



SOUTH AND WEST PLANS PANEL

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Thursday, 25th April, 2013
at 1.30 pm

MEMBERSHIP

Councillors

J Akhtar	J Bentley	P Wadsworth	R Finnigan
M Coulson		R Wood	
C Gruen			
J Harper (Chair)			
C Towler			
P Truswell			
J Walker			

**Agenda compiled by:
Andy Booth
Governance Services
Civic Hall
Tel: 0113 24 74360**

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p data-bbox="675 427 1406 495">APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p data-bbox="675 539 1358 680">To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Rules (in the event of an Appeal the press and public will be excluded)</p> <p data-bbox="675 725 1390 866">(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	

Item No	Ward	Item Not Open		Page No
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</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>RESOLVED – That the press and public be excluded from the meeting during consideration of the following 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, as follows:-</p> <p>No exempt items or information have been identified on the agenda</p>	
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	

Item No	Ward	Item Not Open		Page No
4			<p>DECLARATIONS OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19-20 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES OF THE MEETING HELD ON 28 MARCH 2013</p> <p>To confirm as a correct record, the minutes of the meeting held on 28 March 2013</p>	3 - 10
7	Farnley and Wortley		<p>APPLICATION 09/055553/OT - LAND OFF ROYDS LANE, LOWER WORTLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an outline application for residential development.</p>	11 - 32
8	Weetwood		<p>APPLICATION 13/00620/FU - 151A OTLEY ROAD, LS16 6HN</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application to form a hot food takeaway with flue to rear.</p>	33 - 40

Item No	Ward	Item Not Open		Page No
9	Weetwood		<p>APPLICATION 11/03324/FU - FORMER COOKRIDGE HOSPITAL, SILK MILL WAY, COOKRIDGE</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding a residential development of 143 houses and 12 flats; restoration of the lodge to form 1 house; alterations and extensions to hospital building to form residential care home comprising 20 apartments and 35 bedspaces (C2 Use); alterations and extensions to former Ida Wing building to form 56 extra care housing units (C3 Use)</p>	41 - 48
10	Ardsley and Robin Hood		<p>APPLICATION 06/01712/FU - LAND OFF STATION LANE, EAST ARDSLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application to discharge/amend a planning obligation under Section 106a of the Town and Country Planning Act 1990, 247 houses and flats.</p>	49 - 56
11	Hyde Park and Woodhouse		<p>LITTLE LONDON PFI REGENERATION PROJECT</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding a position statement on the Little London PFI Regeneration Project.</p>	57 - 62
12	Ardsley and Robin Hood		<p>APPLICATION 13/00874/FU - HAIGH HALL FARM, BATLEY ROAD, TINGLEY, WAKEFIELD</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding a position statement on the development of a solar farm.</p>	63 - 74
13			<p>DATE AND TIME OF NEXT MEETING</p> <p>Thursday, 23 May 2013 at 1.30 p.m.</p>	

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To:

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

Chief Executive's Department
Democratic Services
4th Floor West
Civic Hall
Leeds LS1 1UR

Contact: Andy Booth
Tel: 0113 247 4325
Fax: 0113 395 1599
andy.booth@leeds.gov.uk
Your reference:
Our reference: ppw/sitevisit/
2011

Dear Councillor

**SOUTH AND WEST PLANS PANEL – SITE VISITS – THURSDAY, 25 APRIL 2011 AT
1.30 PM**

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

- 1 On Site at 11.00 a.m. Development of Solar Energy Farm, Haigh Hall Farm, Batley Road, Tingley – Leave at 11.45 a.m. (if travelling independently meet at entrance to farm off Batley Road) –

A minibus will leave the Civic Hall at 10.35am prompt. Because of the nature of the terrain on this visit, sturdy footwear is recommended, particularly if wet. Please contact Steve Butler Area Planning Manager (West) Tel: (0113) 2243421 if you are intending to come on this site visit and meet in the Civic Hall Ante Chamber at 10.20 am. Due to the need to view this site from distant views could anyone who will be travelling independently please also inform Steve Butler of their intention to visit the site.

Yours sincerely

Andy Booth
Governance Officer

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SOUTH AND WEST PLANS PANEL

THURSDAY, 28TH MARCH, 2013

PRESENT: Councillor J Harper in the Chair

Councillors J Akhtar, J Bentley, R Finnigan,
C Gruen, C Towler, P Truswell,
P Wadsworth and J Walker

67 Chair's opening remarks

The Chair welcomed everyone to the meeting and asked Members and Officers to introduce themselves

68 Late Items

There were no late items

69 Declarations of Disclosable Pecuniary and other Interests

There were no declarations of disclosable pecuniary interests

70 Apologies for Absence

Apologies for absence were received from Councillors Coulson and Wood

71 Minutes

RESOLVED - To approve the minutes of the South and West Plans Panel meeting held on 28th February 2013

The Chair took this opportunity to formally record her thanks to Councillor Coulson who had chaired the February meeting at short notice due to Councillor Harper being unable to attend due to illness

72 Application 13/00828/FU - 2 Castle Ings Gardens, New Farnley, LS12

Plans, drawings and photographs were displayed at the meeting
Officers presented the report which related to an application for retrospective planning permission for a 1.8m high fence to the side boundary of 2 Castle Ings Gardens LS12

Draft minutes to be approved at the meeting
to be held on Thursday, 25th April, 2013

Members were informed that a compromise position had been suggested by Officers, whereby the fence could be retained if it was re-sited 1m into the site. Having considered this, the applicant chose to submit an application to regularise the existing fence, which Officers could not support on the grounds that it formed an unduly intrusive boundary feature which was inappropriate to its surroundings. For this reason, Officers were recommending to Panel that the application be refused

The Panel heard representations from the applicant and from Councillor Hardy who was supporting the application. Members were informed of the special circumstances of the applicant's family, in that her daughter who had disabilities, enjoyed being outdoors and that the fence gave her the privacy she required. It was noted that the initial objection from Highways Officers had been reviewed and that a reason for refusal of the application on highways grounds could not be sustained

Members commented on the starkness of the fence and recommended that natural planting should be used to soften its appearance

RESOLVED – That the Officer's recommendation to refuse the application be not accepted and to approve the application in principle and defer and delegate final approval of the application to the Chief Planning Officer, subject to a condition regarding appropriate planting to be provided to the fence

73 Application 12/02434/FU - Manor Park Surgery, Bellmount Close, LS13

Further to minute 11 of the South and West Plans Panel held on 11th October 2012, where Panel considered an application for extensions to a GP surgery, including pharmacy, opticians and laying out of car park and resolved to grant planning permission, Members considered a further report of the Chief Planning Officer

Plans and photographs were displayed at the meeting. A site visit had taken place for Members on 11th October 2012

The South and West Area Planning Manager presented the report and informed Panel that following the grant of planning permission, a letter had been received by the Council on behalf of Lloyds Pharmacy, which was currently sited adjacent Manor Park Surgery, to advise that the Panel's decision was being challenged on grounds which included the failure to take into account policy S2 of the UDP; not being clear about the sequential test and the relevance of the National Planning Policy Framework and that emerging policy did not override adopted UDP policy. Following discussions with Legal Services and the opinion of Counsel, a 'Consent Order' was agreed to the quashing of the decision, as some elements of the report presented to Members in October 2012 should have been considered in greater detail. Members were informed that the application was now being brought back to Panel for determination and the report before Panel highlighted the points made in the judicial review challenge and dealt with them comprehensively. Having reconsidered the matter, Officers were still of the view that the application should be recommended for approval

Members were informed that the proposals would help meet demand in this area for increased and enhanced medical facilities which included longer

pharmacy opening hours and specialist GP-led services which were not currently available

Details about the principle of development; scale, layout, site access, relationship with neighbouring residential properties, car parking, highways and the severing of the current internal connection with Lloyds Pharmacy were provided. A correction to the pharmacy opening hours for Saturday and Sunday as set out in condition 3 of the submitted report was reported, with Panel being informed these would be 09.00 – 21.00 Saturday and 12.00 – 20.00 Sunday

In relation to the application, Policy S2 of the UDP and Policy S9 were outlined in detail by the Lead Officer, as set out in the submitted report

In respect of the objections received regarding needle exchange and methadone, Members were advised that the applicant had stated that these services would not be provided from this surgery

Concerning issues raised by Lloyds Pharmacy about competition, Members were advised that little weight should be given to this issue when considering the planning merits of the application

The Head of Planning Services, Mr Sellens, read out a letter to Panel which had been received on 27th March from the legal representatives acting for Lloyds Pharmacy which stated that they had taken Leading Counsel's advice on the report and that a number of serious failings had been identified and there were a number of grounds for seeking judicial review if permission was granted by the Panel on 28th March, - deferral of the application was therefore requested to enable time for the detailed concerns to be shared with the Council or if not, that their letter be copied to Panel Members

Members were informed that Officers had further contacted the solicitors acting for Lloyds Pharmacy to inform them that the Council had taken it's own legal advice and that the Council was satisfied with the report before Panel and asking on what grounds the report had failings. The legal representatives of Lloyds Pharmacy had not provided reasons to support their view that the current report was faulty and had indicated to Officers that there had not been sufficient time for them to do this

The Head of Planning Services referred to the fact that the PCTs were ending on 31st March 2013, which could lead to funding issues for the development. Mr Sellens also stressed the importance of any decision on the application being safe and that if Panel was content that it was in possession of all the information needed to take a decision, it should determine the application and that it would be unfair to the applicant to defer a decision on the application when the grounds for doing so were unknown

Members commented on the following matters:

- Landscaping issues and whether further planting to the boundary facing the residential properties could be provided. The Panel was informed that Ward Members accepted that it was a tight site and had considered the level of planting to mitigate against the impact of the development on neighbouring properties but on balance considered it appropriate in view of the much needed improvements to health provision the scheme would bring
- The level of representations the application had attracted

RESOLVED – That the application be approved subject to the conditions set out in the submitted report, with amendment to condition No 3 in respect

of opening hours of the pharmacy to read in relation to Saturday 09.00 – 21.00 and Sunday 12.00 – 20.00

During consideration of this matter, Councillor Truswell withdrew from the meeting

74 Application 13/00550/FU - Land Adj Woodhouse Methodist Church, Woodhouse Street, LS6

Plans, photographs and drawings were displayed at the meeting
Officers presented a report which related to an application for a retail unit and car parking outside on land at Woodhouse Street LS6. Members were reminded that a larger scheme which included a retail unit, car parking and student accommodation was refused by South and West Panel at its meeting on 11th October 2012 (minute 14 refers). Whilst the retail element of that scheme was considered, no reason for refusal was provided in relation to that use. In respect of the previous application, Members were informed that this was currently the subject of an appeal

The application before Panel was for a small, 289sqm retail unit with 19 car parking spaces outside an S2 centre. A sequential test had been applied and Officers were satisfied that there was no alternative unit available in the area to accommodate this use and that this unit would not have an adverse impact on shopping elsewhere

Members discussed the application and commented on the following matters

- Whether the applicant had consulted on the proposals
- The impact on businesses in the area with the view that this development would be detrimental to local shops
- Whether a S106 Agreement applied in this case
- The need for Officers to be fully aware of the on-street parking problems in areas of the city and the particular problems being experienced on Woodhouse Lane due to commuter parking
- Highways concerns, particularly the turning circle for HGV delivery vehicles; that often larger vehicles were used for deliveries, resulting in parking on the road which was not acceptable and the need to condition this and ensure it was enforced
- That no local employment condition was proposed and that this had been done successfully on a small store in the Morley area of the city

Officers provided the following responses:

- That community consultation had been carried out on the previous scheme and many people had welcomed the retail unit but had expressed concerns about the residential element of those proposals which had been deleted from this scheme before Panel. Site notices had been placed around the area for this application; that no objections to it had been received and that the speaker at the October meeting who had opposed the previous scheme had stated that he was not opposing this application
- That a S106 Agreement did not apply to this application

- That the manoeuvring for HGVs shown to Panel related to a 10m rigid vehicle and that an articulated lorry could not easily be accommodated. To address Panel's concerns, condition 13 could be expanded to specify the vehicle size to be used and that condition 7 relating to a scheme to restrict/prevent parking on Woodhouse Street, before occupation of the development would help to provide safe conditions for access and egress
- That although local employment clauses were usually applied to major employment uses, it would be possible to add this to the proposed conditions

Members considered how to proceed

RESOLVED - That the application be approved subject to the conditions set out in the submitted report, an additional condition relating to local employment and an amendment to condition no 13 to specify the size of the delivery vehicle to be used

75 Application 12/04929 - Former Clariant Works, Calverley Lane, Horsforth, LS18

Plans, photographs, graphics and an artist's impression were displayed at the meeting

Officers presented a report seeking Reserved Matters approval for a residential scheme on the former Clariant Works site at Calverley Lane Horsforth LS18

Members were reminded that the outline application for the site had been refused by Panel but had been granted on appeal and therefore the principle of development had been established. Whilst outline permission had been granted for 400 homes, the application before Panel was for 331 dwellings which comprised mainly family housing but also included some flats and two retail units

Officers provided the following information;

- Details of the off-site highway works
- the access to the site
- the proposed bus route and how this could link into the adjacent Riverside Mills site in the future
- the site layout, pedestrian access and areas of POS, including the Village Green area within the development which was 1600sqm
- that the size of the gardens complied with 'Neighbourhoods for Living'
- the proposed materials which included stone, slate and some render
- landscape details and that the inclusion of semi-mature trees in the planting scheme was proposed
- the location of the two retail units which would have apartments above them
- the scale of the properties, with two and three storey dwellings being proposed

A late representation was reported from Councillor A Carter who had queried the bus link from Horsforth Town Street to the railway station and that it should be extended. Members were informed that this matter had been

discussed at the Inquiry and the Inspector accepted the public transport provision so this could not be considered further as part of this application

Concerning the objection by Sport England, this was based on a lack of information about the future of the neighbouring pavilion and sports field. Officers had provided further details and Sport England were comfortable about the refurbishment of the pavilion but sought assurances that the pitches which were well used by a number of teams, would not suffer by increased demand from residents of the development. Members were informed that the quality of the existing pitches would be assessed as would the likely amount of new demand and this would be factored into the management and maintenance plan, with the developer setting aside an amount of funding for this. Although Sport England's objection remained, Panel was advised that it would be possible to determine the application as there was a means to resolve this objection, by way of the S106 Agreement post determination and prior to commencement of the development

If minded to approve the application, Panel was informed that conditions 10 and 11 as set out in the submitted report were no longer required as the existing drainage would be revised

Members commented on the following matters:

- the location of the affordable housing, with this being shown as being pepper-potted in four locations around the site
- that inclusion of decorative chimneys on house types should be encouraged
- the presence of ginnels on the site, with Members being advised that no ginnels had been included in the scheme
- how the development could be considered to be sustainable in view of a lack of school places in the area. Panel was informed that an education contribution of £2972 per dwelling had been agreed, with Children's Services being satisfied on this
- bus services and that diverting the Ring Road bus would be of greater benefit as this accessed a wider area. Members were informed that this matter would be for Metro to decide upon

Members discussed in detail the off-site highway works and the long-term aims for the two major roundabouts in the vicinity of the site. The Lead Officer for Panel advised that there were constraints in terms of what could be achieved, due to what was agreed at appeal. However, the highway works would be complementary to any future works the Council might contemplate in due course

Panel considered how to proceed

RESOLVED - - That the application be granted subject to the conditions set out in the submitted report, with the deletion of conditions 10 and 11

Under Council Procedure Rule 16.5, Councillor Wadsworth required it to be recorded that he abstained from voting on the matter

During consideration of this matter, Councillor Truswell resumed his seat in the meeting

76 Date and Time of Next Meeting

Draft minutes to be approved at the meeting
to be held on Thursday, 25th April, 2013

Thursday 25th April 2013 at 1.30pm in the Civic Hall, Leeds

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Originator: Carol
Cunningham
Tel: 0113 247 8017

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 25th April 2013

Subject: Application Number 09/05553/OT Outline planning application for residential development at Land off Royds Lane, Lower Wortley, Leeds.

APPLICANT
Wortley Green

DATE VALID
23 December 2009

TARGET DATE
24 March 2010

Electoral Wards Affected:

Farnley and Wortley

No

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION

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 to cover the securing of a sum of £618,000 to be apportioned to the following as appropriate following discussion with ward members:-

- Greenspace provision
- Education provision
- Highway works
- Green travel Plan
- Financial viability
- Long term management of the open space and habitat corridor
- clause that development shall commence within 2 years.
- Local jobs and training

1. Time limit for outline application
2. Development shall be in line with approved plans
3. Full details of layout, scale, appearance and landscaping to be submitted
4. Samples of walling and roofing materials to be submitted
5. Sample panel of proposed brickwork

6. Details of fencing and boundary treatment to be submitted
 7. Scheme for external bin storage to be submitted
 8. Landscaping scheme to be submitted
 9. Landscaping scheme to be implemented
 10. Landscaping maintenance scheme to be submitted
 11. All existing trees, shrubs and other natural features shown on approved plans to be retained
 12. Preservation of existing trees and vegetation during construction
 13. Tree protection during excavations
 14. Replacement of landscaping if dies or seriously damaged in first 5 years
 15. Existing and proposed levels to be submitted
 16. Bat protection/mitigation
 17. Submission of details for contamination and remediation
 18. Amendment of remediation statement
 19. Submission of verification reports
 20. Reporting unexpected contamination
 21. Importing soil
 22. Areas to be used by vehicles to be laid out.
 23. Road improvements to be carried out before development occupied
 24. Full details of the access to and egress from the site to be submitted
 25. Details of cycles and motorcycles parking areas to be submitted
 26. Green travel plan to be submitted
 27. Vehicle cleansing facilities to be provided during construction works
 28. Means of preventing mud on highway during construction
 29. Before development commences the flood defenses shall be provided
 30. Full details of proposed ground floor levels to be submitted
 31. Scheme for provision of surface water and ground water drainage works to be submitted
 32. Noise protection from railway
 33. No building within 3 metres either side of water mains
 34. Details of surface and foul water to be submitted
 35. No piped discharge of surface water until satisfactory outfall approved and implemented
 36. No piped discharge of surface water until approved surface water drainage works submitted
 37. Surface water from vehicle areas to pass through an oil interceptor
 38. Habitat protection and enhancement
 39. Lintels shall be one single piece.
 40. Remediation works in relation to coal works shall be carried out in line with 13.2 and 13.3 of the submitted Ground Investigation Works.
- Direction : development in line with approved plans, above conditions and a section 106 agreement.

In reaching this recommendation the case officer dealing with the application has worked with the applicant/agent in a positive way by maintaining regular dialogue to produce an acceptable scheme in accordance with paragraphs 186 and 187 of the National Planning Policy framework. 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 National Planning Policy Framework and (as specified below) the content and policies within The Development Plan consisting of the Leeds Unitary Development Plan Review 2006 (UDPR) and the emerging Publication Draft Core Strategy Nov 2012 (DCS)

BD5; LD1.

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

1.0 INTRODUCTION:

- 1.1 This application for residential development at Royds Lane was reported to West Plans Panel in March 2011 where Members resolved to defer and delegate the approval subject to a Section 106 Agreement. Since that time the development costs for this scheme have increased and the number of proposed dwellings has decreased. This application was therefore referred back to Panel in February this year in order to reassess the viability of the site and the S106 agreement contributions.
- 1.2 At the February Panel, Members were also advised that the application needed to be deferred for a cycle to enable a comprehensive report to be prepared addressing the implications for the application following the adoption of the Natural Resources and Waste DPD (NRWDPD). These matters are now dealt with within this report. Members also requested additional information in relation to the education requirement for the development which is also discussed in this report. The February report is also attached for information. Members of Panel will also recall that there have been subsequent discussions regarding the viability of developing this 'Brownfield' site.

2.0 PROPOSAL:

- 2.1 The application is an outline application for residential development. The application is for the principle of residential development on the site, means of access and layout. There will be one vehicular access to the site and this will be off an existing track off Royds Lane close to the junction of Royds Lane and the service road for Makro.
- 2.2 The proposed Section 106 Agreement which was approved by Panel in March 2011 had the following contributions
- Off site highway works.
 - Education contribution for both primary and secondary schools.
 - Greenspace on site 0.004 hectares per dwelling.
 - Bus stops upgrades to 2 bus stops.
 - Improvements to the footpaths to the bus stops on Gelderd Road.
 - Affordable housing and metrocards not payable but subject to financial viability submissions
- The Panel also waived the payment towards Public Transport contribution which amounted to £193,767.
- 2.3 There were a number of highway improvements that were to be provided as part of the scheme which were as follows:
- Improvement of the existing track to the site to adoptable standards with a footway on each side
 - New junction with Royds Lane and the service access with Makro. A stop line on the service access from vehicles leaving the service road for Makro.
 - A footway on one side of Royds Lane (there is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both sides of Royds Lane

- New pedestrian crossing on the Ring Road, this is located after a left turn from Royds Lane.
- Changes to the Ring Road Roundabout at Ringways to include signalising.

2.4 The owner of the land now has a house builder interested in developing the site for housing and officers are discussing layout plans related to a future reserved matter application with this house builder. However, there are a number of changes since the Panel decision in 2011 which has meant that the viability of the development had to be reassessed. The changes in circumstances are the following:

Firstly, the outline consent was for approximately 192 dwellings which comprised of 36 apartments and 156 houses. The number of dwellings has reduced to 152 which will be 36 apartments and 116 houses. The income generated from this reduction in numbers has been reduced.

Secondly, further work has been undertaken into the amount of contamination on the site which will require more remediation than originally thought with a higher cost which along with other abnormalities amounts to a total construction cost of over £5 million which is more than previously expected.

Thirdly, the economic climate has seen a further decline so the income generated from the scheme has been reduced. The amount of revenue on the site has decreased by £1.2million.

2.5 All these circumstances have led to the amount of money available for all the requirements of the S106 agreements being reduced to a pot of £740,000 (including the section 38 works which would account for approximately £122,000). The previous section 106 agreement didn't refer to prices but included specifically the works that had to be carried out which concerned the applicant as the cost of these could spiral. The applicant has asked that there is a fixed pot of finance so they can be confident that they are able to meet the requirements. Any more than this pot of £740,000 will result in the scheme being unviable and very unlikely to go ahead. This pot of money would not cover the amount required for all of the previously approved section 106 requirements. Information has also been obtained in relation to the total costs for the previous requirements. These are all estimates but gives an idea on how much the current obligations would have been.

Highway works – upwards of £1 million
 Education – £500,000
 Bus stop upgrades - £20,000
 Greenspace on site provision – 0.004ha per dwelling
 Improve footway to bus stops on the Gelderd Road –

2.6 The applicant has revisited the transport assessment based on the reduction of 30 dwellings. They have also submitted estimates on the highway measures that they consider are required. The information shows that all the previous highway works listed above can be implemented using the pot of £740,000 except for the signalisation of the Ringways Roundabout. The information submitted also put the case forward that with the reduction in numbers the signalisation of the Ringways Roundabout is no longer required. The estimate for the proposed highway works is approximately £440,000. However, part of these highway works is to upgrade the existing track from the junction with the Makro service access into the site itself. These works will form part of any section 38 agreement and should not form part of the section 106 agreement. The applicant has stated that if these works are not part of the section 106 agreement then the sum of money required for these works will

have to come out of the above pot so the total pot of money available for works in the section 106 agreement will be reduced to £618,000. It is still anticipated that the other highways works required would amount to £318,000 although this is an approximate figure and could be higher or lower.

- 2.7 Consequently this leaves approximately £300,000 to be spent on other contributions required from the development. This could be used by highways to do other highway works required in the area or towards education who have requested £500,000. Since last Panel more detail in relation to the contribution to education has been obtained from the Education Department. The proposed number of houses requires a contribution to primary education of £454,765 and a secondary contribution of £274,098. It is likely that due to the location of this site that the schools in Armley/Wortley will be used. There has been an increase in the birth rate in recent years and there is pressure for school places in these areas. Births in this area are projected to exceed the number of reception places at schools in this area every year upto 2016 therefore extra children generated by the new housing would add to this pressure. It is therefore essential that the full contribution for primary provision is obtained. Provision of secondary places is less critical. As parents will travel further to access secondary education and there is capacity in Secondary schools in West Leeds until 2018 the secondary education is less essential.
- 2.8 Another matter relates to the mechanism for obtaining contributions to affordable housing if the economic climate improves and there is more revenue generated from the scheme than what is currently expected. The previous mechanism approved by Panel in March 2011 requested that a financial viability was submitted for consideration 2 years after development commenced and then yearly until the development was complete. If the market had improved and there was profit within the site then a financial contribution to affordable housing would then be paid. The applicant now wants to change this mechanism. Instead of submitting a financial appraisal the applicant and Council agree a trigger sum which once reached would ensure that contributions to affordable housing are paid. This trigger sum is achieved by using a formula which takes account of revenue generated from the scheme along with cost. **If Members wish the section 106 agreement could be worded that if the trigger sum is reached the financial contribution could be used for education contributions rather than affordable housing.**
- 2.9 As mentioned in the supplementary report to Panel in February part of the site is safeguarded as an existing waste management site (site 142) in the Natural Resources and Waste DPD (NR&WDPD) which was adopted on the 16th January 2013 by the Council and is now part of The Development Plan. This has the benefit of a temporary planning permission (ref. 07/07482/FU) for recycling of inert, or non hazardous construction and evacuation wastes to produce aggregate and soils on the former overflow car parks to Makro. This planning permission was granted on 3rd March 2009 for a limited period of 5 years which expires in March 2014. The applicant, Cave Plant Ltd, was not the landowner and had no interest in the land. The permission has not been implemented and the site remains vacant.
- 2.10 The development therefore needs to be assessed against policy waste 2 of the National Resources and Waste below which states

Waste 2 Safeguarding waste management sites

Existing waste management sites are safeguarded for continued use during the plan period. Applications for change of use must demonstrate that there is no longer a need to retain the site for waste management purposes or there is an

overriding case for the proposed development that outweighs the need to retain the site for waste management purposes.

- 2.11 The applicant has submitted a statement in relation to the application of this policy. They are stating that it was never the intention of the landowner to lease the site to Cave Plant Ltd, borne out by the fact that the site remains a vacant brownfield site despite having a planning consent for the recycling of inert and non hazardous construction and evacuations wastes to produce aggregates and soils since March 2009. The application was submitted by Cave Plant without any agreement with the owners of the site. In all respects the site is not available for aggregate crushing or recycling, is not viable for aggregate crushing or recycling and is therefore not deliverable for aggregate crushing and recycling. Notwithstanding the extant planning permission this is not an existing waste management site and has no continued use for waste management purposes. The last stem of Policy Waste 2 allows for alternative types of development where that development would outweigh the need to retain the site for waste management purposes.
- 2.12 The applicant goes on to say that the Royds Lane site has already benefitted from a planning permission for residential redevelopment and the granting of planning permission for housing will assist the Council in achieving its target of residential development on brownfield sites.
- 2.13 The residential redevelopment will not only deliver a project of regeneration significance through the development of a brownfield site which has a number of constraints to delivering a residential scheme but it will significantly improve the area visually. The site will also allow for improvements to the local highway infrastructure through the provision of pedestrian crossing and links to the local bus network, a highly sustainable mode of transport. The site generates a financial contribution pot of nearly three quarters of a million pounds to be spent in the local area. On this basis, the overriding regeneration initiatives to be accurred through the redevelopment of this site for residential far outweigh the need to retain this site for waste management purposes which have never taken place and will not be enacted under the extant consent which lapses in 12 months.
- 2.14 The applicant concludes that the objectives of Policy Waste 2 are not compromised given it is not an existing waste management site and is not in continued use and there is no prospect of it coming forward for that purpose.
- 2.15 Of relevance as well is the following policy

MINERALS 3 : Minerals Safeguarding Areas – Surface Coal Development sites

Within the surface coal mineral safeguarding area shown on the Policies Map applications for non-householder development must demonstrate that the opportunity to recover any coal present at the site has been considered. Coal present should be removed prior to or during development unless:

1. it can be shown it is not economically viable to do so, or
2. it is not environmentally acceptable to do so, or
3. the need for the development outweighs the need to extract the coal, or
4. the coal will not be sterilised by the development.

- 2.16 A report has been submitted by the agent which highlights the fact the site is not economically viable to extract coal and therefore it is the applicants opinion that the scheme meets criteria 1 of the policy. It would also not be environmentally

acceptable to extract coal given the location of the site adjacent to a large residential area, retail outlet and offices. This report was forwarded to the Coal Authority for their comments and a response has been received and is discussed below.

3.0 CONSULTATIONS

3.1 Councillor John Hardy has commented stating that he is happy with the proposed way forward detailed in this report.

3.2 Councillors David and Ann Blackburn have stated:

- The developer should pay the full amount in relation to education
- As bus users they consider that a footpath to Gelderd Road for the bus stops on Gelderd Road should still be provided. Though there are buses on Whitehall Road there is a much better frequency of buses on Gelderd Road.
- Should provide the above as we are allowing development without the improvements to Ringways Roundabout, bus stop upgrades and affordable housing.

3.3 Coal authority – The coal authority is satisfied with the remedial measures proposed by the applicant following initial intrusive investigation works, as set out in section 13.2 and 13.3 of the submitted Ground Investigation Report and that a condition is attached to require these remedial measures undertaken prior to the commencement of development. They go on to state that they would recommend that the applicant affords further consideration to the prior extraction of any remnants shallow coal as a potential alternative to the mitigation strategy outlined in the Ground Investigation Report in line with National Planning Policy in the NPPF.

4.0 MAIN ISSUES

4.1 The new matters before Panel to be assessed as part of the determination of this application are the implications of the NRWDPD and in particular Policy Waste 2 which safeguards existing waste management sites, Policy Minerals 3 and the potential for the extraction of coal from the site and the proposed commuted sum. When last reported to Panel, Members discussed and assessed the merits of the section 106 agreement requirements and the development of this brown field site. Members raised no objections to the principle of development of this site or the amendments proposed to the s106, however, these still remain to be considered by members before a decision is made.

5.0 APPRAISAL

5.1 As explained above part of the site is safeguarded as an existing waste management site (site 142) in the Natural Resources and Waste DPD9NR&WDPD) which was adopted on the 16th January 2013 by the Council and is now part of The Development Plan. There is also a temporary 5 year planning permission which expires in March 2014 to use the site for recycling of inert or non hazardous construction and evacuation wastes to produce aggregate and soils on the former overflow car parks to Makro. The permission has not implemented and the site remains vacant.

5.2 Policy Waste 2 safeguards existing waste management sites and states

Waste 2 Safeguarding waste management sites

Existing waste management sites are safeguarded for continued use during the plan period. Applications for change of use must demonstrate that there is no longer a need to retain the site for waste management purposes or there is an overriding case for the proposed development that outweighs the need to retain the site for waste management purposes.

- 5.3 The applicant has submitted information which is detailed in paragraphs 2.9 to 2.14 of this report to demonstrate that there is no longer a need to retain the site for waste management purposes and that there is an overriding case for the proposed development that outweighs the need to retain the site for waste management purposes.
- 5.4 Officers accept the applicants case although a small part of the site is safeguarded as an existing waste management site, it has not in fact been used for this purpose and remains vacant. This is despite the fact that, a small part of the proposed residential site has had planning permission for waste management purposes for the last 4 years which has not been implemented. Given the temporary permission expires in less than a year, there is no indication that this will now be taken up. The applicant has put a case forward that allocation is for only a small part of the site and the whole of the site is available for development for residential. It is agreed that the site is a Brownfield site which if developed for residential will improve the area visually and will provide some needed houses in the area. There is also a sum of money available which will be ploughed into the local area plus the development of the site will provide area plus the development of the site will provide jobs for the local people during the construction of the development.
- 5.5 Overall it is considered that given the particular circumstances of this site, including the fact that the use as a waste management site has not been implemented and the gains from the development of the land for residential purposes outweighs the need to retain the site for waste management purposes especially seeing as it is only part of the site and the site is unlikely to ever be available for waste management uses. It is therefore considered that the application is compliant with Policy Waste 2.
- 5.6 Another issue relates to Policy Minerals 3 of the adopted NR&WDPD which states;

MINERALS 3 : Minerals Safeguarding Areas – Surface Coal Development sites

Within the surface coal mineral safeguarding area shown on the Policies Map applications for non-householder development must demonstrate that the opportunity to recover any coal present at the site has been considered. Coal present should be removed prior to or during development unless:

1. it can be shown it is not economically viable to do so, or
2. it is not environmentally acceptable to do so, or
3. the need for the development outweighs the need to extract the coal, or
4. the coal will not be sterilised by the development.

- 5.7 The applicants have submitted a report in relation to the potential for extraction of coal at the site. This has been sent to the Coal Authority who have now responded. The report states that there has previously been extraction of coal from the site and there is some coal still left on the site but the report concludes that based upon the current viability of the operation any expenditure for the extraction of what coal that

is available on the site would not be justified. It also states remediation works that will be carried out to stabilise the previous coal workings that are present on the site.

5.8 The Coal Authority have replied confirming that they agree with the remediation works that are required and suggest a condition is attached to ensure these works are carried out. The Coal Authority have expressed some concern about whether it is viable to extract any remnant shallow coal resources. They state the report didn't consider whether the prior extraction of any remnant shallow coal resources could provide a more cost effective and sustainable option for addressing the stability issues that affect the application site rather than undertaking the remedial works recommended in the Ground Investigation Report. The applicant has been requested to provide some additional information, however, as there have been previous extractions of coal on the site the amount of coal that could be extracted is low and the level of costs involved would be large. For these reasons it is considered that the applicant has justified that it would not be economically viable to extract the coal from the site and policy mineral 3 has been complied with.

5.9 In March 2011 Panel approved this application for residential development in principle and deferred and delegated the decision to the Chief Officer subject to a section 106 agreement for the following contributions.

1. Highways works including the following:

(i) Off site highways works including improvements of the existing track to the site to adoptable standards with a footway on each side.

(ii) New junction with Royds Lane and the service access with Makro. A stop line on the service access from vehicles leaving the service road for Makro

(iii) A footway on one side of Royds Lane)There is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both side of Royds Lane.

(iv) New pedestrian crossing on the Ring Road, this is located after a left turn from Royds Lane.

(v) Changes to the Ring Road Roundabout at Ringways to include signalisation.

2. Bus stop upgrades to 2 bus stops on Whitehall Road.

3. Footpath improvements to bus stops on Gelderd Road

4. Education contribution for both primary and secondary schools.

5. Greenspace on site at a rate of 0.004 hectares per dwelling

6. Affordable housing deferred but subject to financial viability assessments.

Item number 1(i) which is the highway works including improvements of the existing track to the site to adoptable standards would form part of a section 38 agreement and would not be works included in a section 106 agreement.

5.10 The applicant has now stated that there is only a pot of £618,000 available to contribute to the above. The proposed sum will not provide all of the above. Each of the contributions needs to be assessed in turn to judge the impact off the development if these contributions where not paid.

5.11 As background the NPPF encourages Local Planning Authorities to take account of viability and deliverability in decision making. To ensure viability, the costs of any

requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. In this instance there is now a housebuilder on board who is committed to developing the site as they are in pre application discussions with us.

5.12 To assess whether the reduction of contributions are acceptable it needs to be considered what are the consequences of either reduced payments or none towards some of the section 106 requirements. These are considered in turn:-

5.13 Highways

The proposal is to pay for the following highway works:

- (i) New junction with Royds Lane and service access with Makro. A stop line on the service access from vehicles leaving the service road for Makro.
- (ii) A footway on one side of Royds Lane (there is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both sides of Royds Lane.
- (iii) New pedestrian crossing on the Ring Road, located after a left turn from Royds Lane.
- (iv) Pedestrian refuse on the Whitehall Road to allow access to the Leeds Bound Buses.

The following works will not be paid for.

- (i) The improvements to the Ringways Roundabout. The signalisation of this roundabout was a requirement for the scheme approved by Panel in 2011. The applicant has submitted additional information in relation to this matter especially as the number of dwellings has now been reduced by 30. Their information shows that with this reduction of dwellings the works required to Ringways Roundabout are excessive for the number of dwellings involved. **This has been re examined by highways officers and it is considered that the works to the Ringways roundabout cannot be supported by this level of development.**
- (ii) Bus stops on Whitehall Road. The scheme required for the upgrade of two new bus stops on the Whitehall Road. These bus stops would be the nearest bus stops that residents would use to access Leeds City Centre via public transport. As there is only a limited pot of money available for highway improvements it is considered by highways **that the loss of the upgrades to two bus stops is not as important as other highway works proposed such as the pedestrian crossing over the Ring Road that is required to link the site to these two bus stops.** Also in the current climate the benefits of developing the site at the current time which has a willing developer and is a brown field site outweighs the needs for upgrades of two existing bus stops.
- (iii) There was a requirement to improve the footpath from the site to existing bus stops on the Gelderd Road. **This should remain as an aspiration but until further discussions have been held with ward members and there is certainty where the Section 106 monies will be spent there is no guarantee that this can be achieved.** Councillors David and Ann Blackburn consider that this should be retained as the bus frequency is greater than on the Whitehall Road. Officers have established that there is in fact a greater frequency of buses on the Whitehall Road than Gelderd Road plus the pedestrian improvements will provide a safer route to the bus service on the

Whitehall Road. It should be noted that the applicant no longer owns the link to the South through the tunnel and the surfacing and lighting of such a long path would be likely to be cost prohibitive bearing in mind the other viability issues.

It is expected that the above works would amount to a cost of approximately £318,000. It may be when the scheme has been fully worked up and priced that the cost of these works would be higher or lower than the estimated £318,000. This would usually arise because of the discovery of unknown underground apparatus operated by Statutory Undertakers needing to be removed or re routed. This situation is not unusual and costs are not usually fixed until a tender process has been undertaken for the works. However, this of course could have an impact on the amount of money that will be left for the education contribution discussed below.

5.14 Education contribution

The scheme has been reassessed by Education in terms of the reduction in numbers of residential properties. The figure required by Education for this level of development is approximately £728,863 to be used in local primary and secondary schools for the additional pupils this development will attract. Education have indicated that provision for secondary school places at the moment is less critical but contributions to primary education are essential. The contribution required for primary school education is £474,765. The applicant cannot finance the whole of this requirement for reasons discussed in para 2.4. When the money is taken from the pot for highway works there is £300,000 left to be spent on other section 106 requirements. As explained above Members need to be aware that this figure is not fixed and could be at risk of increasing or of more concern decreasing depending on the costs for the highway works above. Assuming that the figure is approximately £300,000 this could be given to education to help the local schools but falls short of the requirement for primary schools. Whilst this £300,000 is not the full amount it is a good proportion of the requirement and will help provide accommodation in the schools for children generated from this development. There is a mixed view from Ward Members in relation to this with one supporting the proposal and the other two requesting that the full amount for education is provided. Officers consider on balance that if the development of this site is to be encouraged and the economic benefits of the development to be enjoyed this sum should be accepted. **Members could also look at some flexibility within the section 106 agreement in relation to improvements in the economic climate and the financial requirements for affordable housing. The section 106 agreement could be worded to allow the Council to choose whether any additional finance is ploughed into affordable housing and/or education. Members views on this are requested.**

5.15 Greenspace. This will be provided in line with the previous requirement of 0.004hectare per dwelling so is considered acceptable.

5.16 Affordable housing

It was agreed that the affordable housing payment could be deferred and reassessed during the construction period and if the market improved over this period then there may be some opportunity to obtain a payment for affordable housing. The applicant now wishes for this matter to be dealt with as 'overage' which means that a trigger sum would be approved by the Council and applicant and if this trigger sum was reached then contributions for affordable housing would then be paid. As mentioned above this clause in the section 106 agreement could

be more flexible and allow for the Council to choose whether to use this additional finance for affordable housing and education.

6.0 CONCLUSION

- 6.1 To conclude the following would be paid for through a section 106 agreement.
- (i) A footway on one side of Royds Lane (there is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both sides of Royds Lane.
 - (ii) New pedestrian crossing on the Ring Road, located after a left turn from Royds Lane.
 - (iii) Pedestrian refuge on Whitehall Road
 - (iv) Contribution to education of £300,000
 - (v) Greenspace on site
 - (vi) Affordable housing/additional education contribution deferred unless the market improves and profits exceed an agreed margin.

- 6.2 The developer would not be contributing to the following:

- (i) The upgrade of two bus stops on the Whitehall Road.
- (ii) The improvement of a footpath to Gelderd Road
- (iii) Metrocards
- (iv) The signalisation of the Ringways Roundabout
- (v) Public transport infrastructure

- 5.3 On balance therefore it is considered that substantial weight should be placed on bringing forward a vacant brownfield site within the main urban area with infrastructure improvements and a willing developer where approval in outline has previously been given for residential (albeit with some other uses also included) and approval is recommended. There will also be a clause that development should commence within two years from the date of decision to qualify for these reduced or none payments.

Background Papers:

Application file: 09/05553/OT



Originator: Carol
Cunningham
Tel: 0113 247 8017

Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 28 February 2013

Subject: Application Number 09/05553/OT Outline planning application for residential development at Land off Royds Lane, Lower Wortley, Leeds.

APPLICANT
Wortley Green

DATE VALID
23 December 2009

TARGET DATE
24 March 2010

Electoral Wards Affected:

Farnley and Wortley

No

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION

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 to cover the securing of a sum of £750,000 to be apportioned to the following as appropriate following discussion with ward members:-

- Greenspace provision
- Education provision
- Highway works
- Green travel Plan
- Financial viability
- Long term management of the open space and habitat corridor
- clause that development shall commence within 2 years.

1. Time limit for outline application

1. Development shall be line with approved plans
2. Full details of layout, scale, appearance and landscaping to be submitted
3. Samples of walling and roofing materials to be submitted
4. Sample panel of proposed brickwork
5. Details of fencing and boundary treatment to be submitted
6. Scheme for external bin storage to be submitted
7. Landscaping scheme to be submitted
8. Landscaping scheme to be implemented
9. Landscaping maintenance scheme to be submitted
10. All existing trees, shrubs and other natural features shown on approved plans to be retained
11. Preservation of existing trees and vegetation during construction
12. Tree protection during excavations
13. Replacement of landscaping if dies or seriously damaged in first 5 years
14. Existing and proposed levels to be submitted
15. Bat protection/mitigation
16. Submission of details for contamination and remediation
17. Amendment of remediation statement
18. Submission of verification reports
19. Reporting unexpected contamination
20. Importing soil
21. Areas to be used by vehicles to be laid out.
22. Road improvements to be carried out before development occupied
23. Full details of the access to and egress from the site to be submitted
24. Details of cycles and motorcycles parking areas to be submitted
25. Green travel plan to be submitted
26. Vehicle cleansing facilities to be provided during construction works
27. Means of preventing mud on highway during construction

28. Before development commences the flood defenses shall be provided
29. Full details of proposed ground floor levels to be submitted
30. Scheme for provision of surface water and ground water drainage works to be submitted
31. Noise protection from railway
32. No building within 3 metres either side of water mains
33. Details of surface and foul water to be submitted
34. No piped discharge of surface water until satisfactory outfall approved and implemented
35. No piped discharge of surface water until approved surface water drainage works submitted
36. Surface water from vehicle areas to pass through an oil interceptor
37. Habitat protection and enhancement
38. Lintels shall be one single piece.

Direction : development in line with approved plans, above conditions and a section 106 agreement.

In reaching this recommendation the case officer dealing with the application has worked with the applicant/agent in a positive way by maintaining regular dialogue to produce an acceptable scheme in accordance with paragraphs 186 and 187 of the National Planning Policy framework. 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 National Planning Policy Framework and (as specified below) the content and policies within The Development Plan consisting of the Leeds Unitary Development Plan Review 2006 (UDPR) and the emerging Publication Draft Core Strategy Nov 2012 (DCS)

UDPR Policies: GP5; E4; E7; H3; H4; N4; N12; N13; H11; N24; T2
BD5; LD1.

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

1.0 INTRODUCTION:

- 1.1 This application for residential development at Royds Lane was reported to West Plans Panel in March 2011 where Members resolved to defer and delegate the approval subject to a Section 106 Agreement. The development costs for this scheme have since increased and the number of proposed dwellings have decreased and this report is to reassess the viability of the site and the S106 agreement contributions. The original report is attached for information. Members of Panel will also recall that there have been subsequent discussions regarding the viability of developing this brownfield site.

2.0 PROPOSAL:

- 2.1 The application is an outline application for residential development. The application was for the principle of residential development on the site, means of access and layout. There will be one vehicular access to the site and this will be off an existing track off Royds Lane close to the junction of Royds Lane and the service road for Makro.

- 2.2 The proposed Section 106 Agreement which was approved by Panel in March 2011 had the following contributions
- Off site highway works.
 - Education contribution for both primary and secondary schools.
 - Greenspace on site 0.004 hectares per dwelling.
 - Bus stops upgrades to 2 bus stops.
 - Improvements to the footpaths to the bus stops on Gelderd Road.
 - Affordable housing and metrocards not payable but subject to financial viability submissions
- The Panel also waived the payment towards Public Transport contribution which amounted to £193,767.
- 2.3 There were a number of highway improvements that were to be provided as part of the scheme which are as follows:
- Improvement of the existing track to the site to adoptable standards with a footway on each side
 - New junction with Royds Lane and the service access with Makro. A stop line on the service access from vehicles leaving the service road for Makro.
 - A footway on one side of Royds Lane (there is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both sides of Royds Lane
 - New pedestrian crossing on the Ring Road, this is located after a left turn from Royds Lane.
 - Changes to the Ring Road Roundabout at Ringways to include signalling.
- 2.4 The owner of the land now has a house builder interested in developing the site for housing and officers are discussing layout plans related to a future reserved matter application with this house builder. However, there are a number of changes since the Panel decision in 2011 which has meant that the viability of the development had to be reassessed. The changes in circumstances are the following:
- Firstly, the outline consent was for approximately 192 dwellings which was 36 apartments and 156 houses. The number of dwellings has reduced to 152 which will be 36 apartments and 116 houses. The income generated from this reduction in numbers has been reduced.
- Secondly, further work has been undertaken into the amount of contamination on the site which will require more remediation than originally thought with a higher cost which along with other abnormalities amounts to a total construction cost of over £5 million which is more than previously expected.
- Thirdly, the economic climate has seen a further decline so the income generated from the scheme has been reduced. The amount of revenue on the site has decreased by £1.2million.
- 2.5 All these circumstances have led to the amount of money available for all the requirements of the S106 agreements being reduced to a pot of £740,000 (including the section 38 works which would account for approximately £122,000). The previous section 106 agreement didn't refer to prices but includes specifically the works that had to be carried out which concerned the applicant as the cost of these could spiral. The applicant has asked that there is a fixed pot of finance so they can be confident that they are able to meet the requirements. Any more than this pot of £740,000 will result in the scheme being unviable and very unlikely to go ahead. This pot of money would not cover the amount required for all of the previously approved section 106 requirements. Information has also been obtained in relation

to the total costs for the previous requirements. These are all estimates but gives an idea on how much the current obligations would have been.

Highway works – upwards of £1 million
Education – £500,000
Bus stop upgrades - £20,000
Greenspace on site provision – 0.004ha per dwelling
Improve footway to bus stops on the Gelderd Road –

- 2.6 The applicant has revisited the transport assessment based on the reduction of 30 dwellings. They have also submitted estimates on the highway measures that they consider are required. The information shows that all the previous highway works listed above can be implemented using the pot of £740,000 except for the signalisation of the Ringways Roundabout. The information submitted also put the case forward that with the reduction in numbers the signalisation of the Ringways Roundabout is no longer required. The estimate for the proposed highway works is approximately £440,000. However, part of these highway works is to upgrade the existing track from the junction with Makro service access into the site itself. These works will form part of any section 38 agreement and should not form part of the section 106 agreement. The applicant has stated that if these works are not part of the section 106 agreement then the sum of money required for these works will have to come out of the above pot so the total pot of money available for works in the section 106 agreement will be reduced to £618,000. It is still accepted that the other highways works required would amount to £318,000.
- 2.7 This leaves £300,000 to be spent on other contributions required from the development. This could be used by highways to do other highway works required in the area or towards education who have requested £500,000.
- 2.8 Another matter relates to the mechanism for obtaining contributions to affordable housing if the economic climate improves and there is more revenue generated from the scheme than what is currently expected. The previous mechanism approved by Panel in March 2011 requested that a financial viability was submitted after 2 years since development commenced and then yearly until the development was complete. If the market had improved and there was profit within the site then a financial contribution to affordable housing would then be paid. The applicant now wants to change this mechanism. Instead of submitting a financial appraisal the applicant and Council agree a trigger sum which once reached would ensure that contributions to affordable housing are paid. This trigger sum is achieved by using a formula which takes account of revenue generated from the scheme along with cost.

3.0 MAIN ISSUES

- 3.1 The main issue is to discuss and assess the merits of the section 106 agreement requirements and the development of this brown field site.

4.0 APPRAISAL

- 4.1 Panel approved this application for residential development in principle and deferred and delegated the decision to the Chief Officer subject to a section 106 agreement for the following contributions.

1. Highways works including the following:

(i) Off site highways works including improvements of the existing track to the site to adoptable standards with a footway on each side.

(ii) New junction with Royds Lane and the service access with Makro. A stop line on the service access from vehicles leaving the service road for Makro

(iii) A footway on one side of Royds Lane (There is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both side of Royds Lane.

(iv) New pedestrian crossing on the Ring Road, this is located after a left turn from Royds Lane.

(v) Changes to the Ring Road Roundabout at Ringways to include signalisation.

2. Bus stop upgrades to 2 bus stops on Whitehall Road.

3. Footpath improvements to bus stops on Gelderd Road

4. Education contribution for both primary and secondary schools.

5. Greenspace on site at a rate of 0.004 hectares per dwelling

6. Affordable housing deferred but subject to financial viability assessments.

Item number 1(i) which is the highway works including improvements of the existing track to the site to adoptable standards would form part of a section 38 agreement and would not be works included in a section 106 agreement.

4.2 The applicant has now stated that there is only a pot of £618,000 available to contribute to the above contribute to the above. The proposed sum will not provide all of the above. Each of the contributions needs to be assessed in turn to judge the impact off the development if these contributions where not paid.

4.3 As background the NPPF encourages Local Planning Authorities to take account of viability and deliverability in decision making. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. In this instance there is now a housebuilder on board who is committed to developing the site as they are in pre application discussions with us.

4.4 To assess whether this reduction of contributions are acceptable it needs to be assessed what are the consequences of either reduced payments or none towards some of the section 106 requirements. These are considered in turn.

4.5 Highways

The proposal is to pay for the following highway works:

(v) New junction with Royds Lane and service access with Makro. A stop line on the service access from vehicles leaving the service road for Makro.

(vi) A footway on one side of Royds Lane (there is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both sides of Royds Lane.

(vii) New pedestrian crossing on the Ring Road, located after a left turn from Royds Lane.

- (viii) Pedestrian refuse on the Whitehall Road to allow access to the Leeds Bound Buses.

The following works will not be paid for.

- (iv) The improvements to the Ringways Roundabout. The signalisation of this roundabout was a requirement for the scheme approved by Panel in 2011. The applicant has submitted additional information in relation to this matter especially as the number of dwellings has now been reduced by 30. Their information shows that with this reduction of dwellings the works required to Ringways Roundabout are excessive for the number of dwellings involved. **This has been re examined by highways officers and it is considered that the works to the Ringways roundabout cannot be supported by this level of development.**
- (v) Bus stops on Whitehall Road. The scheme required for the upgrade of two new bus stops on the Whitehall Road. These bus stops would be the nearest bus stops that residents would use to access Leeds City Centre via public transport. As there is only a limited pot of money available for highway improvements it is considered by highways **that the loss of the upgrades to two bus stops is not as important as other highway works proposed such as the pedestrian crossing over the Ring Road that is required to link the site to these two bus stops.** Also in the current climate the benefits of developing the site at the current time which has a willing developer and is a brown field site outweighs the needs for upgrades of two existing bus stops.
- (vi) There was a requirement to improve the footpath from the site to existing bus stops on the Gelderd Road. **This should remain as an aspiration but until further discussions have been held with ward members and there is certainty where the Section 106 monies will be spent there is no guarantee that this can be achieved.** It should be noted that the applicant no longer owns the link to the South through the tunnel and the surfacing and lighting of such a long path would be likely to be cost prohibitive bearing in mind the other viability issues.

4.6 Education contribution

The scheme has been reassessed by Education in terms of the reduction in numbers of residential properties. The figure required by Education for this level of development is approximately £500,000 to be used in local primary and secondary schools for the additional pupils this development will attract. The applicant cannot finance the whole of this requirement for reasons discussed in para 2.4. When the money is taken from the pot for highway works there is £300,000 left to be spent on other section 106 requirements. This £300,000 could be given to education to help the local schools. It is appreciated that schools are currently at capacity in Leeds including this ward and whilst this £300,000 is not the full amount it is a good proportion of the requirement and will help with the accommodation in the schools for children generated from this development. Therefore officers consider on balance that if the development of this site is to be encouraged and the economic benefits of the development to be enjoyed this sum should be accepted.

4.7 Greenspace. This will be provided in line with the previous requirement of 0.004hectare per dwelling so is considered acceptable.

4.8 Affordable housing

It was agreed that the affordable housing payment could be deferred and reassessed during the construction period and if the market improved over this period then there may be some opportunity to obtain a payment for affordable housing. The applicant now wishes for this matter to be dealt with under 'overage' which means that a trigger sum would be approved by the Council and applicant and if this trigger sum was reached then contributions for affordable housing would then be paid. Officers have sought legal advice regarding this way forward and these views will be presented to Panel when considering this application.

5.0 CONCLUSION

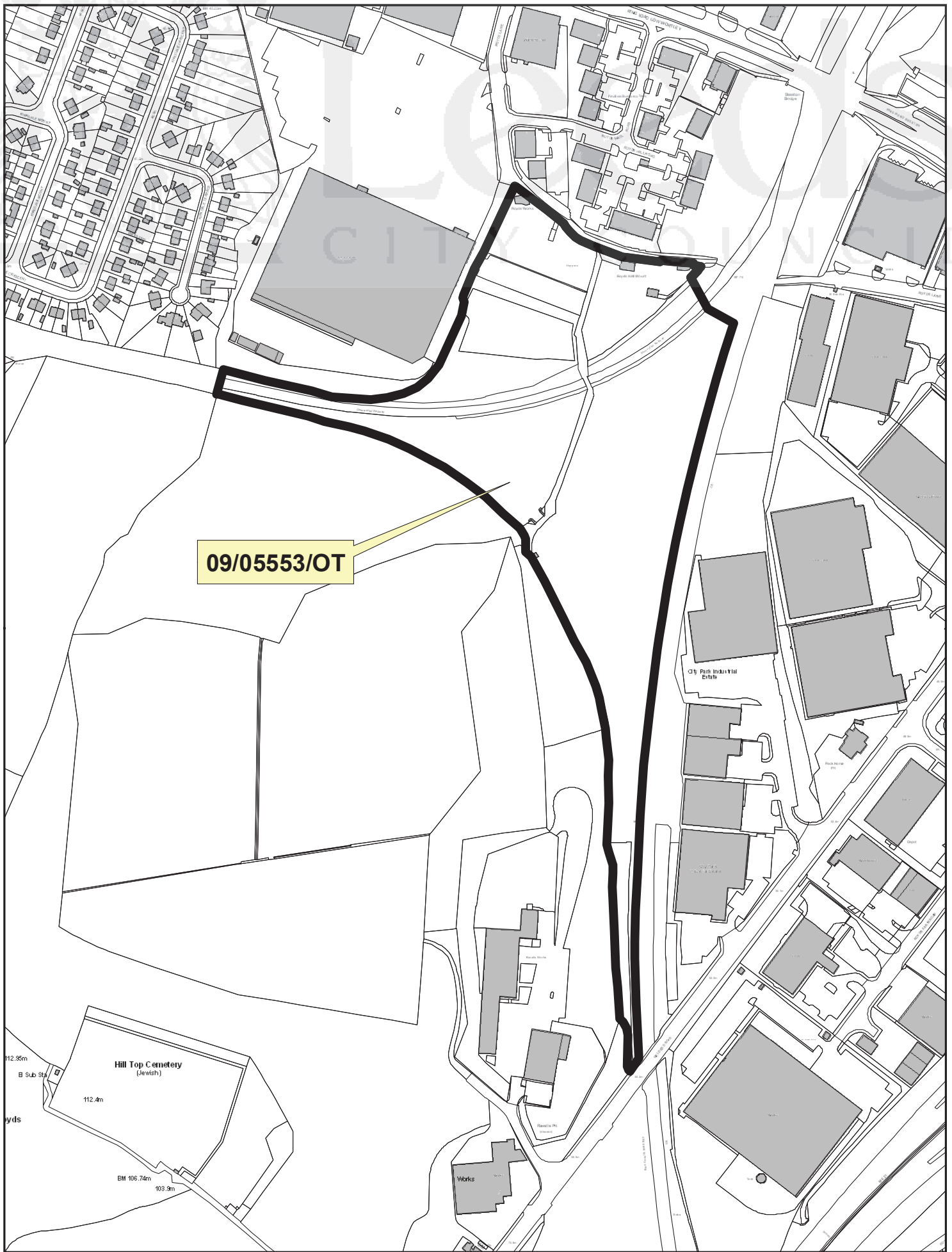
5.1 To conclude the following would be paid for through a section 106 agreement.

- (vii) A footway on one side of Royds Lane (there is an existing footway on the other side) with dropped kerbs and tactile paving on all the crossing along both sides of Royds Lane.
- (viii) New pedestrian crossing on the Ring Road, located after a left turn from Royds Lane.
- (ix) Pedestrian refuse on Whitehall Road
- (x) Contribution to education of £300,000
- (xi) Greenspace on site
- (xii) Affordable housing deferred unless the market improves and profits exceed an agreed margin.

5.2 The developer would not be contributing to the following:

- (vi) The upgrade of two bus stops on the Whitehall Road.
- (vii) The improvement of a footpath to Gelderd Road
- (viii) Metrocards
- (ix) The signalisation of the Ringways Roundabout
- (x) Public transport infrastructure

5.3.1 On balance therefore it is considered that substantial weight should be placed on bringing forward a vacant brownfield site within the main urban area with infrastructure improvements and a willing developer where approval in outline has previously been given for residential (albeit with some other uses also included) and approval is recommended. There will also be a clause that development should commence within two years from the date of decision to qualify for these reduced or none payments.



SOUTH AND WEST PLANS PANEL

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Originator: Mathias Franklin

Tel: 0113 2477019

Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 25th April 2013

Subject: APPLICATION 13/00620/FU- Change of use of ground floor office to form hot food takeaway with flue to rear at 151A Otley Old Road, LS16 6HN

APPLICANT	DATE VALID	TARGET DATE
Mr S Miah	06.02.2013	03.04.2013

Electoral Wards Affected:

Weetwood

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

- 1. GRANT PLANNING PERMISSION subject to conditions listed below.**

List of planning conditions:

1. Commencement of development within 3 years.
2. Approval of plans
3. The external flue shall be installed and painted black and thereafter retained and maintained for the lifetime of the development.
4. The flue shall be operated and maintained in accordance with the submitted statement
5. Prior to commencement details of refuse, cycle and motorcycle facilities to be submitted and approved by the LPA.
6. Provision for a grease trap.
7. The combined noise from fixed plant shall not exceed a rating level as defined by BS4142 by more than 5dB(A) below the lowest background (L90) during which the plant will operate. Details of said plant shall be submitted to the Local Planning Authority.
8. The hours of operation of the hot food takeaway 17.30hours to 2300hours Monday to

Saturday and 1730hours to 2200hours on Sundays and Bank Holidays shall be restricted to 0700 hours to 2300 hours.

9. Hours for delivery, loading and unloading 8:00 - 18:00 Monday to Saturday, no deliveries Sunday or Bank Holidays.
10. A5 Use only, no permitted change to A3 or A4 due to car parking considerations
11. Customer parking to be on the external car park on Otley Old Road only, with the rear car park to be for staff. A sign shall be erected on the building to indicate this, details to be submitted.

In reaching a decision the case officer dealing with the application has worked with the applicant/agent in a positive way to produce an acceptable scheme in accordance with paragraphs 186 and 187 of the National Planning Policy framework.

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 National Planning Policy Framework 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), the Natural Resources and Waste Local Plan 2013 (NRWLP) and the emerging Publication Draft Core Strategy Nov 2012 (DCS).

SF15, GP5, BD6, T2, T24,
Neighbourhoods for Living SPG

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.

1.0 INTRODUCTION:

- 1.1 This application is presented to Plans Panel at the request of Ward Councillors Sue Bentley and Judith Chapman who both object to the planning application on the grounds of harm to visual amenity from the flue, lack of car parking, highway safety, inappropriate location for a take away, no demand for a take away in this location, late night noise and disturbance, smells and odours and litter.

2.0 PROPOSAL:

- 2.1 The proposed change of use from an office to a hot food take away includes details of the proposed external flue to be mounted on the rear of the property. This flue would project above the eaves of the roof but site below the ridge of the roof. The applicants have prepared a detailed management plan of how the flue would operate and be maintained to prevent issues of smells, noises and odours arising. This document would form part of the approved list of documents to ensure compliance with the applicants recommendations.
- 2.3 The proposed A5 use would operate from 17.30 to 2300 hours Monday to Saturday and 17.30 hours to 2200 hours on Sundays and Bank Holidays.

- 2.4 Any changes to the premises external appearance would be dealt with under a separate planning application. This current application is only for the principle of the change of use and the proposed rear flue.
- 2.5 Customer parking is to be in the external car park opposite the unit only. The applicant has confirmed in writing that he has permission to use this parking area and that he will agree to erecting a sign to advise customers not to use the rear car park.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is located in a predominantly residential area although there are several commercial, retail and community uses in close proximity. The premises is located next to a restaurant and a dental practice. To the rear is a shared car park. Beyond the car park is the back gardens of residential properties. There is a car park located in front of the premises used by the restaurant and other business in the locality. There are residential properties located further along Otley Old Road.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 12/04778/FU Change of use of office to hot food takeaway (A5 use) with external flue to rear – Withdrawn.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 There have been no negotiations prior to the submission of this application.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been publicised by means of site notices. There have been 13 objections received including a request from Ward Councillor Sue Bentley that this application be referred to Plans Panel due to the level of local representations and the potential impact on amenity. The following issues have been raised.

- There are already plenty of takeaways in the local area;
- The noise disturbance of having such a business;
- Potential food smell that will come from the takeaway and flue;
- Concerns relating to the disposal of rubbish from the takeaway - if not done appropriately, this could appear unsightly and may also attract vermin;
- Potential increase of rubbish in the local area (i.e. food/packaging);
- Concerns that people may congregate around the takeaway on an evening and the possible disturbance this could cause;
- A Takeaway would not be in keeping with the local area;
- Car parking is already an issue on the road, particularly on an evening. The road and car park are usually congested which can often result in neighbours being unable to park outside their homes.
- Concerns that the proposed use may restrict access to existing parking spaces used by the adjacent business and also restrict access for the disabled
- The plans are inaccurate as the car park opposite the premises is not available for the applicant's use
- The application is inaccurate as the adjacent Dental Practice is closer than stated to the proposed site.

- Concerns over impact on neighbouring business and the Health Practices
- Concerns over the impact on visual amenity from the flue
- Loss of residential amenity

7.0 CONSULTATION RESPONSES:

- 7.1 Highways – no objections subject to condition to prevent permitted change of use to restaurant or a bar.
- 7.2 Environmental Health – Have concerns over the flue due to the proposed flue not projecting 1metre above the ridge of the roof but they do not formally object to the application as the revised siting of the flue is designed in accordance with DEFRA guidance. They recommend conditions relating to hours of use and grease traps and also ensuring the flue is operated in a way to minimise noise and smells

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 Development Plan unless material considerations indicate otherwise.
- 8.2 The most relevant Policies in the adopted Leeds Unitary Development Plan are outlined below.

Policy GP5 refers to detailed planning considerations and states that development proposals should seek to avoid loss of amenity.

Policy BD6 refers to alterations and extensions to buildings

Policies T2 and T24 seek to maintain adequate vehicle access and levels of vehicle parking provision with no undue detriment to other highway users.

Policy SF15 – refers to changes of use of premises to hot foot takeaways. This policy seeks to ensure the change of use would not adversely affect amenity.

Neighbourhoods for Living SPG.

- 8.3 National Planning Policy Guidance:

The National Planning Policy Framework came into effect on 27th March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development:

“At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking” (para 14).

- 8.4 The Government’s pursuit of sustainable development involves seeking a wide variety of positive improvements including:

1. making it easier for jobs to be created in cities, towns and villages
2. replacing poor design with better design

3. improving the conditions in which people live, work, travel and take leisure

Emerging Core Strategy

The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- Principle of the development
- Impacts on visual amenity
- Neighbours amenity considerations
- Highway considerations
- Other matters

10.0 APPRAISAL:

10.1 A5 Use Class businesses are not Main Town Centre Uses. As such they can potentially be located in any sustainable location. The main considerations with change of use to A5 business relate to the impact they have upon residential amenity and car parking and highway safety.

10.2 Currently the premises is used as an office with a health practitioner operating at the first floor. The neighbouring properties either side of the application site are all within commercial uses. In front of the premises is located a car park which the applicants state they have access to use. This car park is currently well used by visitors to the restaurant and other business. To the rear of the premises is located a shared car park and service yard. Beyond the car park is located the nearest residential properties 10 and 12 Luttrell Gardens. The flue would be located about 12 metres from the rear shared boundary fence with these properties and around 25 metres from the flue to the rear elevations of these properties. The proposed flue would be located on the rear of the property it would not project above the ridge of the roof so would not be visible from Otley Old Road. The proposal is to paint the flue black to lessen its visual impact. The flue would only be visible from the rear of 4 properties (two pairs of semi detached dwellings) on Luttrell Gardens and from very limited oblique angles between the two pairs of semi detached dwellings. In light of the limited views of the flue and as there is a good deal of separation distance between the flue and the nearest residents who could see it, it is not considered that the visual impact from the flue would be significant or harmful to visual amenity.

10.3 The proposed change of use of the office to an A5 premises does not involve any changes to the front elevation of the property. Should the applicants wish to install

any signage or alter the appearance of the premises this would require separate Advert Consent and planning permission.

- 10.4 One of the main concerns with this type of application is from the impact of the cooking on the surrounding area in relation to noise, smells and odours. The need for a flue is therefore essential. The applicants have produced a detailed supporting operating statement to accompany the planning application. It is suggested that this document should be approved as part of the approved documents list. The operators of the hot food take away would then be required by planning condition to ensure they carried out the recommendations contained within the supporting statement. The statement seeks to ensure that the flue is managed, maintained and operated in such away as to mitigate the effects of the cooking smells and odours and noise on the surrounding area. The design and siting of the flue is an integral part of this process. Environmental Health officers have reviewed the applicant's submitted information and although they would recommend a flue which projects 1 metre above the ridge they do not object to the current application as it is in accordance with the DEFRA guidance. Officers have resisted extending the flue 1 metre above the ridge of the roof as this would cause a concern with visual amenity. The siting of the flue as proposed by the applicants and accepted by Environmental Health is such that it should ensure that there are no serious problems of noise, smells and odours. As such it is considered that the proposed change of use would not be harmful to the amenity of neighbouring residents or businesses in relation to noise or smells and odours.
- 10.5 The proposed hours of use of the premises have been conditioned. The premises would principally operate from 5.30pm to 11pm Monday to Saturday and 10pm finish on Sundays. These hours of opening should not cause any serious conflict with the neighbouring business premises. It is not envisaged the potentially comings or goings from the takeaway would significantly affect either the neighbours to the rear on Luttrell Gardens or the residents of Otley Old Road in relation to concerns over noise and disturbance from a night time activity. This is because these residential properties are located sufficiently far enough away from the premises to not be affected by general noise and disturbance from customers who are either waiting for their order in or outside the premises or from those customers entering and exiting the premises. A condition has been proposed to restrict the use of the rear car parking area to staff only so as to prevent customers from parking close to the boundary with the properties at the rear on Luttrell Gardens.
- 10.8 The premises shares car parking with adjacent businesses, the existing office uses space through the day time whilst the takeaway use would be likely to attract some demand for parking in the evenings. Adjacent businesses peak times are also in the evening and the shared car park is well used. However, the number of vehicles requiring a parking space to visit a takeaway would not be significant and a highway objection would be difficult to justify. A restaurant use would attract longer stay parking in the evenings and a condition has been attached to any approval restricting the use to A5 only, with no permitted change to A3 or A4 as these Uses generate significantly higher car parking demands than an A5 business.
- 10.9 One of the main areas of objection to this application relates to the impact on car parking and highway safety. It is acknowledged that the shared parking area opposite the premises is well used and that on street parking is already at a premium. However, the premises has the benefit of use of the shared parking area and the limited number of people that drive to a takeaway are likely to be accommodated within the daily fluctuations in use of the car parking area. Furthermore, the applicant has provided written confirmation that he has consent

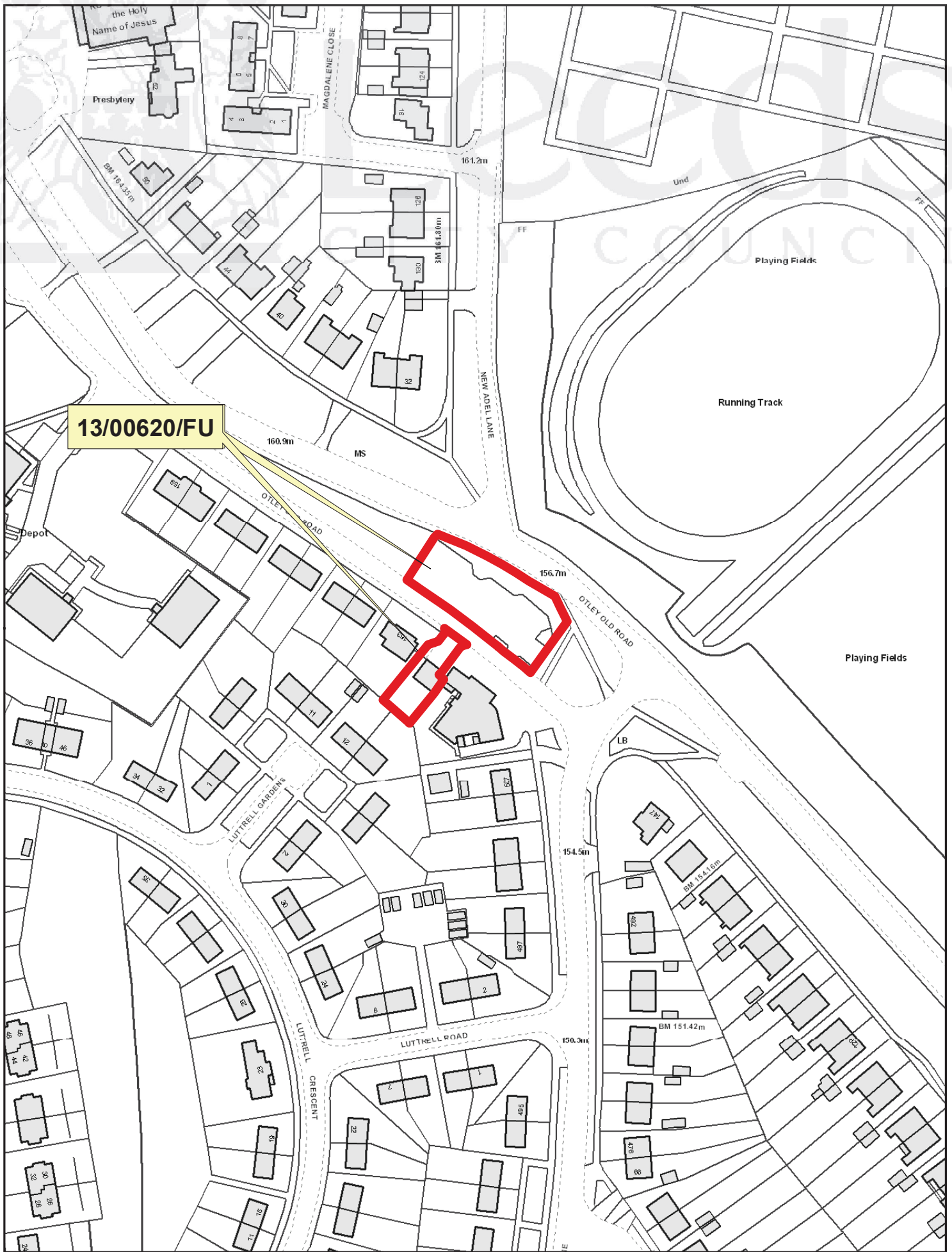
within his lease to use shared parking area and that he will agree to erect a sign advising customers that they cannot park at the rear of the building to protect residential amenity. The rear parking area will be available for staff use. In light of these parking options and given the relatively low level use of the proposal a highway objection would be difficult to justify on this basis.

11.0 CONCLUSION:

- 11.1 After careful consideration of all relevant planning matters it is considered that the proposed development is acceptable subject to the imposition of suitable conditions. The proposal is therefore recommended for approval.

Background Papers:

Application file;
Certificate of Ownership.



13/00620/FU

SOUTH AND WEST PLANS PANEL





Originator: Mathias Franklin

Tel: 011322 77019

Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 25th April 2013

Subject: APPLICATION 11/03324/FU- Residential development of 143 houses and 12 flats; restoration of The Lodge to form 1 house; alterations and extensions to hospital building to form residential care home comprising 20 apartments and 35 bedspaces (C2 use); alterations and extensions to former Ida Wing building to form 56 'extra care' housing units (C3 use), former Cookridge Hospital, Silk Mill Way, Cookridge

APPLICANT

Chartford Arthington Ltd

DATE VALID

19.09.2011

TARGET DATE

PPA

Electoral Wards Affected:

Weetwood

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Members are asked to agree the proposed changes to the affordable housing element of the Section 106 package.

The Section 106 package as agreed by Panel in June 2012 was:

- **Affordable housing: 56 extra care apartments in Ida Extension: All Social Rented tenure. The developers are now requesting that the affordable housing be provided at Sub Market rent levels. They are not proposing any other changes to the Section 106 package.**
- **Education contribution £681,225.00 (£83,000 of which to be allocated to provide equipped childrens play provision)**
- **Travel Plan monitoring fee £2500.00**
- **Link with phase 1 section 106 agreement.**
- **Completion of new builds linked to completion of conversion works of listed buildings as per previous Wimpey scheme (ratio to be agreed)**
- **Local training initiatives**
- **Closure of Hospital Lane to through traffic**

- **All 20 apartment and 35 bedspaces in the Main hospital building shall only be occupied in the C2 Use Class.**

1.0 INTRODUCTION:

- 1.1 This application is brought back to Plans Panel due to the applicants request to change the Section 106 package previously agreed. The applicant had offered to provide all of the 56 apartments within the proposed Ida building extension as affordable housing for Social Rent level. They are now requesting that the type of be changed to Sub Market (Affordable Rent which equates in planning terms to a sub market rent level). Social rent level work out around 50% of the market rate of the flat. Sub Market level is 80% of market rental levels.
- 1.2 The applicant gave a written commitment in May 2012 that they were aware of the difference between the costs of building the project at social rent levels compared to sub market rent levels. Abbeyfield who are the potential operator of the building once it has been constructed have stated they would not be able to operate the building if they are required to charge Social rent levels. Abbeyfield are a charity that also are a Registered Provider of affordable housing specializing in Extra Care accommodation. They do not operate a building in Leeds currently, however they do operate nationally. Abbeyfield charge rents at Sub Market rent levels, not Social rent levels which although Chartford, the applicant offered to Panel could not be delivered by Abbeyfield. Plans Panel were given the developers Section 106 offer in June 2012 which included the offer that all 56 apartments would be for Social Rent. Members will recall they accepted the Section 106 the applicant offered. In November 2012 during the detailed negotiations over the wording of the Section 106 agreement the applicant changed their position on the offer they had originally made. They stated the development was not financially viable at Social Rented levels and that the operators of the extra care apartments, Abbeyfield could only make the scheme work financially at Sub Market rent levels.
- 1.3 Construction works at the former hospital site have now stopped. The developer has built out their first phase of approved houses (21 houses in total) in the south west corner of the site adjacent to Silk Mill Way. The developer wants to restart building works on site but until this issue around the affordable housing element of the Section 106 package is resolved the planning permission which Plans Panel deferred and delegated in June 2012 cannot be completed and the decision notice issued.
- 1.4 Officers are bringing this application back to Panel to consider the changes in the rents of the affordable housing proposed. The package originally offered was considered a good outcome as it provided more affordable housing for a particular area of the community that needs specialist housing than would otherwise have been required by the development, even though the package meant that many other contributions normally required were dropped. It also provided all the units at social rent level which would have allowed people who were the most financially vulnerable to be able to be offered good housing at an affordable level. However, for those most financially vulnerable, Sub Market rents proposed at the scheme will be eligible for appropriate support through Housing Benefit entitlement

2.0 PROPOSAL:

- 2.1 Members will recall they have agreed the layout and design of the scheme and this report is focused solely on the Section 106 package as relates to affordable housing.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is the former Cookridge Hospital, now cleared of hospital buildings except for the 4 listed buildings. There have been 21 new build houses built in the south western part of the site accessed off Silk Mill Way.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 10/02683/FU: 1 two bedroom, 1 three bedroom and 1 four bedroom with integral garage, terrace houses (plots 21-24). Approved 2010

10/02682/FU: Laying out of access road and sewers to residential development site. Approved 2010.

10/04346/FU: Laying out of access road and erection of 19 houses. Approved with a S106 in 2011.

07/05064/RM (Wimpey Scheme): Reserved Matters including laying out of access roads and erection of 128 houses and 44 flats, with car parking and landscaping pursuant to Outline Consent (Ref. 26/140/00/OT and renewed in 2004) for residential development and associated works – Decision Notice issued March 2009 on completion of the Section 106 agreement.

07/05001/FU: Change of use, including part demolition and conversion of hospital buildings and lodge to 77 dwellings; Decision Notice issued March 2009 on completion of the Section 106 agreement.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Prior to the submission of the current scheme by Chartford Homes the developer undertook community consultation. Members will also recall they considered and discussed the application for 19 houses which are currently being built.

- 5.2 The main changes between the Chartford scheme and the previous Wimpey scheme is that Chartford are building two storey houses as opposed to the three storey town houses of the Wimpey scheme. Also the current scheme differs to Wimpey's as Chartford's proposal includes 56 extra care apartments in a four storey extension linked to the Ida building. Chartford also propose to convert and alter the Main Hospital building into a nursing home with 35 bedspaces and 20 apartments

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 There have been no further representations received to the publicity of this application since the application was reported to Panel in May 2012.

7.0 CONSULTATION RESPONSES:

7.1 N/A

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 Development Plan unless material considerations indicate otherwise.

8.2 The most relevant Policies in the adopted Leeds Unitary Development Plan are outlined below.

- Policy H11: Refers to the provisions of affordable housing within new housing proposals which meet the requirements of PPS3;
- Policy H12: The council will negotiate the proportion and type of affordable housing required for individual sites in the context of the extent, nature and need of affordable housing in the locality and the characteristics of the site;

8.3 National Planning Policy Guidance:

The National Planning Policy Framework came into effect on 27th March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development:

“At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking” (para 14).

8.4 The Government’s pursuit of sustainable development involves seeking a wide variety of positive improvements including:

1. making it easier for jobs to be created in cities, towns and villages
2. replacing poor design with better design
3. improving the conditions in which people live, work, travel and take leisure

Emerging Core Strategy

The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

9.0 MAIN ISSUES:

9.1 The following main issue has been identified as reviewing the affordable housing element of the application.

10.0 APPRAISAL:

10.1 By way of background Extra Care Housing differs from other types of older people's accommodation and can be broadly defined as providing the opportunity for older people with a range of support needs to live in their own home, with their own front door, in a safe and secure environment within a community setting. There are generally communal facilities such as activity rooms, dining rooms / restaurants within Extra Care, but these vary depending on what services are already available within the local community. 24 hour emergency access to care and support, usually provided by on-site staff, is a key feature of Extra Care Housing. This level of care and support can be supplemented in response to an individual tenant's level of assessed need. This allows people to maintain their independence and quality of life for longer and for many older people it offers an alternative choice to residential care. The flexible response to varying needs also allows for 'ageing in place' rather than the individual being required to move into a care home when their care needs increase.

10.2 The cost of Extra Care Housing is made up of rent, a service charge, a wellbeing charge (for access to the 24 hour emergency care and support) and additional care costs relating to the individual tenants level of need. The revenue funding for Extra Care Housing comes from a number of different sources and is also subject to a resident's eligibility for benefits. From an Adult Social Care (ASC) perspective the different funding sources and individual care costs being proportional to the level of need mean that it represents better value than residential care (where costs are fixed and are mostly met by Adult Social Care). Of equal importance is the fact that tenants of Extra Care Housing have improved outcomes (e.g. a reduction in the number of falls leading to less hospital admissions). As such the benefits of the scheme are still considered significant even with a change from Social to Affordable rents being charged.

10.3 A detailed demand analysis exercise has been carried out in Leeds, using 2011 census data to identify the quantity and type of older peoples housing required across the city. This includes the requirement for Extra Care housing, which has been calculated using the Planning for Care model and CLG's More Choice Greater Voice methodology. These models have been further refined with more recent data and calculations of need based on the requirements per 1000 of population aged over 75. Also taking into account current and planned provision of Extra Care Housing, indications are that the city needs to develop 879 units of Extra Care accommodation over the period to 2020. The Cookridge site is within the Weetwood ward which is estimated to have a current shortfall in the provision of Extra Care Housing amounting to 43 units. The adjoining wards – which would be in the "catchment area" for a Cookridge Extra Care Housing Scheme also have a current shortfall of provision. Adel/Wharfedale ward has a shortfall of 52 units and Otley/Yeadon has a shortfall of 55 units.

10.4 The proposal by Abbeyfield to develop a 56 unit Extra Care Housing scheme at Cookridge meets the strategic needs of the Council. It offers a better and preferred alternative to residential care as it is non-institutional, promotes independence, is

more cost effective and achieves better outcomes for older people. The number of proposed units would also meet the estimated demand level for the area.

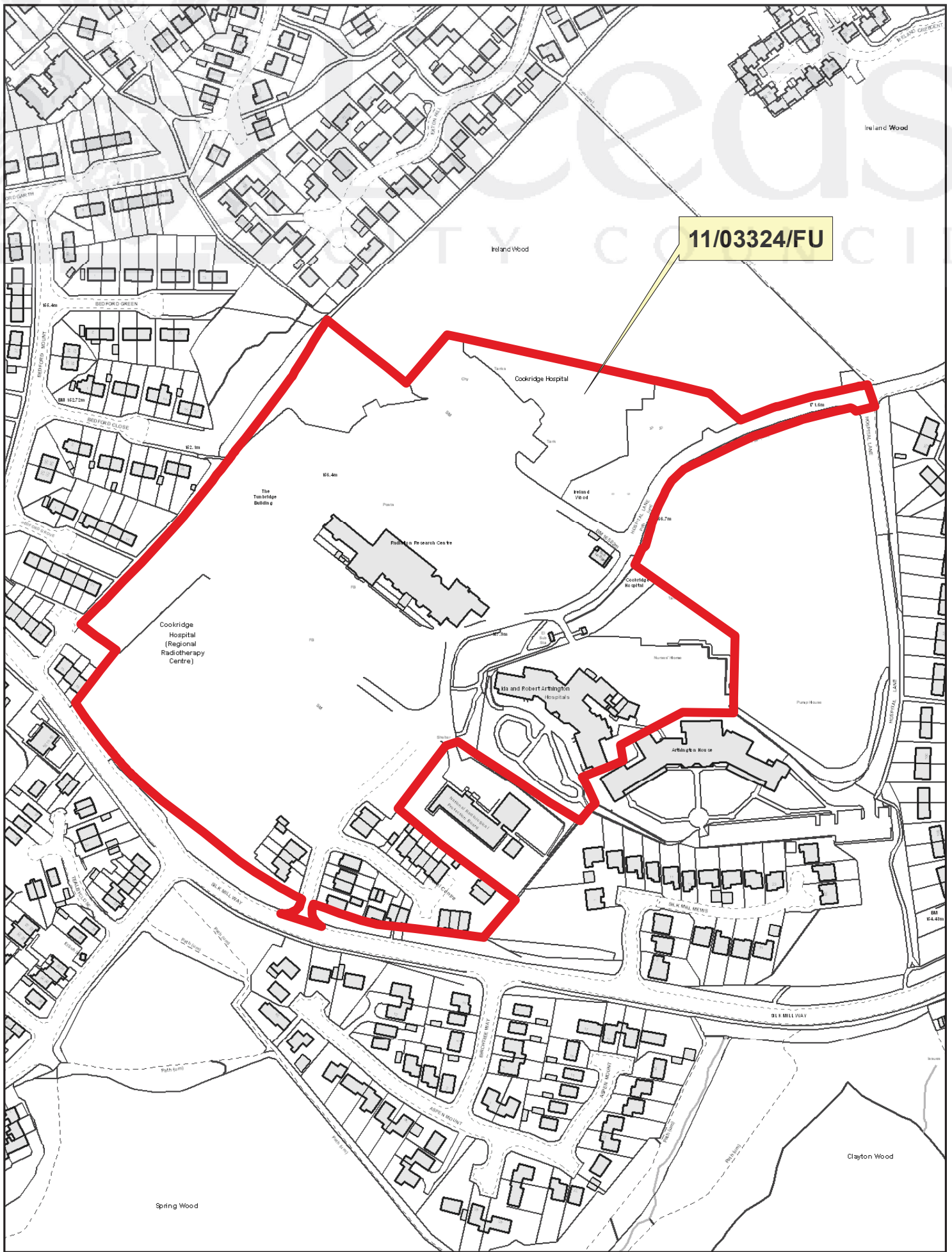
- 10.5 The developer is proposing that the 56 extra care apartments would be sub market rented properties provided via a Registered Provider, Abbeyfield. Originally they offered them all as social rent but changed their proposals prior to the signing of the S106 agreement. Submarket rent or Affordable Rent (AR) is 80% of market value. Social rent is around 50% market rental value. The Homes and Communities Agency still define Affordable Rent as being social housing.
- 10.6 Affordable Rent (up to 80% market levels) is increasingly the norm in the social rented sector and housing associations are increasingly charging A.R. including on their grant funded new build schemes. The Homes and Communities Agency define it as a form of social housing. As such in this instance the change of tenure type to Sub Market rent is not out of step with the way most new build Extra Care Schemes are setting their rent levels. Extra care schemes are inherently more expensive to build, primarily due to higher space and specifications requirements to enable independent living. Given Abbeyfield have stated that they cannot build and run the scheme at social rent levels and in light of the growing demand for this type of accommodation it is considered that the benefits of delivering this scheme outweigh any increases in costs.
- 10.7 Revenues and Benefits Service have confirmed that the rent level chargeable for a flat for this scheme is acceptable for benefit purposes. The Revenues and Benefits Service however will not meet the full costs of the proposed catering and other ineligible charges (such as domestic supplies within individual apartments) that future occupiers would be required to pay. As such future occupiers would have to use other benefit entitlements or their own sources of finance to make up any shortfall on the catering charges. These payments are envisaged to range between £50.93 per person per week and £65.45 per person per week. In essence therefore this means that people who currently receive Housing Benefit and other benefits could be eligible to move into the flats should their particular needs require this type of accommodation.
- 10.8 In planning policy terms as the potential future operators Abbeyfield are registered with the Homes and Communities Agency as an affordable housing provider. The rent levels they charge will have to be below market rent levels (normally 20% lower than market rent levels). As such the revised proposals would still be defined as falling within the policy definition of Affordable Housing.

11.0 CONCLUSION:

- 11.1 This application will increase the housing opportunities for older people generally and offer them a viable alternative to residential care. The scheme will also help to meet a strategic aim of the Council. The proposed change of tenure type remains within the definition of Affordable Housing in planning policy terms. In light of the above Members are asked to accept the revision to the tenure of affordable housing in the S106.

Background Papers:

Application file;
Certificate of Ownership.



11/03324/FU

SOUTH AND WEST PLANS PANEL



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Originator: David Jones

Tel: 2478055

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 25 April 2013

Subject: APPLICATION 06/01712/FU – APPLICATION TO DISCHARGE/AMEND A PLANNING OBLIGATION UNDER SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990, RELATING TO PLANNING PERMISSION REF. NO. 06/01712/FU, 247 HOUSES AND FLATS, LAND OFF STATION LANE, EAST ARDSLEY

APPLICANT

Miller Homes

DATE VALID

21 December 2012

TARGET DATE

15th February 2013

Electoral Wards Affected:

ARDSLEY & ROBIN HOOD

YES

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Defer and Delegate Approval to the Chief Planning Officer the completion of a revised 106 Agreement with the following provisions: the commuted sum of £350 000, to be paid £200 000 concurrent with the execution of the replacement planning obligation, and £150 000 in December 2015. The existing education contributions to be made in September 2013 and September 2015.

1.0 INTRODUCTION

1.1 Planning permission was granted for the erection of 88 houses and 159 flats in May 2007, following consideration by Plans Panel (East). The development is still under construction, and is approximately 50% completed. The applicant completed a Section 106 Agreement (April 2007) to provide 11 no. 3-bed houses and 15 no. 2 bed apartments, all to be made available as social housing for rent. This represented (10%) of the dwellings on site.

1.2 In December 2011, notice was served by the developer pursuant to the Section 106 seeking release from provision of affordable housing on-site and conversion of the

obligation to payment of a commuted sum in lieu. Approval was granted on 7th February 2012, on the evidenced basis that no Registered Social Landlords would take the affordable units.

1.3 The current application seeks to discharge this particular obligation, and for the Council to agree the exact amount of commuted sum. The applicant has stated that it is not viable to provide the full commuted sum, and has submitted a full financial viability appraisal to justify a reduced commuted sum. In addition, the original completed Section 106 required payment of the commuted sum upon completion of the final unit, which may be some years away and which is a factor to taken into account.

1.4 Members views are sought on the amount of commuted sum in view of the financial appraisal, and in view of the timing of the payment of the commuted sum.

2.0 PROPOSAL:

2.1 The applicant is seeking to renegotiate the original Section 106 Agreement, and to agree the amount of the commuted sum. The Council's surveyor has calculated that in accordance with the provisions of the S106 Agreement, the commuted sum should be £1,480,000. The applicant has stated that the scheme is currently estimated to make a loss in excess of £3m, and in the circumstances, this would justify the complete waiver of the Affordable Housing Commuted Sum, on the grounds that the development is economically unviable. Notwithstanding, the applicant is prepared to offer an Affordable Housing Contribution of £350 000 payable of £200 000 concurrent with the execution of the replacement planning obligation and £150 000 in December 2015. Other commuted sums in the Agreement in respect of education contributions and play areas provision are also under consideration. The existing and proposed provisions are set out below:

2.2 Existing Section 106 Agreement

1. Commuted sum in lieu of affordable housing. £1.4m. The payment would not be made until the construction of the final dwelling.
2. £100 000 education contribution, consisting of 50% upon occupation of 124th dwelling (estimated September 2013 and 50% at completion of development – 2018)
3. £62 000 Play Areas contribution payable upon occupation of 124th dwelling (estimated September 2013)

2.3 Proposed Section 106 Agreement (provisional)

1. £350 000 to be spent on local infrastructure. Provisionally, £200 000 to be paid on completion of the revised S106 and £150 000 in September 2015.
2. £100 000 education contribution, consisting of 50% upon occupation of 124th dwelling (estimated September 2013 and 50% in September 2015).
3. £62 000 Play Areas contribution payable upon occupation of 124th dwelling (estimated September 2013)

3.0 SITE AND SURROUNDINGS:

3.1 The site is under construction for houses and flats. Development was started in 2007 and around 90 dwellings have been substantially completed. Access is taken from Station Lane, with many flats constructed to the western end of the site. The eastern end, towards Fall Lane, contains mainly houses, but with some blocks of flats interspersed. The southern boundary abutting the Leeds – London railway line is mainly occupied by flats.

3.2 The area is mainly residential in character.

4.0 RELEVANT PLANNING HISTORY:

4.1 06/01712/FU - Planning permission was granted for the erection of 88 houses and 159 flats in May 2007.

5.0 HISTORY OF NEGOTIATIONS:

5.1 The details have been considered by the Council's Surveyor. The timing of the payment of contribution has been brought forward, rather than payment at the end of the development.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 Ward members have been consulted, and the representations are as follows:

6.2 Councillor Dunn supports the proposals. The enhancement of local education facilities is a local priority, given the size of the existing primary schools and the increased demand for primary school places, the demand being generated in part by large housing developments such as this. Payments should be made as early in the process as possible to ensure that proper planning can take place.

6.3 Councillor Mulherin supports the proposal, given the local circumstances. The two ward priorities are seen as enhancing local education facilities at primary school level, and/or provision of facilities in conjunction with the Youth service. Again, this is in part because of the large housing developments which have taken place in the area, without any corresponding increase in facilities for children/youths.

7.0 CONSULTATIONS RESPONSES:

7.1 Regarding the potential extra contributions for the above development, Childrens Services believe that, in terms of education, the money should be spent on school expansions or improvements in the local area. The increasing birth rate and house building does mean that there is pressure for school places in the Ardsley/Robin Hood area. Initial consultations are taking place locally with Childrens Services.

7.2 This consultation is seeking comments on proposals to create extra school places in the city by permanently expanding five primary schools from September 2014. This would mean increasing the admissions limit in reception at the following schools in the Ardsley & Robin Hood ward:

- East Ardsley Primary School – from 45 to 60 places
- Robin Hood Primary School – from 45 to 60 places

7.3 Childrens Services have advised that this is consultation only, and the consultation period expired on Friday 29th March.

8.0 PLANNING POLICIES:

8.1 Leeds UDP (Review 2006)

GP7: development requiring section 106 agreement to be acceptable.
H11, 12, 13: provision of affordable housing.

8.2 Core Strategy

As the Council have resolved to move the Publication Draft Core Strategy to the next stage of independent examination some weight can now be attached to the document and its contents recognising that the weight to be attached may be limited by outstanding representations which have been made which will be considered at the future examination.

Policy H5 – Affordable housing

Policy ID2 – Planning obligations and developer contributions

8.3 Leeds Supplementary Planning Guidance:

8.3.1 SPG3: Affordable Housing (Affordable Housing Policy Guidance Note (Feb 2003); Affordable Housing Policy Guidance Note Annex: Housing Needs Assessment Update (Jul 2005) - revision April 2010; Affordable Housing Policy Guidance Map; Assessment of Need for Affordable Housing (Nov 2003) Interim Affordable Housing Policy (June 2011).

8.3.2 At the time when planning permission was granted, the requirement under policy and guidance at that time was for 15% affordable housing. At that time, Plans Panel accepted 10% on site provision, in view of local circumstances. Current proposals would be required to provide 15% affordable housing, for a two year period, and then reverting to the current policy requirement of 25% affordable housing.

8.4 Government Policy:

8.5 National Planning Policy Framework (NPPF)

8.5.1 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system.

8.5.2 Paragraphs 203 – 206 of the NPPF now provide the national planning basis for planning obligations. This reaffirms the 3 principle tests for securing contributions from development.

8.5.3 When it comes to setting planning obligations, the NPPF is clear that the scale of obligations should not threaten the viability or deliverability of a scheme. As such special consideration needs to be given to the setting of affordable housing thresholds and planning obligations through the plan making process.

8.6 Renegotiation of Section 106 planning obligations (Consultation August 2012)

8.6.1 The following paragraphs are relevant:

"The Policy Proposal

Paragraph 2. The Government's Housing Strategy "Laying the Foundations: A Housing Strategy for England" published on 21 November 2011 set out a number of proposals to help unlock stalled development. There are currently around 1400 housing schemes of over 10 housing units with planning permission that are stalled. 62% of stalled units predate April 2010.

Paragraph 3. The Government is concerned about the high number of stalled schemes and the lost economic benefit they represent. Some planning obligations negotiated in different economic conditions now make sites economically unfeasible – resulting in no development, no regeneration or community benefits.

Paragraph 4. We want to ensure that effective renegotiation of planning obligations can be achieved to make them more reflective of the current market and help unlock stalled development, whilst continuing to ensure through the use of obligations that development is acceptable to communities and local authorities in line with local plans. Wherever possible, such renegotiation should be agreed on a voluntary basis.

Paragraph 5. Where agreement cannot be reached on a voluntary basis, we are proposing that signatories to section 106 agreements should be able to formally

request reconsideration of planning obligations agreed in more buoyant market conditions. This would apply to planning obligations agreed prior to 6 April 2010. This change would not apply to planning obligations agreed since April 2010

Impact on affordable housing

Paragraph 15. Planning obligation contributions towards affordable housing represent the largest proportion of all obligations.

Paragraph 16. The Department's view (Communities and Local Government) is that some obligations agreed prior to April 2010 which include a high level of affordable housing, may now be so unviable that development may not occur at all under the current terms. Those applications will therefore not deliver any affordable housing, and therefore the policy change will help bring forward more affordable housing than would otherwise happen.

Paragraph 17. As with all other areas of obligations, renegotiation does not mean that affordable housing contributions should automatically be reduced or lost. It means that obligations should be tested against local plan policies to see if a revised obligation serves its purpose equally well. It may be possible, for example, for authorities and developers to agree a similar level of provision, but in different ways or to change the phasing in which delivery is expected. Where the overall level of affordable housing needs to be reduced to reflect changed viability, local authorities may consider requiring delivery within an agreed timeframe."

8.7 Written Ministerial Statement – Housing and Growth

8.7.1 On the 6th September 2012 the government published a ministerial statement setting out its new proposals to boost housing and economic development. A key aspect of this statement centred on affordable housing. Firstly, with a view to increasing supply through additional funding and secondly by reconsidering the impacts on development viability.

8.7.2 In the context of planning obligations however it is the second proposal that is of most relevance. The government estimate that there are approximately 75,000 new homes nationally that have stalled due to site viability. With a view to helping deliver these dwellings there will be new legislation issued in 2013 to allow developers to apply directly to the Planning Inspectorate to renegotiate the affordable housing element of Section 106 agreements. The Planning Inspectorate would then assess how many affordable homes would need to be removed from the Section 106 agreement for the site to be viable. The Planning Inspectorate would then instigate a new Section 106 agreement for a three year period, with fewer affordable homes. If the scheme was not developed within this 3 year period the original Section 106 agreement would be re-instated.

Growth and Infrastructure Bill

8.8 Further to the original announcements made in September, the government presented the Growth and Infrastructure Bill to Parliament on the 18th October 2012. The Bill is currently at Report stage. The proposals contained within the Bill largely reflect the proposals put forward in the September Statement and are expected to come into force this year. The new provisions are as follows:

"Clause 5 allows the modification or discharge of the affordable housing elements of Section 106 agreements to make developments viable.

Clause 38. New section 106BA – Modification or discharge of affordable housing requirements

Clause 39. This section provides for an application to vary an "affordable housing requirement" contained in a planning obligation, and defines that term for these purposes. Special provision is made in relation to a first application made under this section. If, on a first application, the affordable housing requirement makes development of the site economically unviable, the authority must modify or remove it so as to make it viable. The authority can not make the revised obligation more onerous than the original obligation.

Clause 40. In relation to a second or subsequent application, the authority has more flexibility in amending the affordable housing requirement. However, they cannot amend the requirement so as to make the relevant development economically unviable.

Clause 41. This section makes provision for regulations to prescribe procedural matters linked to these applications, and requires the local planning authority to have regard to guidance issued by the Secretary of State."

9.0 MAIN ISSUES

Policy background
Viability of the scheme
Timing of the payment
Applicant's fall-back position.

10.0 APPRAISAL

10.1 Policy background

10.2 The current application is made against the background of government policy, Ministerial Statements and the impending Growth and Infrastructure Act, whereby the Government is seeking to encourage renegotiation of S106 Agreements, where sites are unviable, and the delivery of housing has stalled.

10.3 Viability of the scheme

In summary, this has been assessed as follows:

- Anticipated total sales revenues including affordable housing
- less total development/construction costs (including funding costs, professional fees),
- less S106 contributions (e.g. greenspace, education, public transport)
- less profit (at market determined level)

equals residual land value.

10.4 The general conclusions from this are detailed below.

10.5 The general approach of the developer to assessing anticipated revenues and scheme costs is considered reasonable with inputs checked against British Chartered Institute of Surveyors (BCIS) Cost Indices data and current house/apartment values. With regard to the already developed and sold part of the site the surveyor has been able to independently verify the sales revenues generated to confirm that revenues represented by the applicant/developer are accurate.

10.6 On The Basis of the Land Price Incurred By The Applicant:

10.7 It is considered that there is no capacity for the scheme if completed to support the payment. This is only partly due to the land price paid however, with viability substantially impaired by falling house prices coupled with a large number of apartments on the scheme, which are largely out of favour in the market place.

- 10.8 On The Basis Of Adopting Current Land Values:
- 10.9 Whilst this might be academic the Council's surveyor is of the opinion that the scheme in its current form would not be viable to develop by another house builder with a requirement to make the payment.
- 10.10 It should be noted that the assessment is of the particular scheme approved which as mentioned above contains a large apartment element. Should a substantially varied or new proposal come forward for the undeveloped part of the site, perhaps encompassing conventional family housing, then the viability position may change. A new planning application would need to be submitted for family housing, and a new Section 106 Agreement negotiated.
- 10.11 It is also important to be aware that the assessment is based on current prevailing conditions and of overall viability of the whole scheme as of today including consideration of revenues already received.
- 10.12 Timing of the payment:
- 10.13 Any agreed commuted sum is due to be paid upon completion of the final unit on site. Given the current economic uncertainties, this sum may not be payable for a number of years. Indeed, if the final dwelling is not completed, then the commuted sum might not be forthcoming at all. The current proposal, for a substantially reduced commuted sum, does have the benefit of providing the commuted sum, partly upon completion of the revised Section 106 Agreement and part at the end of 2015. In addition, the timing of the education contribution is being renegotiated to bring those payments further forward.
- 10.14 Applicant's fall-back position:
- 10.15 As stated above, it may be that the final dwelling on the layout is not constructed for a considerable time, if at all, and that the commuted sum might not be forthcoming at all. Therefore, a reduced sum available shortly, and at the end of 2013 would actually provide finance towards local infrastructure, in accordance with local priorities as identified above.

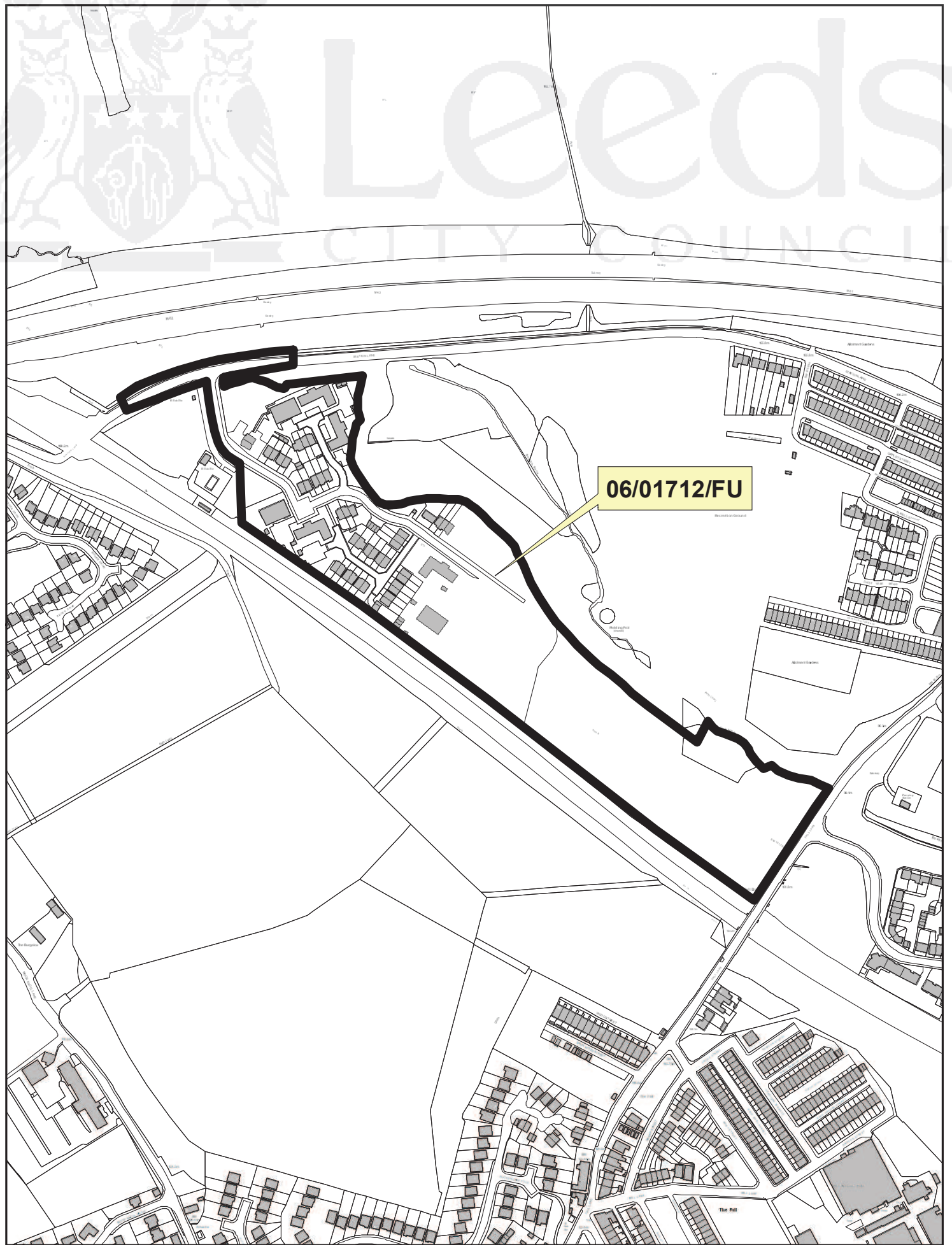
11.0 CONCLUSIONS

- 11.1 The applicant has clearly demonstrated that the site is not viable with a commuted sum at £1.4m. Even without the commuted sum, the site is unviable to develop. A commuted sum of £350 000 has been negotiated, which would be payable much earlier in the process, than the date in the Section 106 Agreement. There would be some doubt if the £1.4m would be payable in any case, should the final unit not be constructed. In these circumstances, approval is recommended.
- 11.2 Members should be aware of the Government consultations, Ministerial Statements, and impending Growth and Infrastructure Act, as set out in Section 8.0 above, which places significant weight on proposals to revise affordable housing provision where there are issues concerning site viability and delivery of houses.
- 11.3 Should any further planning applications be submitted on site for a revised layout/mix of houses and flats, the Council will have a further opportunity to negotiate on the provisions of the section 106 Agreement, which would have to be considered against policies and circumstances pertaining at the time.

Background Papers:

Application file:

History file: 06/01712/FU



SOUTH AND WEST PLANS PANEL



Originator: Tony Clegg
Tel: 0113 3952110

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 25 April 2013

Subject: POSITION STATEMENT - Little London PFI regeneration project

APPLICANT	DATE VALID	TARGET DATE
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Electoral Wards Affected:

Hyde Park and Woodhouse

Yes Ward Members consulted

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:
Members are asked to note the contents of this Position Statement in advance of revised proposals and planning applications being brought forward for the Little London Regeneration Area

1.0 INTRODUCTION:

- 1.1 This position statement is to update the Panel on revised proposals for Little London Community Hub, following detailed permission being granted for development of the area in March 2011. The permission for this part of the regeneration project comprised 7 retail units, a replacement housing office, community centre and some residential development of 12 flats. Since this time there have been significant changes to the PFI project in Little London following a Government spending review, which have involved the removal of the Community Hub which no longer forms part of the PFI project.
- 1.2 However, new proposals will be brought forward to develop the site through a revised approach, to include improved community facilities, primary school expansion, and new retail provision.
- 1.3 This position statement explains the background and history to the site and updates Plans Panel on proposals to move this site forward to delivery alongside and complementary to the PFI project.

2.0 Site and Surroundings

- 2.1 The site is a rectangular area of land off Oatland Lane and Lovell Park Road at the heart of the Little London regeneration area. The site currently accommodates 7 council-owned run-down single storey retail units (with only 2 units occupied), a Neighbourhood Housing Office, community centre, car parking, play area and public open space. Little London Primary School adjoins the site.

3.0 Planning Background

- 3.1 Members may be familiar with the original Little London PFI regeneration project. The project has aimed to deliver a long standing objective of the Council to help transform this area. The aims of the project have been:-
- To deal with the regeneration of the area in a holistic manner.
 - To develop sustainable communities to enable neighbourhood regeneration.
 - To encourage community, private and public interests to work together to deliver community regeneration to improve the diversity and quality of housing stock.
 - To deliver a mix of attractive and affordable housing for family purposes (new build housing and the refurbishment of over 800 council owned properties as well as other minor operations.)
 - To replace an existing commercial centre with an improved local centre providing retailing and community services including a new community centre and housing office.
 - To improve the overall accessibility, legibility and connectivity of the area.
 - To undertake a wide range of environmental improvements to ensure that greenspace is enhanced and is accessible, attractive to use and is located in the right place to ensure maximum community benefit is achieved.
- 3.2 In 2007 the Little London Development Framework (LLDF) was agreed at Plans Panel West as informal planning guidance to support the Housing PFI project which was at that time in the early stages of procurement. The LLDF is a planning framework that sets out broad regeneration principles for the area. The framework also provides a master plan context for a more detailed development guide for both short and medium term development. The LLDF outlines this site as the heart of the community, with the opportunity to develop the site either side of the Greenspace area. The LLDF also shows a green corridor running through the site from the adjacent Carlton Gate site into the Oatland Green housing area and towards Meanwood Road.

- 3.3 Outline planning permission for the development of the wider Little London regeneration area was granted in 2008. The outline permission for the community hub was for 7 retail units, 1 housing office, 1 community centre and residential development.
- 3.4 In March 2011, a Reserved Matters application for the community hub was considered by Panel as part of a suite of eight applications submitted by the Preferred Bidder for the PFI project. These also included a reserved matters application for residential development (113 units) at Carlton Gate and residential development (12 units) at Oatland Lane (on the Community Hub site). At this same meeting, six full planning applications involving the refurbishment of dwelling houses and flats, new boundary walls, alley gates and landscaping relating to various neighbourhood areas were approved.

4.0 Delivery Background

- 4.1 The procurement of the Housing PFI project commenced in 2007, with the selection of a Preferred Bidder, (Sustainable Communities 4 Leeds) in 2010.
- 4.2 In March 2011 the Council was informed by the new Government of the implications for the national PFI housing programme of the November 2010 Comprehensive Spending Review, which required a fundamental review of the value for money (VFM) of those projects still in procurement.
- 4.3 The Council's response was submitted to the Government in May 2011 following detailed work with both it and the proposed Preferred Bidder. Changes to the project to enable the revised submission to meet new VFM benchmarks included removal of the Little London Community Hub redevelopment.
- 4.4 Following the removal of the Community Hub from the Housing PFI project, officers have sought an alternative means for the delivery of Little London Community hub outside of the Housing PFI project to ensure a full regeneration solution for the wider area. A letter to residents outlining continued commitment to the principles of the delivery of the community hub (i.e. improved retail and community facilities) was issued by the Executive Member in summer 2011.
- 4.5 At the Executive Board meeting of 15 February 2013. the Director of Environment and Neighbourhoods submitted a report providing an update on the current position of the Little London and Beeston Hill and Holbeck PFI Housing project and detailing a chronology of its delayed procurement and the confirmation in January 2013 that the Treasury was no longer willing to accept the financial terms negotiated for the funding of the PFI project. It was resolved:
- (a) That the Council's continued commitment to securing PFI housing investment for the neighbourhoods of Little London, Beeston Hill and Holbeck be confirmed.
 - (b) That the current position on procurement of the project and the delays in reaching Financial Close be noted, and that approval be given for the strongest possible representations to be made to Government in clarifying and resolving its new requirements.
 - (c) That the separate regeneration projects that are underway or planned in the Beeston Hill, Holbeck and Little London areas be noted and supported.
 - (d) That the first call on the capital receipt from the sale of land at the Little

London Community Hub be made to fund the relocation of the Neighbourhood Housing Office and reprovision of new community centre facilities.

(e) That a further report setting out the confirmed financial position and a revised programme for financial close be reported to Executive Board at the earliest opportunity.

5.0 Revised proposals

- 5.1 Alternative options for redevelopment of the site and review of the local facilities have been explored. Alongside this work the requirement for new primary school capacity in the area has emerged. At its meeting of December 2012 Executive Board approved publication of a statutory notice for expansion of Little London Primary school on the Community Hub site. The revised approach to the site therefore involves the expansion of the Primary School to 3 forms of entry, relocation of the Neighbourhood Housing Office (NHO) within the site, refurbishment or rebuild of the community centre and securing investment from a private retail concern to provide a new local convenience store. Under the revised approach there will be no residential development on the Community Hub site.
- 5.2 Feasibility work is currently underway to ascertain the land requirements for the expanded primary school and how the community centre and Neighbourhood Housing Office would be accommodated on-site. The existing Council-owned shops would be demolished to facilitate the expansion of the school and creation of new community buildings.
- 5.3 The site currently occupied by the NHO has been marketed for interest from retailers and the Council is in discussions with a national retailer regarding a sale and redevelopment of this part of the site. The NHO will occupy a temporary facility on-site (adjacent to the existing community centre) during this redevelopment process – a planning application for this was submitted in January 2013 and has now been approved.
- 5.4 The site feasibility work will be completed by April of this year, with a view to the school expansion being fully complete and open by Sept 2015. Subject to contract, the Council anticipates that the new retail facilities could be trading by early 2014, with the community centre and NHO complete later in 2014/early 2015. In order to inform the feasibility work for the hub and future planning applications for the various site uses, a revised Master plan is being developed for the site.
- 5.6 This Master plan will take the key principles for the site as outlined in the Little London Development Framework and adapt them for the new school development and alternative community and retail provision that would be delivered on the site. Work will continue to ensure linkages are made between the Hub and Housing PFI sites/ wider Little London area so that improved routes and connectivity is established in the neighborhood.
- 5.7 Individual planning applications will be submitted by various parties as plans develop for the site uses as outlined in this report. The anticipated timescales for these are as follows:

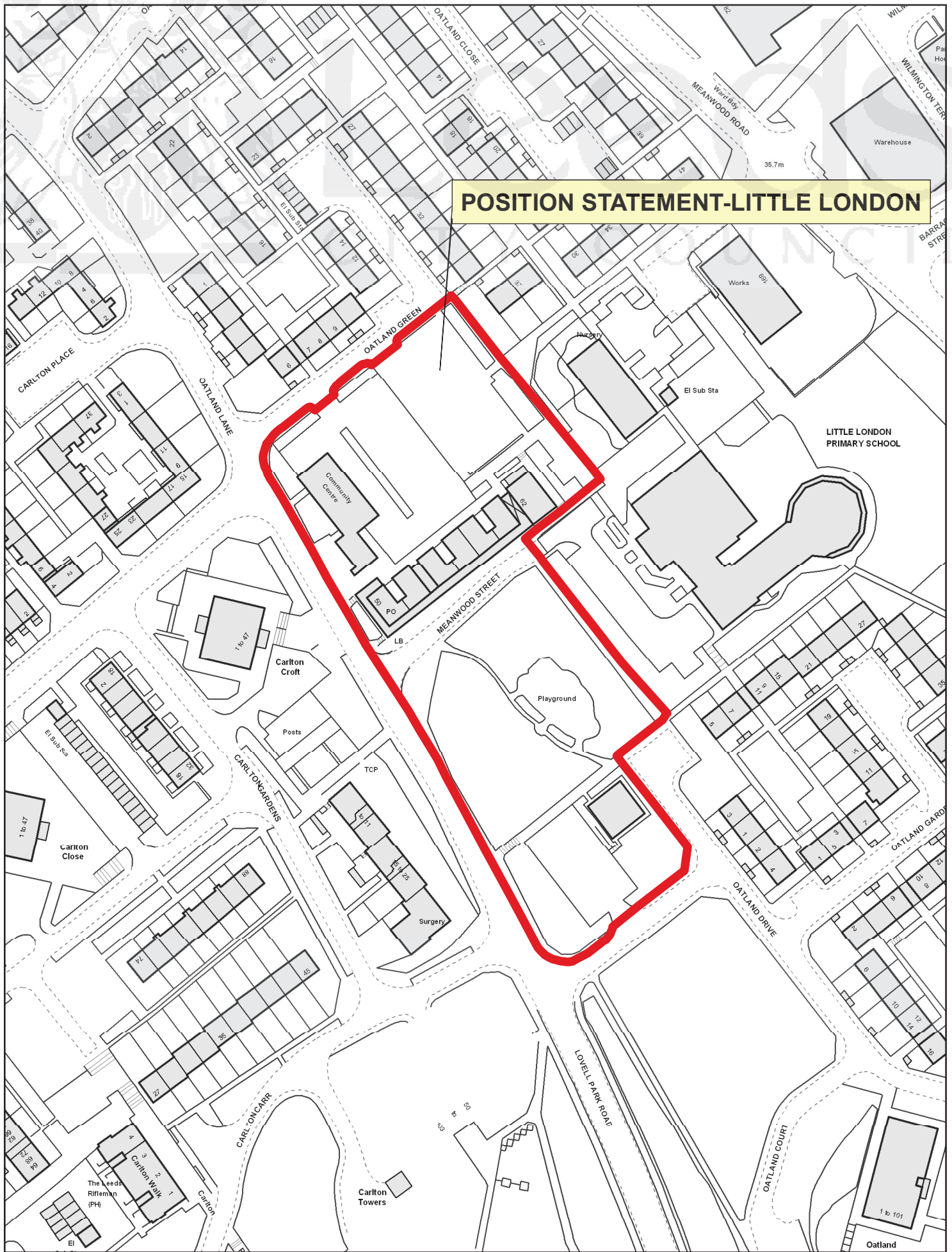
Retail – April 2013

School Expansion - September 2013

Community centre & Neighbourhood housing office - September 2013

6.0 CONCLUSION:

- 6.1 Members are asked to note the contents of this Position Statement in preparation for revised proposals and planning applications being brought forward for the Little London Regeneration Area Background Papers:



POSITION STATEMENT-LITTLE LONDON

SOUTH AND WEST PLANS PANEL



Originator:	Jade Corcoran
Tel:	0113 222 4409

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 25th April 2013

**Subject: POSITION STATEMENT for PLANNING APPLICATION 13/00874/FU.
Development of solar farm on Site of Haigh Hall Farm, Batley Road, Tingley,
Wakefield, WF3 1HA**

APPLICANT	DATE VALID	TARGET DATE
Oakapple Renewable Energy Ltd	15 th March 2013	14 th June 2013

Electoral Wards Affected:

Ardsley & Robin Hood

Yes

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 position statement, provide feedback on the questions posed and are invited to provide comments on any other aspect of the proposals.

1.0 INTRODUCTION:

1.1 The purpose of this report is to provide Members with information, raise the issues involved and seek Members initial views on the proposal for a solar farm that will encompass agricultural land associated with Haigh Hall Farm, Batley Road, Tingley, prior to a report for determination being tabled at a future meeting. As the site is close to the boundary of the Metropolitan District both Wakefield and Kirklees Councils have been consulted.

2.0 PROPOSAL:

2.1 The proposal comprises the installation of circa 7.5MWp of photovoltaic (PV) solar panels covering approximately 13.5 hectares of agricultural land, within the larger

agricultural holding of Haigh Hall Farm. This would consist of approximately 32,000 solar panels over three fields laid out in rows of varying lengths designed to suit site conditions. Given the sensitivity and value of the equipment the applicant is proposing to enclose the fields with 2.1m high post and mesh, dark green, perimeter fencing and supplement this with perimeter planting. In addition to this, pole mounted CCTV cameras would be installed inside the security fence at strategic locations around the site.

- 2.2 The applicant anticipates that the proposal would create enough energy to power around 2,180 homes and amount to a CO₂ saving of some 3,800 tonnes (equivalent to the output of approximately 1,400 cars) per annum.
- 2.3 The solar farm is proposed to have a minimum lifetime of approximately 25 years. At the end of the proposal's operational lifetime, the solar arrays would be dismantled and all panels, frames and electrical infrastructure, such as the inverters and transformers, would be removed from site. At the time of decommissioning, a remediation process would commence that would include suitable landscaping to restore the agricultural land and to maintain any biodiversity features which have been developed over the life of the solar farm.

Detailed Design

- 2.4 The applicant is proposing to use a polycrystalline panel with self-coloured aluminium perimeter frame. The PV modules would be elevated 1 metre off the ground by galvanised steel module racks that would be fixed to steel piles set into the ground to a depth of between 1.5 – 2 metres. The total height of the panels (including module racks) from ground level would be approximately 3.5 metres. The configuration of panels would either be banks of two in portrait or four in landscape on fixed galvanised steel racks, inclined at 30 degrees to the horizontal. The PV arrays would be contained within the areas defined on the layout plan and would be laid out in rows running east-west to provide them with a southerly orientation. Generally, the existing ground contours would be followed with little or no cut and fill envisaged by the applicant.
- 2.5 To convert the DC current generated by the solar arrays to AC current (as required by the national grid) inverters (approximately 2562 x 899 x 2279) and transformers (approximately 2980 x 2380 x 1580) are required. This would take the form of approximately six sets of one transformer and two inverters spread across the site with subterranean cables connecting the equipment. The AC current would be transmitted to a new substation that is proposed to be situated to the north-west of the site, which would transmit the energy to the Distribution Network Operator.
- 2.6 The application is accompanied by a detailed landscape plan. To the north and west of the site a new hedge is proposed to be introduced with additional planting to close a number of gaps within the existing hedgerow. A woodland copse is proposed to the north-west, south-west and north-east corners to screen the site from strategic viewpoints. The Landscape Strategy Plan also identifies areas of wildflower meadow mix and neutral grassland to be planted.
- 2.7 A wildlife corridor is proposed to enhance links between Haigh Hall Spring Wood, directly to the north of the site boundary, and the habitat that surrounds Hey Beck approximately 90m to the south west of the site boundary. A grassland buffer of 10m would be established between the perimeter fence and the existing hedgerow. As outlined above, this hedgerow would be improved. In addition to providing screening, this enhancement aims to strengthen connectivity for bats between areas of foraging habitat. The grassland strip would act as a wide field margin, being allowed to

develop into a dense coarse grass habitat to provide cover for invertebrates, small mammals and potentially ground nesting birds.

- 2.8 Just beyond the southern boundary and to the west of the site a number of swales (small attenuation ditches) have been proposed beyond the perimeter fence on gently sloping land. Their main purpose is to collect run off from the site. However, the arisings from the swales would be used to create a small mound which would be planted with suitable marginal vegetation to provide habitat that could be suitable for aquatic invertebrates and some amphibians such as common frog.

Construction Details

- 2.9 With agreement from the landowner, a temporary construction compound would be created on the field directly to the north of the development site (or to the west of Haigh Hall Farm). The construction phase is an estimated period of 10-12 weeks. Construction work would include delivery to site of materials via 120-150 vehicles over the period. All materials would be delivered to the construction compound by the appropriate vehicle then transferred to their appropriate location within the site by an agricultural vehicle.

Access

- 2.10 The site is accessed via the existing surfaced track known as Scott Lane leading from Batley Road. The applicant expects that significant deliveries (heavy loads) would arrive via the M1 and M62. Scott Lane can adequately cater for delivery vehicles, which would then be able to unload and manoeuvre within the temporary site compound. Therefore, full access to the site itself for large vehicles is unlikely to be necessary. During construction the number of HGV movements is estimated to be between 3 and 4, with 15-20 contractor vehicles anticipated on site daily. Employees driving to the site would be required to park within the site compound. Where possible, workers would be transported to the site by minibus.
- 2.11 Once the site is fully operational, the applicant anticipates that the maintenance of the equipment will only require a quarterly clean and check of the panels. System performance and site security would be monitored remotely. An indicative layout identifying the proposed location of the security cameras has been submitted for consideration. On the whole, the site would function unmanned for the majority of the time.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site covers an area of 13.5 hectares and is situated and accessed off Scott Lane. The proposal is located within the Green Belt and also lies within a Special Landscape Area (SLA). The site forms part of Haigh Hall Farm. The farmhouse is a grade II listed building and lies to the north of the site. The land rises from the west to the east and falls from the north to the south. Hedgerows and trees demarcate the north, east and south field boundaries. The wood (Haigh Hall Spring Wood) directly to the north-east of the proposal is designated as a Leeds Nature Area. The north-western boundary of the site makes up part of a public right of way known as The Leeds Country Way.
- 3.2 Currently the land is utilised for pastoral purposes with the eastern part of the site used for growing cereal crops and hay. The development area has been previously used for landfill and open cast coal mining, which ceased around 1995.

3.3 The site is located within a predominantly rural area with large amounts of the land to the south being open countryside. The village of West Ardsley is set approximately 250 metres to the north-west. Leeds City Centre lies approximately 10km to the north, Dewsbury to the south-west and Wakefield to the south-east. Haigh Hall Farm is approximately 80m to the north and Haigh Hall bungalow is 25m to the east. The nearest neighbouring property to the north-east facing boundary is known as 240 Batley Road; there is a property approximately 150m further north-east; and, another building 100m beyond this. The Springs is situated roughly 400m north. The closest property to the north facing boundary is approximately 200m to the north-west.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 PREAPP/12/01105: Photovoltaic installation. Advice given 21.12.2012
- 4.2 23/94/93/FU: Change of use of agricultural site to landscaping contractor erection of tractor shed and alterations to farm buildings. Approved on 07.09.1993
- 4.3 H23/70/92: Extraction of coal to agricultural site. Approved on 20.07.1992
- 4.4 H23/227/91: Extraction of coal and clay and tipping of waste material to constructed void space to agricultural site. Refused on 14.01.1992
- 4.5 H23/14/89/1: Extension of permission for tipping to agricultural site. Approved on 03.09.1991
- 4.6 H23/14/89: Tipping to agricultural site. Approved on 20.03.1989.
- 4.7 H23/346/86: Laying out of access road and tipping to agricultural site. Approved on 19.01.1987

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant submitted a pre-application enquiry concerning this proposal on the 13th November 2012. The following are the key recommendations made by the Local Planning Authority (LPA):
 - 5.1.1 Officers outlined that very special circumstances would have to be demonstrated due to the site's location within the Green Belt, details of site selection would have to be included and that consideration would need to be given to the setting of Haigh Hall Farm.
 - 5.1.2 The applicant was advised that they were required to undertake community consultation.
 - 5.1.3 The internal tracks that were proposed were considered unacceptable. They are an intrusive feature that urbanises the Green Belt and goes beyond what is strictly necessary to enable this development.
 - 5.1.4 Information concerning glint and glare would be required.
 - 5.1.5 Landscape and visual impact assessment would be required in relation to the proposal.

- 5.1.6 Planting should be used to minimise any potential impact and to provide long-term environmental benefits to the area.
- 5.1.7 A 10m wide wildlife corridor link between the Haigh Hall Spring Wood Leeds Nature Area (to the north-east of the site) and Hay Beck (to the south-west of the site) is recommended to mitigate against any potential visual harm around the eastern half of the site if located on the outside of security fencing.
- 5.1.8 A Phase 1 habitat survey and protected species survey should be carried out to reveal any potential ecological receptors.
- 5.1.9 Details of landscape management would be required.
- 5.1.10 The quality of the existing public right of way (PROW) should be protected by allowing sufficient space provided between PROW corridor and any development. Planting to the footpath corridor boundary would be necessary to avoid the proposal introducing harm to amenity.
- 5.1.11 Design and location of ancillary infrastructure – cable trenching, provision of a substation and internal junction box structures for example.
- 5.1.12 Details and location of proposed security measures – including how they are to be fixed to the ground. Discussion should also focus on why natural features cannot be used and how the technology and fencing would impact upon ecology.

6. PUBLIC/LOCAL RESPONSE:

- 6.1 The application was advertised via site notices posted on 5th April 2013 and published in the local paper (Yorkshire Evening Post) on 3rd April 2013. Copies of all plans and supporting information have also been made available on public access and at Morley Library.
- 6.2 At the time of writing this report, 2 letters of representation had been received. The points raised can be summarised as the following:
 - Impact upon residential amenity in terms of glare and obtrusiveness of the sheer mass.
 - Harm to the openness of the green belt.
 - A poor use of agricultural land and will introduce harm to visual amenity.
 - There is no evidence to suggest that on a long term basis the solar panels will be cost effective.
 - Lets stop the building and maintain the landscape for future generations to enjoy, not least the wildlife.

7.0 CONSULTATION RESPONSES:

7.1 Statutory:

- 7.1.1 Coal Authority: Requests a Coal Mining Risk Assessment Report.
- 7.1.2 Environment Agency: No objection subject to condition.
- 7.1.3 Highways Agency: The Highways Agency (HA) would like to understand more about how glint and glare may

affect the short section of the M1 (between Gawthorpe Lane and Batley Road) that is identified within the Landscape & Visual Impact Assessment and the Glint and Glare Study. In addition, the HA question whether the site would be visible further away from the M1 NB dropping down from M1_J40 towards M1 J41? The HA would also like to understand more about the frequency with which the M1 is likely to be affected, such as the amount of time each day during different times of the year and what mitigation is proposed to address any issues identified.

- 7.1.4 Natural England: No objection subject to the Local Planning Authority considering that the proposal will not introduce harm to protected species.
- 7.2 Non-statutory:**
- 7.2.1 Conservation Team: The topography of the site and proposed planting are such that the development will not introduce harm to the setting of the listed farm house.
- 7.2.2 Highways Authority: More details of the type and frequency of vehicles should be provided. The proposed site compound looks big enough to provide turning. However if more than one HGV turns up on site this might not be the case, additionally swept path turning movements must be indicated at the junction of Batley Road and Scott Lane and the available visibility achievable at 2.4m. Regardless of the above a comprehensive Construction Management Plan will be required.
- 7.2.3 Kirklees Metropolitan: No comments received to date.
- 7.2.4 Land Contamination: No comments received to date.
- 7.2.5 Landscape Team: Awaiting comments.
- 7.2.6 Leeds And Bradford Airport: No comments received to date.
- 7.2.7 Mains Drainage: No objection subject to the swales being constructed in accordance with the submitted drawing nr. 1073-D02-rev4.
- 7.2.8 National Planning Casework Unit: No comments received to date.
- 7.2.9 Nature Team: Awaiting comments.
- 7.2.10 Neighbourhoods And Housing: No comments received to date.
- 7.2.11 Open Spaces Society: No comments received to date.

7.2.12 Ramblers Association:

A holding objection has been submitted requesting further information in the form of photomontages and confirmation that the run-off from the site will not compromise the public rights of way to the west and south of the site. There is an opportunity to regularise an anomaly with the definitive route and to improve the habitat along the beckside by suitable planting.

7.2.13 Public Rights Of Way:

Public Footpath Nos.109 & 141 Morley run along side the western boundary of the site along the access track. After a site visit it was noted that the land rises up giving limited views. Therefore, the security fencing would not obstruct views from the footpath.

Care should be taken by vehicles accessing the site whilst the installation is under construction. The rights of way will not be affected by the development but the footpath should be open and available for use at all times.

The developer is requested to consider entering into a Permissive Path Agreement for the duration of the site operation for a footpath along the access track to the south of the site and over the bridge to the viewing point for the dam as shown on the attached map.

7.2.14 Wakefield Metropolitan:

Having reviewed the submitted plans and supporting documentation it is considered that the proposed development would not have any impacts upon WMDC or land within their jurisdiction. According MWDC do not object to the proposed development.

7.2.15 Yorkshire Water:

No objection subject to a condition concerning no building or other obstruction shall be located over or within 3 (three) metres either side of the centre line of the water main, which crosses the site.

8.0 PLANNING POLICIES:

8.1 The proposals will be considered in the context of both national planning policy and the Development Plan. At the time of writing the Development Plan includes the Leeds Unitary Development Plan (Review 2006) (UDP), policies as saved by directions of the Secretary of State, dated September 2007 and June 2009, the Natural Resources and Waste Development Plan Document and any material guidance contained in the emerging Local Development Framework (LDF).

8.2 Natural Resources and Waste Development Plan Document

8.2.1 General Policy 1: Presumption in favour of sustainable development;

8.2.2 Water 7: Surface water run off

8.3 Local (UDP Review 2006)

- 8.3.1 Policy GP5: Refers to detailed planning considerations and any loss of amenity;
- 8.3.2 Policy N32: Seeks to preserve the openness of the Green Belt in addition to visual amenity;
- 8.3.3 Policy N33: Outlines acceptable development in the Green Belt;
- 8.3.4 Policy N37: Seeks to avoid harm to the character and appearance of special landscape areas;
- 8.3.5 Policy N49: Development that introduces harm to the wildlife or habitat. Design of new development, including landscaping, should minimise its potential adverse impact;
- 8.3.6 Policy T2: Refers to maintenance of highway safety;
- 8.3.7 Policy LD1: Outlines the parameters for an acceptable landscaping schemes

8.4 National

- 8.4.1 National Planning Policy Framework: paragraphs 17, 87, 88, 91, 93, 97, 98 and 138.

9.0 **MAIN ISSUES:**

- Principle of Development
- Highway Safety
- Landscape & Visual Impact
- Ecological Impacts

10.0 **APPRAISAL:**

Principle of development

- 10.1 Local plan policy (the Natural Resources and Waste Development Plan Document (NRWDPD)) supports the development of renewable energy. The Government outlines 12 core principles, within paragraph 17 of the National Planning Policy Framework (NPPF), that should underpin planning and decision making. The sixth principle outlines that the use of renewable resources should be encouraged. Paragraph 93 goes onto to reiterate how important renewable energy is and that it is essential to the three (environmental, economic and social) elements that form sustainable development. Local Planning Authorities are strongly encouraged to take positive steps towards renewable energy in plan making (paragraph 97) and should not require the applicant to demonstrate need (paragraph 98).
- 10.2 The site is located in Green Belt. According to Unitary Development Plan (UDP) policy N33 and guidance contained within the NPPF, the proposal is considered to be inappropriate development. By definition, inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. It is for the applicant to show why permission should be granted and “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.” (NPPF, paragraph 88).
- 10.3 The NPPF gives due consideration to the situation of renewable energy schemes being located within the Green Belt. The NPPF states:

'When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. ... Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.'

- 10.4 The proposal is forecast to produce approximately 7,200MWh of renewable energy per annum (sufficient to power approx. 2,180 homes) from natural resources in a sustainable manner. This would in turn be an annual saving of around 3,800,000kg of CO₂ emissions. Considering this, the applicant has put forward the proposal's renewable energy credentials as very special circumstances to justify inappropriate development in the Green Belt.
- 10.5 After 25 years the panels are expected to operate at only 80% of their original efficiency; at which point the applicant anticipates their removal. It is the opinion of the applicants that given the development of the proposal and its long term maintenance would have a low impact upon this greenfield site, the proposal should be considered of a temporary nature. The temporary nature of the development is put forward as further very special circumstances to justify the proposal in this location.
- 10.6 Do Members have any views on the principle of the development and proposed use of this site?**

Highway Safety

- 10.7 As previously outlined the site is accessed via Scott Lane. The greatest number of trips generated by the proposal would be during the construction phase. The Highways Authority has requested additional details concerning the type and frequency of vehicles. They are satisfied that one large vehicle could turn satisfactorily within the compound. However, they would like the applicant to provide more information to determine whether the junction with Batley Road could accommodate more than one vehicle and if a 2.4m visibility splay can be achieved.
- 10.8 The Highway Agency were consulted regarding the proposal due to the site's proximity to the M1. The applicant has provided a Landscape & Visual Impact Assessment and also a Glint and Glare Study, which has identified that there would be some visibility of the development along the short section of the M1 between Gawthorpe Lane and Batley Road. The Highways Agency has requested further information concerning whether the proposal would introduce harm through glint and glare to highway safety and whether the time of day or time of year would make a difference. The Agency have also requested that the applicant examine whether the site would be visible when travelling between north between junctions 40 and 41 of the M1 and if so what impact this may have on the highway at different times of day and at different times of the year.
- 10.9 The applicant has submitted the additional information requested by the Highways Authority and an addendum to their original Glint and Glare Study. The study demonstrates that the angle of the solar panels is such that the locations where the farm would be visible from the M1 would not suffer from glint. The Highways Authority are currently reviewing this information.

- 10.10 Do Members have any comments regarding highways and associated issues?**

Landscape & Visual Impact

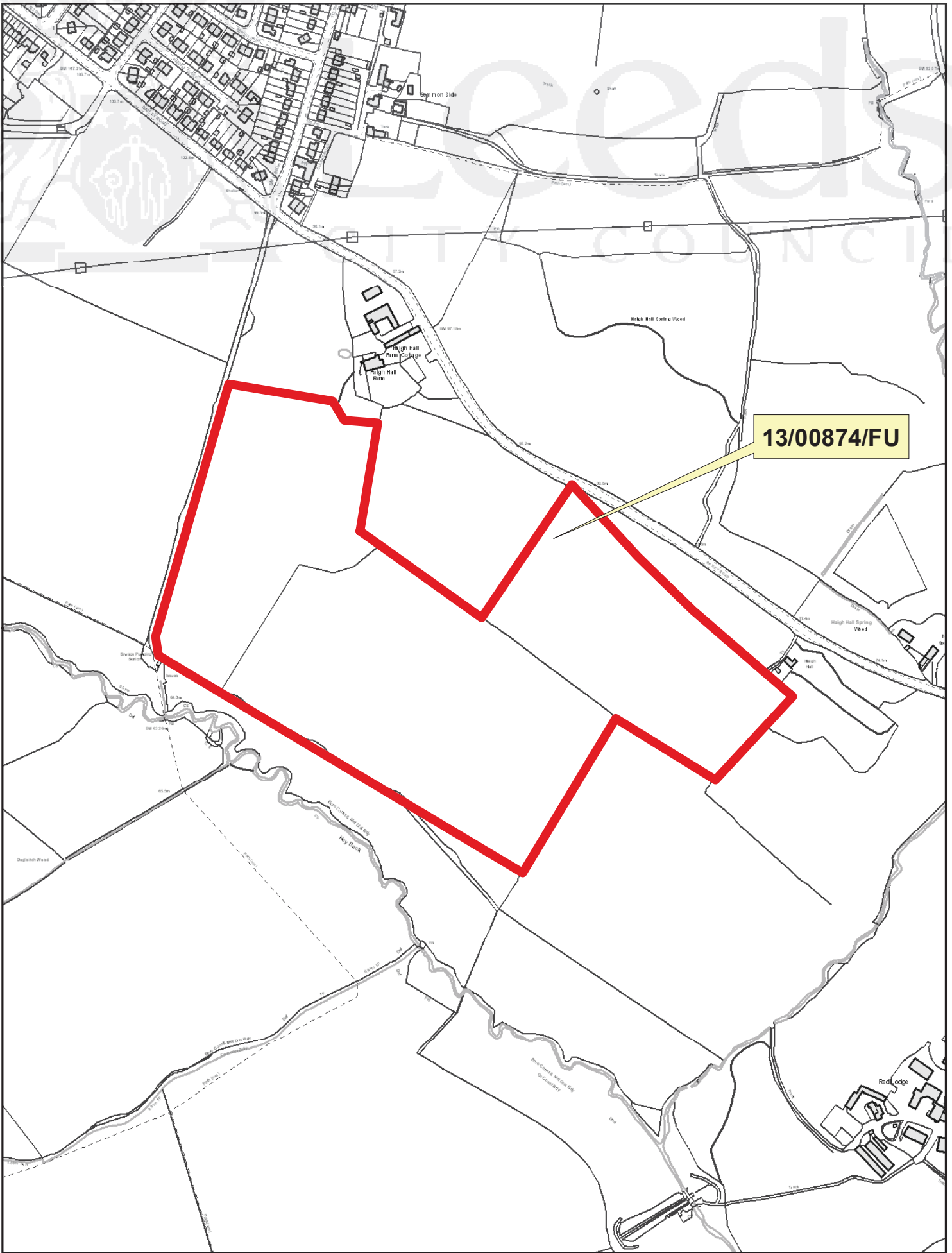
- 10.11 The site slopes to the south and therefore no views of the site from areas to the north would be possible. The applicants are proposing planting around much of the perimeter of the site which, when established, should screen, or at least soften, views of the site from adjacent footpaths. Views of the site from the south in Kirklees and Wakefield would be possible, although such views would be at some distance.
- 10.12 Officers have requested photomontages of the developed site from the applicants and it is hoped that these will be available to display at the Panel meeting. The production of accurate photomontages from agreed viewpoints will be essential in assessing the potential impact from the proposals.
- 10.13 **Do Members have any comments at this stage on the visual impact of the proposal and the proposed landscape scheme?**

Biodiversity

- 10.14 Enhancement of current hedgerows is largely proposed through their management. New hedgerows along the western boundary would be created and gaps in existing retained hedges would be stopped up. The improvements centre around the enhancement of the current hedgerow network. In addition, along the eastern boundary a grassland buffer of 10m would be established between the proposed perimeter fence and the existing hedgerow, composed of existing grassland where present, or seeded grassland along the current arable areas.
- 10.15 A wildlife corridor is proposed to enhance links between Haigh Hall Spring Wood, directly to the north of the site boundary and the habitat that surrounds Hey Beck some 90m to the south west of the site boundary.
- 10.16 Current grassland on site is proposed to be retained with arable areas seeded with a suitable grassland mix. The site would be divided into three separate fields with management options including sheep grazing or cutting.
- 10.17 A strip of land at the western boundary has been proposed to be set aside as a wildflower meadow. Given the likely high nutrient content of the soil, a seed mix has been selected, containing native vigorous species, which are likely to produce a reasonably diverse sward. Although this may not have the variety of the traditional wildflower meadow, this type of grassland can nevertheless have benefit to wildlife providing food plants for invertebrates and cover for a range of species.
- 10.18 Along the southern and western boundaries a number of small attenuation ditches (swales) are proposed to be constructed on gently sloping land beyond the perimeter fence to collect run off from the site. These would have additional biodiversity benefits.
- 10.19 **Do Members have any comments in relation to the impact of the proposals on biodiversity?**

11.0 CONCLUSION:

- 11.1 Members are requested to consider all the matters raised within this report in order to provide officers with appropriate comments and / or advice on the proposal. Specifically, feedback is requested from Members on:



13/00874/FU

SOUTH AND WEST PLANS PANEL