



Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 10th October 2013

Subject: APPLICATION 13/03169/FU- Change of use of part of ground floor and extension to side of part of medical centre to form restaurant at St Michaels Court, Shire Oak Street, Headingley LS6 2AF

APPLICANT	DATE VALID	TARGET DATE
Nando's Chickenland Limited	08.07.2013	20.09.2013

Electoral Wards Affected:

Headingley

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 conditions referred to in the report to the 12 September Plans Panel South and West meeting (appended) and to the following additional conditions below

Additional conditions

1. Details of the boundary treatment to the bin store and outdoor seating area to be approved.
2. A scheme for local employment and training shall be approved.

1.0 SUMMARY

- 1.1 Members will recall that this application was considered at the Plans Panel South and West meeting of 12 September 2013 where the Panel resolved to grant planning permission. Prior to the decision being issued, additional

information came to light regarding the availability of car parking in the Arndale shopping centre car park. Members may feel that this information is relevant to their consideration of the application and as a consequence a decision has not been issued and the application is being referred back to the Panel.

- 1.2 The Arndale centre car park is located close to the application premises in Headingley Town Centre and provides useful provision for shoppers in a location where car parking is limited. Free car parking for shoppers is located on the mezzanine level of the building and is accessed via a ramp leading from Alma Street. During shopping hours users can descend to street level via entrances which lead through the Sainsbury's and Wilkinson's stores; outside shop hours pedestrian access is via the ramp. In response to questions about the opening times of this car parking from Members, members may recall that the agent for the application advised that parking in this car park would be available for customers of the proposed restaurant up until 11.00PM Mondays to Saturdays and between 10 and 10.30 PM on Sundays. The agent, who spoke in support of the application, advised members that he also acted for the owners of the Arndale Centre. The agent made reference to the 2010 permission for a Pizza Express restaurant in Units 9 and 10 of the Arndale centre, pointing out that a condition attached to this permission (10/00114/FU) required the Arndale Centre car park to be open to the public up to these times.

- 1.3 The wording of this condition states:

The parking area shown on the approved plan (this plan depicts the mezzanine car parking level of the Arndale Centre) shall remain open between the hours of:

08.00- 2330 Monday to Friday

08.00- 2330 – Saturdays

08.00 – 23.00 Sundays and Bank Holidays

- 1.4 After the September Panel it came to the attention of officers that an application had been recently submitted, not validated at that time (13/04186/FU), which seeks to remove a planning condition which requires short stay car parking spaces at the Arndale Centre to be available to retail users.

This condition (application 07/05896/FU) states that:

Prior to the commencement of development a minimum of 152 short stay (retail users) car parking spaces shall be provided within the curtilage of the Arndale Centre during the construction period and for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority

Following discussion with officers, the applicant decided to vary the form of the applications to vary (as opposed to remove) the condition as follows:

“A minimum of 56 short stay (retail users) car parking spaces shall be provided within the curtilage of the Arndale Centre for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.”

- 1.5 A letter of support written by the agent and dated 30 August 2013 is included with the application documents. Amongst a number of matters stated in support of the application is an assertion that the public spaces are not needed by shoppers, and that the access ramp is unsafe for members of the public to use.
- 1.6 It has subsequently been noted that the prominently displayed opening times of this car park are 10PM on Mondays to Saturdays and 5PM on Sundays, significantly different to the opening hours reported to the Panel by the agent (this does also mean that the condition attached to the Pizza Express permission referred to above is not currently being complied with). The report submitted with the variation of condition application includes a survey of the mezzanine car parking area (56 spaces) which purports to show that there are always spaces available to shoppers, that 152 spaces are not needed, and moreover that if this many spaces were made available to shoppers then the office staff who currently park there (the condition is not being complied with) would be displaced onto surrounding streets. This assertion will of course be tested through that application but the initial assessment of officers is that there may be some merit in this argument as in practice it has been noted that space does tend to be available in the mezzanine parking area during shopping hours and in the evenings.
- 1.7 In 2010 'The Headingley Parking Strategy' was produced by consultant Mouchel on behalf of Leeds City Council, although this has not been adopted formally as Council policy. The Strategy has provided the Council with a suggested approach to improve the parking situation in Headingley, with a view to making visiting and shopping to the centre more attractive". The Council hopes to increase the stock of short stay spaces in central Headingley, both on and off street. They are also looking to provide better located parking for both disabled visitors and cyclists accessing Headingley. The strategy will remain in place into the medium term so that any future changes to parking will be implemented with full consideration of the approaches set out in the strategy document, including future resident parking schemes to include some provision for short stay parking. There are difficulties in achieving the goals of the strategy as Leeds City Council owns no public off street car parks in Headingley which means they do not have direct control over the operation of these spaces.
- 1.8 Notwithstanding the revised information about the availability of car parking in the Arndale Centre, the recommendation remains to grant planning permission. The premises are in a town centre location where it would not normally be expected that each individual business would provide its own car park. The development relates mainly to existing vacant former Health Centre space which has planning permission for retail use and the restaurant use would introduce a viable use for this part of the building which is vacant, adding to the economic wellbeing of Headingley town centre.
- 1.9 It was verbally reported at the September meeting that Councillor Neil Walshaw had objected to the application due to the proximity of residences, disturbance from the outdoor seating area, and traffic generation. If

approved the hours of usage of the outdoor seating area should be restricted and takeaways should be prohibited. Councillor Walshaw asks the Panel to consider whether this is the right location for a food business.

- 1.10 Members are asked to consider this additional information and determine the application.



Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 12th September 2013

Subject: APPLICATION 13/03169/FU- Change of use of part of ground floor and extension to side of part of medical centre to form restaurant at St Michaels Court, Shire Oak Street, Headingley LS6 2AF

APPLICANT	DATE VALID	TARGET DATE
Nando's Chickenland Limited	08.07.2013	20.09.2013

Electoral Wards Affected:

Headingley

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.

3. Commencement of development within 3 years.
4. Approval of plans
5. External materials to match the existing
6. 1:10 section details of windows to be submitted to ensure slim profile of window frames
7. Landscape scheme and implementation
8. Hours of opening 11am to 11pm Monday To Saturday and 11am to 10.30pm Sunday and Bank Holidays
9. Hours of use of external seating area restricted to 11am to 10.30pm Monday to Saturday and 11am to 10pm on Sunday and Bank Holidays
10. Servicing deliveries restricted to between 7am-8am and between 7pm-9pm only
11. Delivery vehicles size limited to 7.5metre.
12. Adherence to the Service Management Plan

13. No take away deliveries.
14. No music to be audible outside of the restaurant building or audible from upper floors of the building
15. No drinking outside without meals
16. The combined noise from fixed plant shall not exceed a rating level as defined by BS4142 by more than 5dB(A) below the lowest background (L90) during which the plant will operate.
17. Bin store to be erected and made available prior to first use
18. The external flue and chimney shall be erected and colour treated and made available prior to first use.
19. Maximum number of covers limited to 60 internally and 26 externally.

1.0 INTRODUCTION:

- 1.1 This application is presented to Plans Panel at the request of Ward Councillor Martin Hamilton who objects to the proposal on the cumulative impact of additional A3 uses in Headingley and due to the unsuitability of a restaurant within a medical centre building. Councillor Hamilton also objects on the grounds that the use of the premises would cause harm to neighbouring residents amenity.

2.0 PROPOSAL:

- 2.1 The proposal involves the change of use of a vacant part of the ground floor of the building to accommodate a restaurant. The ground floor would be used as the main restaurant with the kitchens and majority of the seating located here. The proposal also includes the erection of a single storey side extension to the elevation facing Wood Lane. The extension would have a flat roof. Its side elevation facing Wood Lane would be a glazed.
- 2.2 The proposals also include the creation of an outdoor seating area adjacent to Wood Lane to provide 7 tables for customers.
- 2.3 The proposal would also include the erection of a rear flue which would be encased in a brick chimney stack to match the existing property.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is located within the defined Headingley Town Centre which is characterised by a wide mix of uses, typical of an urban district centre. The existing building is 4 storey's in height and has a mixed-use comprising two doctors surgeries on the upper floors and an Opticians and pharmacy occupy part of the ground floor. There is a car park in front of the site which is used by visitors of the existing health centre and retail unit. Vehicular access to the site will be through this car park which is accessed from Shire Oak Street and exited from Wood Lane.
- 3.2 The site is bound by Shire Oak Street to the south and Wood Lane to the north. There is a terrace row between the site and Otley Road which has ground floor retail and commercial premises and some flats located in the upper floor. Across Wood Lane is the Arndale Centre which is a large 1960s shopping centre. To the rear of

the site is land protected for the NGT route. Beyond this are located residential properties on Shire Oak Street. The site is within the Headingley Conservation Area.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 11/03511/FU - Change of use of part ground floor and single storey extension and alterations to side of proposed medical centre (D1 use) to form restaurant (A3 use) with car parking to rear. Withdrawn.
- 4.2 09/03233/FU - Change of use, including alterations and extension to form lobby and stair tower, of offices (B1) to primary care surgery (D1) and pharmacy (A1) with car parking. Approved 2009
- 4.3 11/03998/FU - Change of use of part ground floor of medical centre (use class D1) to opticians (use class A1) and installation of new entrance door. Approved 2011
- 4.4 12/00086/FU - Change of use of part ground floor medical centre to 2 retail units (A1 use class) from medical centre (D1 use class) and alterations to the front elevation to provide entrance doors to each unit. Approved 2012

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant had pre-application meetings with officers to address the issues around the design, size and appearance of the extension and also around the issues of deliveries and the impact of the proposal on the NGT scheme. The applicant reduced the size of the extension from the previous application and reduced the number of covers from the previous application in response to the comments. The operators of the medical surgeries have met with the applicants. They have not objected to the current application.
- 5.2 The applicant consulted Ward Members and also held a community consultation event in February 2013. 50 people attended and 30 responses were received according to the developer. The developer states 25 were in support, 2 against and 3 neither supported nor were against the proposal.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been publicised by means of site notices. There have been a total of 11 representations received. There have been 7 objections and 3 letters of support. 1 letter making representations has also been received. The following main issues have been raised.
- Wood Lane Court has already been affected by previous developments.
 - Harm from noise and litter and the use of the outdoor seating area
 - No proof local people will be employed.
 - Loss of trees
 - Harm to residential amenity
 - Headingley has far too many restaurants, cafes, takeaways etc but more importantly the proposed fast food type outlet is totally unsuitable in the building that houses a medical centre.
 - The space should be used for medical or allied services.
 - Increased number of cars parking in the existing small car park, and an increase in traffic generally around that area, adding to noise and congestion at the end of Wood Lane
 - Restaurant should go in the Arndale Centre or on North Lane

- There is an objection to the increased traffic from the servicing of the site
- There is a lack of car parking for the restaurant and the interaction of restaurant users with surgery visitors is problematic
- The proposal would remove the green area next to the building which is harmful to the conservation area
- The proposal is contrary to policies in the development plan which seek to protect green areas.

6.2 **Councillor Hamilton:** His main concern is the addition of a further A3 Unit in Headingley Town Centre and the disruption this will cause nearby residents. The Councillor notes that outdoor dining is proposed. He feels that this is inappropriate for this type of outlet in a residential setting, but should the application be approved, he would request that use of the outdoor seating is restricted such that it is not operable after 10pm given the elderly residents living in the area. Would takeaway facilities be included? Can this be conditioned out? Is the closing time to be 11.30? This would mean that patrons could come from the earlier shutting bars at closing time, have food and then continue. This has the effect of extending the night time economy. If approval is granted, He would therefore suggest an 11pm closing time to tie in with the closure of bars such as Arcadia. Could you also confirm that alcohol would only be allowed when accompanied with food and if not could this be conditioned should the application be approved. We have seen in Headingley how A3 use is often a trojan horse to extend the availability of alcohol more generally. In isolation, these applications may seem innocuous but when taken in aggregate do have a negative effect on the overall living environment for residents.

7.0 CONSULTATION RESPONSES:

7.1 Highways – no objections subject to conditions to control servicing arrangements

7.2 Mains Drainage – no objections

7.3 NGT Team: Support the application as it will provide an active frontage to the proposed Headingley NGT stop.

8.0 PLANNING POLICIES:

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

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

- GP5 development control considerations
- BD6 Alterations and Extensions should not harm neighbours amenity
- N12, N13 urban design principles
- N19 Alterations and extensions in conservation area should preserve or enhance that part of the conservation area
- LD1 landscape design
- T2, T24 – access and parking requirements
- S2 Town Centres

Neighbourhoods for Living SPG.

8.3 National Planning Policy Guidance:

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

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

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

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

Emerging Core Strategy

The Draft Core Strategy has been submitted for examination by an Inspector. The Draft Core Strategy has passed its first requirement with regards the legal test on the Duty to Cooperate. As the draft Core Strategy is submitted for examination some limited weight can be afforded to it. The weight to be given to policies will depend whether there are any outstanding challenges to them to be considered through the Public Examination in October.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- (1) The principle of the change of use;
- (2) The impact of the development on the conservation area;
- (3) The impact of the development on the neighbouring residents and users of the health centre;
- (4) Servicing and car parking and highway safety

10.0 APPRAISAL:

10.1 The premises are located within Headingley Town centre where A3 uses are an appropriate town centre use. Although the site currently has a medical centre and an opticians within the building the introduction of a restaurant in part of the ground floor would not conflict with these uses in relation to the operational effectiveness of the surgery or in relation to the retail function of the pharmacy or opticians. The restaurant would be open 11am to 11pm Monday to Saturday and 11am to 10.30pm on Sunday and Bank Holiday. The surgeries are open from 7.45am until 6.45pm. It is considered that the proposed use and the existing uses on site are all Main Town Centre activities that are normally found within a defined town centre and are uses that complement the function of a defined town centre as a destination for a range of services and facilities and retail and leisure activities. In addition the location of the

proposed restaurant entrance is at the opposite end of the building to the entrances to the surgeries which should help reduce any interaction between the two uses further. It is noted that the application premises has an extant consent for an A1 use from 2012. There are no restrictions upon what type of A1 use could operate from this planning permission except for a condition that restricts the premises merging into the other ground floor units to become a small supermarket. Accordingly the site is considered suitable to accommodate a range of mixed use operators.

- 10.2 The proposed single storey side extension has been reduced in height and width from the previous withdrawn application and the size of the outdoor seating area has also been reduced. This means that the existing tree on the boundary of the site can be retained. Overall the side extension is considered well designed and sited and should not have an adverse effect upon this part of the Headingley Conservation area. As the host building is a modern addition to the conservation Area and the site is opposite the Arndale Centre a contemporary design approach for the extension is considered appropriate. The flat roof and use of glazing to provide the outer wall of the extension is considered well designed. The development would take some of the existing grassed landscaped area at the side of the host building however the introduction of an active frontage in this part of the town centre is considered a positive development, especially in light of the potential NGT scheme which would have a stop located at the rear boundary of the site. The proposed rear flue would be encased within a brick chimney to help it blend in with the existing building. Although the flue will 9metres in height, 7.5metres of the flue will be encased in the brick chimney and the remaining 1.5m that projects above the eaves line of the rear roof plane will be powder coated to match the colour of the existing roof. The top of the flue will be visible from along Wood Lane but due to the colour treatment and the brick chimney the proposed flue should not have any significant effect upon the character and appearance of the conservation area.
- 10.3 The proposed servicing arrangements would see deliveries restricted to 7am-8.30am and then 7pm-9pm which are outside of main surgery hours. The Doctors surgery is open from 7.45am but the majority of Doctors do not start until 8.30-9am suggesting parking demand would be low during the morning servicing hour. It is noted that the doctor's surgeries have not objected to this current application. It is considered that this restriction in early morning deliveries should remove any serious conflict with early morning patients arriving for the surgery. The applicant advises that the site will only have 3 deliveries per week. The applicants will use the existing car park in front of the building to service the premises and will have control over 5 car parking spaces which they will use as a layby for the servicing vehicles. The size of the service vehicles will be restricted to 7.5tonne box vans. Once the servicing has been complete the vehicle will exit the site in a forward gear from Wood Lane.
- 10.4 The use of the ground floor as a restaurant is not envisaged to harm the living conditions of neighbouring residents. The nearest residents live in properties along Wood Lane to the rear of the site and are located over 20metres from the outdoor seating area. The nearest property to the site is earmarked for demolition to accommodate the NGT scheme, this property is owned by Metro. Beyond this property the next nearest property is over 40metres from the outdoor seating area. There would be 60 covers inside and about 26 outdoor seats. The previous withdrawn application was for 116 seats inside and 31 outdoor. The restaurant is proposed to be open until 11 pm each evening and until 10.30pm Sunday and Bank Holidays. A condition is proposed that no music speakers should be placed outside of the restaurant and also that any speakers used in restaurant are not audible from outside or from upstairs in the surgery. There is only a small outside seating area

proposed and as such it is not expected that significant problems would arise from the use of the area, however to ensure residential amenity is protected it is proposed to condition the closing off of this outside area 30 minutes before the main restaurant closes. The proposed restaurant would only provide 1 car parking space for a member of staff and one disabled bay for a customer. As the site is located within the town centre where public transport is available and there is also short stay free car parking in the Arndale Centre, for example a low car parking requirement is acceptable. The car park facilities for the medical centre therefore should be unaffected which should limit interaction of the proposed use and the existing medical use further.

- 10.5 One of the main areas of concern about this proposal relates to the potential for takeaways and the potential for noise and disturbance and from litter. Nando's does have a take away element. Nando's are set up as a sit in restaurant which can be seen from the layout. They are very similar to Pizza Express in that respect in that they don't have a dedicated takeaway counter and any takeaways are sold at the same price as the restaurant. Members may recall granting planning permission in 2010 for a Pizza Express in the Arndale Centre. Members may recall that Pizza Express had a planning condition attached restricting deliveries but not take away, as it was accepted that this is a restaurant and therefore any take away would be ancillary to the operation of the A3 restaurant. The applicant has agreed to a similar condition in relation to this application. Should the take away aspect of the business go beyond ancillary then a change of use would have taken place which requires planning permission and the Council could review the situation in light of a planning application. As such the condition restricting deliveries is considered sufficient to ameliorate this concern.

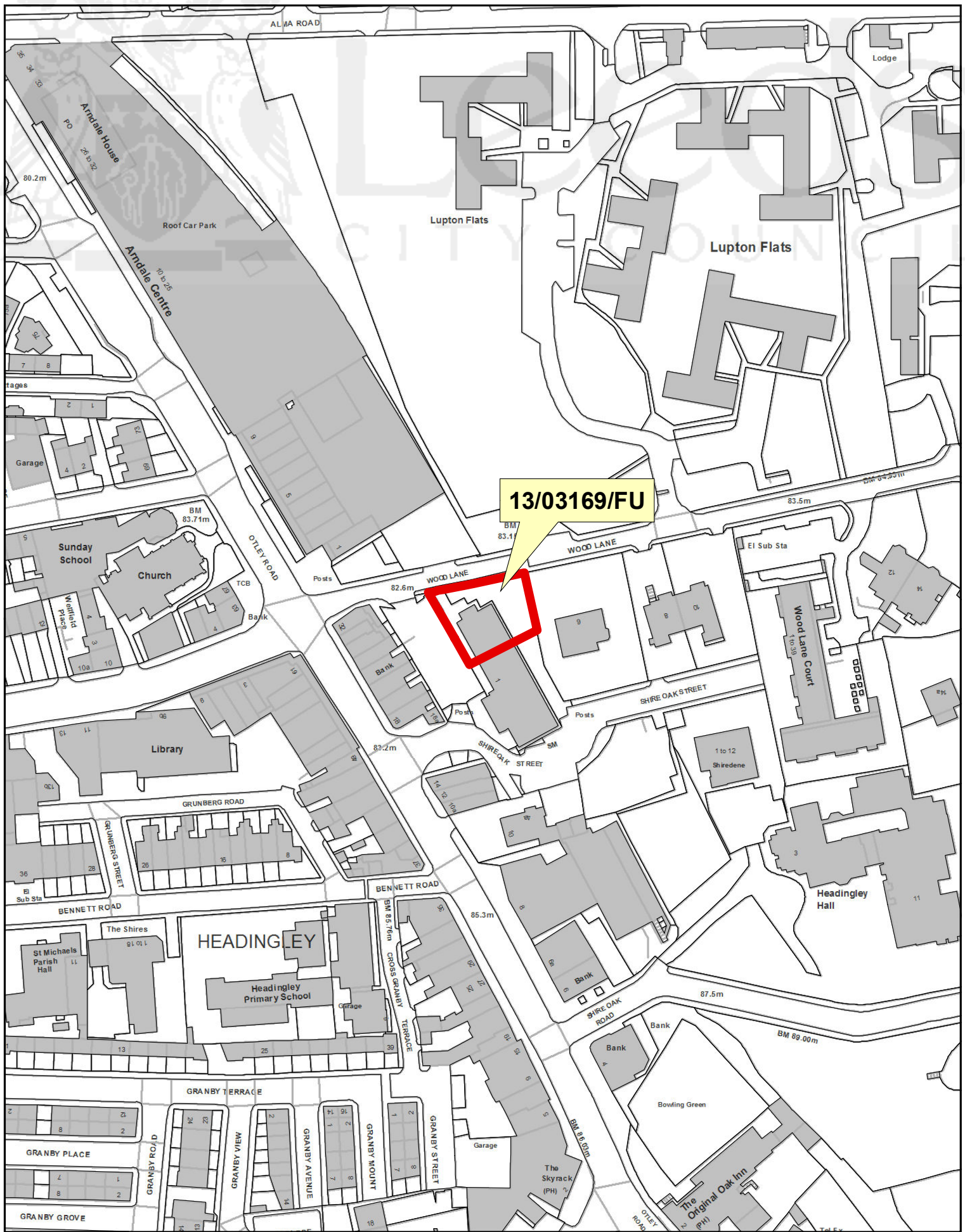
Conclusion

- 10.6 Overall the introduction of a new A3 use within the town centre accords with planning policy. There are no planning reasons why an A3 use cannot be located next to medical and retail uses. The proposed extension, chimney flue and external works are considered well designed and proportioned and should have a positive effect upon the character and appearance of this part of the Headingley Conservation Area. There are no serious concerns arising from the impact of the use on neighbouring residents and appropriate planning conditions have been attached to ensure amenity is maintained.

Background Papers:

Application file;

Certificate of Ownership.



SOUTH AND WEST PLANS PANEL

