



NORTH AND EAST PLANS PANEL

Meeting to be held in Civic Hall, Leeds on
Thursday, 23rd January, 2014
at 1.30 pm

MEMBERSHIP

Councillors

D Congreve
(Chair)
R Grahame
M Harland
C Macniven
A McKenna
J Harper
M Lyons

C Campbell

J Procter
G Wilkinson

Whip's nominee

**Agenda compiled by:
Angela Bloor
Governance Services
Civic Hall
Tel: 0113 24 74754**

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>SITE VISIT LETTER</p> <p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 15.2, 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>	
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>	
4			<p>DECLARATIONS OF DISCLOSABLE PECUNIARY 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 13-16 of the Members' Code of Conduct.</p>	

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5			APOLOGIES FOR ABSENCE	
6			MINUTES To approve the minutes of the North and East Plans Panel meeting held on 19 th December 2013 (minutes attached)	3 - 6
7	Harewood		APPLICATION 13/04234/FU - OLD PARSONAGE, MAIN STREET EAST KESWICK LS17 To consider a report of the Chief Planning Officer on an application for single storey dwelling to garden plot (report attached)	7 - 18
8	Harewood		APPLICATION 13/03451/FU - RIGTON GARDENS, SCARSDALE RIDGE BARDSEY LS17 To consider a report of the Chief Planning Officer on an application for demolition of existing house and erection of three dwellings (report attached)	19 - 32
9	Alwoodley		APPLICATION 13/05428/FU - 166 SHADWELL LANE LS17 To consider a report of the Chief Planning Officer on an application for variation of condition number 4 to approval 30/213/97/FU (hours of opening) (report attached)	33 - 50

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10	Gipton and Harehills		<p>APPLICATION 08/01776/FU - FORMER COMPTON ARMS PUBLIC HOUSE SITE, COMPTON ROAD BURMANTOFTS LS9</p> <p>To consider a report of the Chief Planning Officer on an application for one three storey block of 3 ground floor retail units with 14 flats over and one four storey block of 43 flats to former public house</p> <p>(report attached)</p>	51 - 64
11			<p>DATE AND TIME OF NEXT MEETING</p> <p>Thursday 20th February 2013 at 1.30pm</p>	

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To all Members of North and East
Plans Panel

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

Contact: Angela M Bloor
Tel: 0113 247 4754
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Your reference:
Our reference: n&e pp site visits
Date 14th January 2014

Dear Councillor

SITE VISITS – NORTH AND EAST PLANS PANEL – 23RD JANUARY 2014

Prior to the meeting of the North and East Plans Panel on Thursday 23rd January 2014 the following site visits will take place:

10.30am		Depart Civic Hall
11.00am	Harewood	Old Parsonage, Main Street East Keswick LS17 – single storey dwelling to garden plot – 13/04234/FU
11.20am	Harewood	Rigton Gardens, Scarsdale Ridge Bardsey LS17 – demolition of existing house and erection of three dwellings – 13/03451/FU
12.00 noon approximately		Return to Civic Hall

For those Members requiring transport, a minibus will leave the Civic Hall at **10.30am**. Please notify David Newbury (Tel: 247 8056) if you wish to take advantage of this and meet in the Ante Chamber at **10.25am**.

Yours sincerely

Angela M Bloor
Governance Officer

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NORTH AND EAST PLANS PANEL

THURSDAY, 19TH DECEMBER, 2013

PRESENT: Councillor D Congreve in the Chair

Councillors C Campbell, R Grahame,
M Harland, C Macniven, G Wilkinson,
J Harper, A Castle, M Coulson and
J McKenna

81 Chair's opening remarks

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

82 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests

83 Apologies for Absence

Apologies for absence were received from Councillor Lyons; Councillor A McKenna and Councillor J Procter who were substituted for by Councillor Coulson; Councillor J McKenna and Councillor Castle respectively

84 Minutes

RESOLVED - That the minutes of the North and East Plans Panel meeting held on 28th November 2013 be approved

85 Application 12/03198/FU - Variation of condition 9 of planning permission 09/01417/FU for hours of opening at New Horizon Community School Newton Hill House Newton Hill Road LS7

The Panel's Lead Officer informed Members that the submitted report in respect of this application indicated that the site was used as a school and included a pre-school. At the time the report was written the legal view had been that the pre-school element did not require planning permission as the use was for educational purposes. However, in view of new information being received that the use was as a nursery rather than a pre-school, Officers were requesting consideration of the application be deferred to enable clarification to be sought and a further report be brought back to Panel which would set out the full facts of the case

Draft minutes to be approved at the meeting
to be held on Thursday, 23rd January, 2014

Members considered how to proceed

RESOLVED - That consideration of the application be deferred to a future meeting and that a revised report be submitted which addressed the issues which had arisen in this case

86 Application 13/03635/FU - Land off Ash Tree Grove Whinmoor LS14

The Panel's Lead Officer advised that representations had been made by Councillor Coupar, a Ward Member for Crossgates and Whinmoor, in view of several local residents indicating that they had only recently been made aware of the application and that they had particular concerns about aspects of the proposals. Councillor Coupar had requested that Panel defer determination of the application to the next meeting to enable local residents to submit their comments

Members were informed that the applicant would prefer the application to be determined, that publication of the proposals had been undertaken and a number of representations had been submitted. However, if Panel was minded to defer consideration of the scheme, the applicant would enter into discussions with Ward Members and Officers but sought final approval to be deferred and delegated to the Chief Planning Officer

RESOLVED – To defer consideration of the application; to note the applicant would discuss the proposals with Ward Members and Officers and if agreements could be reached then the application be deferred and delegated to the Chief Planning Officer for his determination, but that if a satisfactory outcome could not be achieved then a further report be submitted to Panel for determination of the application

87 Application 13/03636/FU - Land off Whinmoor Way Whinmoor LS14

Plans and photographs were displayed at the meeting. A Members site visit had taken place earlier in the day

Officers presented the report which sought approval for a residential development comprising 10 dwellings in a mix of two and three bedroom semi-detached properties on land off Whinmoor Way which formed part of the wider Swarcliffe PFI and Regeneration project

Members were informed that a previous permission on the site for 11 dwellings had lapsed and that the current proposal sought to meet current market demands

One letter of objection had been received although this did not raise any site-specific concerns and related to the effect of prolonged construction activities in the area. Members were informed that a condition was proposed requiring a construction method statement

RESOLVED - That the application be approved subject to the conditions set out in the submitted report

88 Chair's closing comments

The Chair wished all present a Happy Christmas and best wishes for 2014

89 Date and Time of Next Meeting

23rd January 2014 at 1.30pm in the Civic Hall, Leeds

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Originator: U Dadhiwala

Tel: 0113 2478175

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 23rd January 2014

Subject: 13/04234/FU: Single Storey Dwelling to Garden of Old Parsonages, Main Street, East Keswick, LS17 9EU.

APPLICANT

Mr C Brown

DATE VALID

19th September 2013

TARGET DATE

14 November 2013

Electoral Wards Affected:

Harewood

Yes

Harewood
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. Time limit
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.
3. Sample of all walling and roofing materials to be submitted.
4. Construction of stonework shall not be commenced until a sample panel of the stonework to be used has been approved in writing by the Local Planning Authority.
5. Areas used by vehicles to be laid out, surfaced and drained.
6. Existing trees on site shall be protected during the construction period.
7. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.
8. Hard and soft landscaping works shall be carried out in accordance with the approved details.
9. If, within a period of five years any trees or plants planted in replacement for them is removed, uprooted, destroyed or dies or becomes, seriously damaged or defective another tree or plant of the same species and size as that originally planted shall be planted at the same place.
10. Details of all new walls and fences shall be submitted.
11. Details of contactors parking and loading and unloading of materials and equipment shall be submitted.

12. Local Planning Authority to be notified in writing immediately where unexpected significant contamination is encountered during any development works.
13. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, public open space or for filling and level raising shall be tested for contamination and suitability for use.
14. The gradient of the drive shall not exceed 1 in 12.5 (8%).
15. Details of proposed works at new access point to be submitted.
16. The proposed access will be made 3.3m wide.
17. Planning permission to be obtained before any extensions, garages (not shown on the approved plans) are erected.
18. The roof lights proposed in the western elevation shall be obscure glazed.
19. Details of existing and proposed ground levels to be submitted.

1.0 INTRODUCTION

- 1.1 This application is brought to Plans Panel at the request of Councillor Rachael Procter who has also requested a site visit. The Councillor is concerned that the proposed dwelling will have a harmful impact on the character of the Conservation Area.

2.0 PROPOSAL

- 2.1 The application seeks permission to construct a dwelling within the garden area of the residential garden of the Old Parsonage. The single storey structure will be positioned close to the western boundary of the site and a new access will be constructed off Moor Lane. The site, which has a steep gradient, will be excavated to allow the dwelling to sit at a lower level aligned to the neighbouring garage.
- 2.2 The dwelling will be oriented to face the side garden of the application site with its side elevation facing the highway. The element of the extension that will face the highway will measure 5.3m in width whilst the rear elevation of the structure will measure 9.5m wide. The dwelling will have a maximum depth of 14.5m and will be 4.6m in height. The walling and roofing materials as well as the mortar joints and mix are proposed to match the existing Old Parsonage.
- 2.3 Two extensively pruned TPO trees are proposed to be removed.

3.0 SITE AND SURROUNDINGS:

- 3.1 The Old Parsonage is a large detached stone built Grade II listed dwelling located within the village of East Keswick. The Old Parsonage is constructed of dressed stone and a Welsh blue-slate roof and is located within a large plot with private amenity space to the side and rear. The dwelling is accessed off Main Street located to east. The side garden fronts Moor Lane to the south and the garden area stretching up to Lumby Lane to the north. The site is enclosed by shrubs and hedges with a stone wall with hedges above positioned along the Moor Lane frontage. An outbuilding which has been converted to an annex is located to the front of the site with a tennis court located to the south of the dwelling facing Moor Lane. The site features a number of trees some of which are protected by a Tree Preservation Order (TPO). The site occupies an elevated position above Moor Lane.
- 3.2 The site is located within the East Keswick Conservation Area and is predominately residential in character with dwellings located to the north and west of the site. The East Keswick Village Design Statement states that, although the village contains many buildings of varying design, construction and appearance, the overall

impression of the village is gained from the older houses built of stone and these may be said to determine the essential character of the village. The Village Design Statement sets out that all listed buildings within the village, including the Old Parsonage, to make a positive contribution to the character of the area.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 13/00009/FU - Single storey dwelling to garden plot: Withdrawn.
- 4.2 09/04434/EXT- Extension of time for change of use involving alterations of barn to two bedroom carer's accommodation. (Approved)
- 4.3 31/431/04/FU - change of use involving alterations of barn to two bedroom carer's accommodation. (Approved)
- 4.4 31/426/04/FU – 4 bedroom detached house with detached double garage: Refused in November 2004 due the impact on neighbours, trees and highway safety.
- 4.5 H31/209/81/- Laying out of tennis court with 2.74m high fence to rear of detached house. (Approved)

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The redline boundary shown on the original plans included land to the side of proposed dwelling with inadequate provisions being made for a usable private garden. Therefore, through negotiations the red line boundary was revised to include land to the rear of the proposed dwelling.
- 5.2 Following comments made by the Conservation Officer concerning the design of the roof, negotiations were held and it was agreed that the scheme should be revised so that the dwelling features three distinct roofs which gives the development a much more rural appearance.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised by site notice as affecting the setting of Listed Building and the character of a Conservation Area (posted 04.10.2013). The application was also advertised in the Boston Spa and Wetherby News (published 10.10.2013).
- 6.2 The Parish Council raises no concerns relating to the scheme.
- 6.3 7 objection letters have been received raising the following comments;
 - The proposed new access will raise highway safety and traffic issues.
 - The dwelling will have a negative impact on the character of the Conservation Area.
 - The removal of trees and hedges will have a harmful impact on the character of the Conservation Area.
 - A telegraph pole will have to be moved to accommodate the new access. The plans do not show where the telegraph pole will be relocated.
 - The proposal will set a precedent for developing the other areas of the garden.
 - The proposal will overshadow neighbouring dwelling (Heath Cottage).
 - The proposal will affect the light into the commercial property located opposite the site.

- The proposal will affect the business opposite the site by reduce parking and causing disturbance during the construction period.
- The proposal will raise overlooking concerns.
- The proposal will harm local wildlife.

7.0 CONSULTATIONS RESPONSES:

7.1 Highways- No objection

7.2 Land Contamination- No objection, subject to conditions.

7.3 Mains Drainage- No objection, the comments made by Mains Drainage concludes that the drainage issues can be dealt with by the Building Inspector as part of the Building Regulations approval process.

7.4 Conservation- at the pre-application stage the proposal had three distinct roofs which gave the development the character of a typical ancillary outbuilding, the loss of this feature gives the proposal more of a bungalow feel. The Conservation Officer recommends that the scheme should be slightly amended to reflect this comment. Furthermore, it is considered that Historic map regression shows a previous garden subdivision in this area, with the new plot layout conforming to this. Therefore, the proposal shouldn't adversely affect the setting of the listed building.

7.5 Landscape Officer- the two Lime trees proposed to be removed are covered by the early 1970s Wetherby RDC TPO. Both trees have been severely pollarded and have been cut back. Both trees are mature to over mature and would require regular pollarding to maintain them. There is adequate space for suitable re-planting should these trees be removed and appropriate species/size and position of the new trees should be agreed in advance. Something along the lines of Hornbeam, at heavy standard size, planted towards the frontage, would be acceptable. The Sweet Chestnut and the Maple to the north of the proposal are significant trees but are far enough away to not be an issue post occupancy.

8.0 PLANNING POLICIES:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Leeds Unitary Development Plan (Review 2006) which is supplemented by supplementary planning guidance and documents. The Development Plan also includes the Natural Resources and Waste Development Plan Document (2013): Developments should consider the location of redundant mine shafts and the extract of coal prior to construction.

Local Planning Policy

8.2 The Leeds Unitary Development Plan (Review 2006) is the development plan for the whole of the Leeds district. Relevant planning policies in the Leeds Unitary Development Plan (Review 2006) are listed below:

- Policy GP5 - refers to development proposals should seek to avoid loss of amenity.
- Policy BD6 – refers scale, form and detailing
- Policy H4 - refers to housing on other sites not identified in the UDP.
- Policy N12 - refers to urban design

- Policy N13 - refers to the design of buildings having regard to the character and appearance of their surroundings
- Policy N19 – states that all new buildings or extensions in Conservation Area should preserve or enhance the character or appearance of the area.
- Policy BD5 – refers to amenity issues.
- Policy BD6 – refers to extensions and alterations.
- Policy LD1 – refers to landscape provisions
- Policy T2- New development should not adversely affect the highway network:

Supplementary Planning Guidance/Documents

- 8.3 Neighbourhoods For Living: A Guide for Residential Design in Leeds was adopted as Supplementary Planning Guidance by the Council in December 2003.
- 8.4 Street Design Guide Supplementary Planning Document (Main Report) was adopted in August 2009 and includes guidance relating to highway safety and design.
- 8.5 East Keswick Village Design Statement (VDS) was adopted as Supplementary Planning Guidance by June 2002.

***... buildings which are either listed or are considered by the local community to make a particularly important contribution to the character and appearance of the village...require protection from unsympathetic development or redevelopment in order to safeguard the special character of the village.
(Paragraph 4.2)***

Emerging Local Development Framework Core Strategy

- 8.6 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. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination.
- 8.7 The Core Strategy has been the subject of independent examination (October 2013) and its policies attract some weight, albeit limited by the fact that the policies have been objected to and the Inspector's Report has yet to be received (currently anticipated in Spring 2014).The Inspector is due to produce a schedule of Main Modifications by 31 January 2014.
- 8.8 The following draft policies from the Core Strategy are considered relevant to the application:

Spatial Policy 1: Location of new development
H2: New Housing Development on Non-Allocated Sites
H8: Housing for Independent Living
P10: Design
P11: Conservation
P12: Landscape
T2: Accessibility Requirements and New Development
EN1: Climate Change
EN2: Sustainable Design and Construction

National Planning Policy

- 8.9 The National Planning Policy Framework (2012) 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. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 8.10 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.
- 8.11 Paragraph 50 of the NPPF states that authorities should plan:
- “To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should ... plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)”
- 8.12 Para 49: Presumption in favour of sustainable residential development.
- 8.13 Para 56: Government attaches great importance to design of the built environment.
- 8.14 Para 58: Policies and decisions should aim to ensure developments:
- function to ensure quality over the long term;
 - establish strong sense of place, creating attractive, comfortable places;
 - optimise potential of site to accommodate development ;
 - respond to local character and history ;
 - create safe and accessible environments;
 - visually attractive (architecture and landscaping).
- 8.15 Para 132: With regards to heritage assets the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

9.0 MAIN ISSUES

- Principle of Development
- Design, Heritage and Landscape
- Impact on Residential Amenity

- Highway Safety
- Representations

10.0 APPRAISAL

Principle of the Development

- 10.1 The site does not constitute previously developed land (Brownfield) as the definition of garden areas was revised to exclude land in built-up areas such as residential gardens. Policy H4 of the Unitary Development Plan Review (2006) deals with residential development on unallocated sites and regards developments that lie within the main and smaller urban areas as defined on the proposals map, or are otherwise in a demonstrably sustainable location will be permitted provided the proposed development is acceptable in sequential terms, is clearly within the capacity of existing and proposed infrastructure, and complies with all other relevant policies.
- 10.2 The application site does not lie within a Main Urban Area but falls within the village of East Keswick which can be regarded as a village with good public transport and road links to commercial centres including Wetherby. Therefore, it is considered that the application site is in a relatively sustainable location.
- 10.3 Given the fact that the site is in a sustainable location and that the scheme is for just a single dwelling, it is not considered that this particular proposal would be harmful to the overall housing policy of the Council in seeking to direct residential development to the main urban areas, brownfield sites and the regeneration areas in particular. In this respect the proposal is considered to comply with the initial parts of policy H4 and therefore the proposal is acceptable in principle provided that it also complies with all other relevant policies.

Design, Heritage and Landscape

- 10.4 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. This focus on good design is replicated within local policies and the creation of high quality residential development which responds positively to its context is strongly encouraged. The East Keswick Village Design Statement (VDS) highlights that the old stone built agricultural style buildings within the village make the most positive contribution to the character of the Conservation Area and emphasis’s the need for new developments to take reference to these structures.
- 10.5 The dwelling is a single storey structure proposed to be constructed of local stone and will feature a mixture of pitched and hipped roofs. The structure has been designed to appear as a group of typical outbuildings subordinate to the larger Old Parsonage building. Barns and outhouse are generally associated with agricultural and such structures are not alien to East Keswick. Therefore, it is considered that the design of the proposal will tie in with the character of the Conservation Area and will comply with the guidance contained within the East Keswick VDS.
- 10.6 The dwelling will not appear prominent from the street, due to its single storey scale and the high boundary treatment along the frontage. Although, glimpses of the property may be possible from the street through the gap made by the access road, the appropriate design and material of the dwelling ensures that the views of the

structure that are possible will not be detrimental to the character of the Conservation Area.

- 10.7 The core of East Keswick is fairly densely developed with no distinct separation distances between buildings or a defined building line. Therefore, it is considered that the proposed positioning of the dwelling close to the western boundary and neighbouring garage is not a particular concern. Furthermore, the main buildings in the immediate vicinity of the site and the neighbouring dwelling directly adjacent (Heath Cottage) are larger structures. Therefore, in this context, the dwelling's subordinate nature will ensure the impact on the special character of the area will not be significant.
- 10.8 As the existing building on the site is Grade II listed, consideration should be given to the impact of the development on the setting and the appearance of the Listed Building. The single storey scale of the proposed dwelling as well as its simplistic design will ensure that the proposal will appear subordinate to the Listed Building and that the setting and appearance of the Listed Building is not overwhelmed by the dwelling. Moreover, the dwelling is positioned at a lower level to the Listed Building as well as its 31m separation distance will further ensure that the setting and the appearance of the Listed Building is not harmed.
- 10.9 The proposal will involve the removal of two TPO trees as well as a section of the front boundary wall and hedge. The TPO trees proposed to be removed have been heavily pruned and as such hold low visual amenity value. The Landscape Officer has assessed the scheme and has accepted that the removal of the trees will not be a significant issue provided that it is offset by planting new trees within the site. Therefore, it is considered that the removal of the trees will not significantly harm the character of the Conservation Area provided a condition is imposed to ensure new trees are planted.
- 10.10 The boundary wall and hedges are an important feature of the Conservation Area. Only a small 3.3m section of this large 35m long wall is proposed to be removed and much of the wall and hedges will be retained. Therefore, it is not considered that the removal of the wall and hedges will have a negative impact on the character of the Conservation Area.
- 10.11 The Conservation Officer has assessed the scheme and has raised no concerns and it is considered that the proposal complies with the NPPF and the East Keswick VDS in so far as its design and layout is considered.

Impact on Residential Amenity

- 10.12 In order to be considered acceptable new residential development must result in an adequate standard of living for those occupying the new dwellings. Care must also be taken to ensure that the existing residential amenity of those living close to the development is not unreasonably affected.
- 10.13 It is considered that an acceptable standard of living will be provided for the future occupants of the site and the standard of living proposed falls in line with the guidance provided within the SPG Neighborhoods for Living. The dwelling will be served by adequate off street parking spaces, safe access and adequate private garden space to the rear. Internally, all bedrooms and living space will be served by windows with adequate outlook.

- 10.14 There are no overlooking concerns expected to arise as a result of the development, as there are no windows proposed that directly overlook the neighbouring dwellings or the existing dwelling.
- 10.15 The proposal is not expected to raise concerns relating to overshadowing or over-dominance. The two closets dwellings to the proposal are Rose Cottage and Heath Cottage. It is considered that Heath Cottage will be generally protected by any significant overshadowing or over-dominating consequences, as it has garage located close to the dwelling which will act as an effective protection. Given the differences in ground levels, the dwelling will be set below the ground area of Rose Cottage and only the upper portion of the proposed dwelling and the roof will be exposed from the garden area of Rose Cottage. Therefore, it is considered that the exposed portions of the dwelling will not appear dominant from Rose Cottage nor will it unreasonably overshadow.

Highways

- 10.16 The Highways Officer comments that, provided the access is 3.3m in width, the proposal will not raise Highway Safety concerns. The access proposed is 3m in width and the recommended width can easily be achieved via conditions. Therefore, it is considered that the proposal will not raise any highway and pedestrian safety concerns.

Public Representation

- 10.17 Seven objection letters have been received. The issues raised concerning highway safety, on street parking and traffic have been assessed by the Highway Officer who has not raised any objections subject to conditions.
- 10.18 The concerns raised that the dwelling will have a negative impact on the character of the Conservation Area has been addressed in the report and this issues has also been evaluated by the Conservation Officer who has raised no concerns.
- 10.19 The concern raised relating to the removal of trees and hedges and the consequent impact of this on the character of the Conservation Area has been discussed in the report and the issue has also be evaluated by the Landscape Officer who has raised no significant concerns.
- 10.20 A member of the public comments that a telegraph pole will have to be moved in order to accommodate the proposed new access and that the plans do not show where the telegraph pole will be relocated. The removal and relocations of telegraph poles are covered by other legislation and do not require a planning permission. Therefore, as far as this application is concerned, it is considered that this issue is not a material planning consideration.
- 10.21 An objection is raised that approving this scheme will set a precedent for developing the other areas of the garden. All applications are judged on their individual merits and approving this scheme will not necessarily lead to the rest of the site being developed or other garden sites in the area.
- 10.22 The concerns raised that the proposal will overshadow neighbouring dwellings has been assessed in the report. It has been concluded that the proposal will not overshadow neighbouring dwellings.

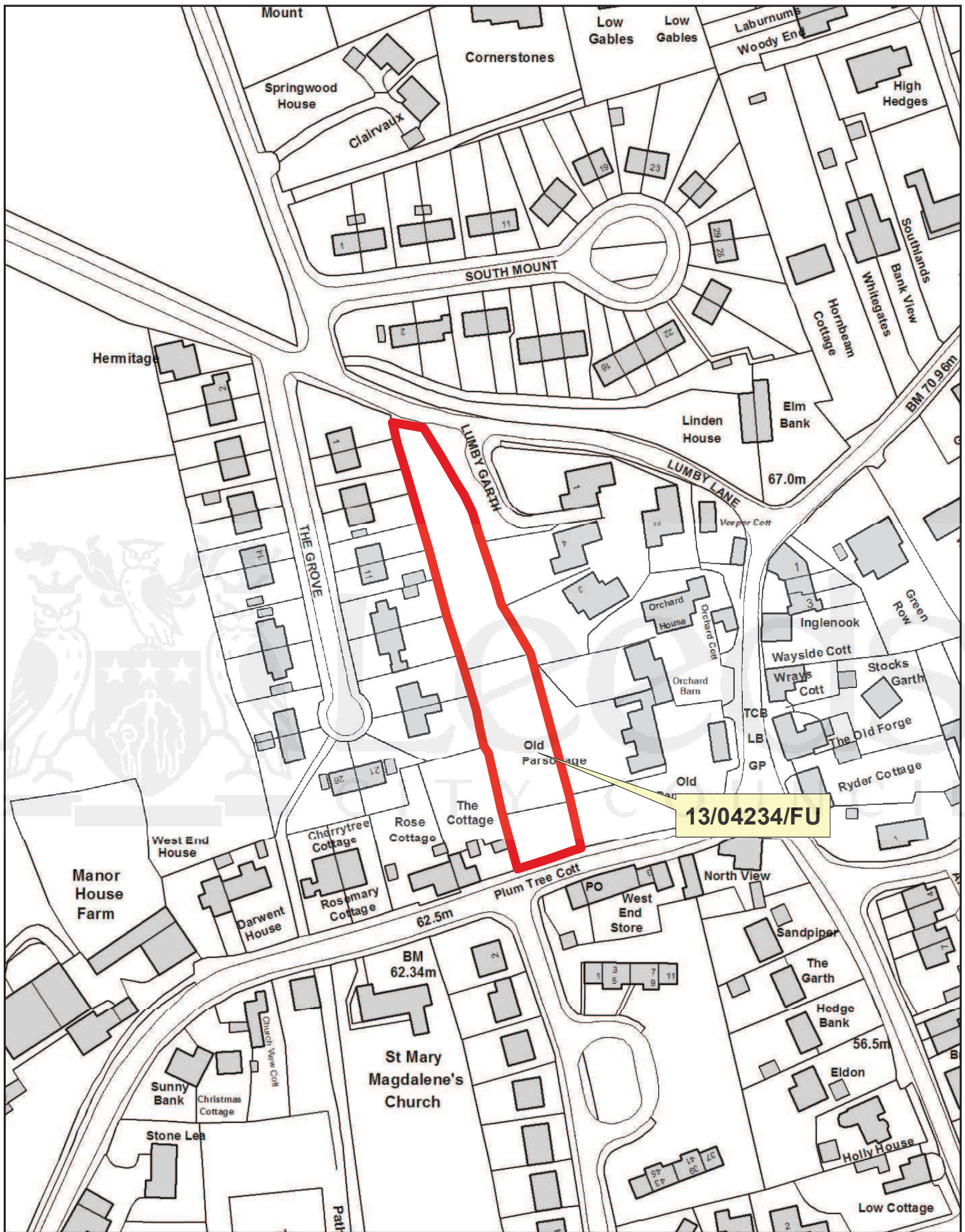
- 10.23 A comment has been made that the proposal will affect the light into the commercial property located opposite the site. Given its modest single storey scale and the separation distance of more than 30m, it is considered that the proposal will not affect natural light into the buildings located opposite the site.
- 10.24 The concerns raised that the proposal will affect the business opposite the site by reduce its parking and causing disturbance during the construction period, is unreasonable. It is not considered that permission for a single dwelling, which will feature its own off street parking space, will significantly affect the neighbouring business premises in anyway. The issues relating to the disturbance that could be caused as a result of the construction works, is noted. A condition will be imposed to ensure appropriate measures are taken to ensure contractors parking and unloading of materials and equipment are carried out in a manner that does not affect neighbouring residents.
- 10.25 The concerns raised that the proposal will raise overlooking concerns has been addressed in the report. There are no windows proposed that directly overlook neighbouring dwellings.
- 10.26 The concern raised that the proposal will harm local wildlife, is noted. There are no known protected species that are likely to be affected as a result of the proposal. Therefore, it is considered that the proposal cannot be refused on this issue.

11.0 CONCLUSION

- 11.1 The applicant seeks permission for the construction of a dwelling in the garden area of a Grade II listed building. It is considered that the proposal is acceptable in principle and will not harm the setting or the appearance of the Listed building, nor is it considered that the proposal harm the character of the Conservation Area. Furthermore, it is considered that the proposal will not have a significant detrimental impact on neighbouring residential amenity or upon highway safety. Therefore, it is recommended that planning permission is granted.

Background Papers:

Application file: 13/4234/FU
Certificate of Ownership: Signed by Agent Guy Townsend on behalf of the applicant Mr Brown.



13/04234/FU

NORTH AND EAST PLANS PANEL





Originator: U Dadhiwala

Tel: 0113 2478175

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 23rd January 2014

Subject: 13/03451/FU– Demolition of Existing House and Erection of Three Dwellings at Rigton Gardens, Scarsdale Ridge, Bardsey, Leeds LS17 9BP.

APPLICANT
Berkeley DeVeer

DATE VALID
13th August 2013

TARGET DATE
8th October 2013

Electoral Wards Affected:

Harewood

Yes

Harewood
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. Time limit
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.
3. Sample of all walling and roofing materials to be submitted.
4. Construction of stonework shall not be commenced until a sample panel of the stonework to be used has been approved in writing by the Local Planning Authority.
5. Areas used by vehicles to be laid out, surfaced and drained.
6. Existing trees on site shall be protected during the construction period.
7. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.
8. Hard and soft landscaping works shall be carried out in accordance with the approved details.
9. Details of all walls and fences shall be submitted.
10. Details of contactors parking and loading and unloading of materials and equipment shall be submitted.
11. Phase I Desk Study to be submitted.
12. If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified.

13. Remediation works shall be carried out in accordance with the approved Remediation Statement.
14. Details of the existing drainage layouts of the site, together with pipe sizes, gradients and connection points, as well as a plan showing the measured impermeable areas of the site shall be submitted.
15. Details of surface water drainage system shall be submitted.
16. The gradient of the drive shall not exceed 1 in 12.5 (8%).
17. The vehicular access gradient shall not exceed 1 in 40 (2.5%) for the first 15m and 1 in 20 (5%)
18. The garages hereby approved shall be kept available and used solely as garages for the parking of motor cars.
19. Planning permission to be obtained before any extensions, garages (not shown on the approved plans) are erected.
20. The en-suite windows in the side elevation of Plot 4 shall be obscure glazed.
21. No development, demolition or site clearance shall take place until a copy of the Natural England Licence issued in respect of Common Pipistrelle bats has been submitted to the LPA.
22. Provisions shall be made available for bird nesting opportunities for House Martins within the proposed buildings and elsewhere on-site.
23. No site clearance, demolition or removal of any trees, shrubs or other vegetation shall be carried out during the period 1 March to 31 August inclusive, unless otherwise agreed in writing with the LPA.
24. Retention of turning and servicing area.

1.0 INTRODUCTION

- 1.1 This application is brought to Plans Panel at the request of Councillor Rachael Procter who has also requested a site visit. The Councillor is concerned that the proposed dwellings will have a harmful impact on the character of the area.

2.0 PROPOSAL

- 2.1 The application seeks permission to demolish an existing dwelling on the site and to construct three dwellings. Two of the proposed dwellings (Plots 4 and 5) will be incorporated into, and will be accessed off the recently approved development of Rigton Croft to the west, while the dwelling named 'Southlands' will be accessed off Scarsdale Ridge.
- 2.2 The proposed 5 bed roomed two storey dwellings on Plot 4 and 5 will be detached pitched roof structures which will measure 6m wide, 5.7m in depth and 8.5m in height. The vehicular access to two of the dwellings (Plots 4 and 5) will run through the recently approved scheme for 3 new dwellings to the west, with access taken from Scarsdale Lane.
- 2.3 Both dwellings of Plots 4 and 5 will feature detached garages to the front. The garage will measure 5.6m x 5.7m and 4.1m in height.
- 2.4 The dwelling named Southlands will be a two storey hipped roofed structure with an attached garage which will extend forward of the building line. The main body of the dwelling will measure a maximum of 10.4m in depth, 12.7m in width and 8.6m in height. The attached garage will extend 7.5m forward of the front elevation of the building and will measure 6.9m in depth and will feature a bedroom in the roof-space.

3.0 SITE AND SURROUNDINGS:

- 3.1 Bardsey is located between Leeds and Wetherby and generally has a rural character with many buildings within the area of architectural and/or historical merits. The village is split into six principle residential areas which are isolated from each other with agricultural land located between each residential area. The age of buildings within the wider area stem from various historical periods but the bulk of the built development is from the 1920's onwards.
- 3.2 The application site comprises of a large detached house located on northeast corner of this substantial plot with a detached storage building north of the dwelling. The garden appears overgrown with trees and shrubs located on the perimeter. The site slopes up gradually from northeast to southeast with the neighbouring dwelling of Brocks Bank (to the north) located at a higher level to the site and the dwelling of Glenmore (to the south) is located at a lower level. There is a dwelling located to the west (Rigton Croft) which has approval to construct three more dwellings within its garden.
- 3.3 Properties in the immediate vicinity are large detached dwellings located in medium to large plots. The dwellings in the area take various forms, scale and design. Space between dwellings is a common characteristic of the area and the level of tree coverage and other planting give the area a leafy residential character.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 Permission for the demolition of the dwelling on the site and the erection of a four bedroomed detached dwellings was approved in 2004 (ref: 31/73/04/FU).
- 4.2 In April 2012 an outline planning application was submitted, by the same applicant, for residential accommodation in the garden land of 'Rigton Croft' (located to the west of the site) proposing to demolish the existing dwelling and the construction of four new dwellings. The application referred to access only with the layout; scale; appearance and the landscaping of the site remaining as matters that would have been assessed at a reserved matters stage. The outline permission (12/00595/OT) was refused planning permission for the below reason:

The proposed development is considered to be significantly harmful to the character and appearance of the immediate area by virtue of the number of properties proposed within the existing plot resulting the erosion of the open nature of the immediate area on Scarsdale Lane. This over intensification of the existing plot would therefore result in adversely altering the spatial character of this immediate section of Scarsdale Lane where openness is an intrinsic feature. Therefore, the proposal is considered to be contrary to Leeds Unitary Development Plan (review 2006) policies GP5, H4, BD5, N12, N23 and with guidance set out in Supplementary Planning Guidance - Neighbourhoods for Living(adopted 2003), the Bardsey Village Design Statement (adopted 2002) and with guidance contained within The National Planning Policy Framework (2012).

- 4.3 The refusal was the subject of an appeal and the Inspector allowed the appeal and considered that given the size of the plots, the proposal would not be out of character with the spatial pattern of development in the locality.

4.4 In 2013 a full planning application (Ref: 13/00768/FU) was submitted which proposed a similar scheme to that approved under the Outline permission but with the retention of the existing property on the site and three additional dwellings. The 2013 scheme was approved and was similar to the scheme approved by the inspector.

5.0 HISTORY OF NEGOTIATIONS:

5.1 The original scheme proposed four new dwellings, three of which were fairly narrow and closely positioned to each other. It was considered that these dwellings were not in keeping with the character and the special setting of the area. The proposed rear elevation of the dwelling Southlands was also a concern as it had an overcomplicated mix of roof shapes and heights, which would have resulted in the dwelling appearing incongruous from the street. Through negotiations the applicant has reduced the number of dwellings and, although, the dwellings are larger they have a greater separation distance in-between. The front elevation of the Southlands has also been simplified.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by site notice posted on 30.08.2013

6.2 Bardsey Parish Council objection to the proposal on the following grounds;

- The density of the development is too high and the space between buildings is limited.
- Parking provision are inadequate
- The additional traffic will cause highway safety issues along the narrow Scarsdale Lane.

6.3 2 Objection letters have been received raising the following comments;

- The three new dwellings in addition to the four approved on the adjacent site will significantly increase traffic on the narrow roads serving the site.
- Electricity power in the area often fails and the additional dwellings will add to the problems.
- The design of the dwellings is unacceptable and will have an adverse impact on the character of the area.
- More development on this site will result in further rain water runoff on to the neighbouring dwelling Glenmhor.

6.4 One letter of support received, which states that the proposal will enhance the character of the area.

7.0 CONSULTATIONS RESPONSES:

7.1 Highways- No objection, as no additional dwellings will serve Scarsdale Ridge and the private drive will serve less than five dwellings.

7.2 Land Contamination- No objection, subject to conditions.

7.3 Mains Drainage- No objections, subject to conditions being imposed that ensure the proposed drainage meets minimum standards.

7.4 Nature Conservation- The Ecology Survey has identified a bat roost at the property and also nesting House Martin birds. Conditions will be required to ensure protected species are not harmed as a result of the works.

8.0 PLANNING POLICIES:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Leeds Unitary Development Plan (Review 2006) which is supplemented by supplementary planning guidance and documents. The Development Plan also includes the Natural Resources and Waste Development Plan Document (2013): Developments should consider the location of redundant mine shafts and the extract of coal prior to construction.

Local Planning Policy

8.2 Relevant planning policies in the Leeds Unitary Development Plan (Review 2006) are listed below:

- Policy GP5 - refers to development proposals should seek to avoid loss of amenity.
- Policy H4 - refers to housing on other sites not identified in the UDP.
- Policy BD5 - refers to new buildings be designed with consideration to both own amenity and surroundings.
- Policy N12 – refers to urban design
- Policy N13 – refers to design of new buildings
- Policy N23 – Open space and retention of existing features which make a positive visual contribution.
- Policy N25 – refers to boundaries around sites
- Policy N26 – Requirement to provide landscaping details.
- Policy LD1 – Landscaping
- Policy T24 – Parking
- Policy T2 – highway safety
- Policy T5 - safe and secure access for pedestrians and cyclists should be provided to new development.

Supplementary Planning Guidance/Documents

8.3 Neighbourhoods For Living: A Guide for Residential Design in Leeds was adopted as Supplementary Planning Guidance by the Council in December 2003.

8.4 Street Design Guide Supplementary Planning Document (Main Report) was adopted in August 2009 and includes guidance relating to highway safety and design.

8.5 The Bardsey Village Design Statement (VDS, 2002):_Page 13 of the VDS lists a number of general guidelines and priorities of the village, some of these include;

- The scale, design and material of any redevelopment or new development must be appropriate to the area in which it is located.
- New dwellings should not generally be above two storeys in height. Roofs should be proportioned to the bulk of the building and usually gabled.
- Suburban house types should be opposed.
- Monotonous repeat of house types should be avoided.

- New developments should provide a range of house types and size. Respecting local distinctiveness in design.

Emerging Local Development Framework Core Strategy

- 8.6 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. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination.
- 8.7 The Core Strategy has been the subject of independent examination (October 2013) and its policies attract some weight, albeit limited by the fact that the policies have been objected to and the Inspector's Report has yet to be received (currently anticipated in Spring 2014). The Inspector is due to produce a schedule of Main Modifications by 31 January 2014.
- 8.8 The following draft policies from the Core Strategy are considered relevant to the application:
- Spatial Policy 1: Location of new development
 - H2: New Housing Development on Non-Allocated Sites
 - H8: Housing for Independent Living
 - P10: Design
 - P12: Landscape
 - T2: Accessibility Requirements and New Development
 - EN1: Climate Change
 - EN2: Sustainable Design and Construction

National Planning Policy

- 8.9 The National Planning Policy Framework (2012) 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. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 8.10 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.
- 8.11 Paragraph 50 of the NPPF states that authorities should plan:
- "To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should ... plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)"

8.12 Para 49: Presumption in favour of sustainable residential development.

8.13 Para 56: Government attaches great importance to design of the built environment.

8.14 Para 58: Policies and decisions should aim to ensure developments:

- function to ensure quality over the long term;
- establish strong sense of place, creating attractive, comfortable places;
- optimise potential of site to accommodate development ;
- respond to local character and history ;
- create safe and accessible environments;
- visually attractive (architecture and landscaping).

8.15 With regards to biodiversity, the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principle:

- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

9.0 MAIN ISSUES

- Principle of Development
- Townscape /Design and Character
- Impact on Residential Amenity
- Highway Safety
- Nature Conservation
- Public Representations

10.0 APPRAISAL

Principle of the Development

- 10.1 The garden site does not constitute previously developed land (Brownfield) as the definition of garden areas was revised to exclude land in built-up areas such as residential gardens. Policy H4 of the Unitary Development Plan Review (2006) deals with residential development on unallocated sites and regards developments that lie within the main and smaller urban areas as defined on the proposals map, or are otherwise in a demonstrably sustainable location will be permitted provided the proposed development is acceptable in sequential terms, is clearly within the capacity of existing and proposed infrastructure, and complies with all other relevant policies.
- 10.2 The application site does not lie within a Main Urban Area but falls within the village of Bardsey which can be regarded as a village with public transport and road links to commercial centres including Wetherby. Therefore, it is considered that the application site is in a reasonably sustainable location.

- 10.3 Given the fact that the site is in a sustainable location and that the scheme is for just two additional dwellings, it is not considered that this particular proposal would be harmful to the overall housing policy of the Council in seeking to direct residential development to the main urban areas, brownfield sites and the regeneration areas in particular. Furthermore, the Inspector in a recent Appeal for a residential development on the adjacent site (see Planning History) accepted the principle of a small scale residential development within a garden area. Therefore, the proposal is considered acceptable and to comply with the initial parts of policy H4 provided that it also complies with all other relevant policies.

Townscape / Design and Character

- 10.4 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. This focus on good design is replicated within local policies and the creation of high quality residential development which responds positively to its context is strongly encouraged. The scale, design and material of any redevelopment or new development must be appropriate to the area in which it is located.
- 10.5 The dwellings proposed are two storey in scale which have a traditional form and design. Plots 4 and 5 will be incorporated into the recently approved dwelling of Rigton Croft with their main aspects facing the Scarsdale Lane and their rear elevations facing Scarsdale Ridge. The front aspect of the dwelling named Southlands will face Scarsdale Ridge.
- 10.6 The properties within the area offer an array of scale, massing, design and architectural styles that represent their period of construction. The separation distance maintained between dwellings as well as the building lines are also varied. As well as the design and character of the existing buildings in the area, consideration should also be given to the fact that design, scale and density of the development that has been approved on the adjacent site is relatively also varied.
- 10.7 The density, scale and style of the proposed dwellings are similar to the dwellings approved on the adjacent site, which Case Officer’s report described as being of a style and scale comparable to the older properties in the area rather than the 20th century developments. The varied scale, design and layout of the proposal dwellings also conforms with the Bardsey VDS which states that new dwellings should avoid a repeat of house types and that a range of house types and sizes should be developed. Furthermore, a good separation between each property is proposed creating a layout that would not appear overly congested within the context of the area. Therefore it is considered that the proposal will sit in union with the other dwellings within the area and the adjacent approved development and it is not considered that the proposal will have an adverse impact on the character of the area.
- 10.8 The comments made by the Parish Council that the close proximity of the garage of Southlands to the neighbour’s boundary conflicts with the special character of the area, is noted. However, it is considered that the gap of 11m will be maintained from the proposed garage and the rear wall of the neighbouring dwelling, which will adequately preserve the special character of the area.
- 10.9 Whilst the Council resisted additional residential development at Rigton Croft to the west, this was the subject of an appeal with the Inspector allowing the development, concluding that it was compatible with the spatial pattern and density of development

in the locality. Given this appeal decision on the adjacent site, it is considered that it would be difficult to resist the principle of additional residential development on this particular site, especially given that it has been designed to reflect the design and scale of the permitted scheme to the west and given similar separation distances which are proposed between the new houses, similar to others in the locality.

Impact on Residential Amenity

- 10.10 In order to be considered acceptable new residential development must provide adequate standard of living for those occupying the new dwellings. Care must also be taken to ensure that the existing residential amenity of those living close to the development is not unreasonably affected.
- 10.11 It is considered that an acceptable standard of living will be provided for the future occupants of the site and the standard of living proposed falls in line with the guidance provided within the SPG Neighborhoods for Living. The dwelling will be served by adequate off street parking spaces, safe access and adequate private garden space to the rear. Internally, all bedrooms and living space will be served by windows with adequate outlook.
- 10.12 The development, within the context of the local area, proposes a layout that enables acceptable spacing between dwellings without creating any infringement onto the residential amenity of future occupants of the proposed houses on the adjacent development or neighbouring dwellings. Separation distances to the boundaries and main aspects are considered to be acceptable and are in the most compliant with those detailed in guidance.
- 10.13 It is not considered that the proposed front and rear elevation windows would offer outlooks that would infringe on the privacy of future occupants or that of existing residents of neighbouring properties. This is because separation distances of more than 11m would exist between the front and rear elevation windows and the front and rear boundaries of the plots. Whilst the windows in the side elevations are secondary in nature of which the first floor windows will be conditioned to be obscure glazed. Due to the high boundary treatment enclosing the site, the ground floor windows proposed within the side elevations of the dwellings will not overlook neighbouring dwellings.
- 10.14 The proposal is not expected to raise concerns relating to overshadowing or over-dominance. The two dwellings in close proximity to the proposal is Brocks Bank and Glenmhor. The proposed side aspect of Southlands will be positioned close to the dwelling of Brocks Bank, with the attached garage of Southlands being positioned on the shared boundary. As Brocks Bank is located in an elevated position, only the roof of the garage will be exposed above the rear boundary treatment of Brocks Bank with a separation distance of more than 11m being maintained from its rear elevation. Therefore, it is considered that the exposed roof of the proposed garage will not significantly overshadow or appear dominant from Brooks Bank. The main elevation of Southlands will be set 5m away from the shared boundary which, due to the differences in ground levels, is considered adequate separation distance to ensure the living conditions of the occupants of Brook Banks is not significantly harmed.
- 10.15 Plot 4 will be constructed close to the neighbouring dwelling of Glenmore. Due to the differences in ground levels, Glenmore will be positioned below the ground level of Plot 4. The side aspect of Glenmore features no prominent windows that will have significant views of Plot 4. Therefore, it is not considered that the proposal dwelling will appear dominant from Glenmore. As Glenmhor is positioned to the south of Plot 4, no significantly overshadow concerns are expected to arise.

Highways Safety

- 10.16 No additional dwellings are proposed off Scarsdale Ridge, whilst the access point off Scarsdale Lane has been accepted as part of the scheme to redevelop the adjacent site of Rigton Croft. Therefore, it is not considered that the proposal will have an adverse impact on highway safety. The Highways Officer has raised no highway safety concerns in relation to the scheme. Each dwelling will be served with at least two parking spaces which is considered adequate to ensure the development does not raise on street parking issues.

Nature Conservation

- 10.17 The Ecology Survey has identified a bat roost at the site and has also identified House Martin birds nesting on the site. The Nature Conservation Officer has assessed the scheme and has raised no objection subject to conditions being imposed to ensure adequate measure are taken to protect the identified wildlife during and after the construction period. Subject to the recommended biodiversity conditions listed at the head of the report being imposed, it is considered that the proposal does not pose a significant risk to bats or House Martin birds that are known to reside within the site.

Public Representation

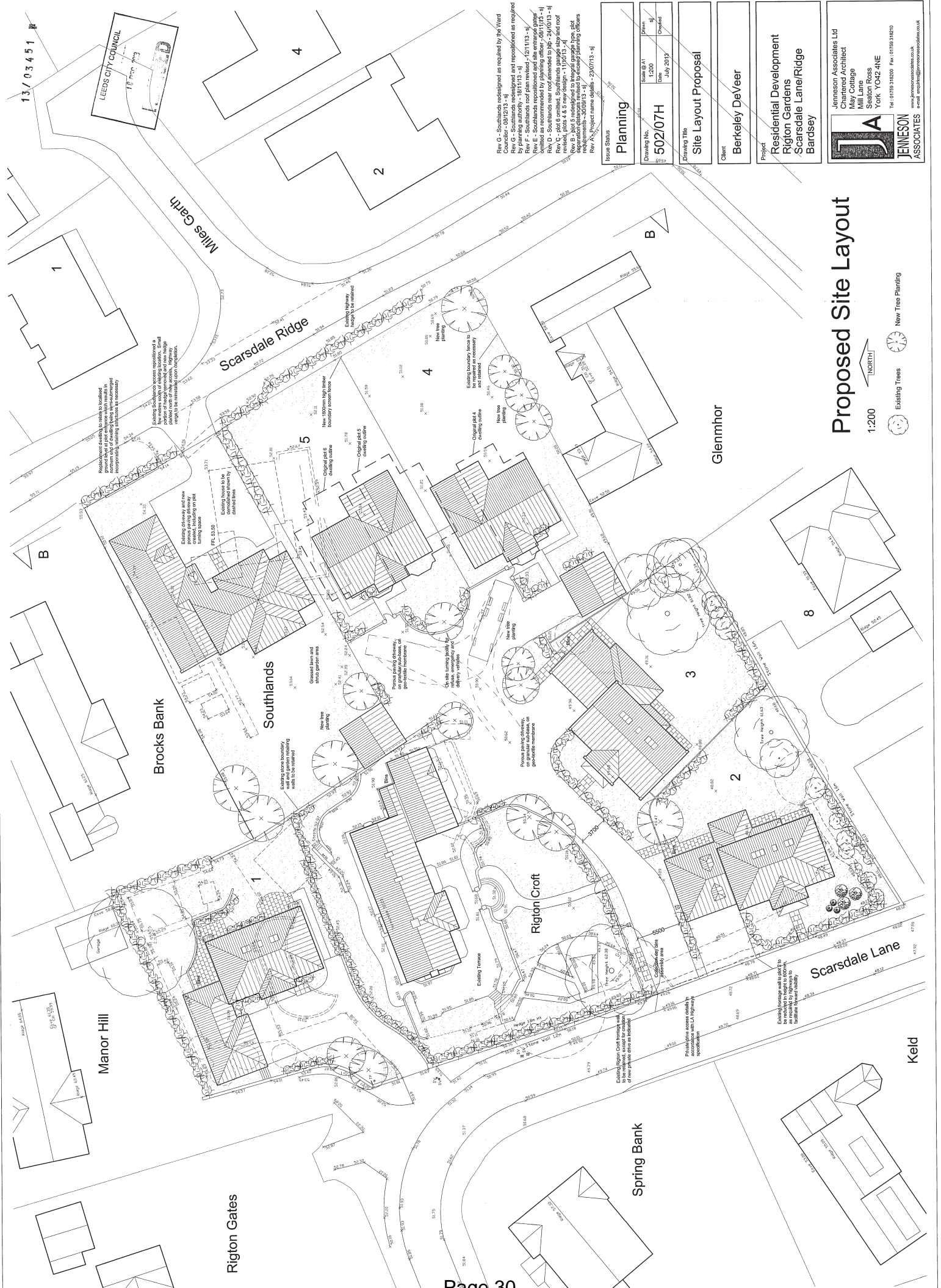
- 10.18 The objection raised by the Parish Council relating to the density of the development being too high, has been noted. It is agreed that the layout of the dwellings originally proposed was unacceptable and resulted in a cramped form of development. Therefore, the scheme has been revised to show the number of dwellings reduced and a greater separation distance maintained between dwellings.
- 10.19 The comment made by the Parish Council that the proposed parking provisions are inadequate, is unreasonable. More than two off street parking space will be available for each of the three dwellings which is considered adequate to meet the parking needs of future occupiers. The Highways Officer has also assessed this issue and has raised no concerns.
- 10.20 The concerns raised by the Parish Council and members of the public that the additional traffic will cause highway safety issues along the narrow Scarsdale Lane, has been discussed in the report. The Highways officer has assessed this issue and has raised no concerns.
- 10.21 The concerns raised that the proposal will have a negative impact on the character of the area, has been addressed in the report. It is not considered that the proposal will have a significant impact on the character of the area.
- 10.22 The concern raised that electricity power in the area often fails and the additional dwellings will add to this issue, is unreasonable. It is not considered that the proposal will directly lead to the electricity power in the area failing and this issue can easily be dealt with by electricity service providers.
- 10.23 The concern raised that further development of the site will lead to surface water running towards Glenmhor, is noted. This issue has been evaluated by Mains Drainage, who has raised no concerns. Furthermore, the scheme proposes to improve drainage within the site which will ensure surface water runoff is properly managed.

11.0 CONCLUSION

11.1 The applicant seeks permission to demolish a detached dwelling and to construct three dwellings on this garden site. It is considered that the proposal is acceptable in principle and will not harm the character of the area. Furthermore, it is considered that the proposal will not have a significant detrimental impact on neighbouring residential amenity or upon highway safety. Therefore, it is recommended that permission should be granted.

Background Papers:

Application file: 13/03451/FU and files 12/00595/OT and 13/00768/FU.
Certificate of Ownership: Signed by Agent Guy Townsend on behalf of the applicant Berkeley DeVeer.



13 / 14 / 15

LEEDS CITY COUNCIL

Rev G - Southlands redesigned as required by the Ward
 Rev H - Southlands redesigned and repositioned as required
 by planning authority - 18/11/15 - 9/1
 Rev F - Southlands roof plan revised - 2/11/15 - 9/1
 Rev E - Southlands roof plan revised - 2/11/15 - 9/1
 Rev D - Southlands rear roof amended to h/p - 24/10/15 - 9/1
 Rev C - plot 6 omitted. Southlands garage asphalt roof
 revised, plus 4 x 5 m-py design - 1/10/15 - 9/1
 Rev B - Southlands rear roof amended to h/p - 24/10/15 - 9/1
 Rev A - Project name change - 23/07/15 - 9/1

Issue Status	Scale 0:1	Drawn
Planning	1:200	sj
Drawing No.	502/07H	Checked
Site Layout Proposal		July 2013

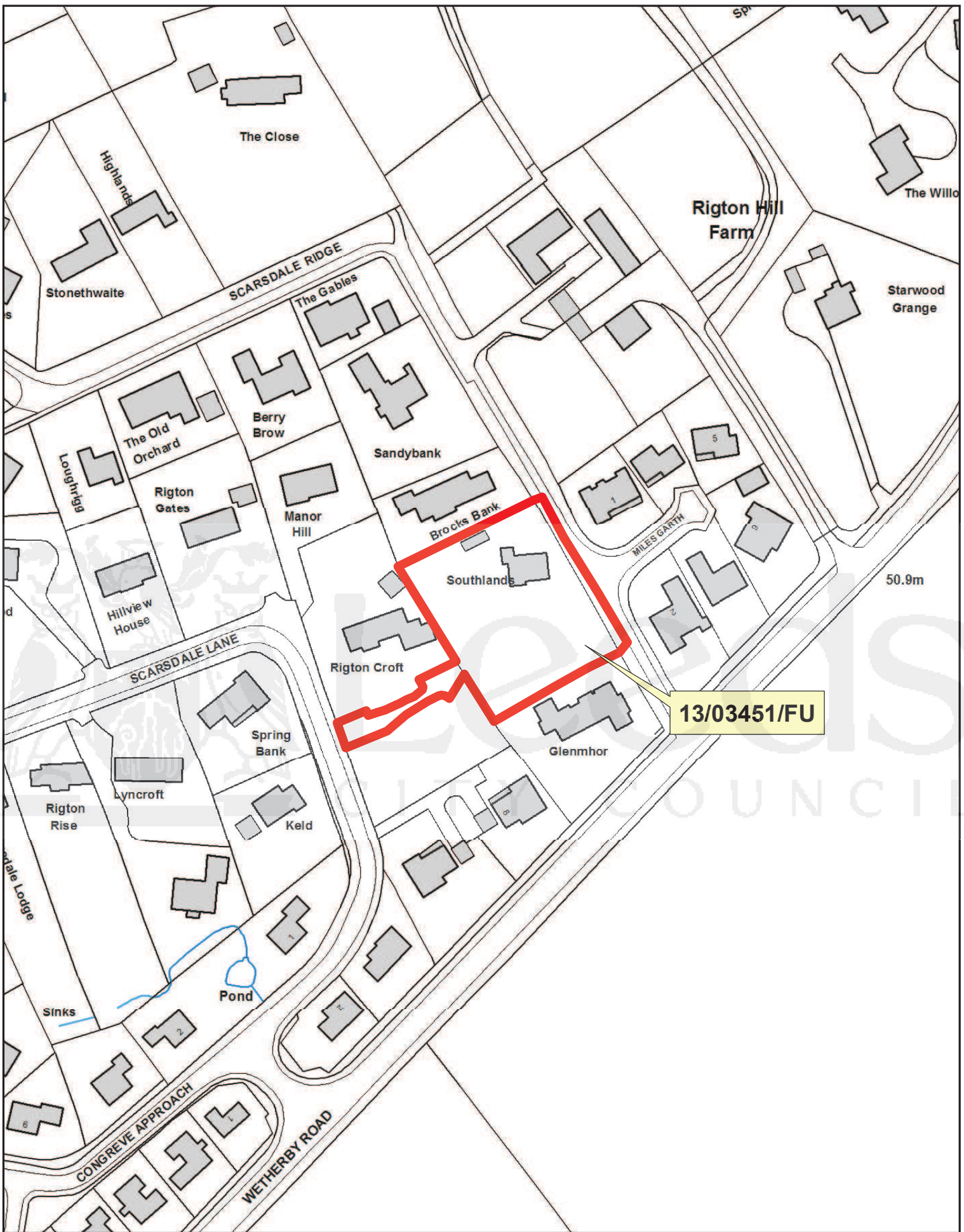
Client
 Berkeley DeVeer

Project
 Residential Development
 Rigton Gardens
 Scarsdale Lane/Ridge
 Bardsey

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Proposed Site Layout





NORTH AND EAST PLANS PANEL



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Originator: Glen Allen

Tel: 0113 2478 023

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 23 January 2014

Subject: 13/05428/FU: Variation of condition number 4 to approval 30/213/97/FU (Hour of Opening) at 166 Shadwell Lane, Leeds, LS17 8AD

APPLICANT	DATE VALID	TARGET DATE
Trustees of the KSI Muslim Community Centre	24 November 2013	20 January 2014

Electoral Wards Affected:

Alwoodley

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity



Community Cohesion



Narrowing the Gap



RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. The use of the premises as a community centre, except for the recognised festivals of Ramadhan, Amaal and Muhurram shall only be between the following hours on any day 09:30 – 23:00

For the festivals of Ramadhan, Muhurram and Amaal the community centre may be open from 08:00 hours and 00:30 hours and the premises vacated within 30 minutes of the conclusion of events related to those festivals

At the commencement of each New Year, according to the Islamic calendar, trustees to the KSI Muslim community or any person or persons fulfilling such a role, of the centre shall give written notice to the Chief Planning Officer of the approximate dates of Ramadhan, Muhurram and Amaal prayer events for that year

For the avoidance of doubt the hours of use restrictions imposed by this condition shall only apply to the community centre use and not to the flat granted permission under reference 30/213/97/FU which can be occupied unrestricted in terms of hours of use for residential purposes and uses incidental to the use of the flat as a residential unit within the site.

2. Within 2 months of the date of this permission, there shall be submitted to and approved in writing by the Local Planning Authority, a detailed management plan which shall set out the measures which will be put in place to minimise late night noise and disturbance to neighbouring properties. Such details shall include but not be restricted to such matters as signage, patrols, and controlled departures. Any such approved plan shall be implemented within one month of the date of written approval by the Local Planning Authority and thereafter maintained unless any alternative details of that plan are otherwise agreed in writing by the Local Planning Authority.

Other conditions to be brought forward from the original permission that are still relevant are:

3. The use hereby permitted shall be carried on only by the Khoja Shia Ithansheri Muslim Community of Metropolitan Leeds.
4. The proposed first floor 4 bedroom managers flat shall remain ancillary to the Community Centre and shall not be used as a separate dwelling
5. No lighting fitment shall be installed in the car parking area without the prior approval, in writing, of the Local Planning Authority and any lighting fitment shall be installed on the site in such a way that the source of light is not directly visible from nearby residential properties nor is it a hazard to users of Shadwell Lane.
6. The east elevation corridor window to the proposed first floor managers flat shall be fitted with obscure glass and retained thereafter as such
There shall be no external play area provided within the site
7. No marriage ceremonies shall take place from the premises at any time.
8. No tannoy system shall be operated on the site

1.0 INTRODUCTION:

- 1.1 This application is being reported to Plans Panel as it was previously considered by plans panel for a variation of condition which at that time was considered unacceptable as the suggested condition was not considered to meet the requirements laid out in Circular 11/95 in that the condition was not considered to be reasonable and enforceable.
- 1.2 The application has been submitted following the submission of two appeals to the Planning Inspectorate against the refusal of the earlier planning permission reference 11/04402/FU and to an enforcement notice that was subsequently served on the community management team following that decision for the breaches of the hours of operation as imposed in the original permission reference 30/213/97/FU. The appeal timetable has been deferred by the Planning Inspectorate pending the outcome of this application for planning permission.
- 1.3 The original condition on approval 30/213/97/FU, number 14 restricts the hours of opening to the following:

“The hours of opening of the premises shall be restricted to between 0900 hours and 2200 hours Monday to Friday, and 10:00 hours and 2000 hours on Saturdays and Sundays”.

Other conditions relating to occupation of the premises by the KSI community only, no marriage ceremonies and occupation of the residential flat as an ancillary occupation to the community centre were also imposed at that time.

1.4 For ease of reference the following summary is provided:

Current Hours of Operation:	Applied for Hours of Operation:	Recommended Hours of Operation
Monday to Friday: 09:00 - 2200 Saturdays and Sundays 10:00 - 2000	On Any Day: 09:30-23:00 During Ramadhan, Muhurram and Amaal and Special Events which commemorate the Birth and Deaths of the Prophets Family and the Births and/deaths of community Members: 08:00-00:30 Submission of management plan relating to special festivals only	On any Day: 09:30-23:00 During Ramadhan, Muhurram and Amaal: 08:00-00:30 Submission of a management Plan to be approved, implemented and maintained relating to all activities taking place within the community centre and not just those which extend into unsociable hours, (special festivals)

2.0 PROPOSAL:

2.1 The proposal relates specifically to the variation of Condition no. 14 of application 30/213/97/FU (Hours of opening) to a more flexible regime which takes into account the lunar cycle of the Islamic Calendar and the shifting times required for religious observances as follows:

“The use of the premises as a community centre, except for the festivals and special events referred to below, shall only be between the following hours on any day 09:30-23:00 hours.

During the festivals of Ramadhan and Muhurram and special events (which commemorate and celebrate the anniversaries of the birth and death of the prophets family and commemorations of births and/or deaths of community members) the community centre may open at 08:00 hours and shall be vacated by all attendees by no later than 00:30.

For special prayers of Amaal the community centre shall be vacated within 30 minutes of conclusions of prayers.

At the commencement of each new year, according to the Islamic calendar, the management committee of the centre shall give (sic) written notification to the Chief Planning Officer, or any such alternative Officer of the Council fulfilling such a role, of the approximate dates of festivals, special events and Amaal prayer events for that year.

For the avoidance of doubt the hours of use restrictions imposed by this condition shall only apply to the community centre use and not to the flat granted permission under reference 30/213/97/FU which can be occupied unrestricted in terms of hours of use for residential purposes and uses incidental to the use of the flat as a residential unit within the site.

Additional Condition 14 A

Within 2 months of the date of this permission, the management committee shall submit to the Local Planning Authority a detailed management plan which shall set out the measures which will be put in place to minimise late night

noise and disturbance to neighbouring properties during the extended opening hours of Ramadhan, Muhurram Amaal and special events. Once approved in writing by the Local Planning Authority the management plan shall be implemented by the Trustees of the community centre during these events, unless any alternative details of that plan are otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity

2.2 The Community are seeking this variation as their operations which are largely dictated by the Islamic Calendar does not comply with the currently imposed condition and they therefore find themselves in breach of the restricted hours of operation imposed under the original approval. They are seeking to reach some compromise which will relax where necessary the hours of operation but keep the restrictions at other times which are reasonable and necessary in the interests of neighbours amenity.

3.0 SITE AND SURROUNDINGS:

3.1 The site relates to a large detached property which fills almost the full width of the plot within which it sits. It is currently in use as an Islamic community centre for Islamic educational and religious purposes, activities which take place include regular prayer meetings, lectures, education and ancillary activities. It also contains a flat where the incumbent resident Imam and his family live. Car parking and amenity space is provided to rear of the building. The parking area shares a boundary with neighbouring residential properties which front onto Shadwell Lane to the South West and the Ring Road, Shadwell to the South East. To the North East sharing a common boundary with the application site is a Jewish community centre. The site is located in an area which is wholly residential on the South side of Shadwell Lane up to this property. The uses then give way to a variety of community orientated uses. On the opposite side of Shadwell Lane and to the North and North West are a medical centre and synagogue respectively. To the South and fronting the Moortown Ring Road are further residential properties.

3.2 Shadwell Road contains a number of other community and religious based properties and these are generally purpose built buildings in large plots where there exists significant space around the buildings and the sites boundaries.

4.0 RELEVANT PLANNING HISTORY:

4.1 Since the approved application in 2001 of the above mentioned application 30/213/97/FU there has been no relevant planning application history relating to hours of operation. Other developments have included minor modifications to that approval in relation to the building works and the recent refusal under reference 11/04402/FU which was determined on 12 July 2013.

4.2 In 2008 a Breach of Condition Notice was served on relevant people responsible for the management of the community centre for the breach of the hours of operation condition which at the time appeared to have the desired effect as no further complaints of breaches were received for a time.

4.3 It was in 2010 that further complaints were received from local residents as to further alleged breaches of the hours of opening condition which led to the submission of the application reference 11/04402/FU

- 4.4 Also during 2011 an application was received and approved for a conservatory with external access ramp and glazed link to rear which was granted approval on 11 February 2010. This proposal has been commenced, but as yet not completed.
- 4.5 Following the refusal of planning application 11/04402/FU on 13 June 2013 a further enforcement notice was served which required:

“To comply with condition 14

Not to permit the premises to be open for use except between the hours of 0900hours to 2200 hours Monday to Fridays and 1000 and 2000 hours on Saturdays and Sundays.

The time for compliance was one week from the date that the notice took effect and the date that the notice took effect was 29 August 2013, unless an appeal was made against it.

- 4.6 In order to safeguard their interests, given the serving of the most recent enforcement notice the KSI Community have lodged two appeals against the decisions of the Council. One against the refusal of planning permission for the change of hours of operation (application reference 11/04402/FU) and one against the requirements of the enforcement notice as served. Pending the negotiations which are expanded upon below and the determination of this application the Inspectorate has agreed to hold these appeals in abeyance until February 2014. If an agreed compromise can be reached under this application, those appeals will be withdrawn by the KSI Community otherwise they will be determined in due course by the Planning Inspectorate.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following the refusal of planning permission in relation to application 11/04402/FU, officers were invited to meet representatives of the community centre in order that their requirements as a community could be better understood and a suitably worded condition could be drafted that would be acceptable to all parties. It was recognised that such a condition would need to be flexible enough for the shifting nature of the Islamic calendar and restrictive enough to minimise the impact of the activities of the community on the amenities of occupiers of surrounding neighbouring properties. Any substituted condition would also need to be enforceable in the case of any future breaches of planning control. These premise' formed the foundation of the meeting held.
- 5.2 A presentation was made to officers, by the community representatives who explained that they constitute a small Islamic Sect which migrated from Africa to Leeds in 1973 and established the Khoja Shia Ithna-Asheri Muslim Community of Leeds. Prior to that their community was based in Africa following a migration from Western India (the Gujerat), during the 1930's to 1940's. The sect is Shia in nature having been formed during the 19th Century during the period of Agha Khan 1. They then expanded on the Islamic calendar and that it is based on the lunar cycle, therefore the regular festivals shift year to year so that a festival such as Ramadan will slowly shift through the western calendar year on year. They explained that this will over time have implications for the timing of their events as over the year sun set times vary and it is this which dictates when they hold their various religious activities such as the commencement and cessation of prayer times and times of fasting.

- 5.3 It was explained that because of this when these festivals fall within the winter months, sunset is earlier in the day and therefore the need to be assembled at the

community centre later in the day and into the late evening does not exist. However, when these festivals fall at the height of summer, the need to be assembled for the end of fasting and the giving of prayers falls later in the evening, even pushing towards the early hours of the morning.

- 5.4 The community representatives also explained that Ramadhan, Muhurram and Amaal are their major festival events throughout the year.
- 5.5 In return officers explained to the community representatives that notwithstanding their activities it was the role of the Local Planning Authority to seek to control, inter-alia, where necessary any activities that might cause disturbance generally but in particular to occupiers of nearby residential properties and also matters of highway safety.
- 5.6 A discussion was then held around detailed hours of operation and the possibility, as suggested by officers, of the implementation of a management plan which could also be conditioned as part of any future application to make sure that activities on the site following meetings were controlled in a more neighbour friendly way.
- 5.7 In the intervening time officers have been liaising with the applicant's agent to fine tune the possible conditions to be imposed and the latest suggestion from the applicants is the one found in paragraph 2.0 of this report.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised by means of individual letters sent to neighbouring properties; this includes 24 individual addresses on Shadwell Lane and Moortown Ring Road. A site notice has also been posted in the vicinity and the time for expiry for these various forms of publicity expires on 27th December 2013.
- 6.2 Ward Members have also been informed of the proposal. No comments have been received from Ward Members.
- 6.3 At the time of writing, 9 letters of representation 4 of which are from one property, have been received from occupiers of nearby residential properties. Issues raised in those representations relate to the following:

Allowing longer hours would be antagonistic
Longer hours would impact on the amenities of the area
Longer hours would impact on highway safety
Fairness to the local residents must be an overriding consideration
Next stage will be the conversion of the property to a Mosque
Latest application is a delaying tactic
Activity within the site is a breach of a clause on the deeds relating to causing nuisance to neighbouring properties
This community centre should be treated the same as the others in the vicinity.
The grant of planning permission originally breached residents human rights
Any building which has people using it until 4:00 am is unreasonable and not fit for purpose.
The KSI Community continue to show "no respect" to the occupiers of the neighbouring properties.
That they fail to keep to the existing time restriction means they won't keep to any "relaxed" time restriction and to allow such a relaxation would be 'insanity'.
Members of the community have shown hostility towards residents
Concern raised for future occupiers of a nursing home nearby.

7.0 CONSULTATIONS RESPONSES:

7.1 Neighbourhoods and Housing: Objection received which is based on the same objection submitted for the previously refused application which is summarised as follows:

“It is this Department’s concern (being mindful of the fact that residential properties lies adjacent to the application premises), the proposed hours of use of the premises until midnight and beyond midnight on special festivals and ceremonies, this will result in the premises being used more intensively. This will generate more vehicles and visitors on site and will have significant adverse impact on the adjoining residential properties in terms of sleep disturbance caused by arrival and departure of vehicles , revving engines, banging and slamming doors, car stereos and possibly car alarms and human voices.

Hence in conclusion the proposed variation of condition is likely to give rise to unacceptable levels of noise and sleep disturbance to occupiers of nearby residential properties. It is, therefore recommended that this application be refused”

7.2 Highways: An objection to the relaxed opening hours in the morning has been received on the grounds that it will conflict with the peak traffic flow in the morning.

8.0 PLANNING POLICIES:

8.1 The development plan comprises the adopted Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste DPD along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage.

8.2 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 and the consultation period closed on 12th April 2012. 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. On 14th November 2012 Full Council resolved to approve the Publication Draft Core Strategy and the sustainability report for the purpose of submission to the Secretary of State for independent examination pursuant to Section 20 of the Planning and Compulsory Purchase Act 2004. Full Council also resolved on 14th November 2012 that a further period for representation be provided on pre-submission changes and any further representations received be submitted to the Secretary of State at the time the Publication Draft Core Strategy is submitted for independent examination.

8.3 The independent examination was undertaken by the Secretary of State in the Autumn of 2013, and whilst there were findings through that procedure that found some of the policies were not sound, these findings do not relate to any policies that would have a bearing on this proposal. It is expected that the Core Strategy, once modified in accordance with the recommendations made by the Secretary of State’s Inspector, will be adopted in the Spring of 2014.

8.4 UDP Policies:
SA1 seeks to ensure the highest possible quality of the environment throughout the district through protecting existing good environments and seeking to enhance areas of poor environment.
GP5 - Seeks to resolve issues relating to planning at the application stage.

TP2 – Seeks, inter alia, to ensure that development proposals are adequately served by public and alternative means of transport to reduce reliance on the private motor car.

8.5 National Planning Policy Framework

This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and strongly promotes good design. It is considered that there are no specific statements within the NPPF that directly relate to the issue of this proposal.

8.6 Other Advice from Central Government:

The advice on conditions found in circular 11/95 Conditions, is of direct relevance to this case in respect of the 6 tests for the imposition of conditions on planning permissions; these are;

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

9.0 MAIN ISSUES

9.1 The main issues in respect of this proposal are:

- 1) The principle of the relaxation of the hours of operation condition
- 2) The impact of the extended opening hours on the living and residential amenities of occupiers of nearby residential properties. Including implications where necessary of the duty of the Council to have regard to equality under section 149 of the Equality Act 2010
- 3) Highway safety.
- 4) Other issues raised by neighbours

10.0 APPRAISAL

The principle of the relaxation of the hours of operation condition

10.1 Members will recall from the previous report relating to a revised condition relating to hours of opening that Environmental Health had undertaken noise monitoring during Ramadhan 2012 and the conclusions appear to suggest that the disturbance suffered by a local neighbour was as a result of noise from a source other than the community centre. This monitoring was undertaken with the knowledge of the community centre although specifics on days and times of the monitoring were not known to them.

10.2 The survey was carried out to a "Statutory Nuisance" level which is a much higher test than "disturbance" and on the basis of that report environmental health officers were prepared to support the refusal of planning permission to extend the hours of operation of the community centre. (It should be noted that the report does not clarify if any of the vehicular noise recorded is as a result of generalised road traffic or specifically from vehicles connected with the community centre). This is still the stance of those officers as expounded above. That said, officers consider that such a defence on the basis of the findings of the survey, notably that the source of noise disturbance appeared to emanate from sources other than the community centre itself, would be difficult to defend at appeal, in that the road traffic noise was from the public highway rather than from the private car parking area of the community centre.

It would be argued that as the only noise monitoring that has been undertaken is that by qualified officers of the council has shown that it is nearby noise from the highway that coincides with the disturbance of the occupier of the neighbouring property that the allegations of disturbance from activities at the centre cannot be easily justified. It is considered that this leaves the Council in a weak position in this regard. The report which identifies that the source of noise as “road traffic noise” and that “noise from voices was quiet and infrequent so as to be considered insignificant” supports this stance. On this basis it is considered that under the Equality Act 2010, to justify a refusal of planning permission on these grounds would be seen as acting contrary to the requirements Equality Act as presently the restriction imposed on “similar” community centres are more relaxed than those presently endured by the KSIM community, (see following paragraph).

- 10.3 Other community type centres exist in the near vicinity that also have sensitive relationships to existing residential properties and they operate into the late evening. The synagogue on the opposite side of the road has a restriction till midnight imposed on it and the community centre next door to the application site at number 168 Shadwell Lane has no hours of operation condition imposed upon it (although it does not share a common boundary with residential properties either). This appears to be significant in terms of the weight to be placed on the current decision in terms of equality of opportunity. The relationship of the various centres to sensitive neighbouring land uses is very similar albeit the sizes of the synagogue site and the application site are significantly different with the Synagogue site been much larger, and therefore regard has to be had to this in the decision making process.
- 10.4 Clearly the restricted hours imposed on the original planning approval do not meet the needs of the KSI community and whilst the needs of the community itself are not preeminent over the expectations of other sections of the community they are material both in planning terms and in equality of opportunity terms.
- 10.5 When considering the proposal it needs to be borne in mind that the development under consideration is a one relating to a lawful activity which has, in principle, been endorsed by The Council in this location through the original grant of planning permission. It also needs to be borne in mind that whilst there is an existing condition imposed on the original planning permission in an attempt to control the hours of operation of the centre, the wording of this condition is not as precise as it might be and covers the whole of the premises and all of the activities that take place within it. Given this is the case, by the “letter” of the condition, even occupation of the residential element of the community centre is restricted which is clearly undesirable and un-intentional. There is therefore already an advantage in amending the condition from its present wording to something more precise which will hopefully meet the requirements of the community and achieve the goals of the Planning Authority.
- 10.6 It is therefore considered that in principle the revision of the condition restricting hours of operation is acceptable subject to certain safeguards which are discussed further in the report.

The impact of the extended opening hours on the living and residential amenities of occupiers of nearby residential properties.

- 10.7 The key element in this proposal is the impact that the usage of the premises has on the amenities of occupiers of nearby and adjoining residential properties. These amenities of course are to be protected and the activities undertaken at the community centre undertaken in such a way that they minimise the impact on those amenities. A large part of achieving that aim will be to have in place an enforceable

restrictive condition which allows certain and predictable relaxations to the operations of the community centre whilst restricting the hours at other times throughout the year. Having studied the suggested condition in detail Officers have some concerns over the suggested wording and so by breaking down the parts of the condition as presently suggested by the applicants the following comments and recommendations are made should plans panel be mindful to grant planning approval:

“The use of the premises as a community centre, except for the festivals and special events referred to below shall only be between the following hours on any day 09:30 – 23:00”

- 10.8 The part of the condition will allow the generalised use of the centre for extended opening hours up to 11pm.
- 10.9 The site is located in a mixed use area which to its South and West gives way to wholly residential accommodation. It appears that most of the disturbance that is ‘suffered’ by occupiers of the neighbouring properties is as a result of the activities within the car park and on the highway following the closure of the community centre. Therefore the use of the community centre until 11pm should not in and of itself cause material disturbance to occupiers of those properties. Also the impact of activities outside of the building itself is sought to be controlled by a different part of the condition as discussed below. It should also be noted that this will be an hour less than the nearby synagogue (United Hebrew Congregation), which is restricted till 00:00 (midnight) and that condition relates only to social activities.
- 10.10 One area of concern that the wording of this part of the condition does raise however is the inclusion of “special events referred to below”. The discussions with the applicants focused mainly on the established religious festivals which are predictable, these being Ramadhan, Amaal and Muhurram. As will be seen in the discussion below there is a reference to wider less predictable events in the suggested condition which is considered unacceptable and removes a large element of the preciseness required to make the revised condition acceptable.
- 10.11 It is therefore recommended that this part of the revised condition reads:
- “The use of the premises as a community centre, except for the recognised festivals of Ramadhan, Amaal and Muhurram shall only be between the hours of 09:30 – 23:00 on any day”.**
- 10.12 The condition then seeks to deal with special events by suggesting the following:
- “During the festivals of Ramadhan and Muhurram and special events (which commemorate and celebrate the anniversaries of the birth and death of the prophets family and commemorations of births and/or deaths of community members) the community centre may open at 08:00 hours and shall be vacated no later than 00:30.
For the special prayers of Amaal the community centre shall be vacated within 30 minutes of conclusions of prayers.”*
- 10.13 The festivals themselves in the case of Ramadhan and Muhurram last for 30 days. Amaal consists of individual days that mostly fall within the other festivals with only two days of Amaal falling outside of the two 30 day festivals of Ramadhan and Muhurram. The concerns relating to this part of the re-worded condition relate specifically to the widening out of the restriction to celebrations/commemorations which are not so predictable and very much open ended. The restriction, it is

considered should only allow a relaxation of operating hours to those festivals that are predictable such as Ramadhan, Muhurram and Amaal.

10.14 Communities such as this are dynamic overtime growing and shrinking depending upon their proselyting activities and natural birth and death rates. It is however accepted that the KSI community is a relatively small sect within the Islamic tradition. (Its membership has maintained approximately 56 families across the region during its time in West Yorkshire), Whilst it is acceptable to celebrate/commemorate events such as births, deaths and marriages, it is not considered appropriate that the wording of this condition should seek to encompass all of these events as eventually the condition would potentially apply to the extended hours of operation over 365 days of the year. This is therefore considered unreasonable and unenforceable as a detailed account of members of the community would need to be maintained by the Local Planning Authority to make such a restriction meaningful. This is clearly inappropriate.

10.15 In addition the separation of the festival of Amaal and the birth and death of the prophet's family is unnecessary as they relate to the same thing. It is therefore considered that this part of the condition which will allow a relaxation to extend the operating hours of the community centre should read thus:

“For the festivals of Ramadhan, Muhurram and Amaal the community centre may be open from 08:00 hours and 00:30 hours and the premises vacated within 30 minutes of the conclusion of events related to those festivals”.

10.16 This element of the condition will also be subject to the suggested additional condition 14a discussed below.

10.19 The next part of the condition seeks to deal with tracking the moving festivals through the calendar and is suggested to be worded by the applicants as:

“At the commencement of each new year, according to the Islamic calendar, the management committee of the centre shall given(sic) written notice to the Chief Planning Officer, or any such alternative officer of the Council fulfilling such a role, of the approximate dates of festivals, special events and Amaal prayer events for that year.”

10.17 Given the discussion above relating to the “special events” which is considered too wide ranging and imprecise it is suggested that this part of the condition be re-worded to say:

“At the commencement of each New Year, according to the Islamic calendar, the management committee, or any person or persons fulfilling such a roll, of the centre shall give written notice to the Chief Planning Officer or any such alternative officer of the Council fulfilling such a role, of the dates of Ramadhan, Muhurram and Amaal prayer events for that year.”

10.18 The date of notification to the Chief Planning Officer cannot be pinned down to a specific date in the Gregorian calendar as the New Year according to the Islamic Tradition shifts according to the lunar cycle also. However, notwithstanding this it is still predictable based on that Lunar cycle so should this condition not be adhered too, the relevant dates can be ascertained by officers and the notification of the festivals for the forthcoming Islamic year can be requested.

10.19 The removal of the “special events” phrase will remove the “open-endedness” of the original draft and introduce a degree of precision lacking as a result of its inclusion as

will the reference to approximate as the lunar cycle will be identified within one or two dates of the prediction anyway depending upon the sighting of the moon at the relevant time of year.

10.20 Under planning, the holding of one or two “special event” type activities would probably not constitute a breach of the terms of the condition and so for very special and unforeseeable occasions special events that might technically breach the wording of the condition could still take place. This is not unlike a school holding an evening event when their normal hours of operation mean that activities on the site cease much earlier in the day and many other such examples. However it still leaves the option for the Council to assess the regularity and intensity of these special events as a matter of fact and degree to pursue action against the KSI Community trustees if it is found expedient to do so at any particular time. Having the generic phrase “special event” included in the wording of the condition would remove this ability as every event that occurred outside the terms of the condition could then be defined as a “special event”. It is considered that the condition whilst requiring a degree of complexity is made as clear and simple as possible in the exceptions that it will allow.

10.21 The final part of the condition is suggested to read:

“For the avoidance of doubt the hours of use restrictions imposed by this condition shall only apply to the community centre use and not to the flat granted permission under reference 30/213/97/FU which can be occupied unrestricted in terms of hours of use for residential purposes and uses incidental to the use of the flat as a residential unit within the site.”

10.22 This is considered acceptable in that it clarifies the limitations of the condition and removes any ambiguity that the currently imposed condition might cause due to its over-simplistic wording. The inclusion of this clarifying statement will simplify any action should it need to be taken through compliance in that it makes clear that the residential element to the development is capable of being occupied as any other residential unit of accommodation is, 24 hours a day 7 days a week 365 days a year.

10.23 During the negotiations with the community representatives it was discussed that a management plan might be useful in helping the Local Planning Authority come to a positive conclusion on any revision of the condition originally imposed. This is because as referred to earlier, it appears that any disturbance that is caused to occupiers of adjoining residential properties is not necessarily as a result of the actual activities that take place within the building itself but rather from the uncontrolled activities that take place within the curtilage of the property and on the public highway following the festivals.

10.24 Members will already have seen that the first part of the condition, above, seeks to help control this by making sure that after the activities have formally ceased and the premises vacated within 30 minutes. This has two opposing impacts, firstly it is hoped that it will encourage attendees to leave the property as a whole quicker than might otherwise be the case and therefore within a more reasonable time period than an uncontrolled evacuation of the building might lead too, but it does have the potential of then ‘forcing’ potentially unsociable activities outside the building into the very location where they are more likely to cause disturbance to occupiers of surrounding properties.

10.25 In order to offer a degree of control over this it was suggested that a management plan be submitted and subject to the revised condition in order that the Local Planning

Authority can control this potential source of disturbance. Presently the wording of this part of the condition is suggested as follows:

“Additional Condition 14 A

Within 2 months of the date of this permission, the management committee shall submit to the Local Planning Authority a detailed management plan which shall set out the measures which will be put in place to minimise late night noise and disturbance to neighbouring properties during the extended opening hours of Ramadhan, Muhurram Amaal and special events. Once approved in writing by the Local Planning Authority the management plan shall be implemented by the Trustees of the community centre during these events, unless any alternative details of that plan are otherwise agreed in writing by the Local Planning Authority.”

- 10.26 The aim of this management plan from the applicant’s point of view is to not only be seen to be good neighbours but to act that out so that their activities minimise disturbance to occupiers of neighbouring properties. It is therefore the view of officers that this part of the condition should not just be restricted to the regular festivals and special events which are the exception to the standard opening hours should this planning permission be successful, but that this management plan needs to incorporate the entirety of the activities held in this premises (excluding the residential element). The requirements for a management plan should show how through controlled departure, patrols, signage etc., the Community will put in place a scheme that will minimise noise and disturbance even during the regular meetings where the calendar means that they are likely to end during more unsociable hours than otherwise might be the case. To this end the following revisions are recommended:

Within 2 months of the date of this permission, there shall be submitted to and approved in writing by the Local Planning Authority, a detailed management plan which shall set out the measures which will be put in place to minimise late night noise and disturbance to neighbouring properties. Such details shall include but not be restricted to such matters as signage, patrols, and controlled departures. Any such approved plan shall be implemented within one month of the date of written approval by the Local Planning Authority and thereafter maintained unless any alternative details of that plan are otherwise agreed in writing by the Local Planning Authority.

Highway Safety.

- 10.27 The concerns expressed from a highway safety perspective relates to the increase in potential activity to and from the site particularly during the early morning rush hours due to the extension of opening times in the morning. Whilst this is acknowledged, the site does benefit from a reasonably generous off street car park and it is highly unlikely that there will be significant additional vehicles that lead to on street car parking as a result. Therefore the issue of highway safety relates to the potential intensification of use of the access and egress between the hours of 08:30 – 09:00 and 10:00 (09:00 being the current permitted opening time weekdays and 10:00 being the permitted opening time at weekends), during normal usage and 08:00 – 10:00 and 09:00 during special festivals. Whilst any intensification of use is to be considered carefully, the scale of the community centre is not such that huge volumes of traffic are likely as a result of this increase in hours of operation and in the main it would be expected that the vast majority of vehicular movements would be into the site rather than egressing from it during peak traffic times, as people would be attending the premises earlier to leave later in the morning. It is not considered therefore that the impact on issues of highway safety would be sufficient to justify a refusal of planning

permission. Also the KSI community is a relatively small Islamic sect that has remained at its current levels of 'membership' during its lifetime in this property. The original planning permission under application 30/213/97/Fu also includes a condition that restricts the use of this property to that of the KSI community, rendering the permission a 'personal' one and thus should the KSI community ever vacate this property any other use by a religious organisation would either need a fresh application for planning permission or the removal of that condition from the original approval.

Other issues raised by neighbours

- 10.28 Many of the issues raised by the local residents as a result of the neighbour consultation exercise have been addressed in the body of the report as they relate to matters of amenity. Other issues raised by neighbours are not material planning considerations upon which a planning decision can be based. Issues of 'fairness' are influenced by the needs and desires of any particular community and in this case the needs of the applicant have been assessed by officers and recommendations made. Members will note from the contents of this report that the recommended amendments to the wording of the condition originally submitted by the applicants will not allow them the "free reign" that members of the public are concerned about nor will it be so restrictive as to not recognise the community's needs, (a factor also to be considered as a result of the Equality Act 2010).
- 10.29 The issues relating to the clause on the property deeds is a civil issue which can be taken up by those who are party to those clauses. They neither negate nor influence the issues that are material to planning cases and are a further vehicle that neighbours have open to them to pursue should they so wish in attempts to influence the activities of the KSI community.
- 10.30 The change of use to a Mosque is something of a moot point, in that as a community centre the activities that are undertaken in the building are not only of an educational slant but also religious too. Regular prayer meetings are held in the property and are a part of the community's activities that have been undertaken within the building since its initial occupation.
- 10.31 Fairness to the local residents must be an overriding consideration is not how the planning system works, as members will be aware it is the function of the planning system that it strives to balance the various needs of varying communities that live "cheek by jowl" in reaching a compromise on development proposals. As stated earlier in this report the principle of the KSI using this building as a community centre has been previously endorsed by the Council and as the results of that decision initially do not meet their needs resulting in a regular breach of planning control, because it that decision did not appear to take full consideration of the needs of the community at that time, a compromise needs to be reached.
- 10.32 Latest application is a delaying tactic; This may or may not be the case however an application has been submitted to the Council for determination and the Council is duty bound to determine that application.
- 10.33 This community centre should be treated the same as the others in the vicinity; This is true to a degree, but the Council would not be fulfilling its duty fully as a planning authority if it did not make decisions based on the needs of the community who are occupying the premises. It is still possible that members are of a mind to refuse the proposal by concluding that the needs of local residents outweigh the needs of the

KSI community but the compromise offered in this report still needs to be fully considered by plans panel before coming to that conclusion.

- 10.34 The grant of planning permission originally breached residents' human rights; it is difficult to expand on this objection in that the British planning system has been tested against the Human Rights legislation a found to be in compliance with it through various test cases.
- 10.35 Various comments relating to the alleged antagonistic behaviour of various members of the community are noted but are not a material planning consideration.

11.0 CONCLUSION

- 11.1 The present situation in regards of the permitted hours of operation at the KSI community centre are clearly unworkable for them and do not meet the needs of the community nor the aspirations of the Council in having clear, precise and enforceable conditions imposed on the planning approval. The premises has been endorsed by The Council as one which in principle is acceptable as an Islamic community centre through the original grant of Planning Permission and various other conditions are in force which contribute to the protection of the amenities of occupiers of surrounding residential properties such as the use of the premises by the KSI community alone. Therefore some acceptable compromise needs to be reached regarding the hours of operation for the religious and educational activities given the moveable nature of the main festivals of the KSI Islamic Community. The considerations and recommendations in this report are considered to be an acceptable compromise between the competing aspect of the needs of the occupiers of this site and the occupiers of the surrounding residential properties.

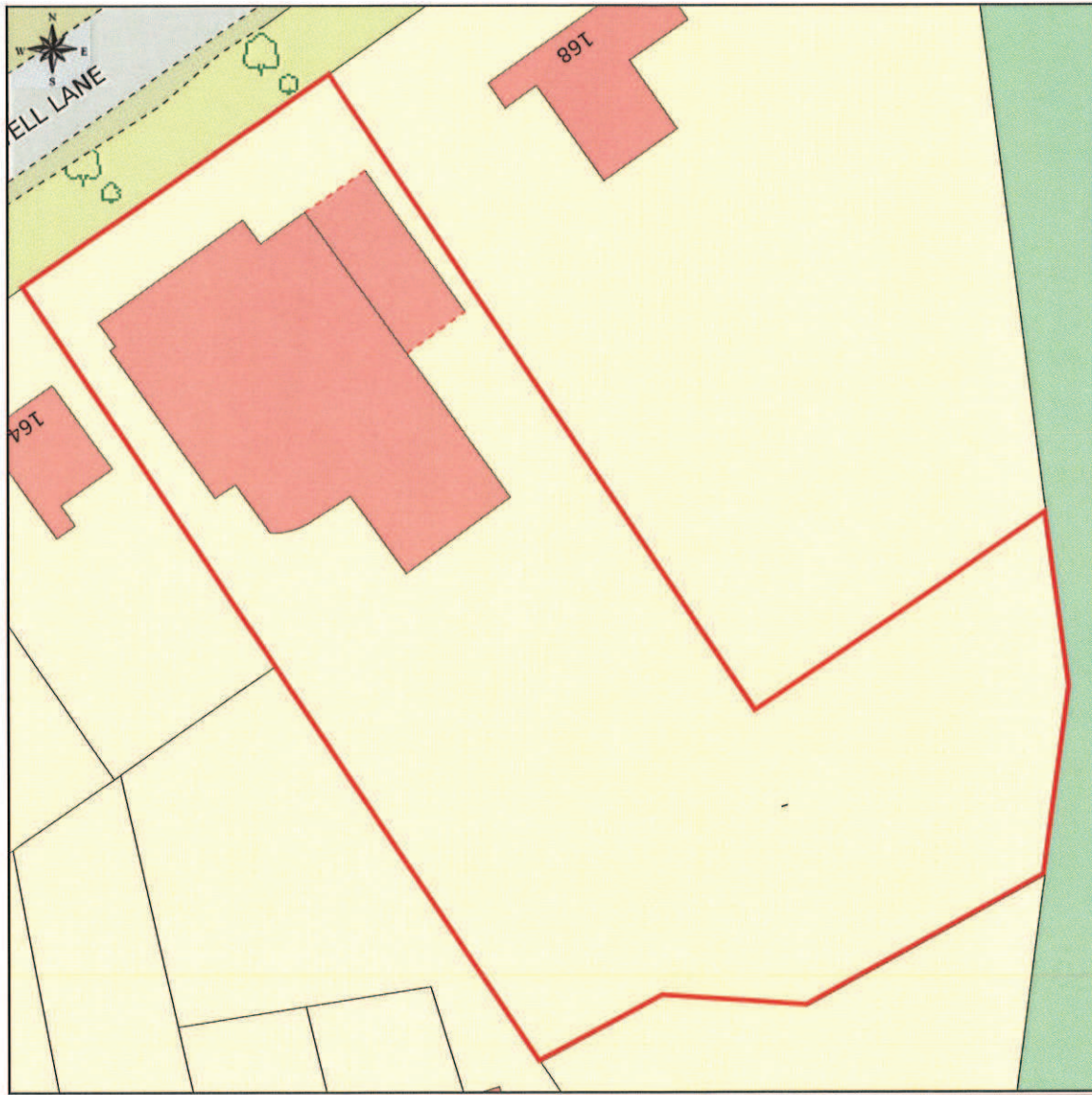
Background Papers:

11/00226/NCP – Compliance Case

11/04402/FU – Planning Refusal

30/213/97 – Grant of original planning permission

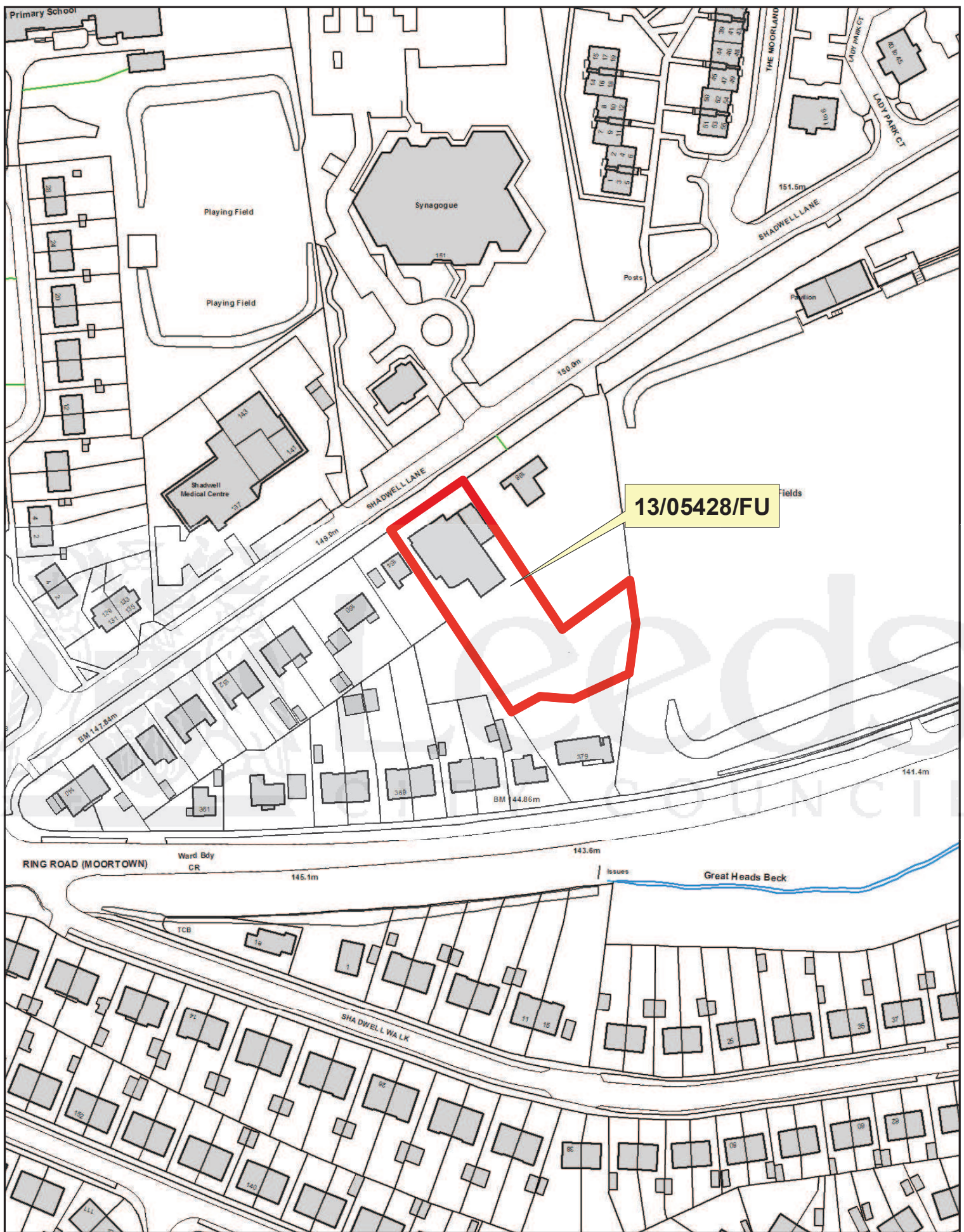
Ownership certificate signed on behalf of applicant as owner of application site.



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NORTH AND EAST PLANS PANEL



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Originator: David Jones

Tel: 01132 477999

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 23rd January 2014

Subject: APPLICATION 08/01776/FU – One three storey block of 3 ground floor retail units with 14 flats over and one four storey block of 43 flats at the former Compton Arms public house site, Compton Road, Burmantofts, Leeds LS9

APPLICANT	DATE VALID	TARGET DATE
Courtyard Developments Ltd	18/04/2008	18/07/2008

Electoral Wards Affected:

Gipton & Harehills

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: REFUSE permission for the following reason:

- The proposed development is considered to represent an over intensive form of development due to its excessive scale and massing and fails to provide a satisfactory package of Section 106 planning obligations to meet the social, environmental and economic policy requirements of the Local Planning Authority for a development of this size. Whilst a viability assessment has been submitted to support the applicant's position in terms of the level of contributions which can be provided and that the delivery of housing on what is currently a vacant site will bring some advantages and benefits, it is considered that these are outweighed by the development's over intensive nature resulting in a poor form of development and a planning obligations package which falls well short of the policy requirements and will result in a development which is unsustainable as the required levels of affordable housing and greenspace enhancements are not delivered and no improvements to public transport options is forthcoming. The development is therefore contrary to policies GP5, GP7, N2, N3, N4, , N12, N13, H11, T2, and T2D of the Unitary Development Plan (Review 2006); Supplementary Planning Guidance documents SPG3 - Affordable Housing as updated, SPG4 - Greenspace relating to housing development (July 1998); Supplementary Planning Documents - Public Transport Improvements and Developer Contributions (adopted August 2008), Travel Plans

(adopted October 2012), the Interim Affordable Housing Policy 2011 and the advice contained within the National Planning Policy Framework which seeks to ensure all development is sustainable and well designed.

1.0 INTRODUCTION:

- 1.1 This long standing application was due to be considered by the then, East Plans Panel in August 2012 but the officer report which recommended refusal was withdrawn on the day of the meeting in line with requests from George Mudie MP and Ward Councillor Harington that the applicant be given a further opportunity to produce a revised scheme that could be supported. The previous reason for refusal is the same as that currently advanced.
- 1.2 Since August 2012, a number of meetings have taken place with the developer and George Mudie MP to discuss officers concerns relating to viability issues and how this impacts on the development's overall design approach.
- 1.3 Discussions regarding viability have gone beyond consideration of the normal appraisal process and have been extended to include Housing Services (at Chief Officer level) so as to explore the possibility of the Council utilising the residential component of the development for social housing (thereby providing the applicant with a guaranteed future income for a fixed period). Whilst this was a worthwhile exercise, ultimately this option did not work for either party and accordingly has not been progressed any further. Viability therefore continues to be an issue as the applicant has only offered a limited contributions package (as below):

	Policy Ask	Offered
Affordable Housing (at 5%)	3 units	1 unit
Greenspace contribution	£131,605	£25,000
Public Transport contribution	£15,150	Nil

- 1.4 With respect to design matters, further analysis of the surrounding area has been undertaken and the application has more recently been considered internally under the 'Design Review' process. This process is Chaired by John Thorpe and attended by senior design officers from City Development and seeks to provide applicant's with potential design solutions for scheme's where design is a particular problem. Formal feedback was provided to the applicant in August last year but no revised plans have been received to date.
- 1.5 In the light of the above, it is considered officers have given the applicant more than ample opportunity to address the scheme's shortcomings in accordance with the requests from the local MP and Ward Member.
- 1.6 The application has not therefore been altered and still fails to deliver a meaningful contributions package relative to the policy ask despite its intensive design, which itself is a problem. A viability appraisal has been submitted and considered and whilst viability is recognised as being an important material planning consideration, in respect of this application the balance between the benefits which stem from the development based on the reduced level of S106 contributions offered compared to the policy ask are not considered to weigh in favour of supporting the application, particularly in view of the scheme's over intensive nature resulting in a poor form of development overall. The application is therefore recommended for refusal.

2.0 PROPOSAL:

2.1 The proposal comprises two main components. The first is the erection of a three storey, part brick and render, mixed commercial and residential block, to be built largely on the footprint of the former Compton Arms public house, fronting onto Compton Road. This three storey block will consist of 3 ground floor retail units with 14 flats over spread over two floors and consisting of 10 x 2 bed and 4 x 1 bed units. The second element is a four storey block of 43 flats sited to the rear of the site, in a matching brick and render design comprising 20 x 2 beds and 23 x 1 bed units over four floors. The top floor flats would be partly contained within the roofspace. Both blocks are designed to have a modern external appearance.

2.2 A retail customer parking forecourt containing 12 parking spaces is included at the front of the site with a substantial area for servicing and parking between the two blocks and containing 41 parking spaces in total. A 9-10 m strip of sloping land to the rear of the second block is shown as communal amenity space for the flats. The car parking area between the two blocks is shown to include some opportunities for limited tree planting and landscaping.

3.0 SITE AND SURROUNDINGS:

3.1 The application site is the site of the former Compton Arms public house, which was an imposing, two storey, part red brick and render building with substantial hipped roof which was demolished in 2006. The site was then cleared and is enclosed by palisade fencing.

3.2 The site is situated in a mixed commercial and residential area, partly within the Harehills Lane Local Centre, in an inner city area of predominantly high density terraced housing. A two storey, red brick, parade of shops (with residential accommodation above) adjoins the site but is set back in the street scene compared to the front of the former Compton Arms. There is a single storey day nursery to the other side of the site on the north-east boundary. Red brick 2 storey terraced housing with accommodation in the roofspace faces the site on the opposite side of Compton Road. To the rear of the site are commercial / industrial buildings and behind the shops/ flats to the south east is a club which backs onto the rear of this site where the second residential block is proposed.

4.0 RELEVANT PLANNING HISTORY:

4.1 06/00299/FU – One three storey block of three retail units with 14 flats over and one four storey block of 43 flats to former public house, - Refused 19/10/07 (lack of a S106 contributions relating to affordable housing, greenspace and public transport contributions)

5.0 PUBLIC/LOCAL RESPONSE:

5.1 The application was advertised by site notices posted on 23/04/08, with publicity expiring on the 14/05/08.

5.2 One letter of representation was received from “Residents of Harehills” (unsigned and no address provided), objecting to the proposed development on the following grounds:

- the area is already densely populated
- residents are never vetted fully

- overlooking of an early years nursery

5.3 Although no comments have historically been received from Ward Members, they were advised of the intention to refuse the application at the August 2012 Panel meeting and invited to comment. Councillor Harington responded at the time, indicating it would be very good to see some development on the site, especially if it involves housing and rather than simply saying 'no' further discussions with the applicant should take place. He went on to say he didn't think the relationship with the Working Men's Club was an issue as it's not a noisy place at all.

6.0 HISTORY OF NEGOTIATIONS:

6.1 The application has been the subject of protracted discussions regarding viability as the site's planning history clearly indicates that a very similar scheme was submitted in 2006 and refused the following year due to the S106 shortfall.

6.2 When originally considering the current application, officers were mindful of the previous reason for refusal and did not therefore seek to raise design as a concern. However, due to the passage of time (as the current application was submitted in April 2008) and also the introduction of the National Planning Policy Framework in March 2012 which seeks to ensure all development is not only sustainable but also well designed, officers have undertaken a full review of the application. This review has resulted in officers considering it appropriate to re-look at the scheme's overall design as a number of concerns arising primarily from its over intensive nature exist.

6.3 The review of the application was carried out towards the middle of 2012 and officers have sought design amendments to the scheme since this time. In view of the lack of progress on this matter, the Council initiated its own 'Design Review' of the application with formal feedback provided to the applicant in August 2013. No design amendments have been forthcoming to date.

6.4 Extensive discussions regarding viability also took place prior to the application being tabled for the Panel meeting in August 2012 and the more recent discussions involving Housing Services followed shortly after the application was withdrawn from that meeting. Again the position regarding viability has not altered.

7.0 CONSULTATION RESPONSES:

7.1 Environmental Health – Significant potential for residential occupants to be disturbed by the proposed commercial units, as well as from nearby existing commercial activities including the working men's club, unless appropriate mitigation measures are implemented. Conditions recommended for sound insulation and restriction of hours of opening and delivery for commercial units.

7.2 Highways – no objections.

7.3 Highways (NGT) – Development generates a public transport contribution of £15,150

7.4 Flood Risk Management – Standard conditions relating to surface water and infiltration drainage required.

7.5 Yorkshire Water – Agreement to proposed stand-off distance from public sewer.

- 7.6 Architectural Liaison Officer – High crime area, general advice provided regarding Secured by Design
- 7.7 Land Contamination – No objections subject to standard conditions including intrusive investigation.
- 7.8 Access – no adverse comments.

8.0 PLANNING POLICIES:

- 8.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 The adopted Development Plan for the area consists of the adopted Unitary Development Plan Review (UDPR) and the Natural Resources and Waste DPD, along with relevant supplementary planning guidance and documents.

Leeds Unitary Development Plan Review (2006):

- 8.3 The front section of the site is situated in the designated S2 centre of Harehills Lane and the entire site is situated in a N3 Priority Area for Improving Greenspace provision. The following policies are also considered to be of relevance.

- S2/S3/S4 – Shopping policies and requirement to enhance town centres
- GP5 – Aims to resolve all planning issues including design, access, amenity
- GP7 – Securing S106 contributions
- BD3 – Access considerations
- BD4 – Plant equipment to be well designed
- BD5 – New buildings to respect their amenity and that of their surroundings.
- T2 – Highway safety considerations
- T2C - New development and travel plans
- T2D - Public transport contributions
- T5 - Safe access for pedestrians and cyclists
- T7A - Requirement for cycle parking
- T24 – Parking guidelines
- LD1 – Landscaping schemes
- H4 – Provision of housing on unallocated sites
- H11/12/13 – Affordable housing provision
- N2 – Hierarchy of greenspaces
- N3 – Priority Area for improving greenspace provision
- N4 – Provision of greenspace for residential developments
- N12 – Urban Design Principles
- N13 – High quality design
- N25 – Boundary treatments
- N26 – Requirement for landscape scheme
- N38B - Drainage requirements

Supplementary Planning Guidance/Documents:

Street Design Guide

Greenspace relating to New Housing Development

Neighbourhoods for Living: A Guide for Residential Design in Leeds

Public Transport Improvements and Developer Contributions

Travel Plans

Revised Affordable Housing Policy Guidance – Housing Need Assessment and the interim policy

Emerging Local Development Framework Core Strategy

- 8.4 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. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination.
- 8.5 The Core Strategy has now been the subject of independent examination (October 2013) and its policies therefore attract some weight, albeit limited by the fact that objections have been made and the Inspector's report has yet to be received (it is currently anticipated in Spring 2014). The Inspector is due to produce a schedule of Main Modifications by 31st January 2014. The Core Strategy supports regeneration initiatives, the delivery of new housing and retailing within existing centres.
- 8.6 In addition to the above, the rear half of the site (currently excluded from the current S2 town centre boundary as identified on the UDPR proposals map) falls within a wider town centre boundary expansion proposal advanced as part of the Council's Site Allocation Plan - Development Plan Document (June 2013).

National planning policy guidance documents:

- 8.7 National Planning Policy Framework - March 2012 (NPPF). The basis for decision making remains that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration and a golden thread running through it is the presumption in favour of sustainable development. The core planning principles include proactively driving and supporting sustainable economic development to deliver the homes, business and thriving local places that the country needs, always seeking high quality design and a good standard of amenity for all existing and future occupants of land and buildings, encouraging the effective reuse of land that has been previously developed and promoting mixed use developments. In the design section in paras 56 to 68 planning decisions should aim to ensure developments that function well and add to the overall quality of the area over the lifetime of the development, establish a strong sense of place to create attractive places to live and visit, optimise the potential of the site, respond to local character, create safe and accessible environments and are visually attractive as a result of good architecture and appropriate landscaping. NPPF at para 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

9.0 MAIN ISSUES

1. Principle of development
2. S106 requirements and viability
3. Design issues and visual amenity
4. Impact on residential amenity
5. Greenspace
6. Affordable Housing
7. Highways

10.0 APPRAISAL

1. Principle of Development

- 10.1 This is an important site which is currently vacant and is close to the centre of Harehills. It has been previously developed with an imposing building (the Compton Arms). The building was demolished some years ago and this is the type of site which it is important to bring forward for development both from a visual amenity point but also from a regeneration perspective.
- 10.2 The front section of the application site is situated within the designated S2 centre boundary for Harehills Lane so the principle of retail units with flats above is in character and welcomed due to the frontage actively that would be created.
- 10.3 The proposed rear block of flats is situated outside of the existing S2 centre boundary but would be sited on what was originally the beer garden associated with the former public house use. In addition, this part of the site is proposed for inclusion within the S2 boundary expansion proposal as detailed within the Site Allocation Plan and whilst not formally adopted does suggest a general direction of travel for the type of uses which might be acceptable within this area. As residential uses are acceptable within town centre locations in principle, the provision of a flat block on this part of the site can also be accepted subject to detail and taking account of any amenity issues associated with neighbouring commercial/leisure uses.

2. S106 contributions & Viability

- 10.4 The small scale of the proposed retail units do not give rise to any S106 contributions but the number of flats proposed is significant (57 in total) which triggers requirements for affordable housing, greenspace provision and public transport improvements. Education contributions are not in this instance considered necessary as only 1 and 2 bed flats are proposed so are less likely to be occupied by families. All contributions would normally be secured through a S106 legal agreement and when originally submitted the contributions were as follows:

- Affordable Housing 15% (inner area) : 9 dwellings
- Greenspace: £103, 398
- Public Transport: £15,150

- 10.5 The applicant considered the development would not be viable if the required contributions, as above, were to be secured in full and as such, submitted a Viability Assessment (VA) in 2010. The VA concluded that the proposed development without any of the S106 contributions would yield a rate of return of just over 16%. Officers reviewed the VA and agreed the conclusions made appeared to be realistic and that in those market conditions, with far greater levels of risk, a 20% profit margin (or possibly more) would be the norm.

- 10.6 Notwithstanding this, the applicant presented two options relating to the required S106 contributions as follows;

Option 1 – no provision of affordable housing and £55,000 towards greenspace.

Option 2 – 1 x one bedroom affordable flat and £15,000 towards greenspace.

- 10.7 Further to the above offers, officers advised the applicant the scheme could not be supported and that a development of its size really needed to deliver more substantial benefits in the form of contributions towards infrastructure provision and affordable housing. The site's positioning within a priority area for improving greenspace provision (UDPR policy N3) adds further weight to this position and overall it was considered inappropriate to support such an intensive, predominantly residential development, in a densely populated inner city area, without a substantial

contribution towards the required greenspace provision or an least adequate provision on site. It is also notable neither option 1 or 2 makes any contribution towards the required public transport contribution.

10.8 In response to officer feedback, the applicant then came forward with a third option as follows;

Option 3 - 1 x one bedroom affordable flat and £25, 000 towards greenspace.

10.9 As before, the applicant was advised the level of contribution continued to fall well below the policy ask and was still not considered adequate relative to the scale of the development proposed. Accordingly a refusal recommendation was still appropriate as £25,000 would deliver very little investment to local facilities.

10.10 Since these original discussions regarding viability took place, the Council has introduced an Interim Affordable Housing target which reduces the target requirement from 15% to 5% (equating to 3 submarket dwellings in this case). The applicant was therefore asked to submit an updated VA to reflect this change and importantly to update the figures due to the length of time which had passed since the original VA was prepared in the beginning of 2010.

10.11 The updated VA (submitted in March 2012) still concluded the scheme would not be viable with any contributions (in fact it was shown to be worse as the greenspace contribution had increased to £131,605) but the applicant was nonetheless willing to accept a reduced profit and the previous improved offer as outlined in option 3 remained on the table.

10.12 In assessing the revised VA, officers did express some concern about the build costs used within the appraisal as they appeared to be on the high side. Nevertheless, general agreement was reached about the overall viability position and that the scheme was unable to deliver all of the contributions requested.

10.13 Whilst officers could potentially spend further time reviewing detailed figures as contained within the VA and indeed request a more up to date version, in this particular case this is not considered to be a productive exercise as ultimately the applicant's concerns regarding viability remain as strong as ever and is the reason why the scheme has not been reduced in scale despite officers concerns on this matter.

3. Design issues and visual amenity

10.14 The scheme readily splits into two main components, these being the front and rear blocks.

10.15 The front block would be sited in a similar position to the original Compton Arms building so would roughly fall in line with the neighbouring parade to the south east. This general siting is considered appropriate and accordingly no objection is raised to this block in principle noting the desirability of retaining a strong frontage with an active ground floor. The block's detailed design and overall scale and massing does however require further refinement before it could be accepted as the current proposal is considered to be rather dated and needs to respond more positively to its immediate surroundings.

10.16 With respect to the rear block which would be completely residential in nature, at four storey's in height it is both taller and wider than the proposed front block. Its height is even more apparent due to the surrounding buildings all being at a much

lower level. Whilst it's accepted the block would be set well back towards the rear boundary of the site meaning it wouldn't be as prominent when viewed from Crompton Road itself, it would still be visible, including from the surrounding streets of Florence Street and Cowper Road. In this respect the design and visual impact of the rear building also needs careful consideration.

- 10.17 The design approach for the rear block is similar to the front (so again needs to be revised) but its eaves height is only 3m lower than the ridge. This, in combination with the provision of flats within part of the roofspace gives the block a rather squat appearance which is exacerbated by its width which extends to within a few metres of the site's side boundaries. These issues, when combined with the use of gable ends and the lack of space (including any meaningful garden areas - both public/private) around the block itself results in a very cramped form of development which is clearly over intensive. The fact most external space is to be hard-surfaced to provide parking and servicing supports this view.
- 10.18 Discussions with the applicant about design issues have focused on the need for this block's total height to be reduced (through the removal of a floor) and for the block itself to be re-modelled/re-orientated to allow greater separation to the side boundaries and to generally increase the amount of greenery and amenity space provided within the site. The reduced number of flats resulting from the removal of the fourth floor would assist with this by reducing the overall parking requirement. None of these amendments have been adopted as the applicant refers back to viability issues. Accordingly the development's overall design cannot be accepted as currently submitted.

4. Impact on residential amenity

- 10.19 The predominantly residential nature of the development is such that future residents living conditions need to be fully considered, particularly as 3 ground floor retail uses are also proposed. Existing residents also need to be protected although it is important to note the 'town centre' context of the site and accordingly a higher level of activity should be expected compared to an area that was purely residential in character.
- 10.20 With regard to the potential impact the retail element of the scheme could have, this is primarily limited to noise from activities carried out within the units themselves and also due to servicing requirements and customer activity (both pedestrian and vehicle related). As such, a sound insulation could be attached to the units to keep noise levels to within acceptable limits and any requirement for plant or equipment (e.g. air conditioning units or chillers) could also be controlled by condition. In addition, opening and delivery hours could be limited by condition had the application been recommended for approval.
- 10.21 With respect to other amenity issues, there are not considered to be any serious issues relating to overlooking or overshadowing of nearby residential properties due to the intervening distance between the proposed front block and the properties on the opposite side of Compton Road. The gap between the two blocks is also considered to be adequate in this respect. The proximity of the rear block to the side boundaries is however a concern and a greater stand-off should be provided as already discussed.
- 10.22 The letter of objection from "residents of Harehills", expresses concerns regarding overlooking of the adjacent nursery, however, neither block has main windows facing towards the day nursery. As such, this is not considered to be a problem and accordingly does not feature in the recommended reason for refusal.

5. Greenspace

- 10.23 The application site is situated within a Priority Area for Improving Green space provision (Policy N3). Harehills is an inner city area which has been identified by the City Council as lacking in greenspace in both quantitative and qualitative terms, where priority should be given in efforts to improve provision. These areas suffer inadequate access to greenspace, because of the dense built up character and population of the area and as such there is considerable pressure on the limited existing greenspace. Where the existing quantity or quality of greenspace falls below the accessibility thresholds, the City Council will seek from developers of new development schemes, additional land or commuted payments, to acquire greenspace or to improve existing space to serve the needs of residents of the new development.
- 10.24 In this case, the scheme does not deliver the required greenspace on-site due to the overall size of the site, therefore, the greenspace provision should be provided through an appropriate commuted sum. Although the submitted VA demonstrates the scheme is economically unviable with the payment of the commuted sum for greenspace, no such mechanism exists within the policy to negotiate a lesser sum, so this discretion lies with the decision maker. In this respect, the offer towards the greenspace contribution is considered to be completely inadequate.
- 10.25 Whilst development of the site is clearly desirable, this should not be at the expense of achieving a high quality, sustainable scheme. To be sustainable it should include adequate provision for public green space. The NPPF, like PPS1 before it, emphasises the importance of improving the environment and promoting healthy communities in achieving sustainable development and states that policies and decisions should aim to achieve places which promote high quality public space (paragraph 69). Sustainable development and positive economic growth must also incorporate environmental and social progress. As such, the proposal is considered to be unacceptable and contrary to greenspace policies.

6. Affordable Housing

- 10.26 The application site is situated within an “inner area” for the purposes of affordable housing policy, where the requirement for the proposed development of 57 flats was 15% at the time the application was submitted. This requirement equated to 9 submarket dwellings. However, during consideration of the application an interim affordable housing policy has been introduced and reduced the requirement to 5%. As such, the revised affordable housing requirement now equates to 3 submarket dwellings.
- 10.27 Whilst recognising the main conclusion of the updated VA, the introduction of the interim affordable housing policy is the Council’s response to the current economic situation. As such, the development’s failure to provide even the reduced level of affordable housing as required by the interim policy is considered to be sufficient reason to resist the application and is advanced as part of the overall refusal reason.

7. Highways & Public Transport Contribution (PTC)

- 10.28 The proposal raises no specific road safety concerns as the access arrangements and parking requirements for the end uses proposed are considered to be adequate. As such, the proposed development is considered to be acceptable on highway grounds. With regard to the PTC, whilst recognising the position on viability the development is very intensive relative to the size of the site yet the required

contribution can still not be delivered, despite it being relatively low. This is clearly very disappointing and in the light of other concerns regarding the overall acceptability of the development also features within the suggested reason for refusal.

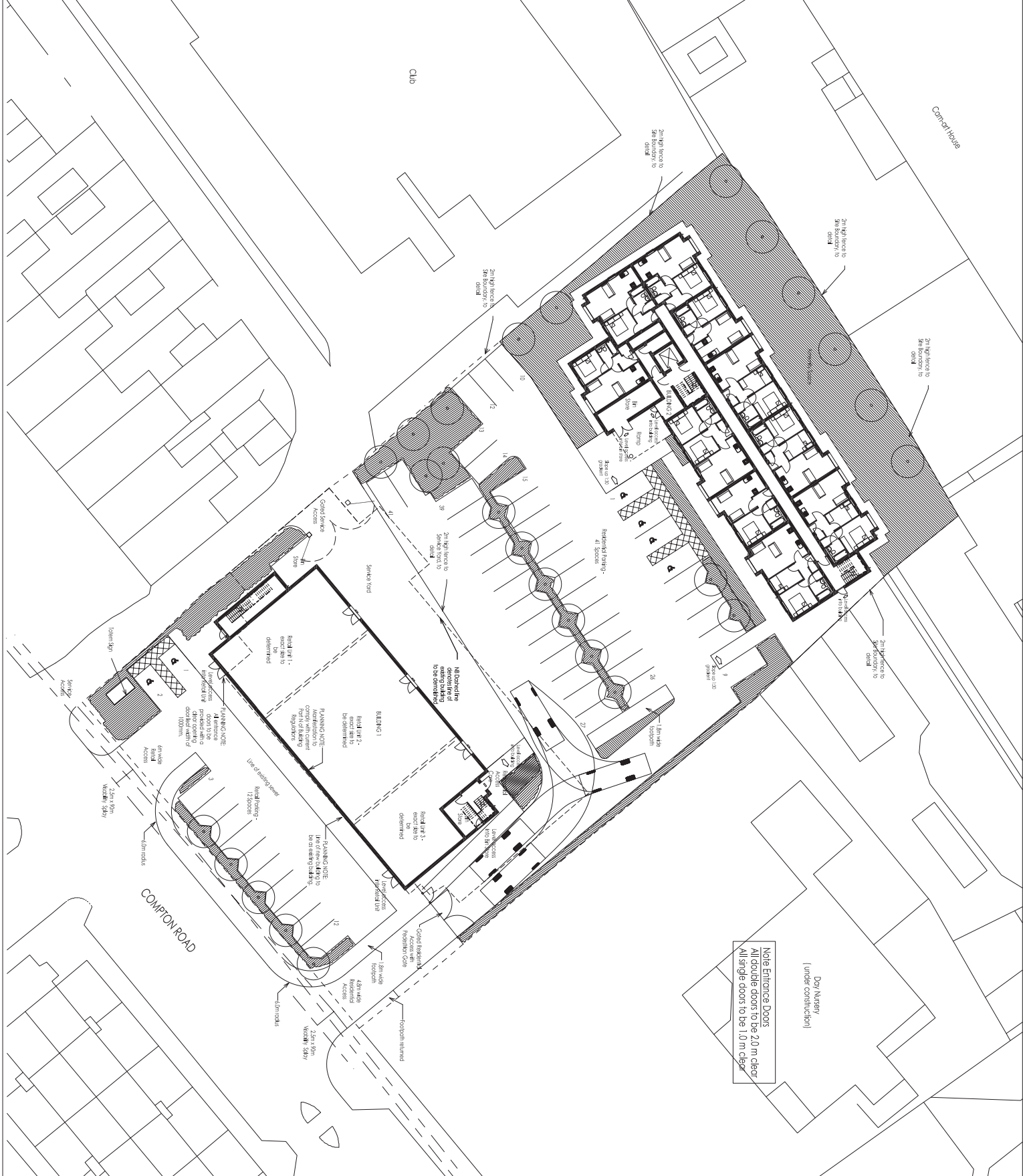
11.0 CONCLUSION

- 11.1 Whilst officers recognise the redevelopment of this important site within the Harehills area is clearly very desirable, the current development is not considered to provide an acceptable design solution or offer an adequate package of S106 contributions that would help make it truly sustainable.
- 11.2 Extensive negotiations with the applicant have taken place and over a long period of time but without any success. For the reasons stated in this report and as advocated in the NPPF the application is therefore recommended for refusal as officers do not consider it appropriate to delay its formal determination any longer.
- 11.3 Notwithstanding this recommendation for refusal, officers are happy to work with the applicant on a revised scheme but feel it is appropriate in this situation to do so from a clean slate in recognition that the planning policy background has changed significantly since the scheme was original conceived.

Background Papers:

Application file: 08/01776/FU

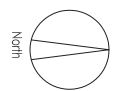
Certificate of Ownership: signed by the applicant



Note Entrance Doors
All double doors to be 2.0 m clear
All single doors to be 1.0 m clear

Doy/Nursery
(under construction)

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Symbol	Description
	Site Area = 2.45 Hectares
	ST Required (1/1k)
	27 No. 1 bed dwellings
	30 No. 2 bed dwellings
	Total bed cases = 87.25 (87/87)
	Planning

NO.	DATE	DESCRIPTION	BY	CHKD
E	02/11/06	Approved by planning committee		
D	04/09/06	Access/offset comments added		
C	18/08/06	Site plan to be amended		
B	03/04/06	Proposed 1st floor converted to ground floor		
A	14/01/06	Site layout amended to suit 1st floor conversion	ST	PA/B

Ramsden Barrett Architects
CONSULTANTS ARCHITECTS AND DESIGNERS

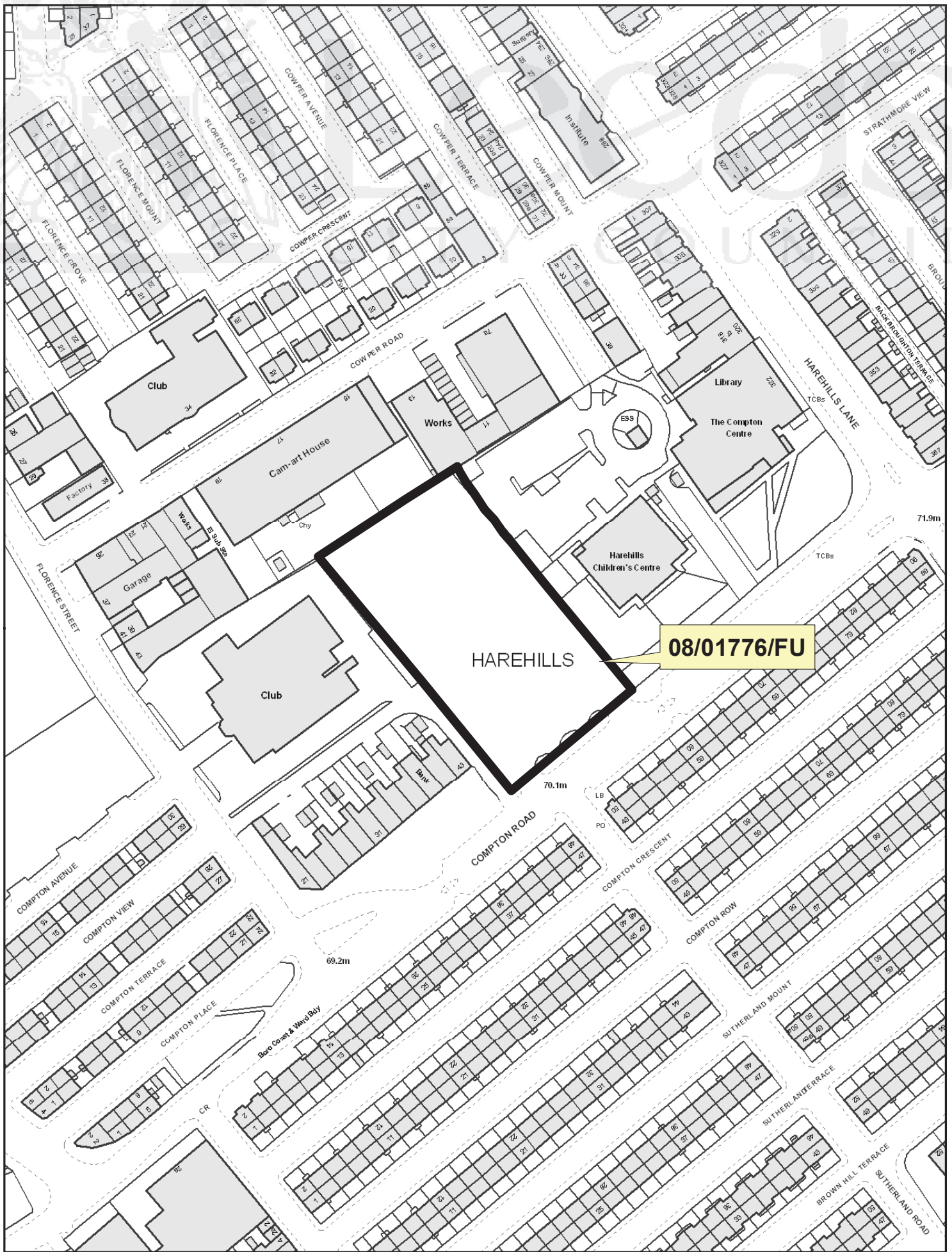
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**Proposed Mixed Use Development,
Compton Road Leads**

County Road Developments Ltd

Proposed Site Layout

DATE	BY	NO.	REVISION
Dec 05	1-200	ST	PAB
1949	004	E	Planning



EAST PLANS PANEL



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