

Originator: David Jones

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Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 23rd January 2014

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

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

Electoral Wards Affected:	Specific Implications For:
Gipton & Harehills	Equality and Diversity
	Community Cohesion
Yes Ward Members consulted (referred to in report)	Narrowing the Gap

RECOMMENDATION: REFUSE permission for the following reason:

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

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

1.0 INTRODUCTION:

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

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

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

2.0 PROPOSAL:

- 2.1 The proposal comprises two main components. The first is the erection of a three storey, part brick and render, mixed commercial and residential block, to be built largely on the footprint of the former Compton Arms public house, fronting onto Compton Road. This three storey block will consist of 3 ground floor retail units with 14 flats over spread over two floors and consisting of 10 x 2 bed and 4 x 1 bed units. The second element is a four storey block of 43 flats sited to the rear of the site, in a matching brick and render design comprising 20 x 2 beds and 23 x 1 bed units over four floors. The top floor flats would be partly contained within the roofspace. Both blocks are designed to have a modern external appearance.
- 2.2 A retail customer parking forecourt containing 12 parking spaces is included at the front of the site with a substantial area for servicing and parking between the two blocks and containing 41 parking spaces in total. A 9-10 m strip of sloping land to the rear of the second block is shown as communal amenity space for the flats. The car parking area between the two blocks is shown to include some opportunities for limited tree planting and landscaping.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is the site of the former Compton Arms public house, which was an imposing, two storey, part red brick and render building with substantial hipped roof which was demolished in 2006. The site was then cleared and is enclosed by palisade fencing.
- 3.2 The site is situated in a mixed commercial and residential area, partly within the Harehills Lane Local Centre, in an inner city area of predominantly high density A two storey, red brick, parade of shops (with residential terraced housing. accommodation above) adjoins the site but is set back in the street scene compared to the front of the former Compton Arms. There is a single storey day nursery to the other side of the site on the north-east boundary. Red brick 2 storey terraced housing with accommodation in the roofspace faces the site on the opposite side of Compton Road. To the rear of the site are commercial / industrial buildings and behind the shops/ flats to the south east is a club which backs onto the rear of this site where the second residential block is proposed.

4.0 **RELEVANT PLANNING HISTORY:**

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

5.0 **PUBLIC/LOCAL RESPONSE:**

- The application was advertised by site notices posted on 23/04/08, with publicity 5.1 expiring on the 14/05/08.
- One letter of representation was received from "Residents of Harehills" (unsigned 5.2 and no address provided), objecting to the proposed development on the following grounds:
 - the area is already densely populated
 - residents are never vetted fully

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

6.0 HISTORY OF NEGOTIATIONS:

- 6.1 The application has been the subject of protracted discussions regarding viability as the site's planning history clearly indicates that a very similar scheme was submitted in 2006 and refused the following year due to the S106 shortfall.
- When originally considering the current application, officers were mindful of the previous reason for refusal and did not therefore seek to raise design as a concern. However, due to the passage of time (as the current application was submitted in April 2008) and also the introduction of the National Planning Policy Framework in March 2012 which seeks to ensure all development is not only sustainable but also well designed, officers have undertaken a full review of the application. This review has resulted in officers considering it appropriate to re-look at the scheme's overall design as a number of concerns arising primarily from its over intensive nature exist.
- 6.3 The review of the application was carried out towards the middle of 2012 and officers have sought design amendments to the scheme since this time. In view of the lack of progress on this matter, the Council initiated its own 'Design Review' of the application with formal feedback provided to the applicant in August 2013. No design amendments have been forthcoming to date.
- 6.4 Extensive discussions regarding viability also took place prior to the application being tabled for the Panel meeting in August 2012 and the more recent discussions involving Housing Services followed shortly after the application was withdrawn from that meeting. Again the position regarding viability has not altered.

7.0 CONSULTATION RESPONSES:

- 7.1 Environmental Health Significant potential for residential occupants to be disturbed by the proposed commercial units, as well as from nearby existing commercial activities including the working men's club, unless appropriate mitigation measures are implemented. Conditions recommended for sound insulation and restriction of hours of opening and delivery for commercial units.
- 7.2 Highways no objections.
- 7.3 Highways (NGT) Development generates a public transport contribution of £15,150
- 7.4 Flood Risk Management Standard conditions relating to surface water and infiltration drainage required.
- 7.5 Yorkshire Water Agreement to proposed stand-off distance from public sewer.

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

8.0 PLANNING POLICIES:

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

Leeds Unitary Development Plan Review (2006):

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

S2/S3/S4 – Shopping policies and requirement to enhance town centres

GP5 – Aims to resolve all planning issues including design, access, amenity

GP7 – Securing S106 contributions

BD3 – Access considerations

BD4 – Plant equipment to be well designed

BD5 — New buildings to respect their amenity and that of their surroundings.

T2 – Highway safety considerations

T2C - New development and travel plans

T2D - Public transport contributions

T5 - Safe access for pedstrians and cyclists

T7A - Requirement for cycle parking

T24 – Parking guidelines LD1 – Landscaping schemes

H4 – Provision of housing on unallocated sites

H11/12/13 – Affordable housing provision N2 – Hierarchy of greenspaces

N3 — Priority Area for improving greenspace provision
N4 — Provision of greenspace for residential developments

N12 – Urban Design Principles
N13 – High quality design
N25 – Boundary treatments

N26 - Requirement for landscape scheme

N38B - Drainage requirements

Supplementary Planning Guidance/Documents:

Street Design Guide

Greenspace relating to New Housing Development

Neighbourhoods for Living: A Guide for Residential Design in Leeds

Public Transport Improvements and Developer Contributions

Travel Plans

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

Emerging Local Development Framework Core Strategy

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

National planning policy guidance documents:

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

9.0 MAIN ISSUES

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

10.0 APPRAISAL

1. Principle of Development

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

2. S106 contributions & Viability

- 10.4 The small scale of the proposed retail units do not give rise to any S106 contributions but the number of flats proposed is significant (57 in total) which triggers requirements for affordable housing, greenspace provision and public transport improvements. Education contributions are not in this instance considered necessary as only 1 and 2 bed flats are proposed so are less likely to be occupied by families. All contributions would normally be secured through a S106 legal agreement and when originally submitted the contributions were as follows:
 - Affordable Housing 15% (inner area): 9 dwellings

Greenspace: £103, 398Public Transport: £15,150

- 10.5 The applicant considered the development would not be viable if the required contributions, as above, were to be secured in full and as such, submitted a Viability Assessment (VA) in 2010. The VA concluded that the proposed development without any of the S106 contributions would yield a rate of return of just over 16%. Officers reviewed the VA and agreed the conclusions made appeared to be realistic and that in those market conditions, with far greater levels of risk, a 20% profit margin (or possibly more) would be the norm.
- 10.6 Notwithstanding this, the applicant presented two options relating to the required S106 contributions as follows;
 - Option 1 no provision of affordable housing and £55,000 towards greenspace.
 - Option $2 1 \times 10^{-2} =$
- 10.7 Further to the above offers, officers advised the applicant the scheme could not be supported and that a development of its size really needed to deliver more substantial benefits in the form of contributions towards infrastructure provision and affordable housing. The site's positioning within a priority area for improving greenspace provision (UDPR policy N3) adds further weight to this position and overall it was considered inappropriate to support such an intensive, predominantly residential development, in a densely populated inner city area, without a substantial

- contribution towards the required greenspace provision or an least adequate provision on site. It is also notable neither option 1 or 2 makes any contribution towards the required public transport contribution.
- 10.8 In response to officer feedback, the applicant then came forward with a third option as follows;
 - Option 3 1 x one bedroom affordable flat and £25, 000 towards greenspace.
- 10.9 As before, the applicant was advised the level of contribution continued to fall well below the policy ask and was still not considered adequate relative to the scale of the development proposed. Accordingly a refusal recommendation was still appropriate as £25,000 would deliver very little investment to local facilities.
- 10.10 Since these original discussions regarding viability took place, the Council has introduced an Interim Affordable Housing target which reduces the target requirement from 15% to 5% (equating to 3 submarket dwellings in this case). The applicant was therefore asked to submit an updated VA to reflect this change and importantly to update the figures due to the length of time which had passed since the original VA was prepared in the beginning of 2010.
- 10.11 The updated VA (submitted in March 2012) still concluded the scheme would not be viable with any contributions (in fact it was shown to be worse as the greenspace contribution had increased to £131,605) but the applicant was nonetheless willing to accept a reduced profit and the previous improved offer as outlined in option 3 remained on the table.
- 10.12 In assessing the revised VA, officers did express some concern about the build costs used within the appraisal as they appeared to be on the high side. Nevertheless, general agreement was reached about the overall viability position and that the scheme was unable to deliver all of the contributions requested.
- 10.13 Whilst officers could potentially spend further time reviewing detailed figures as contained within the VA and indeed request a more up to date version, in this particular case this is not considered to be a productive exercise as ultimately the applicant's concerns regarding viability remain as strong as ever and is the reason why the scheme has not been reduced in scale despite officers concerns on this matter.

3. Design issues and visual amenity

- 10.14 The scheme readily splits into two main components, these being the front and rear blocks.
- 10.15 The front block would be sited in a similar position to the original Compton Arms building so would roughly fall in line with the neighbouring parade to the south east. This general siting is considered appropriate and accordingly no objection is raised to this block in principle noting the desirability of retaining a strong frontage with an active ground floor. The block's detailed design and overall scale and massing does however require further refinement before it could be accepted as the current proposal is considered to be rather dated and needs to respond more positively to its immediate surroundings.
- 10.16 With respect to the rear block which would be completely residential in nature, at four storey's in height it is both taller and wider than the proposed front block. Its height is even more apparent due to the surrounding buildings all being at a much

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

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

4. Impact on residential amenity

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

5. Greenspace

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

6. Affordable Housing

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

7. Highways & Public Transport Contribution (PTC)

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

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

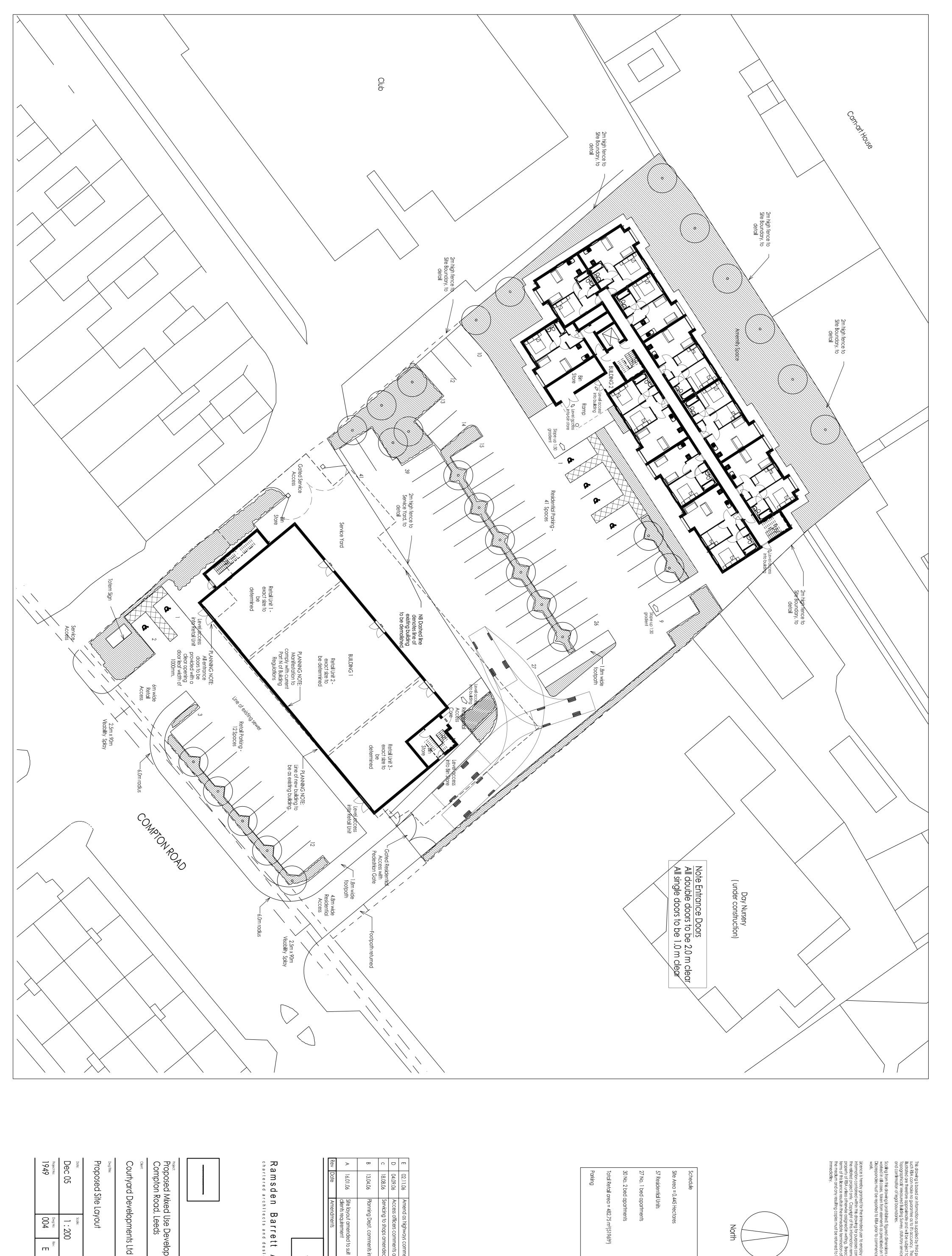
11.0 CONCLUSION

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

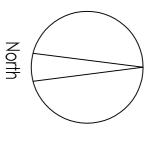
Background Papers:

Application file: 08/01776/FU

Certificate of Ownership: signed by the applicant



Scaling from this drawing is prohibited: figured dimensions are to be worked in all cases, taken from elements as precribed on the drawing. Discrepancies must be reported to RBA prior to commencement of any work drawing is based on information as supplied by third parties and as h RBA can make no guarantee as to it's accuracy. The features trated are therefore approximate and will be subject to a detailed ographical/ Measured Building Survey, statutory service enquiries to confirmation of legal boundaries.



57 Residential Units 30 No. 2 bed apartments 27 No. 1 bed apartm Site Area = 0.445 Hectares Total Retail area = 482.75 m²(5196ft²)

02.11.06	Amend as highways comments	1	'
04.09.06	Access officers comments added	ı	ı
18.08.06	Servicing to shops amended	ı	ı
13.04.06	Planning Dept. comments incorporated.		
16.01.06	Site layout amended to suit clients requirement	ST	PAB
Date	Amendments	Drwn	Chkd
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Ramsden Barrett Architects

Proposed Mixed Use Development, Compton Road, Leeds

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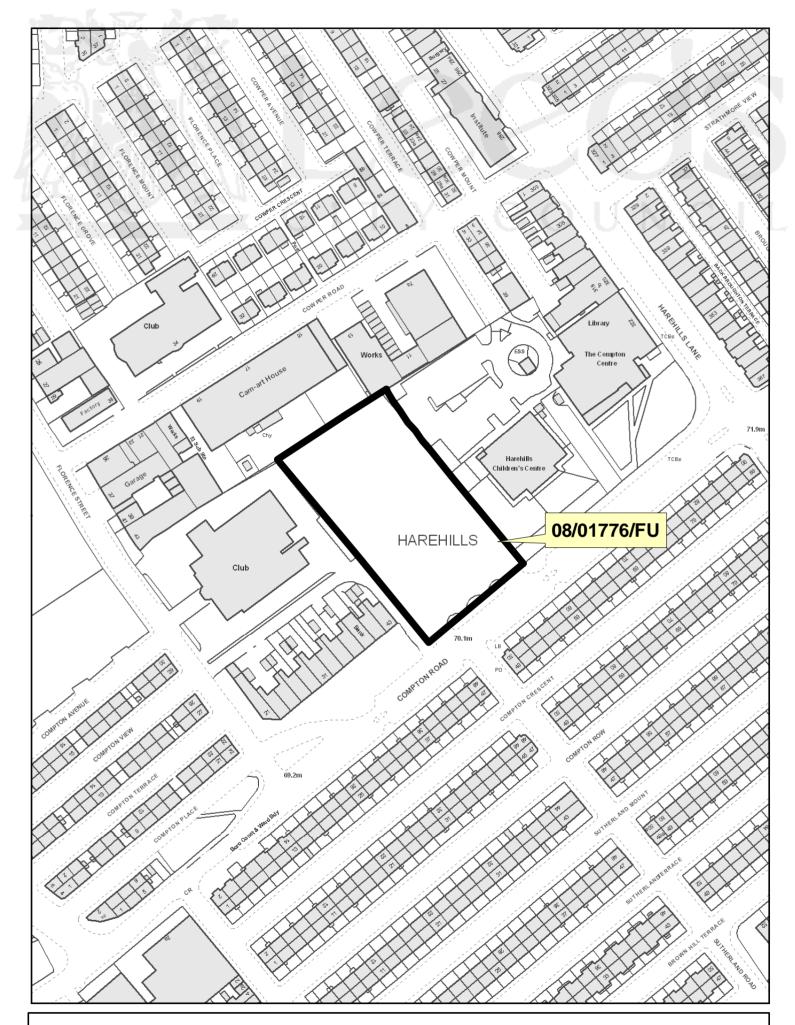
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