
Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 5th December 2013

Subject: APPLICATION 13/00868/OT- Outline application for residential development and retail store at Victoria Road, Headingley

APPLICANT

Chartford Homes And
Holbeck Land

DATE VALID

12.03.2013

TARGET DATE

11.06.2013

Electoral Wards Affected:

Headingley & Hyde Park and Woodhouse

☐ yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION:

Defer and delegate approval of the application to the Chief Planning Officer subject to the conditions specified and also to the completion of a Legal Agreement within 3 months of the date of resolution of Panel as outlined in the Report to Panel from Chief Planning Officer of the 10th October 2013.

1.0 INTRODUCTION

- 1.1 Members will recall that they deferred consideration of this planning application at the October 2013 South and West Plans Panel to allow for further consultation with Sport England and Public Health England. The desire for additional consultation with these two organisation's related to the oral evidence presented at the hearing for the listing of the site as an Asset of Community Value. Following the removal of the site from the register of Assets of Community Value at the hearing local residents who were in support of registering the site as an Asset of Community Value stated they and other local residents had used the playing field at the site informally and without the School Management's approval regularly over a period of decades. The Panel were of the view that the informal use should be presented to

both Sport England and Public Health England to allow them an ability to reconsider their comments on the application and to comment whether this evidence had any bearing on their existing comments on the application. Both consultee's comments are appended to this report.

- 1.2 Sport England refer the Council to their original consultation response to the application in which they have already assessed the informal access arrangements referred to in the recent hearing. They do not believe there is sufficient robust new evidence to change the view of Sport England on the current application.
- 1.3 Public Health England state they do not have anything further to add with regards to the further detailed consideration of the evidence surrounding this planning application.
- 1.4 The Director of Public Health also supplied further comments on the application. They are supportive of the QUALY approach outlined in the supporting documentation submitted by Councillor Illingworth but they express concern that at present there is insufficient evidence to demonstrate there is a clear link between green space and health and at present the evidence would not stand up to robust scrutiny.
- 1.5 As referred to above in paragraph 1.1 the application site was removed from the Council's list of Assets of Community Value in October 2013. In reaching a conclusion on the appeal hearing into the registering of the site as an asset of community Value the report states:

"In view of the position outlined above, and based on the written and oral evidence that I have received, I consider it "possible" that the site could be brought back into community use. However, in the absence of a practical and deliverable plan for the purchase of the site, I cannot go as far to conclude that it is "realistic" for me to think so, which, importantly, is the test required by the Localism Act (2011).....

"Further to the land owner's request for a review of the listing of Victoria Road sports facilities as an asset of community value, I have considered the oral and written evidence made available to me in addition to a site visit. The land owner's agent invited me to support their request for review on the basis that the land and property in question did not meet the "recent past" test, its non-ancillary use did not benefit the social wellbeing or interest of the local community and it was not realistic to think that the site could be brought back into community use in the next five years.

Having considered all of the arguments put to me, I do not support all of the representations made by the land owner, however, I do agree that there is insufficient evidence to conclude that it is "realistic" to think that the site could be brought back into community use in the next five years. I reach this conclusion on the basis of the likely value that would need to be paid for the site, which could be considerable, coupled with the lack of a practical and deliverable plan to meet this cost. Given that to be of community value all the requirements of Section 88(2) must be met, I conclude that the land owner's request for a review is successful and that the site is subsequently removed from the Council's list of Assets of Community Value".

Further representations received since the Panel Report of the 10th October was presented to Panel

- 1.6 Councillors Illingworth and Atha have written to object to the application. They state *“really intensive public use of these recreational facilities and open space would enable 1000 local people to live an additional 5 healthy years. In Public Health terms it would be highly cost-effective for the Council and the NHS to acquire this site for Community Use. Planning permission for housing and retail development should therefore be refused. I believe that this may be first time that such a calculation has been attempted in a Town and Country Planning debate. I am pressing NICE and Public Health England to publish more extensive and authoritative guidance to Local Planning Authorities on this subject. Over the next few days I hope to explore some alternative methods of making the same calculation, which more accurately reflect the mixture of uses that the site is likely to accommodate. I hope thereby to demonstrate that my calculations are robust, and relatively insensitive to the choice of starting parameters. On any basis, the acquisition and retention of inner-city recreational sites for Public Health purposes represents stunningly good value for money. It would be reasonable for the NHS and the Council to divert some resources from acute care to facilitate this highly cost-effective alternative”*.
- 1.7 Councillor Illingworth’s most recent objection referred to above was supplied to Public Health England and the Director of Public Health and has been assessed in their consultation response appended to this report.

Summary

- 1.8 In light of the unchanged position that Sport England, Public Health England and the Director of Public Health have adopted, Officers consider there are no new material planning considerations that result in a change to the recommendation of this application as outlined in the October 2013 Panel Report.
- 1.9 By removing the site from the Council’s list of Assets of Community Value only limited weight can be afforded to this material consideration. The report acknowledges that the Victoria Road application site has not had a formal decision made on the planning application but in coming to his conclusion the report’s author considers that it is likely that the site could achieve planning permission whether by the Council or on appeal similar to that reached at the Main School site in 2012. This view reinforces the position that the cost of acquiring the site would make any community scheme to acquire the site and re-use it for sports uses “unrealistic” in the next 5 years. The report into the appeal for the Asset of Community Value is appended to this report.
- 1.9 Officers recognise that this application is very sensitive and very important to the local community and very careful consideration has been given as to whether grounds for refusal could be substantiated in relation to the loss of the protected playing pitches and buildings. The principle of an out of centre retail development has similarly been carefully appraised. Officers consider that refusal is not justified and could not be defended successfully on appeal
- 1.10 The proposed development is considered to have overcome the concerns relating to the withdrawn application in relation to the setting of the neighbouring listed building and the character of the wider conservation area. The Design Statement will guide developers on the form of Reserved Matters applications. Officers believe the redevelopment of the site can enhance the character and appearance of this part of the adjacent Headingley Conservation Area and will also preserve the setting of the neighbouring listed building.
- 1.10 The creation of on-site public open space to which the local community will have access is a positive outcome from the redevelopment of the site that goes some way

to helping to provide access to leisure and recreation space in this part of the City. In addition the S106 contributions towards equipped children's play equipment and sport facilities also go some way in providing opportunities to improve the health and well-being of the local community in accordance with the aims of the draft Core Strategy and the requirements of the Health and Social Care Act 2012. The creation of modern well designed family housing in the area also meets with an identified need of providing housing across the City. The provision of affordable housing either on site or via a commuted sum that can be spent on bringing vacant properties in the locality back into affordable family use is also a positive outcome from the application.

From: Frearson, Anna

Sent: 29 October 2013 10:33

To: Franklin, Mathias

Subject: RE: planning application 13/00868/OT- Victoria Rd, Headingley- Outline application for residential development and retail store

Dear Mathias please see responses below from Public Health England and ourselves.... Please contact me if you require anything else. Regards Anna

Public Health England (PHE)

Our view is that we do not have anything further to add with regard to the further detailed consideration of evidence surrounding this planning application. PHE does not have the remit or capacity to become involved in the detail of local planning applications. We should, instead, be working to equip local experts such as yourself with the information and tools to advise your colleagues in the planning department. We are in discussion with national PHE colleagues about the role of PHE in providing advice on the public health aspects of planning. This is likely to involve collating and summarising planning guidance, identifying levers and strategies to maximise public health outcomes, sharing examples of good practice and national advocacy where this would help.

Office of the Director of Public Health

In terms of this planning application our response is as previously sent (please see below). With regard to the additional information supplied, Public Health is supportive of the QALY approach however a considerable amount of work by an academic institution to undertake a systematic review of the health benefits of green space and then build the modelling programme would be required to ensure that this was robust enough to withstand scrutiny for example in the event of any appeal. As outlined above Public Health England are going to provide further support around good practice in the planning and health field so this type of approach could be progressed in the future.

Original response

The relationship between the availability of sports facilities, exercise and public health is important. Moreover participation in physical activity such as sports and walking is strongly related to household income. There is an association between reducing levels of physical activity and decreasing household income with the potential to increase health inequalities.

The Victoria Road site is situated in a residential area that houses people living with greater socio-economic disadvantage than the average for Leeds. The consequent impact of this disadvantage is to contribute to the physical and mental health problems that affect the local population, and ultimately lead to higher levels of premature mortality.

The presence of the urban green space provided by the playing fields can impact positively on the health of the local population in many ways. Proximity and accessibility of green spaces to residential areas can lead to:

- increased overall levels of physical activity across age groups which contribute to the prevention of many health problems such as cardiovascular disease, diabetes, stroke, some cancers and osteoporosis;
- improved mental health and well-being providing effective relief from everyday stress, improved self esteem, and alleviation from anxiety and depression;

- increased opportunities for education, social inclusion and cohesion by supplying space for social mixing, creating networks and relationships. Playing in local green spaces helps children to develop intellectually and learn about social interaction;
- a contribution in reducing flood risk, reducing atmospheric pollution and traffic/residential noise.

The presence of a visible and useable urban green space can contribute to the health and wellbeing of the community. Therefore the availability of the green space provided by Chestnut Avenue/Victoria Rd playing fields is an important consideration in addressing the needs of this community.

Section 12 of the Health and Social Care Act 2012 provides that each local authority must take steps as it considers appropriate for improving the health of the people in its area. Whilst this will be relevant to planning decisions, it does not alter the fact that planning decisions are still required under the Planning Acts to be made in accordance with the development plan unless material considerations indicate otherwise (including the policies contained in the National Planning Policy Framework).

Anna Frearson

Consultant in Public Health (Healthy Living and Public Health Intelligence) The Office of the Director of Public Health Technorth

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'Live well, live longer – Changing lives in Leeds'

Mathias Franklin
Leeds City Council
Planning Services
Leonardo Building
2 Rossington Street
LEEDS
LS2 8HD

15 November 2013

Our Ref: Y/LE/2013/31980/S

Dear Mathias Franklin,

App Ref: P/13/00868/OT/NW
Site: LEEDS GIRLS HIGH SCHOOL Headingley Lane West Yorkshire
LS6 1BN
Proposal: FURTHER CONSULTATION -Outline application for residential
development and retail store

Thank you for consulting Sport England on the further information related to this application.

It is understood that the site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184). We have therefore treated this as an application that triggers our statutory role.

We note that the plans panel has resolved to defer determination of this application to allow further consultation with Sport England and Public Health England. The extent of this latest consultation is to consider our original response in light of information that was presented at the appeal hearing on listing of the site as an Asset of Community Value and covered in the Director of City Development's report on the matter. The additional information relates to the weight attached to the informal use of the site by local residents without the prior approval of the School Management, who either climbed through a gap in the fence to play on the field or were let in by the grounds man. This, the council state, is new information since our initial comments made in our letter dated 25 April.

In responding to this further consultation we would draw the council's attention to the top two paragraphs on the fourth page of our original response letter dated 25 April 2013, where we address the issue of informal access to the site. In our letter we assessed this informal access against our policy and are surprised that these comments were not reported to the panel as it may have allowed the panel to make a decision rather than defer a decision on the application pending further

consultation with ourselves. We do not believe that there is sufficient robust new evidence to change Sport England's current position on this application based on our playing fields policy and as outlined in our previous letter of 25th April 2013. Evidently it is up to the Council to also consider whether such new evidence has any bearing against its own development plan policy, including open space and other relevant policies.

We do however acknowledge that should the site not be developed for residential development, the site could offer the potential for local community driven informal sport and recreation opportunities. However this does not affect our planning policy position on this application.

This being the case, Sport England **maintains our no objection position** on this application.

The absence of an objection to this application in the context of the Town and Country Planning Acts, does not in any way commit Sport England's or any National Governing Body of Sport's support for any related application for grant funding.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

If you would like any further information or advice please contact the undersigned at the address below.

Yours sincerely



Helen Ledger
Principal Planning Manager
Tel: 020 7273 1619
e-mail: helen.ledger@sportengland.org

Report of Director of City Development

Date: 4 October 2013

Subject: Former Leeds Girls' High School Playing Field, Victoria Road LS6

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Headingley	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4(3) Appendix number: 1	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

1. Purpose of the Report

The purpose of this report is to consider the Review of the Asset of Community Value listing for the former Leeds Girls' High School Playing Field and indoor sports facilities at Victoria Road Headingley, which was made in accordance with the Localism Act (2011).

2. Background Information.

Part 5, Chapter 3 of the Localism Act (2011) details the rules for Assets of Community Value known as the Community Right to Bid. The right came into force in September 2012 and its purpose is to give communities a right to identify a property that is believed to be of value and to further their social interests or social wellbeing and gives them a fair chance to make a bid to buy the property on the open market, if the owner decides to sell.

- 2.2 In accordance with the process set out in the Localism Act I(2011), The Assets of Community Value (England) Regulations 2012 and associated Government Guidance, Leeds City Council considered an application for the former Leeds Girls' High School Playing Field and associated sports facilities at Victoria Road Headingley, to be added to their list of Assets of Community Value. The application was made on the 20 March 2013 by the South Headingley Community Association, which is a registered charity.

- 2.3 Having considered the application, the Acting Chief Asset Management Officer, approved the nomination on the 15 May 2013 and the asset was duly added to the list of Assets of Community Value.
- 2.4 In accordance with Section 92 of the Localism Act (2011), the land owner exercised their right to request that Leeds City Council review its decision. As required by the Regulations, the review must be conducted by a senior officer of the Council. The land owner also exercised their right under the Regulations to request an oral hearing as part of the review. Accordingly, in my capacity as the Director of City Development, I convened an oral hearing which took place on Friday 27 September 2013 between 10.00am and 1.00pm at Leeds Civic Hall. The representations made at the oral hearing were supplemented by a site visit to the Victoria Road site that I made on the 30th August 2013 and written information that was made available to me before, during and after the oral hearing and is contained in the background papers that accompanies this report.

3. Main Points

- 3.1 During this review there were no representations made to question the procedure that Leeds City Council adopted in relation to the listing or the review, nor the validity of the nomination. At the start of the hearing all parties present were given the opportunity to raise any procedural issues and none were made. At the oral hearing, the land owner (representatives of the Morley House Trust), were present, along with their planning agent, Mr Stuart Natkus, from Barton Willmore.
- 3.2 The nominator was represented by Ms Sue Buckle, Mr John Davidson and Mr Martin Oxley. Councillor Walshaw (Headingley) and Councillor Illingworth (Kirkstall) also made representations, with Councillor Walker (Headingley) in attendance. In her capacity as the original decision maker for the listing, the Chief Asset and Regeneration Officer also attended.
- 3.3 Given that there were no representations about the process or the validity of the nomination, the review centred on the eligibility of the asset to be listed in line with Section 88 of the Localism Act 2011. For ease of reference I set out the relevant section overleaf:

88 Land of community value

(1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority—

(a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and

(b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—

(a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and

(b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

- 3.4 Given that the site in question has not been in use for some time, the question of eligibility in this instance focusses on sub-section 2. The key questions to determine here are:
- i. What length of time is considered to be the “recent past”?
 - ii. What was the use or uses of the building/land that constituted its “non-ancillary use”?
 - iii. Did this use “further the social wellbeing or interests of the local community”?
 - iv. And whether it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community?
- 3.5 Given the way that Section 88(2) of the Act is set out, it is evident that a successful application must satisfy **all** of these points and if it can't then it **should not** be placed on the Council's List of Assets of Community Value.
4. On the basis of the questions identified above, to determine the outcome of this review I shall consider each one in turn.

4.1 What length of time is considered to be the “recent past”?

- 4.1.1 During the course of the hearing, Mr Natkus, on behalf of the land owner, advocated that Leeds City Council should adopt a five year cut off as the definition of the recent past. Reference was made to this convention being adopted by numerous other local authorities. In addition, reference was also made to Earl Cathcart’s position in the House of Lords on the 23 July 2012, where he expressed an opinion that it should be set at up to five years. Mr Naktus clarified that the site in question ceased to be used as a School at some time in November 2007, with the application for listing being made on the 20th March 2013. This is a time period up to circa five years and four months and on the basis that it is more than five years, Mr Naktus invited me to reject the listing given that its use fell outside of the recent past definition that he proposed.
- 4.1.2 On behalf of the nominator, Ms Buckle provided evidence that the site continued to be used by some community groups up until January 2008, which is a period of five years and two months before the application for listing was received by Leeds City Council.
- 4.1.3 In considering this question I am mindful that the Localism Act (2011) does not seek to define the “recent past”. Rather, it is evident that the Act does not fetter the discretion of individual local authorities in coming to their own conclusion on this point. This position was reinforced by Baroness Hanham, the Under-Secretary of State for Communities and Local Government in her statement in the House of Lords, also on the 23 July 2012. Speaking on behalf of the Government, Baroness Hanham stated that.

“My definition of the “recent past” would be reasonably short and my definition of “not recent past” quite lengthy. However, I am not defining this; local authorities once again are going to be defining it. Any normal logic would suggest that “recent” would not be 20 years or, probably, even 10 years, but further than that I will not go”

- 4.1.4 On the basis of the above, whilst I consider it useful for Leeds City Council to use five years as a guide to the upper limit of the “recent past”, I do not go as far as to recommend this as an absolute cut off. Rather, I take the view that each case needs to be considered on its merits and there may be a case for some flexibility beyond five years, dependent on the nature of the specific application in question. In this instance, given that the time period is,(based on the evidence of either party), only marginally in excess of five years, I do not accept the case put forward on behalf of the land owner. I take the view that it would be unjust to apply an arbitrary cut off in this instance and the question of this listing should be determined on the balance of other factors.

4.2 What was the use or uses of the building/land that constituted its “non-ancillary use”?

- 4.2.1 The question of determining the non-ancillary use of the Victoria Road site was contested by all parties. On behalf of the landowner, Mr Naktus advocated that the non-ancillary use was the use of the facilities by pupils of the school as part of their mainstream education. Accordingly, it was argued that this use does not form a use by the community and any community uses that did take place were ancillary and therefore, not relevant to the question of listing. Mr Naktus outlined that the formal community use that did take place amounted to no more than 4 hours per week, set against some 30 hours per week of school use.
- 4.2.2 On behalf of the nominator, Miss Buckle outlined a variety of community uses including water babies classes, King's Sports Camps and Fusion Netball. When asked, Ms Buckle confirmed that she viewed these uses as "official" and non-ancillary.
- 4.2.3 Reference was also made by Ms Buckle to informal use by members of the local community outside of school hours. Letters were received from long-standing residents that looked onto the Victoria Road Playing Field. E. Anne White outlined in her letter of the 25 September 2013 that "...the ground was regularly used by locals... access was through gaps in the fencing at the corner of Back Ash Grove". The letter goes on to say that "I spoke to the groundsman one day to enquire whether he was aware of this regular and frequent use". She states that the reply received indicated that it was ok as long as people left if asked.
- 4.2.4 At the Oral hearing the land owner was asked about this informal use. They indicated that if senior management had been aware, it would not have been permitted. However, when asked if they knew about it, the reply received was "not aware that it did happen, but can't say that it didn't."
- 4.2.5 On a similar basis a letter from Phil Routledge, as a resident since 1979, indicated that he "watched daily as dozens of children from the surrounding streets entered the field and played.."
- 4.2.6 In considering the above oral and written evidence, I concur with the land owner that the use of the playing field and indoor facilities by the school's pupils constituted a non-ancillary use. Conversely, I take the view that the formal community use, which was significantly less than the use by the school, was ancillary in nature.
- 4.2.7 In terms of the informal use, it appears from the evidence presented that this did take place on a regular basis and over a prolonged period of time. It is acknowledged that this use took place without the consent of the senior management of the school, although possibly with the knowledge of local ground staff. Given the deficit of greenspace in the immediate area, which Councillor Illingworth outlined, and that it appears that such use may have taken place regularly over a prolonged period, it is understandable why members of the local community consider the space important to them and why they would consider their

informal use as non-ancillary. Whilst not fundamental to my consideration below, I consider that this argument has some merit.

4.3 Did this use “further the Social Wellbeing or interests of the local community”?

- 4.3.1 In considering this question it is important to consider who is part of the local community. On behalf of the land owner, Mr Natkus advocated that the school pupils did not constitute part of the local community. Accordingly, he argued that the non-ancillary use of the land and buildings cannot, therefore, be considered to contribute to the social wellbeing or interest of the local community, as the pupils were not part of that community. Mr Natkus made reference to a recent review decision of Cambridge City Council concerning the Saint Colette’s College School site. This review concluded that the school facilities were for the benefit of individuals and played no greater part in the fabric of the community in question.

To support this position I have been provided with a summary of the post codes for the pupils that attended Leeds Girls’ High School for September 2007. This information indicates that some 34% of pupils came from a LS17 postcode in contrast to less than 5% from LS6. Mr Natkus uses this information to show that the majority of pupils at the school travelled into the local area.

- 4.3.2 I am mindful that Leeds Girls’ High school was located in the local area for many years. During the oral hearing I asked Mr Natkus whether the school had formed part of the local community? After some deliberation, the answer I received was “no”. Whilst I understand the answer that I was given, it is not one that I readily accept.
- 4.3.3 It is evident that the School did make their facilities available to the local community for their use on a formal, albeit in my view, ancillary basis. It also appears to be the case that the informal and regular use of the playing field did take place and was possibly condoned by the local ground staff. It would therefore be reasonable for local residents to consider the school as part of their local community. In addition, currently Leeds Grammar School (which merged with Leeds Girls’ High School in 2005) outlines on its web site that *“pupils are encouraged to consider their place in the wider community”* and also that *“community service is a compulsory element of Sixth Form Education”*. Whilst acknowledging that these statements come from a newly merged school which is now located on a different campus, I find it difficult to accept that, only some 6 years ago, Leeds Girls’ High School took a totally different outlook.
- 4.3.4 On the basis that I consider that the school was part of the local community, it follows that this must have been a function of the actions of the pupils and staff, as the school in itself is not capable of independent action. I therefore conclude that the staff and pupils were part of the social fabric of the area and that their use of the facilities was as part of that community, albeit a distinct part of it.

- 4.3.5 This approach was the one that was adopted by the Council when it decided to place the Victoria Road facilities on the list of Assets of Community Value and was outlined by the Chief Asset and Regeneration Officer at the oral hearing. The report of the 15 May 2013 concluded that:

“It is therefore reasonable to consider that the pupils of the school were themselves members of the local community and that the use of the site furthered their social interests.”

On balance and after careful consideration, I concur with this view. [However, even if I am wrong about this, I take the view there is sufficient evidence of informal use of the premises over the years for active recreation, by those members of the local community who were not pupils of the school, to constitute a non-ancillary use, and that use undoubtedly furthered their social wellbeing or interests within the meaning of the Act].

4.4 Is it realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community?

- 4.4.1 Mr John Davidson outlined at the hearing the plans of the Hyde Park Olympic Legacy Action Group for the operation of the sports facilities at Victoria Road. These representations were supplemented by a 44 page report outlining the group’s plans and ideas for the community use of the site.
- 4.4.1 Mr Davidson outlined the shortage of facilities in the local area, which was supported by Councillor Illingworth, who outlined clearly the health issues that ensue from the lack of local sport and recreational facilities with reference to three reports from the National Institute for Clinical Excellence.
- 4.4.2 In summary, proposals were outlined for the use of the playing field, the sports hall and, as a second phase, the dry use of the swimming pool, by “boarding over” the existing pool facility. The first phase of the operation would run at a marginal deficit based on 82% occupancy. The second phase assumed a more significant surplus.
- 4.4.3 The proposal outlined a number of potential funding partners including Wades Trust, Big Lottery Fund, Green Leeds and the Leeds Community Foundation, although no formal indications of funding from these sources was identified.
- 4.4.4 In addition, reference was made to £250k of S106 monies that is available in the local area from the development of the Carnegie Pavilion. Using this S106 money for enhancing greenspace provision in Headingley would be a legitimate use of these funds. In addition, these S106 monies would be directed in consultation with Ward Members, so, given the level of Ward Member support that exists, I conclude that it is realistic to assume that this money would be available to make a significant contribution to the start-up costs for the community use of the site.

4.4.5 When asked what assumptions had been made about the acquisition of the site and land value, I was advised that they had no clear figure in mind at this time, but acknowledged that the value would increase significantly should planning consent be approved for residential and retail development. During the oral hearing, the land owner advised me that they would expect to receive the open market value for their site, which would largely be determined by its development potential.

4.4.6 Prior to the oral hearing, I asked the Chief Planning Officer to advise me on the likely recommendation that would be made by officers at the pending plans panel in October 2013. The written advice received concludes that:

“should the applicant resolve the design comments ...it is considered by officers that we would support the application and recommend the application for approval to Panel. “

4.4.7 Further to the receipt of this advice, the report for this application has been published and includes the following recommendation that would also be subject to the completion of a S106 agreement:

“Defer and delegate approval of the application to the Chief Planning Officer subject to the conditions specified...”

Notwithstanding the above, it remains the case that no formal decision has yet been taken by the Council in relation to the planning application. In addition, whether planning permission is granted or refused, there are a number of routes for subsequent challenges or appeals. However, it seems to me that the issue whether the proposals for community use of the site are “realistic” is intrinsically linked to the cost of acquiring the site, which in turn will be determined by the permissible uses of the site. On the balance of probabilities, I consider it more likely than not that the scheme will achieve a planning consent for residential and retail development in a similar vein to that eventually granted on the main school site in 2012. In coming to this view I have noted the N6 status of the site, its greenspace type as outdoor sports provision in the Site Allocation Plan Volume 2: 4 Inner and Sport England’s decision not to object on the basis that, in their view, the main users of the facilities have been re-provided for at Alwoodley Gates.

Mr Natkus has also stated in writing that the site is subject to a contractual agreement between Morley House Trust and Holbeck Land/Chartford Homes for its sale. In view of this position and the land owner’s expectation to achieve a market value, it is evident that the likely cost of acquiring the site is likely to be a significant sum. To inform my understanding of the quantum of value I commissioned a valuation of the site which is included in the confidential appendix to this report. Furthermore, in order to satisfy this criterion, any proposal for the community to assemble the funds necessary to finance the purchase would be time limited given the non-ancillary community use would need to start within the next five years.

During the hearing it was evident that the nominator for the asset had no indication or assessment of the likely value of the site and consequently, there was no realistic or fundable proposal in place to finance the purchase. The Council report of the 15 May 2013 does not address this point, which I consider to be an important consideration for the review. Also at the hearing, the Chief Asset Management and Regeneration Officer acknowledged that the report did not look at the cost of purchase and accepted that her decision was “finely balanced”.

- 4.4.8 In view of the position outlined above, and based on the written and oral evidence that I have received, I consider it “possible” that the site could be brought back into community use. However, in the absence of a practical and deliverable plan for the purchase of the site, I cannot go as far to conclude that it is “realistic” for me to think so, which, importantly, is the test required by the Localism Act (2011).

5. Corporate Considerations

5.1 Consultation and Engagement

- 5.1.1 During the course of the hearing on 27 September the following groups were given the opportunity to make representations:
- Landowner
 - Nominator
 - Chief Asset Management and Regeneration Officer
 - Ward Members

5.2 Equality and Diversity / Cohesion and Integration

- 5.2.1 It is not necessary to conduct an Equality Impact Assessment screening as the report is predicated on the legislation relevant to the List of Assets of Community Value.

5.3 Council policies and City Priorities

- 5.3.1 There are no specific council policies or city priorities. This report is in line with the Localism Act 2011

5.4 Resources and value for money

- 5.4.1 There are no resource implications for the Council outlined in this report.

5.5 Legal Implications, Access to Information and Call In

- 5.5.1 This is a key decision which was published on the List of Forthcoming Key Decisions on 20 September. The decision is required to be taken under the General Exception Rule 2.5 of the Council’s Executive and Decision Making Procedure Rules as it is not possible to allow a period of 28 clear days as the review decision is a statutory process specified in the Act and the Regulations.

- 5.5.2 This decision is declared as being exempt from Call In on the basis that the decision is urgent i.e. that any delay would seriously prejudice the Council's and the public's interests. This is because the review decision is a statutory process specified in the Act and the Regulations. There is no provision in the Act or Regulations for a consideration of a request for a review by elected Members, or for a further oral hearing, or for a further consideration of the evidence by the reviewing officer following a scrutiny hearing. Therefore, a scrutiny Call In could lead to the Council failing to observe the statutory process for the review of listing decisions, and to a lack of certainty in the decision-making process. In addition, this could lead to a loss of confidence by the landowner or the nominator in the integrity of the process.
- 5.5.3 The information contained in Appendix 1 is exempt under Access to Information Rule 10.4 (3) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that the public interest in maintaining the content of Appendix 1 as exempt outweighs the public interest in disclosing the information. As outlined in paragraph 4.4.7 this appendix relates to a valuation of the site and as such release of financial information at this time would prejudice the council's position.

5.6 Risk Management

- 5.6.1 There are no risk management issues associated with this report.

6. Conclusion

- 6.1 Further to the land owner's request for a review of the listing of Victoria Road sports facilities as an asset of community value, I have considered the oral and written evidence made available to me in addition to a site visit. The land owner's agent invited me to support their request for review on the basis that the land and property in question did not meet the "recent past" test, its non-ancillary use did not benefit the social wellbeing or interest of the local community and it was not realistic to think that the site could be brought back into community use in the next five years.
- 6.2 Having considered all of the arguments put to me, I do not support all of the representations made by the land owner, however, I do agree that there is insufficient evidence to conclude that it is "realistic" to think that the site could be brought back into community use in the next five years. I reach this conclusion on the basis of the likely value that would need to be paid for the site, which could be considerable, coupled with the lack of a practical and deliverable plan to meet this cost. Given that to be of community value all the requirements of Section 88(2) must be met, I conclude that the land owner's request for a review is successful and that the site is subsequently removed from the Council's list of Assets of Community Value.

7. Recommendation

Following the formal review of the listing of the of the former Leeds Girls' High School Playing Field, Victoria Road LS6, the site is removed from the Council's list of Assets of Community Value.

8. Background Papers¹

8.1 File for the Victoria Road Community Asset Review.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 10th October 2013

Subject: APPLICATION 13/00868/OT- Outline application for residential development and retail store at Victoria Road, Headingley

APPLICANT

Chartford Homes And
Holbeck Land

DATE VALID

12.03.2013

TARGET DATE

11.06.2013

Electoral Wards Affected:

Headingley & Hyde Park and Woodhouse

☐ Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION:

Defer and delegate approval of the application to the Chief Planning Officer subject to the conditions specified and also to the completion of a Legal Agreement within 3 months of the date of resolution of Panel to cover –

- 1. 5% affordable housing contribution (on site 100% Sub Market or an off-site contribution to go towards bringing vacant properties back into family use in the Headingley/Hyde Park area),**
- 2. On site Greenspace provision and maintenance.**
- 3. Off site Greenspace contribution for children's equipped play equipment- £19,950.14.**
- 4. Residential MetroCard Scheme A – Bus Only. £11,088.00.**
- 5. Contribution towards improving and enhancing sports facilities in the locality £26,777**
- 6. Local employment scheme.**

Conditions:

- 1. Outline relates to Access only. All other matters Reserved.**
- 2. Reserved Matters to be submitted within 3 years.**
- 3. Development to commence within 2 years of approval of last Reserved Matter.**
- 4. Plans to be approved**
- 5. Reserved Matters applications to be submitted in accordance with the contents**

of the Victoria Road Design Statement.

6. Surface water drainage details to be approved.
7. Contaminated land conditions
8. Samples of walls, roofing, doors, windows, surfacing material to be approved.
9. Landscape scheme and implantation
10. Retention of existing stone boundary wall to Victoria Road including any necessary making good.
11. Tree protection conditions
12. Tree replacement conditions
13. Access roads and car parking to be complete prior to first use
14. Off site highway works to be completed prior to first use.
15. Retail store to operate 7am to 11pm only
16. No deliveries before 7am or after 7pm.
17. Car park management plan and delivery plan to be approved
18. Details of air conditioning and plant equipment to be approved
19. Refuse, cycle and motorcycle storage details to be approved and laid out.
20. Removal of Permitted Development Rights for dwellings
21. All dwellings to be C3 Use Class.
22. The external footprint of the retail unit building shall not exceed 372square metres.

1.0 INTRODUCTION

- 1.1 This application is brought to Panel at the request of Ward Councillor Martin Hamilton and Councillor Walshaw and also due to the level of community interest in the application.
- 1.2 Members may recall the Panel Report which was published with the agenda for the previous application reference 12/02491/OT on this site in 2012 but was withdrawn prior to the Panel meeting in November 2012. Although the previous withdrawn application was recommended for refusal Members may recall that the recommendation did not suggest refusing the application on the grounds of the loss of the playing pitch or the sports hall or swimming pool buildings. The suggested reasons for refusal of the withdrawn application related to the impact of the retail unit on the neighbouring properties including the setting of the listed building and the harm to the character and appearance of this part of the Headingley conservation area, the impact of the proposed new buildings and the proposed access road on important trees and also the non-compliance with planning policies covering greenspace provision and affordable housing.
- 1.3 The applicants have sought to overcome these previous objections and the indicative masterplan has been revised.

2.0 PROPOSAL:

- 2.1 The application is submitted in Outline with all matters reserved except for access. The proposal is to demolish the existing buildings to enable space for a retail unit to be built on site and also redevelop the playing field for housing.
- 2.2 The indicative masterplan shows 24 new houses arranged in 6 terraced rows. These dwellings would be two storey houses. The masterplan also shows a new building fronting Victoria Road and running parallel to Back Ash Grove. This building would

be 1 storey in height with a car park and service area to the rear. This building would house the retail unit which would not exceed 372 square metres. An area of public open space (1315square metres) is also proposed within the site.

- 2.3 The retail unit and the residential units would access the highway using the existing access from Victoria Road which would be widened and would then connect the residential element to the retail element by an internal estate road.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is the swimming pool, sports hall and playing field of the former Leeds Girls High School. The site is rectangular in shape and is bounded by Victoria Road to the north. To the east and west boundaries of the site are located residential properties which back onto the site. To the south is located a new build block of 3-4 storey flats and a lock up garage compound.
- 3.2 The site is partially within the Headingley Conservation Area. The Headingley conservation area partially projects into the site from Victoria Road and includes the trees on the frontage, the stone boundary wall, the existing access location and the front half of the swimming pool building. The playing field and sports hall building are not within the conservation area. To the north west of the site on Victoria Road is a grade II listed building. This building adjoins the application site. It is currently in residential accommodation as flats. This building is a two storey brick and slate Georgian villa set back from the highway with a modest but attractive frontage curtilage.
- 3.3 There is a substantial change in levels from Victoria Road immediately into the site of approximately 3metres fall within the first 11 metres of the site from Victoria Road. Within the site the playing field slopes away gently to the southern boundary of the site. On the edges of the site adjoining Ash Grove and Back Chestnut Grove are located existing trees which have the benefit of a provisional Tree Preservation Order (TPO).
- 3.4 The character of the area is predominantly residential with dense rows of Victorian terraces as the main defining character, with mature trees and boundary treatments visible along Victoria Road, there are some post war houses and flatted schemes also around the site. There are some commercial uses in the locality and Hyde Park Corner is within 300 metres of the Victoria Road entrance to the site.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 08/04218/OT (current application site) - Outline application for residential use. Withdrawn 2009.
- 4.2 08/04217/CA (main school site) seeks Conservation Area Consent for the demolition of a number of buildings used by Leeds Girls High School on the main school site. Allowed on appeal.
- 4.3 Applications 08/04219/FU and 08/04220/LI (main school site) for full Planning Permission and Listed Building Consent for the conversion and extension of Rose Court to form 12 apartments. Allowed on appeal

- 4.4 Application 08/04216/FU (main school site) for full planning permission for the conversion and extension of the Main School Building to form 32 dwellings and the conversion of the stable block to form 3 dwellings. Dismissed on appeal.
- 4.5 08/04214/OT: (main school site) Outline Application for residential development. Dismissed on appeal.
- 4.6 12/1236/FU: (main school site) Outline application for residential development and Full application for conversion of Main school building to apartments. Approved 2012.
- 4.7 12/02491/OT (current application site) - Outline application for residential development and retail store. This application was withdrawn in November 2012 prior to being presented before Plans Panel. Members may recall the application was recommended for refusal on grounds that the proposed retail store building would harm the character and appearance of the conservation area and the setting of the neighbouring listed building. The application was also likely to result in over bearing and dominance on the neighbours from the size of the retail store. The application was also considered likely to harm important trees.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The previous withdrawn application 12/02491/OT had been the subject of pre-application discussions and presentations with the local community and ward councillors before submission. This current application however, was not subject to any pre-application community consultation. The Local Planning Authority discussed the revised masterplan and proposals with the applicants prior to the resubmission of this current application and invited the applicants to re-engage with the community prior to submission but the applicants choose not to.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been publicised by means of site notices and press advert. Members may recall the extensive planning history associated with this site and the Main School site and also Ford House Gardens. Over 1250 objections were received to the planning applications in 2008. The majority of these objections referred to the loss of this application site to housing. There were 110 letters of objection received to the previous withdrawn application 12/02491/OT. There have been 167 objections received to the current application and 1 further letter of representation.
- 6.2 The following issues have been raised:
- Objection to the loss of N6 protected playing pitches and building.
 - No need for new housing due to vacant properties in the locality
 - Objection to the retail unit due to impact on existing local shops
 - Loss of trees and historic boundary wall
 - Impact on highway safety and car parking
 - Scale of retail building inappropriate for the area
 - Harm to the conservation area and the listed building
 - The community had access to the facilities at this site and their loss would be harmful to health and well being of the community
 - Loss of open space harmful to amenity
 - The site should be compulsory purchased for community use
 - The development does not accord with the Olympic legacy agenda

- 5 local primary schools would like to use the facilities
- Contrary to NPPF (various paragraphs cited)
- Over development of the site
- Too many houses proposed
- Harm to amenity from the coming and going of the retail store
- The existing facilities could be brought back into beneficial use and are not beyond repair.
- Lack of football pitches in the area for local teams to use. Also lack of training facilities. Republica F.C wants to collaborate with community groups to develop the site as a sports facility.
- No community consultation on the application
- Contrary to spirit of Olympic legacy
- Leeds Metropolitan University sport HPOL group's proposal for re-using the site for a community sports facility and would like to partner with HPOL to help deliver this project.

6.3 Councillors Hamilton, Illingworth, Walshaw, Jerry Harper, Mulherin and Atha have all objected to the previous withdrawn application. Councillors Illingworth and Hamilton have reconfirmed their objection to the current application. The following issues have been raised by the Councillors:

- The site is in a densely populated area which has a poor provision of sports and recreation facilities.
- The scheme is contrary to para 74 of the NPPF
- The loss of greenspace is harmful to the area
- The community has had access to the swimming pool, sports hall and the playing pitch.
- The loss of playing facilities is harmful to the local residents and primary schools.
- Contrary to the Olympic Legacy
- Health and Social Care Act 2012 (HaSCA2012) is a new material planning consideration that should be afforded substantial weight in the determination of this application.
- The HaSCA2012 accords with the City Priority Plan to make sure the people who are the poorest improve their health the fastest.
- This area suffers from poor health including high rates of diabetes and obesity.
- Contrary to para 73 of NPPF.
- The development will exacerbate existing highway and accessibility problems
- The retail unit would be harmful to the conservation area.
- There is no housing demand for new build in the area evidenced by a recent study by UNIPOL demonstrating that students are moving out of the old housing stock towards new build accommodation.
- Kings Camp used the facilities in the summer and Easter between 2005-2007. They used the facilities for roughly 29 days per year and had roughly 40-60 children attend per day. They offered sports such as football, hockey, cricket, basketball, benchball, dodgeball as well as arts and crafts activities, drama games, treasure hunt games etc.
- The development is over intensive for the site.
- The greenspace offered is inadequate for the development of this size.
- The convenience store will harm local businesses
- The proposed access is problematic.
- The design of the convenience store is not in keeping with the area.

- The fact the community had access to the facilities prior to them closing is a change in circumstances from the Main School site application and Inquiry. The Inspectors decision does not carry the same weight as previously.

6.4 Hilary Benn MP and Greg Mulholland MP have both objected to the previous withdrawn application. Hillary Benn MP reconfirmed his objection to the current application. They raise the following issues.

- Loss of playing fields and sports hall in an area in which local schools could make good use of them.
- Development is too intensive with too many houses proposed on a small site
- New homes will exacerbate problems in a very densely populated area
- Negative impact on local businesses.
- Already 2 national food retailers in the local area
- UNIPOL report highlights empty properties in the area
- New facilities at Alwoodley Gates has not re-provided for the students. For example the swimming pool has not been replaced.
- The proposal would deprive the area of greenspace.
- The area needs sporting facilities to improve public health. The proposals does not meet this need for the area
- The area has higher than average levels of child obesity
- The swimming pool could be restored as a sports centre at cheaper costs than the figures for repairing the swimming pool.

6.5 The Friends of Woodhouse Moor, Open XS Cluster of schools, Cardigan Triangle Community Association, South Headingley Community Association, North Hyde Park Neighbourhood Association and Leeds Civic Trust have objected to the application and they raise the following issues:

- 5 primary schools in the area need an extra 40,846sq.m of space to comply with School Premises Regulations. 3 of the primary schools are without any playing fields at all.
- Contrary to Olympic spirit and legacy.
- Detrimental to health and improving obesity
- Woodhouse Moor should not be used to compensate for the loss of playing fields from this application. Using Woodhouse Moor would result in a net loss of open recreation space, that according to Council's own 2009 "A Parks and Green Space Strategy for Leeds", is already the most intensively-used urban park in Leeds, and the second-most-visited.
- We are concerned at the increase of housing within this already densely-populated area and the loss of green space and playing space of which there is a shortage within Headingley and is needed by the many families with young children that are moving into the area.
- The development would add to pollution problems
- Increase in traffic on Victoria Road is harmful to highway safety and amenity.
- The retail unit would harm the local shops
- The retail unit is too big and out of character with the conservation area
- The retail unit would cause noise problems in the area
- The loss of playing fields is contrary to para 70 and 74 of NPPF
- 34 objectors voted at the community meeting held by the developers to reject the development of 48 people who attended the meeting
- No pre-application discussions with LPA

- Civic Trust's concerns for this proposal lie in its relationship to the recently approved (May 2012) Conservation Area Appraisal for Headingley Hill, Hyde Park and Woodhouse Moor.
- The Conservation Area Appraisal also makes particular reference to the fact that stone walls and stone gate piers are part of the character of the area and should be retained and restored. It should be noted that there is a stone boundary wall along the Victoria Road frontage which continues in front of the adjoining listed building. It is essential that it be retained and that any building fronting Victoria Road be set back allowing tree planting in front to add to the mature treescape along Victoria Road and to mirror the setting of the adjoining listed building.

6.6 The Leeds HMO Lobby and Headingley Development Trust have made the following representations about the application.

- Since the development goes over the threshold of eligible units, the Trust understands that it will be liable to a contribution to affordable housing provision, under a Section 106 Agreement. The Trust wishes to recommend that this contribution takes the form of a commuted sum, spent locally in consultation with Ward members.
- a commuted sum is clearly identified as one of three options in the Council's current SPG3 on Affordable Housing and also, more extensively, in the draft SPD on Affordable Housing of 2008. It is also explicitly identified as an option in national policy, in the National Planning Policy Framework, where paragraph 50 says, "To deliver a wide choice of quality homes, widen opportunities for home ownership, and create sustainable, inclusive and mixed communities, local planning authorities should ... where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities." One thing the Area of Housing Mix needs (by definition) is 'more effective use of the existing housing stock' in order to 'create a mixed and balanced community.'
- This approach was agreed at the Main school site in August 2012.
- A condition should be added to ensure the properties are built as C3 dwellings.

7.0 CONSULTATION RESPONSES:

7.1 Highways – No objections in principle to the development, mix of uses or the access arrangements.

7.2 Mains Drainage – In principle no objections. Conditions to cover surface water drainage would be required

7.3 Environmental Health – No objections to residential development. The impact of noise from the surrounding area on the proposed residential dwellings would need to be considered to protect the amenity of future residents. In respect of the retail unit consideration should be given to the siting of plant and machinery and the Development Department may want to condition any permission with regards to opening hours and the hours for delivery, loading and unloading. Consideration should also be given to the proposed scheme for lighting.

- 7.4 Metro – Supports the use of metrocards for the development and request a contribution toward metrocards for future occupiers. This will be included in the S106.
- 7.5 Sport England – No objections to the development proposals. They note the previous appeal decision and consider that the main users of the facilities the students of LGHS have been re-provided for at Alwoodley Gates. They also note that the community had some access to the facilities and Sport England's comments on this matter are as follows:

“The local community action group has however found evidence about the site being used by an organisation called ‘Kings Camps’, who run school holiday activity schemes, and a netball club, who used the sports hall for training.

Firstly dealing with Kings Camps, we understand this organisation operates from a range of sites across Leeds and offers sport and activity sessions during the summer and Easter holidays. It is understood they made use of the playing field at the application site before the school closed. The organisation charges commercial rates for this service which is provided outside local authority support or any support from GSAL or former LGHS. We note that this offered a very limited community use and that children attending would have come from a far wider catchment than that of the local community.

It is interesting to note that the closure of the LGHS site has not stopped this business operating in north Leeds. Not only is the Alwoodley GSAL site listed as a previous venue, Leeds University (0.8 miles from the application site) and Leeds Metropolitan University campus at Beckett's Park in Headingley (2 miles from the application site) are both current venues listed for Kings Camps sessions.

The action group have also made contact with Fusion netball club who used the sports hall on the LGHS site and have records of booking invoices dating from 2008. When the LGHS site closed the club moved to another private school site, Woodhouse Grove, over 7 miles away. While this appears to demonstrate some club competitive sports use of the application site, (as yet not substantiated by the applicant) it does not show entirely that the facilities at GSAL do offer an adequate replacement. It is understood the netball club moved towards Bradford as this is where their members came from. It does not appear the club considered moving to GSAL because of this, even though it is closer at 5.8 miles away.

Conclusion

Therefore we conclude that GSAL has superior facilities and management arrangements compared with LGHS. LGHS site had some very limited community access and this has in two instances been migrated to GSAL. The netball club appear to have migrated to nearer their customer base and Kings Camps have found other sites in the north city area, which questions whether both were meeting local needs in any case.

While local people cannot walk to GSAL as they could LGHS it is evident that they only had very limited access to this site. The vast majority of users of the LGHS site, the pupils, have moved with the facilities to GSAL as previously stated. Other user groups have either migrated to GSAL or found other venues in North Leeds and Bradford.

Outside this application there is evidence of un-met demand in this area of the city, something the council should be planning to resolve strategically. Sport England has offered on various occasions to assist the council in developing solutions to this by building on work produced in the 2008 open space, sport and recreation assessment by working with sport national governing bodies and developing an action plan to resolve the deficits. However it must be acknowledged that this is something outside the scope of this application.

While the planning inspector at the appeal considered the pupils the sole users of the facilities, who moved with the sports provision to the new school; we have considered the nature of the very limited community users and consider that they have found adequate replacement facilities at GSAL or elsewhere. Taking the above into account we consider this can meet all elements of E4 and Sport England does not raise a statutory objection to this application”.

7.6 Sport England has however requested a developer contribution towards sports facilities of £26,777 in the locality.

7.7 The Director of Public Health Leeds submitted the following comments to the current application:

“The relationship between the availability of sports facilities, exercise and public health is important. Moreover participation in physical activity such as sports and walking is strongly related to household income. There is an association between reducing levels of physical activity and decreasing household income with the potential to increase health inequalities.

The Victoria Road site is situated in a residential area that houses people living with greater socio-economic disadvantage than the average for Leeds. The consequent impact of this disadvantage is to contribute to the physical and mental health problems that affect the local population, and ultimately lead to higher levels of premature mortality.

The presence of the urban green space provided by the playing fields can impact positively on the health of the local population in many ways. Proximity and accessibility of green spaces to residential areas can lead to:

- increased overall levels of physical activity across age groups which contribute to the prevention of many health problems such as cardiovascular disease, diabetes, stroke, some cancers and osteoporosis;*
- improved mental health and well-being providing effective relief from everyday stress, improved self esteem, and alleviation from anxiety and depression;*
- increased opportunities for education, social inclusion and cohesion by supplying space for social mixing, creating networks and relationships. Playing in local green spaces helps children to develop intellectually and learn about social interaction;*
- a contribution in reducing flood risk, reducing atmospheric pollution and traffic/residential noise. The presence of a visible and useable urban green space can contribute to the health and wellbeing of the community. Therefore the availability of the green space provided by Chestnut Avenue/Victoria Rd playing fields is an important consideration in addressing the needs of this community.*

Section 12 of the Health and Social Care Act 2012 provides that each local authority must take steps as it considers appropriate for improving the health of the people in its area. Whilst this will be relevant to planning decisions, it does not alter the fact that planning decisions are still required under the Planning Acts to be made in accordance with the development plan unless material considerations indicate otherwise (including the policies contained in the National Planning Policy Framework)”.

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. The development plan consists of the Leeds Unitary Development Plan Review (2006).

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

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

Policy GP7: Guides the use of planning obligations.

Policy BD5 refers to new building design

Policy N2 refers to the provision of greenspace

Policy N6: Protected Playing Pitches

Policies N12 and N13 refer to the good urban design considerations and placing making

Policy S2 refers to the protection of the vitality and viability of town centres.

Policy S9 refers to out of centre small scale retail development.

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

Policy H1: Provision for completion of the annual average housing requirement identified in the Regional Spatial Strategy.

Policy H3: Delivery of housing land release.

Policy H4: Residential development on non-allocated sites.

Policies H11, H12 and H13 Affordable Housing.

Policy LD1: Criteria for landscape design.

Policies N14 to N22: Listed buildings and conservation areas.

Policy N19, Conservation Area assessment for new build and extensions

SPG3: Affordable Housing;

SPG4: Greenspace Relating to New Housing Development;

SPG13: Neighbourhoods for Living;

Street design guide SPD,

Headingley and Hyde Park NDS

Headingley Hill, Hyde Park and Woodhouse Conservation Area Appraisal

- 8.3 National Planning Policy Guidance:

The National Planning Policy Framework came into effect on 27th March 2012. 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). Development which fails to give adequate regard to heritage assets and good design is not however considered to be sustainable development.

- 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

8.5 Paragraph 24 of the NPPF states:

“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale”.

8.6 Paragraph 50 states: *“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);*
- *identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and*
- *where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”*

Paragraph 51 states:-

“Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers.”

8.7 Paragraphs 69 and 74 deal with matters relating to health and well being and existing recreation facilities. Paragraph 74 states that:

8.8 *“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”*

8.9 Paragraph 73 states:

8.10 *“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or*

qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.”

- 8.11 Paragraph 204 of the NPPF refers to the CIL tests which all Planning Obligations should be assessed against. Paragraph 56 refers to the impact of good design as being a key aspect of sustainable development. Paragraph 58 bullet point 3 refers to the desire to optimise the potential of the site to accommodate development. Paragraph 131 refers to the requirement of Local Planning Authorities to take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Emerging Core Strategy

The Emerging Core Strategy will be examined by an Inspector from October 2013. It is considered that some weight can be attached to the policies contained within the Emerging Core Strategy.

- 8.12 Nearby Hyde Park Corner is designated as a 'Lower Order Local Centre' in the centres hierarchy set out in Policy P1 of the Draft Publication version of the Core Strategy.
- 8.13 Draft Policy P4 sets out development guidelines for shopping parades and small scale standalone food stores serving local neighbourhoods and communities.
- 8.14 Emerging Core Strategy Policy P8 sets out the thresholds above which a sequential assessment and impact assessment are required for retail proposals. The amount of retail floorspace proposed falls below this. Policy P8 indicates that all centres within 500 metres walking distance of the application site should be used for the sequential assessment
- 8.15 Draft Policy P11 refers to the need to preserve the historic environment.
- 8.16 The draft Core Strategy submitted for examination has been updated to ensure it reflects the requirements of the Health and Social Care Act 2012. The Council has submitted a response to the Inspector on the 16th September 2013 in response to the Inspector's questions on the Strategy chapter which refers to the need to seek to improve Public Health. Although this statement has been submitted in support of the Core Strategy the weight to be attached to this statement is limited as it has not been subject to public consultation.
- 8.17 The Council's states

“Whilst the health of Leeds has improved overall, the City is performing below the England average. Consequently, the need to tackle health issues and disparities across the District is a major challenge for improvement. In seeking to address these key cross cutting and strategic issues through the Development Plan and in reflecting the duty to improve Public Health (Health & Social Care Act 2012, Section 12), an integral part of the Core Strategy is to improve Public Health and Wellbeing.

In providing a framework to tackle public health issues across the District and a basis to coordinate resources, the Leeds Joint Health and Wellbeing Strategy (a strategy approved by the City Council, the three Clinical Commissioning Groups, Third Sector, Healthwatch and NHS England Area Team jointly) (June 2013), sets out a vision for Leeds to be a healthy and caring city for all ages. Key outcomes of this approach are for people who are the poorest, to have improved health the fastest, with an overarching desire to reduce the differences in life expectancy between communities. Narrowing the health gap within Leeds is therefore a priority within the Leeds City Priority Plan, and the Leeds Health and Well Being Strategy and Best Council Plan 2013 – 17 (July 2013). Despite becoming wealthier as a city over the last 20 years, Leeds still has too many deprived areas, where there is a poor quality of life, low educational performance, too much crime and anti-social behaviour, poor housing, poor health, and families where no one has worked for a few generations. The gap in life expectancy between the most disadvantaged parts of Leeds and the rest of the city remains at around ten twelve years. In seeking to address this key cross cutting issue through the Development Plan and in reflecting the duty to improve Public Health (Health & Social Care Act 2012, Section 12), an integral part a key aspect of the Core Strategy therefore, is to seek to ‘narrow the gap’, through the overall approach and policy framework. In pursuing this priority, the Council will therefore continue to draw on current and future public health guidance relating to planning, from appropriate bodies such as NICE and Public Health England.

The Spatial Development Strategy outlines the key strategic policies which Leeds City Council will implement to promote and deliver development. The intent of the Strategy is to provide the broad parameters in which development will occur, ensuring that future generations are not negatively impacted by decisions made today. The Spatial Development Strategy is expressed through strategic policies which will physically shape and transform the District. It identifies which areas of the District play the key roles in delivering development and ensuring that the distinct character of Leeds is enhanced. It is complemented by the policies found in the thematic section, which provide further detail on how to deliver the Core Strategy. Integral to this approach, the plan reflects the duty to improve public health and well being as a cross cutting issues, incorporated within a number of key policy topic areas, across the Core Strategy. This includes housing (improving the supply and quality of new homes in meeting housing need), the economy (providing opportunities for local employment opportunities and job growth), the role of centres (in proving the facilities and services for the community in accessible locations), regeneration (targeting specific priority areas across the District), transport and accessibility (improving public transport and opportunities for walking and cycling), place making (maintaining and enhancing local character and distinctiveness) and the environment (the protection and enhancement of environmental resources including local greenspace and facilities to promote and encourage participation in sport and physical activity). The focus of this approach is to ensure that the priorities identified as part of the Joint Health and Wellbeing Strategy and Joint Strategic Needs Assessments are addressed consistently throughout the plan and that public health is identified as an important material consideration as part of the planning process”.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- Development of sport facilities and the principle of residential development
- Community use of the site

- Health and Social Care Act 2012
- Retail development
- Impact on the character and appearance of the Headingley Conservation Area and adjacent listed building
- Highway considerations
- Landscaping/trees
- Residential amenity
- Asset of Community Value- Localism Act
- Section 106 contributions

10.0 APPRAISAL:

- 10.1 The site comprises land incorporating buildings (Sports Hall and Swimming Pool) and associated hard standings sited together with an open grassed area (the former hockey practice pitch). The whole site is allocated in the Unitary Development Plan as N6 Protected Playing pitches. The site frontage from Victoria Road up to half of the swimming pool building is also within the Headingley Conservation Area. In assessing the principle of the development there are three main issues to consider. Firstly whether development on protected playing pitches and buildings is acceptable; secondly whether the site is then suitable for redevelopment for residential use and thirdly whether the creation of a retail unit outside of a defined local or town centre is acceptable. Taking each issue in turn:
- 10.2 The site has been offered to Leeds City Council Leeds Metropolitan University and also Leeds University for sale, as a sports facility. At the time (around 2006-7) it was considered that the site could not realistically be brought back into beneficial use due to financial constraints. One of the main issues related to the costs involved in refurbishing the swimming pool. More recently the community group Hyde Park Olympic Legacy (HPOL) has prepared a business case to bring the site back into use as a sporting facility for the community but without using the swimming pool. This plan has been reviewed by Leeds Metropolitan University who have expressed support for this business plan in principle and would be willing to partner with HPOL to deliver the site back into sporting use as it would benefit their students who live locally as well as long term residents. Leeds Metropolitan University however, still have concerns over the costs of the purchase of the site to make the scheme viable. Although this scheme by HPOL and Leeds Metropolitan University has merit and would meet a local sporting need Members are advised they must make a decision on the merits of the current planning application as set out in this report. With this in mind the current application for residential and retail redevelopment should be assessed against the current development plan policies with weight being attached to relevant material planning considerations.
- 10.3 The proposal to redevelop land designated as a protected playing pitch is undoubtedly contentious and has generated considerable public interest. As with the recent application at the main school site across Victoria Road, this site was part of the former Leeds Girls High School (LGHS). The site was privately owned and the main users of the facilities were the pupils of LGHS. It has been demonstrated by the applicant through this and the previous application at the main school site that the pupils of LGHS have had their sporting facilities re-provided and enhanced at the Alwoodley Gates site. The Inspector in the 2011 Public Inquiry relating to the Main School site determined that the first criterion of policy N6 of the Leeds UDP, which states *that Development of playing pitches will not be permitted unless: i)*

There is a demonstrable net gain to overall pitch quality and provision by part redevelopment of a site or suitable relocation within the same locality of the city, consistent with the site's functions and the requirements of PPG17 (now paragraph 74 of the NPPF) had been met and as such the principle of a housing development on the site would be acceptable. The Inspector's position was that there is no requirement for the tennis courts at the Main School site to be protected for public or community use. The Inspector noted that the "tennis courts were not of public value as a sports or recreational facility because there was no public access to them" and that "the recreational function, as it existed, has been satisfactorily replaced elsewhere". On the health issues raised during the Inquiry the Inspector determined that "the tennis courts have never been available to the public and so their potential loss to development of the site cannot in itself be harmful to the health and well-being of the community" Accordingly in light of the above the exceptions test of policy N6 would be considered satisfied. This is the same approach that Leading Counsel advised the Council to adopt during the consideration of the Main School site application.

- 10.4 There are two changes in planning circumstances that are considered material to the determination of this current planning application when compared with the applications at the Main School site. They are that there was public access of the facilities at this site and secondly the registering of the site as an Asset of Community Value under the Localism Act 2011. The relevance of the need to promote public health associated with the enactment of the Health and Social Care Act 2012 was considered as part of the determination of the Outline application at the Main School site in 2012 and will be assessed in this report as a material planning consideration.

Community use of the site

- 10.5 Firstly, there has been limited formal use of the swimming pool, the sports hall and the playing pitch by the community. Most of the community groups who used the facilities and who still operate have relocated to new facilities, e.g., Kings Camp have relocated to the LMU Carnegie and Leeds University facilities, the netball group has have relocated to Woodhouse Grove school at Apperley Bridge and 2 of the 3 swimming groups have relocated to the LGHS school site at Alwoodley. It is also noted that there are formal community access arrangement to use the facilities at Alwoodley Gates which include access to the swimming pool, sport hall and outdoor sports fields at select times which is an improvement on the previous situation at the Victoria Road site where the limited community use of the facilities was essentially ad hoc and not regulated by any formal agreement. However, it is recognised that the distance between the Victoria Road site and the LGHS site at Alwoodley means that the reprovided facilities are not readily available to the residents of Headingley.
- 10.6 Significantly, Sport England's view is that the community use aspect is not sufficient to warrant refusal of the planning application given the limited nature of the community use and also because the previous users have found new facilities.
- 10.7 The PPG17 open space audit carried out by the Council has identified this site as being within an area of the City which has a lack of sporting facilities and outdoor playing pitches. This audit was published after the Public Inquiry at the Main School site but prior to the Outline Planning Permission being granted on the Main School Site. The application site however is private land and in this regard gives rise to

similar issues to those raised in the Main School site appeal in 2011. The Inspector considered that the principle of development on the N6 designated land was justified because the facilities have been re-provided at Alwoodley Gates. This was also the approach taken when Outline Planning Permission for residential development of the Main School site was granted back in 2012 following the Public Inquiry in 2011. Members may recall the Section 106 package that was secured as part of the Main School site application was similar to that being proposed on the current application site.

Health and Social Care Act 2012

- 10.8 A relevant material consideration in the determination of this application is the Health and Social Care Act 2012 and in particular section 12 of the Act. Section 12 of the Health and Social Care Act 2012 provides that each local authority must take steps as it considers appropriate for improving the health of the people in its area. This does not change the essential test set out in Section 38(6) Planning and Compulsory Purchase Act 2004 that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

- 10.9 It is clear that the site is located within a high density area where existing sporting facilities, with the exception of tennis courts, bowls pitches and multi use games areas on Woodhouse Moor, are in short supply. It is also the case that the local population has high rates of obesity and those with South Asian ancestry in the community suffer the effects of obesity, diabetes and cardiovascular disease to a greater degree. Having said this, the Inspector's decision letter for the 2011 appeal at the former Leeds Girls High School site is a material consideration for this current application which attracts a good deal of weight. The Planning Inspector in his findings of the appeals in 2011 stated "*the tennis courts have never been available to the public and so their potential loss to development of the site cannot in itself be harmful to the health and well-being of the community*".

Members may recall that they considered the implications of the Health and Social Care Act 2012 when they determined to grant planning permission for the recent planning application at the Main School site reference 12/01236/FU. In that case the community had not had any formal access to the facilities at the Main School site. Although the application site had some limited community use it was not sufficient to have any real impact upon health considerations for the local community. It is also noted that the sporting community groups have largely relocated to other facilities. Furthermore the creation of on-site public open space will provide the community with continuous and unrestricted access to open space that can have some (albeit limited) benefits for public health. Furthermore the developer contribution towards enhancing children's equipped play equipment and sporting facilities in the locality will have positive health benefits for the local community. In conclusion the development proposals comply with the aims of the emerging Core Strategy and the Council's obligations under Section 12 of the Health and Social Care Act 2012.

- 10.10 In light of the above the principle of developing the site for a residential use is considered acceptable. The site is within the main urban area and in a location well served by public transport and local amenities. The local character of the area is predominantly residential. The Council has also accepted the principle of development on unallocated small greenfield sites that are located within sustainable locations and are acceptable in all other planning regards as being suitable for development for housing. Clearly the re-use of previously developed land is also acceptable in light of the above.

Retail Development

- 10.11 In terms of retail policy, the site is an 'edge of centre' location. UDP policy S9 refers to out of centre small scale retail development proposals. This policy is the current Development Plan policy for these proposals. The proposed retail development is considered to comply with UDP policy S9 as there are no suitable sites in the Hyde Park Centre that are available and the proposal is not envisaged to have an impact on that centre's vitality or viability. The emerging Core strategy policies that will replace Policy S9 have also been used in the assessment of the current application and are the most up to date policies which conform with the NPPF. However, they only have some weight as the Core Strategy is yet to be examined by an Inspector. Draft Policy P8 of the Core Strategy requires that retail proposals in edge of centre or out of centre locations (200-372 sqm gross floor area) within residential areas should be subject to a sequential assessment with a catchment area of 500 metres walking distance.
- 10.12 The application proposes a gross internal area of 372 sqm (280 sqm net). Hyde Park Corner lies within 500m distance of the site. The applicant undertook a sequential assessment of a 5 minute drive time, significantly in excess of the P8 requirement of the draft Core Strategy policy. None of the sites identified in the assessment were sequentially preferable to the application site. Draft Policy P4 of the Core Strategy relates specifically to stand alone food stores serving local neighbourhoods and communities: *"Proposals for stand alone small scale food stores up to 372 sqm gross within residential areas, will be acceptable in principle where there is no local centre or shopping parade within a 500 metre radius that is capable of accommodating the proposal within or adjacent to it..."* There are no sequentially preferable sites available within either the Hyde Park or the proposed Royal Park Local Centre boundary, however the application site lies adjacent to the proposed Royal Park Centre, which is the next sequentially preferable location after a site within the boundary of a local centre. Accordingly on the basis of draft Policy P4 and adopted UDP policy S9 the retail use within a residential area should be acceptable in principle and should not have an adverse impact on the function of the S2 policy which seeks to protect the defined town and district centres.

Impact on the character and appearance of the Headingley Conservation Area and adjacent listed building

- 10.13 The site is partially within the Headingley Conversation Area (HCA) (the site frontage and access is located within the HCA). No 63 Victoria Road is a grade II listed building and adjoins the site. There are trees on site which have been protected with a Tree Preservation Order. Trees are particularly important in the mature landscape of the area and need positive management both in the public and private green spaces. On 15th February 1984 the Headingley Conservation Area was significantly extended to include Hyde Park Corner, with the terraced houses around St. Augustine's Church and Little Moor, and the area between Headingley Lane and Victoria Road, which had the same characteristics of 'mature trees, stone buildings and stone boundary walls' as the existing Conservation Area to the north of Headingley Lane. In May 2012 the Headingley Hill, Hyde Park and Woodhouse Moor Conservation Area was created by dividing off the southern part of the Headingley Conservation Area and including areas which were not within a CA, notably Woodhouse Moor.
- 10.14 The existing site frontage has a positive impact on Victoria Road due to the dense tree belt and high stone boundary wall which make a positive contribution to the character and appearance of this part of the Conservation Area. The neighbouring

property is a grade II listed building. This building also makes a positive contribution to the street scene and to the character of the area. Its boundary treatments also compliment the application site's boundary treatment.

- 10.15 The previous 2012 withdrawn application would have had a detrimental impact on the street scene by creating a new access and associated road that would have required an 11 metre wide opening into the existing stone boundary wall which would have resulted in the loss of all of the existing trees on the Victoria Road frontage. The current application has sought to address this previous objection to the scheme by re-using the existing site access and slightly widening it to accommodate highways requirements. The reuse of the existing access is a positive change to the previous withdrawn scheme as the existing stone boundary wall will not be lost and the majority of the existing trees fronting Victoria Road will be kept.
- 10.16 The proposed re-use of the existing access road has also resulted in the siting of the retail unit moving from the previous withdrawn scheme. The retail unit is now sited on the footprint of the sports building. This is considered to improve its relationship to the conservation area and the neighbouring listed building. The new retail unit would orientate towards Victoria Road to allow engagement with people using the street. The siting of the retail unit would be on land significantly lower than Victoria Road. There is about a 3 metre level change. It is noted that overall the new retail unit should have a building which is smaller than the current sports hall and swimming pool buildings. The removal of the upper floors from the retail unit that were previously proposed to accommodate flats is also an improvement in relation to the visual impact of the building in the street scheme and upon the setting of the neighbouring listed building. The issue around external appearance of the elevations is a matter Reserved for the detailed stage. The applicant has supplied some ideas of what could be delivered at Reserved Matters stage. These range from a modern design, potentially with a grassed flat roof to a traditional designed pavilion built of timber. The walling of the retail unit could be constructed out of brick. It is likely that any future retailer would want to utilise glazing on the principal elevation facing the internal access road to clearly provide a presence within the street scene. The use of glazing as a contemporary walling material would help to identify the use of the building and could also promote a contemporary appearance to the building. As the retail unit is set at a lower ground level than Victoria Road the roof form will be important as it will be very visible. Overall officers feel that the site can accommodate a single storey retail unit in the location of the former swimming pool and that the external appearance of the building is a matter which can be dealt with at the detail stage. To assist with the detailed design at Reserved Matters stage the Design Statement submitted in support of the current application will be conditioned. The condition will require the future developer to submit the Reserved Matters in accordance with the Design Statement to ensure the new build quality preserves or enhances the setting of this part of the Headingley Conservation Area and also preserves the setting of the neighbouring listed building.
- 10.17 The proposed terraced houses are considered the correct approach. Terraces are the dominant characteristic in the locality. It is likely the terraces would be 2 storeys in height and would have pitched roofs, potentially utilising gables which are a common characteristic of the housing in the area. Again the external appearance of the terraces is a matter Reserved but the use of red brick for the walls and slate for the roof will be a logical choice of materials. Details such as bay windows, vertical emphasis of the elevations and the use of chimneys will help to relate the terraces to the local area. The terraces should have clearly identified front gardens with dwarf walls with copings similar to the existing terraces in the surrounding roads. Overall

the indicative layout of the 24 terraced properties is considered in keeping with the local area. The Reserved Matters applications will be submitted in accordance with the details in the Design Statement. This will ensure the quality of the new build terraces respond positively to area and preserve or enhance the setting of the adjacent Headingley Conservation Area.

Landscaping

- 10.18 The indicative masterplan has been revised from the 2012 withdrawn application to improve the layout and usability of the proposed open space and also to protect the existing trees on the site frontage facing Victoria Road that are worthy of retention.
- 10.19 The two areas of proposed public open space as shown on the previous withdrawn indicative masterplan were considered poorly planned. The current application has amended the area of public open space by creating one single area that is overlooked by the proposed terraces to provide surveillance. In addition the area provided is now large enough in size to meet the policy requirements for a development of 24 houses. Overall the proposed open space is considered usable and will add value to the development and will also be available for members of the local community to come and enjoy. The access to the proposed open space for the local community is an improvement upon the existing and historical situation whereby access to the site was very limited and since the site closed in 2007-8 there has been no formal access to the site for the public.

Residential amenity

- 10.20 The indicative masterplan shows the proposed new build houses are likely to afford future occupiers with an acceptable level of amenity, outlook, privacy and private garden space. The parking provision for the houses is acceptable as shown on the indicative masterplan.
- 10.21 In the view of officers the amenity effects on neighbouring residents who overlook the site are acceptable. Clearly their outlook will change from what is currently a playing field to a housing development however, this change in outlook is not considered a reason to refuse planning permission. The creation of a small housing development with open space and a retail unit is not out of keeping with the local character of the area and as such the scheme will make a positive contribution to the local area. The neighbours on Ash Grove who are nearest to where the retail unit and its car park will also experience a change in the level of activities of the site. These matters have been covered by conditions, as have the detail of any plant equipment to ensure that the operation of the retail unit does not generate levels of activity that would have a significant detrimental impact upon the living conditions of neighbours.

Asset of Community Value- Localism Act

- 10.22 The second change in circumstance since the Outline planning permission was granted at the Main School site relates to the registering of the Victoria Road site as an Asset of Community Value in accordance with the Part 5 Chapter 3 of the Localism Act 2011 (known as Community Right to Bid) by a local community group.
- 10.23 Local Authorities must keep a list of land that is of community value in their area. The list is known as the List of Assets of Community Value. Land is listed for 5 years. Land is of community value if, in the opinion of the Local Authority, it has a current non-ancillary use that furthers the social interests or social wellbeing of the local community and it is realistic to think it can continue to do so. Land can also be listed if it had an eligible use in the recent past and it is realistic to think it can be

brought back into such use within 5 years. Both public and private land can feature in the list.

- 10.24 Land can only be listed in response to a community nomination. Organisations that can nominate land are: a body designated as a neighbourhood forum; a parish council; an unincorporated body with at least 21 members that does not distribute any surplus to its members; a charity; a company limited by guarantee; an industrial and provident society (IPS); a community interest company (CIC). Such bodies must have a local connection. Public bodies may not nominate land, other than parish councils. In this case the organization that has registered the site as an Asset of Community Value is a registered charity.
- 10.25 If listed the landowner may not dispose of the land (ie sell the freehold or grant a lease of 25 years or more) without complying with the terms of the Act. If the landowner intends to sell, they must write to the Local Authority giving notice of their intention to dispose. This triggers the Interim Moratorium Period. This is a six week period when eligible local groups can come forward and notify of their intention to be treated as a bidder. If no group comes forwards, the landowner can dispose of the property to whoever they wish within 18 months from the date they gave us notice of their intention to dispose. If an eligible group does come forwards, this triggers the Full Moratorium Period. This is a six month period (from the date of the landowners initial notice) where the landowner may only dispose of the land to an eligible community group. At the end of the six month period, the landowner may sell to whoever they wish (for a period of 18 months from the date of their original notice). If they do not dispose within that 18 month timeframe, the protection within the Act applies again.
- 10.26 Currently the landowners are challenging this decision and have requested that a review of the decision to register the site is carried out. The outcome of the review is due after the publication of this report so a verbal update will be brought to Panel on this matter. It would be helpful (but not essential) to obtain clarity on the decision to list or not list the site before the planning application is determined so the decision maker can be clear on the status of this material consideration. Having said this officers are of the opinion that the registering of the site as an Asset of Community Value is a material planning consideration. Whilst the weight to be attached to this material consideration is a matter of judgment for the decision maker, the relative limitations of the procedure will need to be taken into account – not least the fact that there is no compulsion on the landowner to dispose of the property to a community group. In light of the limited influence of the registering of the site as an Asset of Community Value it is not considered that a refusal of planning permission could be sustained on this basis. It is considered that the mechanisms of the Localism Act are not to act as a 'brake' on development but rather to give the local community an opportunity to acquire buildings or sites that could benefit the community - but this does not preclude the advancement of other development opportunities. It is also worth noting that by accepting the recommendation to grant planning permission in this case, the period of exclusivity for the community would not be compromised. Whilst the grant of planning permission would confirm the principle of the use of the site for housing purposes the landowner can reasonably be expected to realise a land value for the site reflecting residential use in the absence of such a grant of planning permission given the planning history.

Section 106

- 10.27 The proposal triggers requirements for affordable housing and greenspace contributions and metrocards. Sport England have requested a contribution towards Sport Facilities in the locality. The developer has offered to provide these in their

Heads of Terms submission and the exact figures are shown in the recommendation box on the front page of this report. These contributions have been tested against the CIL Regulations are considered to meet the tests laid out of being necessary to make the development acceptable in planning terms, directly related to the development and fair and reasonably related in scale and kind to the development. It is envisaged a Section 106 Agreement can be drawn up to cover the detail of these heads of terms.

11.0 CONCLUSION:

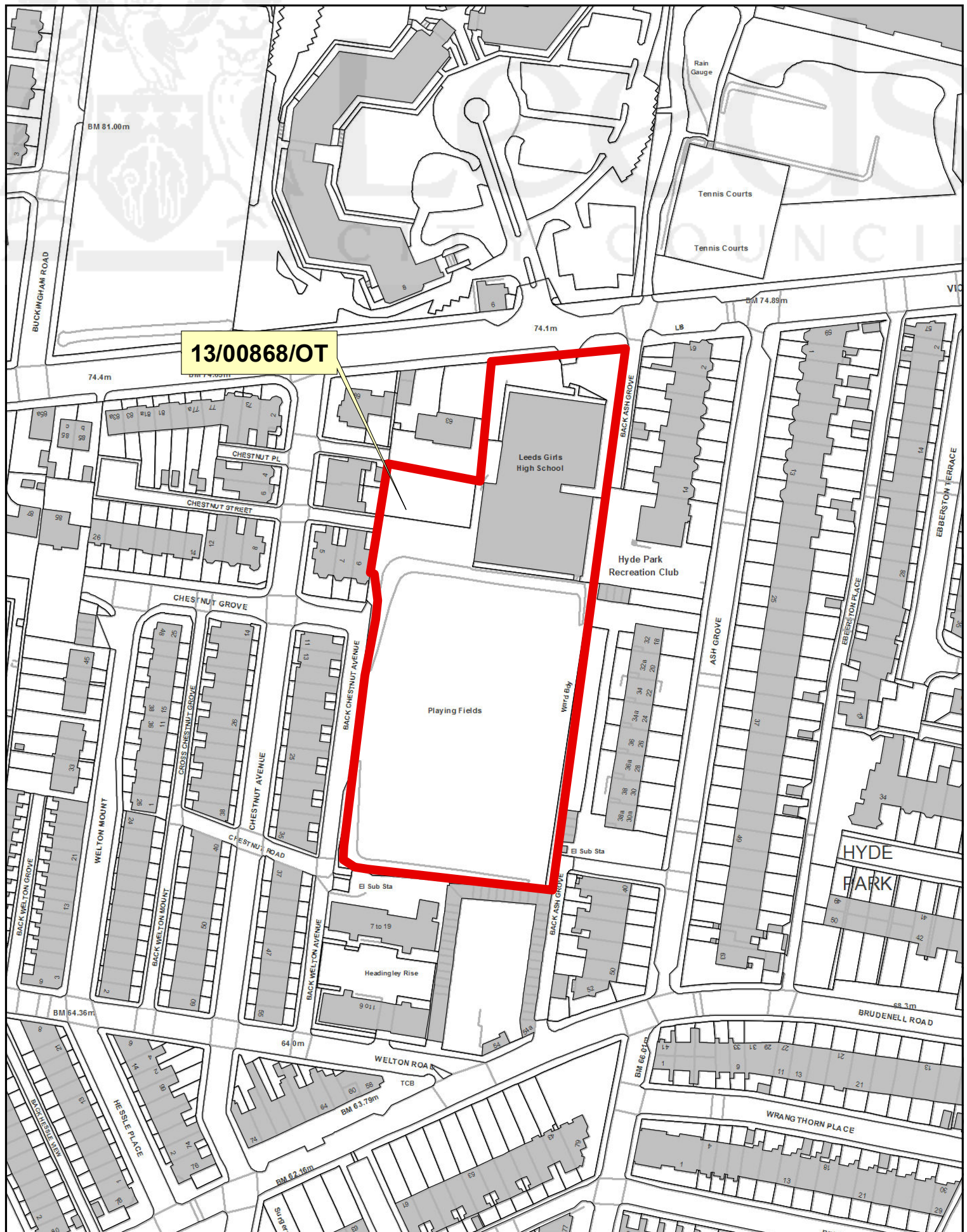
- 11.1 Officers recognise that this application is very sensitive and very important to the local community and very careful consideration has been given as to whether grounds for refusal could be substantiated in relation to the loss of the protected playing pitches and buildings. The principle of an out of centre retail development has similarly been carefully appraised. Officers consider that refusal is not justified on these grounds and could not be defended successfully on appeal. In light of the issues raised within the report that outline the benefits and also the impacts of the proposed development it is clear that the recommendation to grant Outline Planning Permission is an on balanced recommendation.
- 11.2 Section 149 of the Equality Act 2010 provides that the Council must, in the exercise of its functions, have due regard to the need to (amongst other things), advance equality of opportunity between people who share ethnic or national origins and those who do not and to foster good relations between people who share these origins and those who do not. Whilst the particular health problems associated with the South Asian population have already been highlighted in this report, the limited impact that these development proposals will have on the health of the local population means that there are no issues relating to the general duty that arise from the application.
- 11.3 The creation of on-site public open space to which the local community will have access is a positive outcome from the redevelopment of the site that goes some way to helping to provide access to leisure and recreation space in this part of the City. In addition the S106 contributions towards equipped children's play equipment and sport facilities also go some way in providing opportunities to improve the health and well-being of the local community in accordance with the aims of the draft Core Strategy and the requirements of the Health and Social Care Act 2012. The creation of modern well designed family housing in the area also meets with an identified need of providing housing across the City. The provision of affordable housing either on site or via a commuted sum that can be spent on bringing vacant properties in the locality back into affordable family use is also a positive outcome from the application.
- 11.4 The proposed development is considered to have overcome the concerns relating to the withdrawn application in relation to the setting of the neighbouring listed building and the character of the wider conservation area. The Design Statement will guide developers on the form of Reserved Matters applications. Officers believe the redevelopment of the site can enhance the character and appearance of this part of the adjacent Headingley Conservation Area and will also preserve the setting of the neighbouring listed building.
- 11.5 The removal of the upper floors from the retail unit and the re-use of the existing access road have addressed the concerns over the impact on the neighbouring properties and also the impact on the existing trees. The benefits of the development

are considered to outweigh any harm that may arise from the redevelopment of the site.

11.6 The development complies with the relevant provisions of the development plan.

Background Papers:

Application file and previous withdrawn application;
Certificate of Ownership.



SOUTH AND WEST PLANS PANEL

