that plans for replacement buildings are approved prior to consent for demolition of the existing is granted.

N25: Seek to ensure the design of boundary treatments is positive.

S2-S6 Shopping Centre Policies - where retail development will be encouraged and permitted. As the site was originally a cinema it has not been allocated as a retail frontage in the UDP, however the parades to west and east and opposite are primary and secondary frontages.

SF8: Development within secondary shopping frontages.

T2 : Guidance relating to new development and the highway network.

T5: Safe and secure access for pedestrians/cyclists.

T6: Satisfactory access for disabled people and persons with mobility problems.

T24: Seeks to ensure that there is sufficient parking provision.

H15: Area of Housing Mix

H4: Residential development

### **Relevant supplementary guidance:**

Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Unitary Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

Neighbourhoods for Living

Street Design Guide

Public Transport Improvements and Developer Contributions

Greenspace relating to new housing development

Supplementary Planning Guidance:

Headingley Renaissance adopted November 2005.

Headingley and Hyde Park NDS (draft)

### **Government Planning Policy Guidance/Statements:**

In addition to the principal elements of planning policy other advice contained in Planning Policy Guidance Notes and replacement national Planning Policy Statements (PPS) may be of relevance to the submitted proposal. This includes:-

PPS1: Delivering Sustainable Development (2005)

PPS3: Housing (2006)

PPS4: Planning for Sustainable Economic Growth (2009)

PPS5: Planning for the Historic Environment (2010)

## **9 MAIN ISSUES:**

- Principle of the development
- Design
- Impact on the character and appearance of the local area
- Impact on residential amenity and the Area of Housing Mix
- Highways issues
- S106 package

## **10 APPRAISAL:**

- 10.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004, indicates that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise. The application site lies within the urban area of Headingley. The site lies within the Headingley Town Centre and also partly within the designated Conservation Area. The site given its proximity to the town centre offers immediate access to public transport provision. The site is regarded as a brownfield site given its former commercial use. PPS4 indicates that in Town Centre locations there is a preference to support mixed use developments in areas which are accessible by a range of public transport modes which encourages the efficient use of land. This is further amplified in PPS1 and PPG13 and UDP policies S2 – S6.
- 10.2 The redevelopment of the site for a mixed use scheme including residential is considered appropriate under the guidance contained within PPS3 Housing. The site as stated is in a highly sustainable location and the proposal makes good reuse of previously developed land. PPS4 supported a range of uses in the town centre including residential. Detailed design and amenity considerations are discussed below but overall the scheme is considered to afford future occupiers of the apartments with a good level of amenity in term of light, outlook, privacy and outdoor amenities, including car parking.
- 10.3 The proposal is considered to comply with the aims and objectives of the policy H15 of the UDP which covers the Area of Housing Mix. The proposal is not specifically aimed at the student market but is not conditioned to exclude them from occupying the apartments. The proposal includes 24 bedspaces in 12 apartments. It is envisaged that the mixed use proposal should contribute to a range of accommodation available within the area. The site is highly sustainable in terms of local amenities and public transport options and also will contribute to the vitality and viability of the town centre. The proposal is not likely to result in increased harm through the cumulative impact of proposals on the amenities on nearby residents. Future occupiers of the apartments will be aware of their surroundings and that the neighbouring uses have a night time dimension which will result in a different level of amenity than would be expected in primarily residential and suburban locations, however the impact of the neighbouring uses is considered compatible with the

proposed residential element in terms of noise and disturbance considerations. Accordingly the proposed residential element of the scheme is appropriate in principle.

- 10.4 Headingley Town centre is characterised by a mixture of developments of contrasting scale and styles featuring both traditional and contemporary developments. It has a busy and bustling ambience and is historically defined by a mixture of commercial uses but with a retail dominance which is also an important characteristic of the Conservation Area. The former cinema building in particular with its decorative faience is an imposing and noticeable landmark within the streetscene and indeed referred to in the community statement Headingley Renaissance (2005) as a key feature.
- 10.5 The principle of redeveloping this site has already been accepted in general terms, including with an A3 (restaurant/café) use and rear smoking area, the current application is considered an improvement upon the design and appearance of the previous approvals and in particular the retention of the entire North Lane facade is welcome for a conservation point of view. The context for previously supporting a development on this site was on the basis of providing a quality design, safeguarding the remaining façade and at the same time ensuring that the development contributed towards the regeneration needs of the area. This application is considered to develop this aspiration further and the overall package including the S106 contributions, mix of use and design of the current application is considered positive.

Impact upon the vitality and viability of the town centre

- 10.6 The current application retains both the retail and restaurant elements proposed in the previous applications which were approved. The restaurant area however is proposed to be enlarged by approximately 100sqm. It is still proposed to keep this unit separate from the existing Arc use. Whilst this increase in floor area for the A3 element would result in an increased intensity of this element of the proposal it is considered that the enlargement is not substantial or likely to harm the objectives of creating balanced mixed and sustainable communities within the defined town centre.
- 10.7 Given that there is an existing night time economy characterised by the presence of bars, restaurants, hot food takeaways and other food establishments, it is clear that the area is sensitive to change and any further material expansion of an A3 use needs to be carefully balanced to ensure that the overall mix of development does not contribute further towards unbalancing the retail and commercial function of the area.
- 10.8 Headingley Town centre has been historically defined as containing a mixture of uses but with a retail dominance and that this feature is a key and important characteristic of the Conservation Area. In recent times the development trend has leaned towards non food retailing and as a consequence the general current situation is one which appears weighted towards the service sector rather than the retail sector. A well proportioned scheme which introduces a mixed used development weighted towards both retail and restaurant and residential uses should therefore be welcomed as an opportunity to redress this imbalance.
- 10.9 The reduction in the overall scheme floor area of this application as apposed to the mixed use commercial and retail scheme previously approved is derived essentially from the loss of the office space units. This is considered to have a neutral effect upon the vitality and viability of the town centre.

- 10.10 It is accepted that the general area is dominated by A5 (hot food take aways) and A4 (bars and pubs) uses and that the historic character of the area, as a retail and commercial centre has diminished over time. Whilst this proposal will sit in between other A4 uses, it is important to recognise that the introduction of retail uses and a restaurant will assist in 'breaking up' this frontage away from A5 and A4 dominated uses and help create a more diverse day time economy along this particular stretch of North Lane. At the same time it will also secure the retention of the entrance façade and entire North Lane frontage which, given the recent history, has been at risk. In planning policy terms, the introduction of mixed use commercial developments is consistent with the approach set out in PPS4 and Revised UDP policy S2 which seeks to retain the vitality and viability of town centres by securing a wide range of forms of retailing and other related services. It is not therefore considered that the development will contribute towards the further erosion of the area in terms of its general characteristics.
- 10.11 It is not considered that a development of this mix will have a negative and detrimental impact upon the vitality and viability of the town centre. As a consequence the proposal is considered to be contrary to the PPS5, PPS1, PPS3 and UDP policies GP5, H4 and H15, S2 and S4.

#### Design Issues

- 10.12 In assessing proposals which affect a Conservation Area it is noted that Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving and enhancing the character and appearance of the Conservation Area.
- 10.13 The previous development proposal established the principle of redeveloping this site up to four storey's whilst retaining the front section of the façade containing the decorative faience of the former cinema entrance. The previous approvals therefore allowed the removal of the auditorium and its side elevation and to replace it with a building which has a substantially similar footprint except for the rear wall being 1.2m further back in to the site which results in a slightly wider building than the existing. The current proposal retains the entire North Lane frontage which is welcome when considering the desirability to preserve or enhance the character and appearance of the Conservation Area.
- 10.14 The proposed new build element to the rear of the cinema and the north Lane third and fourth level extension are considered well designed and in keeping with the scale, massing and general character of the area in relation the Arc and Trios developments. Though the building would increase in height above the existing cinema roof level it is noted that both the extant consent would have been higher than this current proposal in addition to being a bulkier and being a less sympathetic design addition to the roofscape. In addition the massing and bulky nature of the extant consent roof designs are considered material considerations in the determination of this application. The current proposal includes a shallow pitched roof with natural slate and a dormer to accommodate duplex apartments from the third floor. The residential elements of the proposal would be accommodated in the first, second, third and fourth floors of the building including within the proposed dormer fronting North Lane. The design, siting and appearance of the roof extension is considered an improvement upon the previous permissions and is smaller than what has previously been approved. The proposed roof extension and dormers are considered to be in keeping with the scale and appearance of the existing building and although large are not considered to detract from the prestige of the retained North Lane facade in addition the proposed roof extension is considered well design

and sited within the street scene and in accordance with the design guidance contained within UDP policies BC7 and the draft Headingley and Hyde Park Neighbourhood Design Statement (draft).

- 10.15 The applicants have revised the scheme to remove the proposed render from the North Lane façade and as such the existing brickwork which is a feature that contributes to the buildings character will be retained and preserved.
- 10.16 The rear of the new build faces into the courtyard area. This contains an extension to the Arc, a service area and glazed area set against the rear elevation of the Arc building and the new building on the site of the auditorium. In front of this would be a landscaped terrace. Part of the terrace is covered by an asymmetrical glazed canopy which is shown as a smoking area. This element of the proposal is largely unchanged from the extant approved schemes.
- 10.17 Given the extant consents for the substantial demolition of the building and replacement scheme, that the design changes are positive in comparison, it is considered that the development proposal is acceptable from a design perspective and that it will assist in preserving the character of the conservation area and retaining an important façade of a building which contributes to the Heritage Assets of the Headingley Conservation Area. The proposal is therefore reflective of the policy requirements set out in PPS5 and Revised UDP policies BD5 ,GP5 , N12, N13, N18A, N19 and N20.

#### Impact upon living conditions

- 10.18 In the previous schemes a smoking area was proposed to the rear of the ARC as well as a balcony at first floor level overlooking the Rose Garden to form an ancillary area to the restaurant. The current proposals include 12 apartments which would bring residents closer to the proposed smoking area however, it is considered that the introduction of a smoking area to the rear of the Arc will not lead to any further material increase in noise and general disturbance sufficient above the existing situation generated by exiting A4 uses in the locality. The residential elements of the scheme would not be over looked or suffer any loss of privacy from the smoking area due to the relationship of windows to the smoking area. In addition it is not envisaged that the use of the smoking area would generate any serious noise or disturbance concerns to future occupiers.
- 10.19 There are significant concerns generally in Headingley about the cumulative impact of night time activities on the amenity of the residential areas which immediately surround the centre. The introduction of the A3 use needs to be considered in this context. Officers do however consider that because of the nature of the use proposed as an A3 use and not a primarily drinking use as A4 or takeaway as A5 then the increased impact of this café/restaurant use and in this location at the hub of the centre would not be such as to justify refusal on amenity grounds. Weight is also attached to the extant planning permission in this regard.
- 10.20 Conditions are also recommended to ensure separation between the proposed A3 unit and the adjoining Arc business. It will be noted from information above that the 'licensing cumulative impact policy' relates essentially to restriction of increased vertical drinking establishments and takeaways and thus recognises the difference of impact between those uses and uses such as this proposed.
- 10.21 On this basis it is therefore considered that the proposal would not conflict with Revised UDP policy GP5.

#### Highways and car parking issues

- 10.22 Vehicular access to the site will be via entrance from Ash Road and exiting via North Lane. This is the same arrangement as was previously approved.
- 10.23 There are 37 parking spaces proposed in total, this is a reduction of 8 spaces over the previously approved scheme. Of these there are 18 parking spaces are given over to public parking within the site (a reduction of 5 spaces over 23 previously approved). There is no objection from the Highway Authority on the basis that subject to the public spaces being made available to the public free of charge for the first 2 hours to cater for customers to the proposed shops, and existing shops and restaurants in the vicinity of the site. 2 hours free parking would also be in line with the new Headingley Parking Strategy, which has been promoted following public consultation and car parking surveys of all public and private car parking within Headingley Centre. These elements have been conditioned and the shopper car parking has been placed in the S106 so as to deal with the method for refunding costumers who use the car park.
- 10.24 The plans show that the site can accommodate a refuse vehicle entering the site from Ash Road and existing via North Lane in a forward gear. This is the same arrangement as previously approved.

#### Section 106 Package

- 10.25 The proposal requires contributions towards Greenspace in accordance with UDP policy N2 and N4 and SPG4. The applicant has confirmed they will contribute the required amount which will be used for enhancement of existing greenspaces in the locality. It is not proposed to ring fence this money to be spent on Rose Court. This ameliorates the comments made by Councillor Monaghan who was requesting that the Greenspace money be made available for spending in the wider locality.
- 10.26 The proposal also requires a contribution towards Public Transport infrastructure in line with the SPD. The applicant has confirmed there agreement to this payment.
- 10.27 The proposal also requires contributions towards sustainable travel options and Traffic Regulation Orders. Again the applicant has agreed to the contributions requested by Officers pre-application discussions. The money will be used to contribute towards Metro cards for future occupiers and also towards contributing to the car club scheme that already operates on North Lane. These measures should promote sustainable travel in this town centre location which is well served by bus and rail services. The applicant has also confirmed that they will pay the Travel Plan monitoring fee.
- 10.28 The use of the car park by retail shoppers for a 2 hour period for free. The mechanism for refunding is yet to be agreed. The applicant is uncomfortable with this and considers that the request is unfair and unnecessary. In addition the applicants consider there are financial reasons why they cannot provide a 2 hour free car park to all users. Officers consider that as some of the on street car parking on Ash Lane will be lost to accommodate the turning area for a HGV and that the retail unit could be let to a single operator then the sites intensity will increase and some parking bays could be lost on street. As a minimum the developer has agreed to ensure that 19 spaces will be available for public use and that users of any ATC premises or facility can receive free parking when they purchase a product from these premises. Officers will update Members with the outcome of the negotiations at Panel.



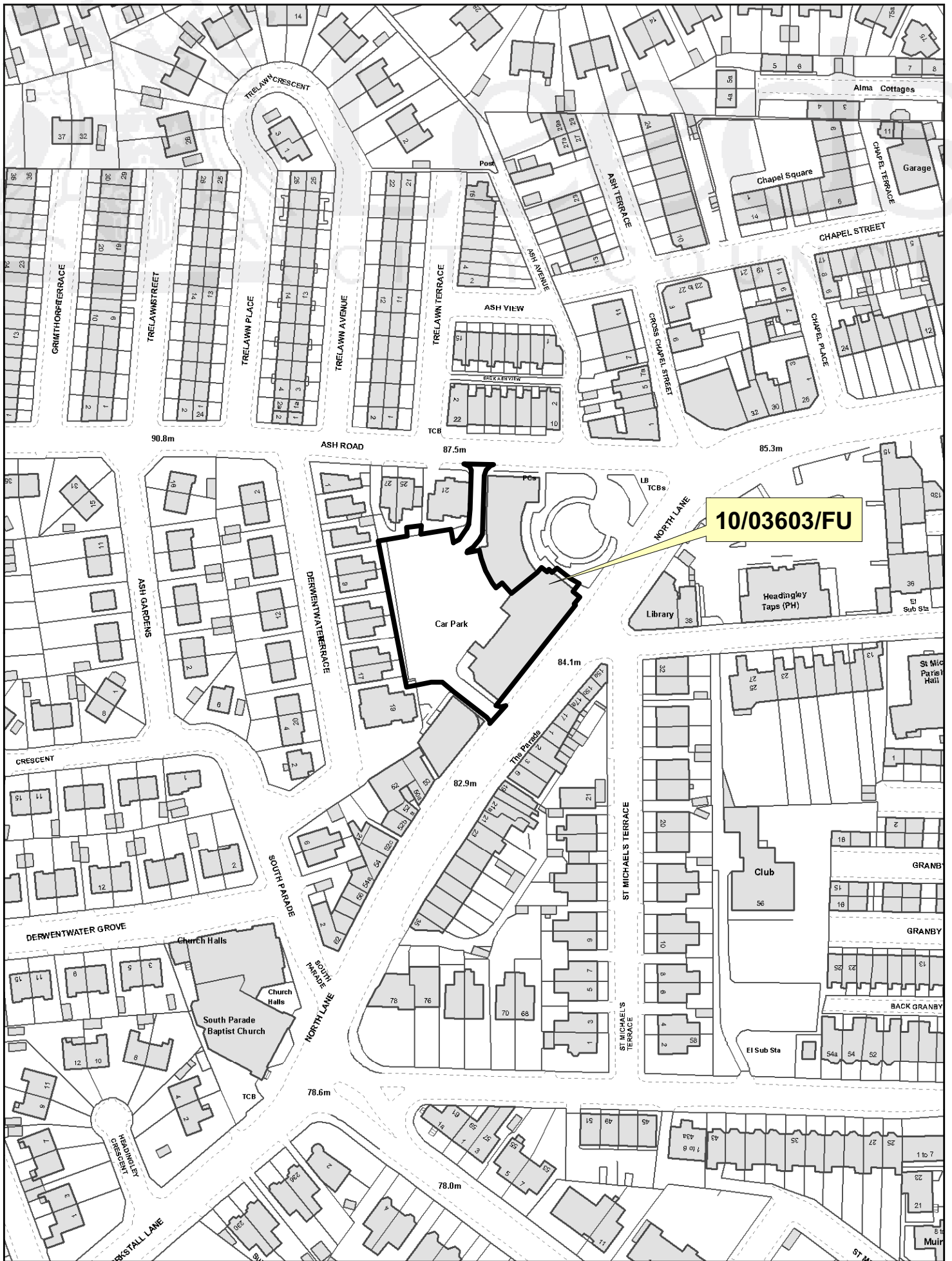
- 10.29 The contributions are required by UDP policies and the contributions are considered to be in accordance with the Community Infrastructure Levy (CIL) regulations introduced in April 2010.

Conclusion

- 10.30 The proposed scheme is considered a positive improvement upon the approved scheme in terms of retention of the entire North Lane façade of the Lounge Cinema building which is seen as key to the redevelopment of this site in this important position in Headingley conservation area. This scheme replaces the office elements with a 12 apartments. The change in uses result in a smaller level of development overall and removes the requirement for a basement car park. This application is considered to result in an improved design to the third and fourth floor floors by way of a smaller roof extension, pitched natural slate roof and a well designed dormer in the roof space which is considered to preserve or enhance the character and appearance of this part of the Headingley Conservation Area. Accordingly the proposal is considered to result in a positive effect upon this part of the Headingley Conservation Area in street scene and character considerations. The retention of the A1 element of the scheme should promote the vitality and viability of the town centre and contribute to the local economy. The A3 use is retained and although slightly increased in floorspace this increase is not considered to result in harm to the wider objectives of the Headingley area and is not envisaged to have an tangible impacts upon the amenity of future occupiers or nearby neighbouring residents. The smoking area is unchanged from what is previously approved. It is considered that on balance, subject to conditions, this mixed use scheme can be supported as a positive addition of a range of uses into the town centre supporting its role, in a quality building that will retain historic reference in the new structure.

**Background Papers:**

Application and history files.



# WEST PLANS PANEL





Originator: Mathias Franklin  
Tel: 0113 247 7019

## Report of the Chief Planning Officer

### PLANS PANEL WEST

Date: 7<sup>th</sup> October 2010

**Subject: APPLICATION 10/00779/EXT. Extension of time of planning application 06/02738/FU for 3 and 4 storey block of 3, 5 and 6 bed apartments (47 beds in 11 clusters) with 14 car parking spaces**  
**Address: 45 St Michaels Lane, Headingley**

APPLICANT	DATE VALID	TARGET DATE
10/00779/EXT	19.02.2010	21.05.2010

#### Electoral Wards Affected

Headingley

Y Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### RECOMMENDATION

**DEFER AND DELEGATE** the approval to the Chief Planning Officer subject to the conditions specified (and any others which he might consider appropriate) and completion of a legal agreement within 3 months from the date of resolution unless agreed otherwise in writing by the Chief Planning Officer to cover a financial contribution of £26,555.86 for Public Open Space provision off-site.

1. Development to commence within 3 years.
2. Samples of walling and roofing material to be approved prior to commencement of development
3. Samples of all surfacing materials to be approved prior to the commencement of development
4. Landscape scheme to be submitted and approved prior to the commencement of development
5. Car parking areas to be laid out and drained surfaced and sealed prior to first use.
6. Cycle and bin stores details to be provided and approved before first occupation.
7. Implementation of hard and soft landscaping scheme
8. Replacement tree provision
9. Landscape maintenance provisions to be approved before first occupation

10. Phase 1 site investigation report to be submitted and approved prior to the commencement of development
11. Phase 2 site investigation report to be submitted if phase 1 (condition above) demonstrates contamination on site.

In recommending the granting of planning permission for this development it is considered all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government guidance and policy as detailed in the Planning Policy Guidance Notes and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), the Leeds Unitary Development Plan 2006 Review (UDP).

UDP Policies H15, GP5, BD5, N2, N4, N12, N13, LD1, T2.  
Neighbourhoods For Living SPG

On balance, it is considered the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

## **1.0 INTRODUCTION:**

- 1.1 At the Panel meeting in April when the proposed extension of time was considered the Panel members were advised by officers in relation to the reasoning behind the extension of time regulations brought in during 2009 and that decision making on such applications was closely dependent on any material changes in circumstance since the original grant of permission in each instance. Members resolved to defer the application in order for officers to advise on changes in material considerations since the granting of planning permission in 2007 including (as set out in the published minutes):

- “PPS3 (Housing 2006)
- Change in demand for student housing
- Change in the locality including the impact of the new Cricket stand, its impact on highways and student usage
- Relevance of the Glassworks decision due to noise impact and proximity of this site to a residential area”

- 1.2 The applicant has provided a response to the Panel resolution which is set out below with further comments from officers.

## **2.0 CONSULTATIONS RESPONSES:**

Statutory: None

Non-statutory:

Highways: On street parking on St Michael's Lane is mainly controlled in the vicinity of the stadium. Car parking is provided on site for the stadium development (relating to LMU) and traffic management have not received any parking complaints related specifically to the teaching facilities introduced into the back of the rugby stand. The Highway Authority do not consider there is a change in circumstances which warrants a different outcome for the planning application in highway terms.

### 3.0 MAIN ISSUES

1. Assessment of the change in Planning Circumstances since the appeal scheme was allowed in 2007.
2. PPS3
3. Change in demand for student housing
4. Change in the locality including the impact of the new Cricket stand, its impact on highways and student usage
5. Relevance of the Glassworks decision due to noise impact and proximity of this site to a residential area

### 4.0 APPRAISAL

4.1 Due to the economic downturn and under the Town & Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009, the Government has introduced measures to enable extant permissions to be kept in place for longer. Paragraph 23 of the associated DCLG guidance, Greater Flexibility for Planning Permissions confirms that local planning authorities “should take a positive and constructive approach” toward extension applications and should focus on any material considerations, including policy issues, that might have changed since the original permission was granted. Paragraph 24 goes on to confirm that LPAs may refuse to grant extensions of time “where changes the development plan or other material considerations indicate that the proposal should no longer be treated favourably.” Paragraph 31 of the Guidance confirms that normal appeal provisions apply to extension of time proposals.

#### **Planning Policy Statement 3: Housing**

4.2 PPS3 was originally issued in 29 November 2006 and was referred to extensively in the evidence presented to the Inspector in December 2006 at the appeal for the St Michael’s Lane application. PPS3 was therefore in place when the original permission was granted. Since then there have been no significant changes in PPS3 in relation to the appeal proposals. The changes introduced by the new Government relate to the change in status of gardens to Greenfield. As this site is considered previously developed land there is considered no change in circumstances since the appeal was allowed.

4.3 In addition the 3rd Edition of PPS3 issued in June 2010 removes indicative minimum densities for new housing but this is not considered a relevant change in circumstances to the extension of time application as the Inspector was satisfied with the proposed density of development in relation to site context and gave no weight to associated aspects of PPS3 in his decision letter. As a result there have been no material changes in relation to PPS3 since the appeal was allowed and permission granted.

#### **Student Housing Demand**

4.4 Turning to student housing demand, since 2007 there has been a marked shift in demand towards purpose-built student housing and away from ‘traditional’ student housing in the form of family houses converted to bedsits and shared occupancy. Today’s students are demanding a higher standard of accommodation in comparison to their predecessors. Any shift in demand since 2007 is considered in

line with the proposed extension of time for purpose-built student housing at 45 St. Michael's Lane. Furthermore given the sites constraints it is considered that a purpose built form of development on this parcel of land would be a good response to the sites topography and constraints.

#### **Student developments in the locality**

- 4.5 In respect of developments within the nearby Carnegie Stadium complex the main development of relevance to the Panel's comments is the new East stand approved under application ref. 26/321/05/FU. This was granted planning permission on 09 September 2005 and the details of development included the provision of teaching space for university use.
- 4.6 In addition, the use of Carnegie Stadium by Leeds Metropolitan University and the new stand and teaching facilities were clearly referred to in the evidence before the Inspector in advance of the February 2007 decision. As a result of this and as there have been no other significant changes in the locality of relevance to the proposed development it is considered that there have been no local changes resulting from new development since February 2007 that would justify a refusal of the proposed extension of time. Furthermore it is considered that the proximity of the application site to the teaching facility in the Carnegie Pavilion would accord with the thrust of promoting sustainable development. The application site is within close walking distance to both the Pavilion and the town centre and as such the application is in accordance with PPS1 and PPG13.

#### **Cardigan Road Glassworks Appeal**

- 4.7 The Panel also made reference to the dismissal on appeal of purpose-built student housing proposals at the former Cardigan Road Glassworks. This decision was made in November 2008 and post-dates the February 2007 permission at 45 St. Michael's Lane. Although the decision was made after the appeal at St Michaels Lane was allowed it is considered there are several major differences between the Glassworks and 45 St. Michael's Lane proposals, including:
- Site location and surroundings, including local character, proximity to University campuses and Headingley centre and local neighbourhood characteristics.
  - Form of development and juxtaposition with existing housing and other development.
  - Scale of development – the Glassworks proposals were for a total of 256 bed spaces of accommodation whereas the proposed extension of time relates to only 47 bedspaces; and
  - Design was a key issue for the glassworks appeal.

### **5.0 CONCLUSION**

- 5.1 Taking into account the developments sited above and Members comments regarding the proposed Extension of Time it is considered overall there have been no significant changes in local or national policy or in respect of any other material considerations. Whilst the reservations of the Panel to the original appeal decision and the current proposed Extension of Time application, it is not considered that there are grounds to refuse this application.

#### **Background Papers:**

Application file: 10/00779/EXT & 06/02738/FU, appeal decision 2007



## Appeal Decision

Site visit made on 15 January 2007

by **Philip Crookes BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for  
Communities and Local Government

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Date: 21 February 2007

**Appeal Ref: APP/N4720/A/06/2028013**

**45 St Michael's Lane, Headingley, Leeds LS6 3BR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by RMP Properties (Headingley) Ltd against the decision of Leeds City Council.
- The application Ref P/06/02738/FU, dated 25 April 2006, was refused by notice dated 14 August 2006.
- The development proposed is 3 and 4 Storey Block of 3, 5 and 6 bed apartments (47 beds in 11 clusters) with 14 parking spaces.

### Decision

1. I allow the appeal and grant planning permission for 3 and 4 storey block of 3, 5 and 6 bed apartments (47 beds in 11 clusters) with 14 parking spaces in accordance with the terms of the application (ref: P/06/02738/FU) dated 25 April 2006 and the plans submitted therewith, subject to the following conditions:
  - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
  - 2) No building works shall take place until details and samples of all external walling and roofing materials have been submitted to and approved in writing by the local planning authority. Such materials shall be made available on site prior to the commencement of their use, for the inspection of the local planning authority who shall be notified in writing of their availability. The building works shall be constructed from the materials thereby approved.
  - 3) No building works shall take place until details of all surfacing materials to the parking areas and hardstandings have been submitted to and approved in writing by the local planning authority. The surfacing works shall be constructed from the materials thereby approved.
  - 4) No development shall take place until details of the position, design, materials and type of all walls and/or fencing or permanent boundary treatment, whether or not shown to be erected on the approved plans, have been submitted to and approved in writing by the local planning authority. Such walls and fencing shall be erected in accordance with the approved details, before the building to which they relate is occupied, and shall thereafter be retained and shall not be altered without the written consent of the local planning authority.
  - 5) The development shall not be occupied until that part of the site shown to be used by vehicles on the approved plans, has been laid out, drained, surfaced and sealed, as



internal layout to provide cluster flats as opposed to mainly two bedroom apartments. The current appeal scheme would provide 47 bedrooms against 27 in the approved scheme.

4. There is a significant student population in Headingley given its proximity to the main Universities in Leeds. The Council and the appellant therefore anticipate that the proposed accommodation is likely to be occupied by students but the appellants do not rule out that it might also be attractive to key workers and young professionals.

#### *Policy Background*

5. The Leeds Unitary Development Plan (UDP) was adopted in July 2006. Policy H15 was recast to project a positive stance compared to its draft predecessor following the Local Plan Inspectors recommendations. From the information available to me it would appear that the 2005 planning permission was granted in the light of an earlier policy which endeavoured to impose a restraint on further student accommodation in Headingley together with other areas with significant concentrations of student housing identified as Areas of Student Housing Restraint (ASHORE). Accordingly the 2005 permission includes a condition that prevents occupation by students.
6. The adopted, Policy H15 is cast more positively and reflects a different strategic approach to managing student accommodation. The new strategy includes the management of new student accommodation so as to maintain a reasonable balance with other types of housing, and to encourage opportunities for the provision of purpose-built student housing in order to reduce the pressure on the rest of the housing stock. In detail, Policy H15 does not resist student housing in a defined Area of Housing Mix (the appeal site falls within this area), provided a number of considerations are satisfied. These are (i) the reasonable retention of a stock of family housing; (ii) residential amenity; (iii) compatibility with the surroundings; (iv) parking provision; and (v) that proposals would improve the stock of student housing. To achieve the objectives of the policy there is to be a focus on purpose-built student housing that is specifically reserved and managed for that purpose. Through this it is hoped that the stock of student housing will be improved, that pressure on conventional housing would be relieved and that regeneration of areas in risk of decline would be encouraged. Policy H15A of the UDP supports the general strategy by promoting student housing developments in other areas of the City.
7. Policies GP5, BD5, T2 and T24 have been brought forward unchanged from the 2001 Unitary Development Plan. Policy GP5 identifies a series of considerations that should be taken into account in formulating development proposals, including avoiding environmental intrusion and seeking to maximise highway safety. Policy BD5 advises that all new buildings should be designed with amenity considerations in mind, including usable space, privacy and satisfactory penetration of daylight and sunlight. Amongst other considerations Policy T2 advises that new development proposals will be considered in the context of sustainability and highway safety, while Policy T24 requires parking provision to reflect the Council's guidelines and standards.

#### *Housing Stock*

8. The proposal relates to the redevelopment of a former commercial site. It would not therefore result in the loss of any of the stock of family housing in the locality. Nor, in my opinion, would this narrow rectangular site flanked to the north by the tall side walls of the cricket school be suitable for more conventional family housing with gardens.



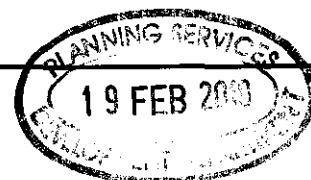
14. I take into account that the site is in a busy and vibrant location, not only due to the significant student population but also to the presence of major sporting venues on the opposite side of St Michaels Lane and the cricket school immediately to the north of the site. I am also aware that the site was formerly in a commercial use. Taking into account that these uses would have an impact on activity in the locality due to noise and disturbance, I do not consider that the more intensive use of the site now proposed, including general comings and goings and use of the bin storage facility would increase to such an extent that unacceptable disturbance would result. Consequently, in this respect, I conclude that the appeal scheme would not result in an unacceptable impact on the living conditions of occupiers of nearby residential properties. It would therefore comply with criterion (ii) of Policy H15 of the UDP.

*Design/character and appearance*

15. I acknowledge that the site lies on the edge of the area known as the Cardigan Triangle within the conservation area. The Cardigan Triangle is an area of mainly traditional housing with much family accommodation retained notwithstanding the incursion by the student population. However, in my opinion the appeal site relates more closely to the mixed form and character of development present nearby on St Michaels Lane.
16. The proposed scheme involves a high quality contemporary design. I consider this approach would fit in well with the recently completed stands at the cricket and rugby grounds on the opposite side of St Michaels Lane and with the new extension to the cricket school immediately to the north of the site. Given the scale of these developments, especially the two new stands which are somewhat equivalent to a 4/5 storey building, I consider that the 2/4 storey scale of the appeal building would not be out of place. It would constitute an appropriate transition between the substantial buildings opposite and the cricket school to the north with the more conventional two storey housing to the south. Given the mix uses and variety of building styles in the immediately locality, including on both sides of St Michaels Lane, including those within the conservation area, I am satisfied that the scheme would comply with criterion (iii) of UDP Policy H15 and would preserve or enhance the character or appearance of the conservation area.

*Parking*

17. The appeal site is well related to the Headingley Local Centre which provides a wide range of shops and other services, and is well served by regular bus services running to and from the city centre. Burley Park railway station is also within easy walking distance. This is therefore a location whereby national policy encourages the efficient use of land through high density development compatible with the character of the area.
18. The Highway Authority accepts that the proposed parking provision of 14 spaces would only be acceptable if the entire development were to be occupied by students and that a restriction to this effect is imposed. If occupation were not to be restricted to students the Highway Authority views the scheme as containing 11 three bedroom units requiring 25 off-street parking spaces, including provision for visitors. Since the internal layout of the proposed accommodation is clearly designed to facilitate communal living with many shared facilities provided, and because it is the stated intention of the appellant, I consider mainly student occupation is likely. Even if some of the accommodation were to be occupied by non-students, occupiers would have to be prepared for a degree of communal

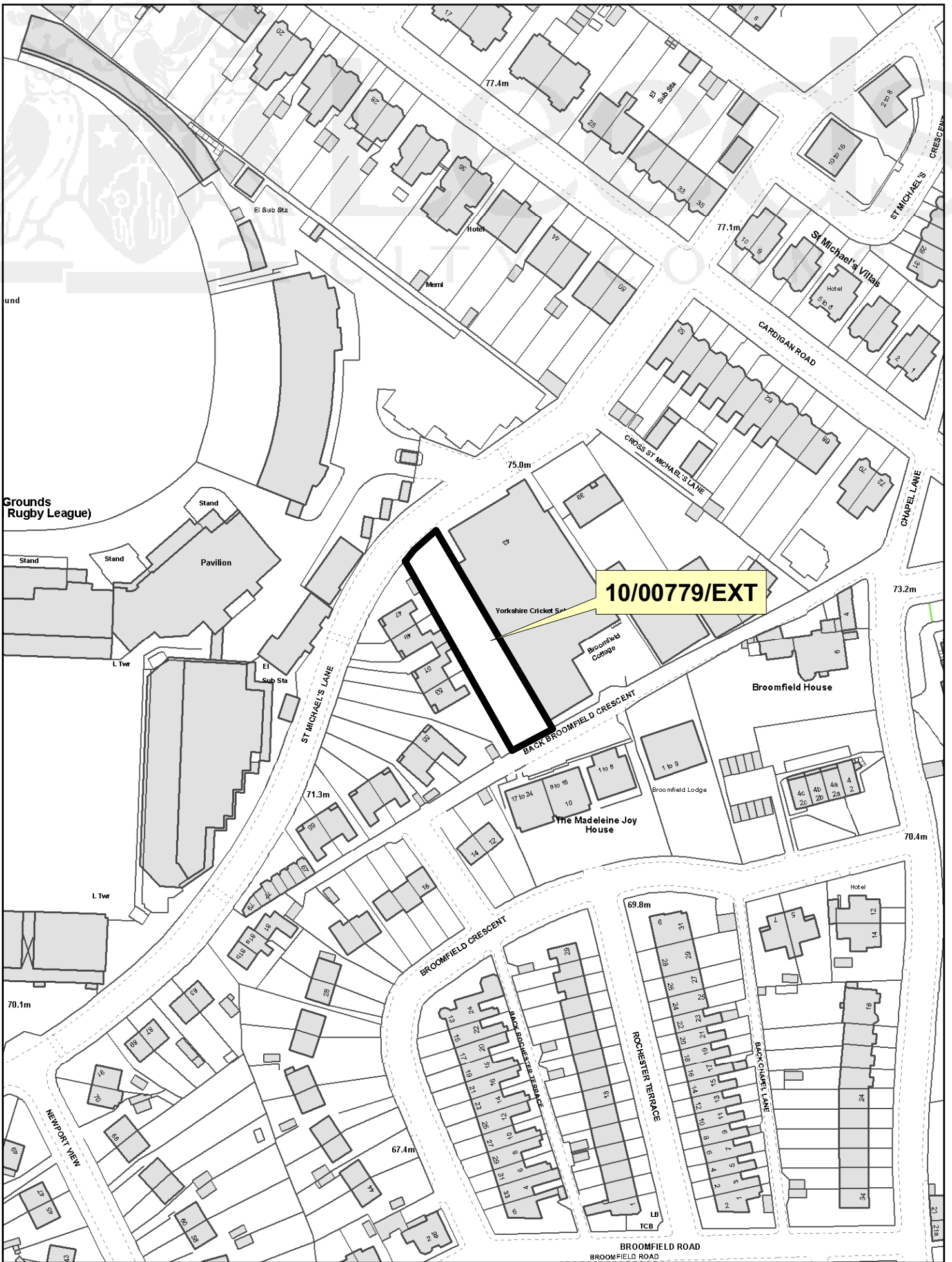


any necessary remedial works is required. I have therefore imposed a condition based upon model condition 59 found in the annex to Circular 11/95.

22. Due to the absence of any significant trees on or near to the site I see no reason to impose the suggested condition requiring details of service trenches, building foundations etc. Moreover, I do not intend to impose the suggested condition regarding the reporting to the local planning authority of any deviation from the approved site levels, distances or relationships with adjacent buildings etc. The local planning authority has separate powers to enforce any material departure from the approved scheme thus rendering the proposed condition unnecessary.
23. The Council proposes that a condition be imposed to prevent occupation of the proposed development by full-time students in an endeavour to help rebalance the population mix of the area. In my view such a restriction would be seriously at odds with the form of development for which planning permission is sought. The appellant's covering letter that accompanied the application makes it quite clear that the type of apartments proposed are to enable letting to the student market, albeit there is an acceptance that they may also attract other types of occupier, including young professionals. The intended occupation by students was also quoted in the Council's decision notice. I therefore have regard to the advice in Circular 11/95 and in particular to paragraph 35 which refers to conditions being unreasonable because of their unduly restrictive nature. I acknowledge that a similar restriction was imposed on the planning permission granted in 2005 but that was not expressly for student accommodation and was granted under the earlier policy regime where ASHORE restrictions on student housing existed. In this case the condition proposed by the Council would effectively nullify the benefits of the planning permission and would not reflect the manner in which Policy H15 of the UDP requires such proposals to be assessed. In the circumstances, the suggested condition would be unreasonable.
24. I have amended several of the proposed conditions for reasons of clarity and to follow the advice in Circular 11/95 more closely.

*Philip Crookes*

INSPECTOR



# WEST PLANS PANEL

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