
Report of the Chief Planning Officer

PLANS PANEL NORTH & EAST

Date: 23 October 2014

Subject: APPLICATION 14/03196/FU - Demolition of former public toilet and construction of new two storey café located on Princess Avenue, Roundhay, Leeds, LS8 4BA.

APPLICANT

Oakwood Properties

DATE VALID

24 June 2014

TARGET DATE

19 August 2014

Electoral Wards Affected:

Roundhay

☐ Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

☐

Community Cohesion

☐

Narrowing the Gap

☐

RECOMMENDATION: GRANT PERMISSION subject to the specified conditions

1. Time Limit
2. Development to accord with approved plans
3. Samples of all external materials (including all balustrades), roofing and walling materials and all surfacing
4. Deliveries to be restricted to 08:00 until 18:00 Monday to Saturday with none to take place on Sundays or bank holidays.
5. Management plan for collections and deliveries (to including refuse and type of vehicles)
6. The opening hours shall be restricted to 08:00 until 23:00 Monday to Saturday and 10:00 until 23:00 on Sundays and Bank Holidays. Restriction on external seating and only allowed on the terrace area and balconies from the hours of 09:30 until 20:00 Monday to Sunday.
7. Details to be submitted for the ongoing engagement of a qualified arboriculturalist throughout the construction process.
8. Submission for written approval of greater levels of detail regarding foundations and the footpaths to ensure the avoidance of root severance.

9. Replacement planting if tree lost as a result of the development.
10. Prior to the commencement of development a management plan shall be submitted to the LPA for written approval of the:
 - (i) Timetable detailing the phasing of demolition of the existing building on site.
 - (ii) Methods of tree protection during the demolition, to include full details in accordance with the British Standard.
11. Details to be submitted for approval for the re-positioning of the planter and street lighting column.
12. Works management plan (parking, storage, deliveries, collections)
13. The number of covers shall be limited to a maximum of 70 in totality
14. The layby within the highway for loading and unloading of service/delivery vehicles has as shown on the approved plans shall be implemented prior to the first use of the development hereby approved and shall be retained for the lifetime of the development.
15. No external, extraction or flue equipment and external lighting equipment shall be installed until full details have been submitted to the LPA for approval.
16. There shall be no amplified external noise from tannoy/audio systems etc nor shall there be any external BBQ's.
17. Permitted Development removal - No means of enclosure (walls, fences or other permanent boundary treatment) around the site shall be erected
18. There shall be no external seating except on the areas shown on approved drawing
19. Planning permission shall be obtained before any change of use to uses within Use Classes A1 and A2 as detailed in the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that order with or without modification).

1.0 INTRODUCTION

- 1.1 This application is brought to the Plans Panel for consideration as the proposal constitutes a departure from the development plan and the National Planning Policy Framework in that it involves the redevelopment of a previously developed site in the Green Belt and the new development would have a greater impact on the openness on the Green Belt. It is considered that very special circumstances exist to justify an exception being made to the normal presumption against the grant of permission in this case and therefore it is recommended that planning permission be granted. Members should also note that the proposal is of a contemporary design and is set within the context of Roundhay Park and the Roundhay Conservation Area. The application has attracted a significant level local interest.

2.0 PROPOSAL

- 2.1 This application seeks planning permission for a two storey building on the site of the vacant and former toilet block located adjacent to Oakwood District centre and within the boundaries of Roundhay Park. The existing single storey building on site would be demolished.
- 2.2 The submitted Design and Access statement states that the proposed building would sit structurally within the footprint of the existing foundations with the proposed building built over the existing foundations and then the first floor cantilevered over. The building would be constructed of an arched timber frame with an arched roof-form with a flat roofed single storey service area to the rear of the building. The timber frames would sit alongside smoked glass set within an aluminium framework;

the main arched roof form would be cladded in standing seam steel in a grey finish, although the applicant would be willing to discuss any alternative roofing materials such as timber shingles. To the Gledhow Lane elevation would be brickwork (approx. 900mm in height).

- 2.3 The proposed building would be 7.0m (d) x 14.5 (w) with the ridge height 8.0m at its apex. The proposed building would be sited within a small copse that would surround the structure; the structure would terminate under the canopies of the surrounding tree coverage. Decked areas would be located around the building with pathways leading to the building from Princess Avenue having stone sets, in addition a footway from Gledhow Lane would be created with timber edging and a bark surface. The intention being to have as little engineering works to preserve the tree coverage and to amalgamate with the woodland. The usable external area at ground floor would realistically be to the southern end of the proposed building which has a footprint of some 5 sq/m although there would be much smaller narrower options to the eastern side of the building flanking the entrance to the proposed building. The submitted plans show the internal area of the ground floor to be open floor space (for tables and chairs; although as no end user is known the layout cannot be confirmed), a kitchen area, public toilets, staff toilets and an area for waste storage. To the first floor a small servery and an open area (for tables and chairs) are shown on the submitted plans. There are external areas to the first floor in the form of four balconies, three with a floor area of approximately 3.9 sq.m and one with approximately 4.5 sq.m.
- 2.4 It is not intended to remove any trees but an existing planter to the front of the copse would require repositioning or to be reduced.
- 2.5 To the front of the site on Princess Avenue a service layby would be created which allows for safe pedestrian access around it.
- 2.6 The application details submitted to support the scheme identify that there would be a total of 70-80 covers, opening hours of 08:00 until 23:00 Monday to Saturday and 10:00 until 23:00 on Sundays and Bank Holidays. The applicant will not be the end user and to date there is no end user therefore the numbers of staff is not available.

3.0 SITE AND SURROUNDINGS

- 3.1 The site relates to the redundant toilet block located within Oakwood and within Roundhay Park. This was previously owned by the City Council but was sold to the applicant who has submitted this planning application. The single storey building is constructed from stone with a hipped tile roof. It has a footprint of 15.7m x 5.8m and rises to an eaves height of 2.8m with a maximum ridge height of 5.2m. A path runs either side of the building which previously provided access to the ladies and gentlemen's toilets.
- 3.2 There are a number of mature trees within and surrounding the site and given their location within the Registered Park of Roundhay, these trees are all protected given the Conservation Area designation. The site is located within the Roundhay Conservation Area and within close proximity to the listed Oakwood Clock, 40m to the south east.
- 3.3 The site is also within close proximity to the Oakwood District Centre to the south which comprises a variety of shops and services as well as two larger supermarkets and one small 'express' supermarket. The centre is relatively healthy with few vacancies.

- 3.4 There is also a public car park to the south which is pay and display (36 parking spaces plus 2 x disabled parking spaces). The nearest residential properties are some 60m away to the west within Gledhow Lane.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 11/04296/FU and 11/04295/CA – Demolition of toilet block and erection of two storey cafe/restaurant building (A3 use). These applications were refused in December 2011 for a number of reasons which are described and addressed below. The refusal was appealed (APP/N4720/E/12/2174906) and dismissed. The Inspector concluded that:
- *Green Belt -The proposal would harm the openness of the Green Belt. The Framework advises that substantial weight should be given to any harm to the Green Belt. Accordingly, substantial weight should be attributed to the identified harm arising from inappropriateness and the harm to openness. The proposal would conflict with UDP policy N33.*
 - *Vitality and Viability - Whilst the proposal would substantially increase the amount of customer space over that in the approved scheme, it would still be a small facility in the overall context of the district centre – which the Council has acknowledged to be relatively healthy, with only one vacant premises when surveyed in June 2012. It is likely, as also acknowledged by the Council that the facility would mainly serve users of the park within which it would be located, certainly during daylight hours. Even with the proposed evening restaurant use, it is difficult to envisage that the proposal would prove to have a serious impact on the vitality and viability of the Oakwood District Centre. However, no sequential test has been provided as required by the Framework. In the absence of conclusive evidence on either side, my neutral conclusion on this aspect adds no weight to my conclusion in respect of the other main issues set out above.*
 - *Highways Matters - The existing public car park immediately adjacent to the site was at least two thirds full at my afternoon weekday visit (this is born out by the appellant's own informal survey of its use) – it provides 40 spaces, such that even only 18 additional cars would frequently exceed its capacity and cause significant congestion and be likely to increase the pressure for on-street parking in the residential areas close-by. Increased activity in the carpark during the day would be further exacerbated by the temporary parking of delivery vehicles for the proposed premises. The appellant draws a distinction between day time use of the proposed café at ground floor (27 covers) and evening use of the restaurant at first floor (48 covers) and would be willing for the use of these areas to be restricted by condition. It seems likely that the adjacent car park is less well used in the evening and that the pressure for parking would be reduced once nearby shops are closed and park users leave after dusk. However, despite the appellant's intention not to open the upstairs premises during the day, I am not convinced that a condition curtailing its commercial use to evenings, or to restrict the number or covers within the building, would be reasonable permanent restrictions on the proposed commercial use. I conclude that the proposal would fail to provide adequate customer parking and would consequently harm highway safety, contrary to UDP policy T24. Substantial weight must be attributed to this harm also.*

- *Conservation Area and setting of the Listed clock tower - The existing building whilst now neglected and boarded up, is not an unattractive building. It is built of stone with high level windows and a slate hipped roof. Its former function, small stature and discreet siting, set back from the roadside amongst large trees at the edge of the park, make it unremarkable. It gains no mention in the Roundhay Conservation Area Appraisal. Currently, it is surrounded by unsightly high temporary fencing. Its demolition, if properly cleared and the woodland ground surface reinstated, would enhance the park as well as enhancing the conservation area, the setting of the clock and the visual amenity of the Green Belt. The proposed building would be contemporary in its design; a two storey pavilion-like structure formed as two rectilinear cuboid volumes stacked one on the other but rotated as described above. It would present a full height glazed elevation at lower and upper floors towards the main road, as well as to the projecting end of the upper block, which would face towards the clock tower, and part of the south end at ground floor. There would be timber veneered composite cladding around the other ground floor elevations and a mix of this with opaque black glass to the other upper elevations. Although these materials may not be (strictly speaking) traditional, as normally required within the conservation area by UDP policy BC7, they derive from timber and glass which are and, as they would not be seen close alongside older buildings, they would be appropriate in this location.*
- *Trees - I conclude, on balance, that the proposal would harm the future health and life expectancy of some of the surrounding mature trees, contrary to UDP policy GP5. These trees are a valuable and integral visual component of the character of the surrounding area. Notwithstanding my conclusions in respect of the visual effect of the proposed building, therefore, I conclude that the proposal would, by way of the potential harm to the future health of the trees, also harm the visual amenity of the Green Belt, the character and appearance of Roundhay Park and the setting of the nearby listed building and would fail to preserve the character and appearance of the Roundhay Conservation Area. This would be contrary to UDP policies N33 in respect of Green Belts, N28 which seeks to protect the historic interest of registered historic parks and N19 which seeks to protect conservation areas, all of which reflect principles now set out in the Framework. Substantial weight must be attributed to these harms also.*

- 4.2 09/00262/FU and 09/00264/CA – demolition of existing toilets and erection of 3 storey building comprising cafe/restaurant/office (A1, A3 B1 use) – refused 7th April 2009.
- 4.3 06/02626/FU – Planning permission was granted in June 2006 for alterations and an extension to convert the toilet block to a café
- 4.4 30/217/05/FU – Planning permission was granted in June 2005 for change of use of toilet block to café.
- 4.5 30/389/04/FU – Planning permission was granted in August 2004 for the change of use of the toilet block to a café / sandwich bar and small extension to the existing building.

5.0 THE HISTORY OF NEGOTIATIONS

- 5.1 During the course of this application the LPA have sought additions to the Design and Access Statement to expand on the design concept and ethos to allow for a fuller assessment of the impact of the proposed design within what is a very sensitive and prominent location. In addition work has been undertaken to revise the proposed service layby so that it responded to Highways requirements.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 Two site notices were posted advertising this application as a departure from the Leeds UDP (2006) and as affecting the character of the Conservation Area. One on Gledhow Lane and another on Princess Avenue on the 4 July 2014 advising that any representations should reach the LPA by the 25 July 2013.
- 6.2 Ward Members were notified on the 24 June 2014.
- 6.3 An advert was posted in the YEP on the 10 July 2014.
- 6.3 54 letters of representation have been received from local residents and Cllr Bill Urry. Of the 54 representations 44 are objections, 4 offer comment and suggestion and 6 offer support for the scheme. The representations have been summarised below:

Objections

- No additional car-parking proposed for the potential number of covers.
- Highway safety.
- The development would be harmful to the existing tree coverage.
- There is no need for another restaurant in such proximity to the local centre.
- Harmful to the setting of the Oakwood Clock Tower and counter active to the recent funding to renovate the clock.
- Incongruous design harmful to the character and appearance of the area.
- The area would benefit from the demolition of the existing building and to return the land over to ecological purposes.
- Harmful to the Conservation Area.
- The design will detract driver and likely to cause accidents.
- The development within Roundhay Park would set a precedent.
- Would be detrimental to other A3 uses within the local centre.
- Scale and massing.
- Not in keeping with the gateway to Roundhay Park.
- Issues regarding deliveries and staff parking.
- A public toilet in this location is urgently needed.
- No provision for waste bins.

Other comments

- In addition to all of the above comments have been made that the sale of the plot by LCC is not legal by reason of an existing covenant that restricts the development of houses or businesses on any part of the park land.

Support

- The looks attractive/excellent/ interesting and imaginative.
- The design fits into its surrounds reasonably sympathetically.
- The scheme blends well with the clock.
- The scheme will generate jobs.
- Creates a landmark within its area.

- Would put a stop to the current anti-social behaviour around the existing building on site and the clock tower area.
- Expands the vibrancy of the local centre and would compliment the existing functions of the area.
- Parking will not be a problem as there is sufficient parking within the area.
- Add further investment within the area.

General Comments

- No disabled toilets.
- A time limit should be attached to the Planning Permission as the applicant has taken too long to deal with the site and has allowed the existing building to fall into a dangerous state of repair.
- Concern regarding the roofing materials which would appear akin to an air raid Shelter; materials better in keeping should be considered.

Comments from Cllr Bill Urry

"I neither support nor oppose this development. While I believe that ideally the disused block, in this sensitive position, would have been best demolished with the site reverting to open parkland, I recognise that the former Council administration chose to sell the site through auction, and that the buyer had the reasonable expectation of building a cafe / restaurant.

My main concern is the substantial deterioration of the existing block as the process has been very drawn out. The current structure is surrounded by temporary fencing which has deteriorated badly. The site is frankly dangerous and is also an eyesore and invitation to vandalism. I would therefore ask that a condition is inserted in any grant of Planning Permission that permission to build must be subject to the existing structure being demolished and the site made safe within a minimum reasonable period. I suggest four to six weeks should be more than enough. The Planning Permission could then remain open for the standard period, although I hope that development would be completed quickly".

7.0 CONSULTATIONS RESPONSES:

7.1 Highways

Initially Highways objected to the scheme as the layby was substandard in terms of its dimensions and visibility had not been adequately demonstrated, nor had a pedestrian walkway been provided. Revised Plans were submitted after advice from Highways regarding the service layby. Conditions were suggested and are listed at the head of this report. No objections have been raised regarding parking as there are public car-parks within close proximity to the site nor has there been any objection with regard to highway safety.

7.2 Contaminated Land

No objections subject to conditions

7.3 Drainage:

No objections. Drainage colleagues have stated that they will require results from infiltration testing, in accordance with BRE Digest 365, to be provided in due course to demonstrate whether or not the ground is suitable. If infiltration is not viable, the surface water can be disposed of to the public sewer making use of existing connections.

7.4 Ecology

The submitted bat survey is satisfactory and confirms that there are currently no roosting bats. A scheme for sympathetically designed external lighting is required. No objections subject to conditions.

7.5 Landscaping

No objections subject to conditions. There would be no impact on tree roots or the tree canopies as a result of the intended method of construction.

7.6 Local Plans

No objections. The two main Green Belt policy issues are whether the scheme is acceptable in terms of impact on trees and highways/parking. If those two aspects are deemed acceptable then by inference there would be minimal additional impact on the openness of the Green Belt than by the existing building. In that situation, the application would be supported overall, and this is considered in line with the Inspector's reasoning on the previous appeal.

7.7 Design and Conservation

The principle of the design can be accepted but further details were required to form part of the Design and Access statement to formulate design concept and any design precedents. Subsequently further details were provided and subject to conditions regarding materials no objection has been raised.

8.0 PLANNING POLICIES:

8.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is the adopted Leeds Unitary Development Plan (Review 2006) ("UDP") and the Natural resources and Waste DPD.

8.2 Section 72 of the (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) identifies the general duty with respect to any buildings or other land located within a Conservation Area. Parliament requires the decision-maker to give considerable importance and weight to the preservation or enhancement of the character or appearance of a Conservation Area.

Unitary Development Plan

8.3 The application site is identified within the Leeds UDP (2006) as being located within the Green Belt, designated Green-space, Urban Green Corridor and falling within the Conservation Area and Registered Roundhay Park as well as sitting within proximity to the Oakwood Clock, a Grade II Listed structure.

8.4 The below UDP policies are considered to be relevant to this application.

UDP

GP5 – General planning considerations

N1 – Loss of Green-space

N8 – Urban Green Corridors

N12 – Priorities for urban design

N13 – Design of new buildings

N18B – Replacement development in Conservation Areas

N19 – New buildings within Conservation Areas

N20 – Demolition or removal of features which contribute to Conservation Areas

N22 – Relates to Conservation Area Appraisals

N23 – Incidental open space around new development

N26 – Landscaping
 N28 – Historic Parks and Gardens
 N32/N33 – Development within the Green Belt
 E5 – Development of employment uses
 S9 – Small retail developments outside defined S1 and S2 centres
 BD2 – Design and siting of buildings should complement vistas, skylines & landmarks.
 BD3 – Disabled access of public buildings
 BD4 – mechanical plant should be located within building envelopes
 BC7 – Traditional local materials within Conservation Areas
 LD1 – Landscape design
 T2 – Transport and highway safety.
 T24 – Car parking provision (Appendix 9)

Supplementary Planning Documents/Guidance

- 8.5 Supplementary Planning Guidance 13 - Neighbourhoods for Living: A guide for residential design in Leeds (Dec 2003).

Supplementary Planning Document – Street Design Guide (2009)

The Roundhay Conservation Area Appraisal (RCAA)

The application site is not referred to specifically in this document but on page 14 which highlights the opportunities for enhancement the RCCA identifies design which would result in an enhancement of the Conservation Area is encouraged provided it meets with other planning policies.

The Roundhay Ward Neighbourhood Design Statement (NDS)

“The setting of Oakwood Clock Tower, including the car park and disused toilets, would benefit from hard and soft landscape enhancement as befits its location at the entrance to the Park.....”

Core Strategy

- 8.6 The Inspector's Reports into the Core Strategy and the CIL examinations have been received and were considered by Executive Board on 17th September 2014 with a view to the Core Strategy being referred to full Council for formal adoption on 12th November 2014 and the CIL Charging Schedule referred for formal adoption on 6th April 2015. As the Inspector has considered the Draft Publication Core Strategy, subject to the inclusion of the agreed Modifications, to be legally compliant and sound, the policies in the modified Core Strategy can now be afforded considerable weight. Once the Core Strategy has been adopted it will form part of the Development Plan and have full weight.

SP1 – Appropriate location of development. To concentrate new development within or adjacent to existing urban areas.

SP8 – Economic Development (*inter alia* Job Creation)

SP10 – Green Belt

P3 – Acceptable uses on the edge of local/district centres

P10 - Design of buildings

P11 – Conservation

P12 – Landscaping

T1 – Transport management

T2 - Accessibility requirements

G6 – Protection and re-development of green-space

National Planning Policy Framework (2012)

- 8.7 The NPPF seeks to promote of sustainable (economic, social and environmental) development including through the effective use of previously developed land.
- 8.8 The National Planning Policy Framework also states that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are inter alia the partial or complete redevelopment of previously developed sites whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 8.9 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Development should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation and are visually attractive as a result of good architecture and appropriate landscaping. The NPPF also states that in determining applications, great weight should be given to innovative designs which help raise the standard of design more generally in the area.
- 8.10 Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

9.0 MAIN ISSUES

- Principle of development
- Green Belt
- Effect on Trees
- Character and Appearance
- Impact on Local Centre
- Highways
- Effect on residential amenity
- Other Matters
- Covenant
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 The application site is located within the Green Belt and within the envelope of Roundhay Park, and adjacent to the District S2 centre and a wider established area of a residential settlement. The site is close to local facilities and good public transport routes to and from the City; as such is considered to be in a sustainable

location. The National Planning Policy Framework (NPPF) identifies one of its core principle as encouraging the effective use of land by reusing land that has been previously developed (brownfield land). Whilst this application site is within the Green Belt it is also regarded as brownfield land given that an existing building is currently in situ (the former public convenience). Therefore, this application refers to commercial development on land that has previously been developed in terms of the existing built structure.

- 10.2 Within the Core Planning Principles of the National Planning Policy Framework (NPPF) it states that LPA's should encourage the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value. The principle of further commercial development on the site has previously been accepted (see planning history) with the granting of planning permission in 2005 for use of the existing building as a café. Since the 2005 change of use permission the LPA received a planning application to demolish the existing building and construct a three storey café. This scheme was refused in 2009; this instigated a further application for demolition and the erection of two storey café/restaurant; this was also refused and dismissed at appeal. The Inspector identified a fundamental harm of the previous scheme (11/04296/FU) as the impact on the trees and as a result this led to harm on the openness of the Green Belt.
- 10.3 In respect of the proposed end use; the Leeds Core Strategy was considered by executive Board on 17th September 2014 with a view to the Core Strategy being referred to full Council for formal adoption on 12th November 2014. As the Inspector has considered the Draft Publication Core Strategy, subject to the inclusion of the agreed Modifications, to be legally compliant and sound, the policies in the modified Core Strategy can now be afforded considerable weight and once the Core Strategy has been adopted it will form part of the Development Plan and have full weight. To comply with Core Strategy Policy P8 'Sequential and Impact Assessment for Main Town Centre Uses' (Criteria D) a sequential test of sites within a 5 minute drive time is required. In this instance acknowledging the extant planning permission for a café use and that the scheme is below the threshold for an impact assessment it is considered that a sequential test is not required and the principle of the proposed end use of the building is acceptable.

Green Belt

- 10.4 The previous scheme (11/04296/FU) was assessed against the guidance contained within Planning Policy Guidance 2 – Green Belts (PPG2). This document has now been replaced by the NPPF and there are now new points of consideration that LPA's must take account of; therefore there has been a material change in Government guidance. Section 9 of the NPPF deals with the need to protect Green Belt land and paragraph 89 states that LPA's should regard the construction of new buildings as inappropriate development within the Green Belt, this echoes the advice within PPG2.
- 10.5 As with previous guidance the NPPF also provides a list of exceptions and with amendments to that list of exceptions. Point 6 of paragraph 89 (which differs from PPG2 and Leeds UDP Policy N33) says the partial or complete redevelopment of a previously developed site (brownfield land) is *not* inappropriate development, provided there is no greater impact on the openness of the Green Belt or the purposes of including land within it than the existing development.

- 10.6 Previously, under PPG2 (reflected in UDP policy N33), this exception only extended to major developed sites identified in development plans. Therefore, in view of this change of emphasis identified within the NPPF, policy N33 is not entirely consistent with the NPPF and in accordance with paragraphs 214 and 215 of the NPPF the weight to be given to it is reduced.
- *Para. 214 - For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.*
 - *Para. 215 - In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*
- 10.7 It is therefore the matter of assessing if the proposed scheme has any greater impact on the openness of the Green Belt. Paragraph 79 of the NPPF states that one of the fundamental aims of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The application site is currently occupied by a single storey building constructed from stone with a hipped tile roof; it has a footprint of 15.7m x 5.8m and rises to an eaves height of 2.8m with a maximum ridge height of 5.2m. The proposed building would result in a structure that would have two storeys would keep the same footprint structurally and terminate at 8.0m in height, thereby being 2.8m higher to the ridge than the existing building
- 10.8 As with the scheme refused planning permission at appeal (11/04296/FU) this scheme before Members is for a two storey building albeit with a radically revised design and appearance. The proposed building would retain the existing foot-print of the former toilet block but would have an overhang at the upper level. There would also be a small external timber decked patio area to the buildings southern side with balconies to the upper floor and new footpaths within the site.
- 10.9 The proposed buildings arched roof form would terminate at 8.0m in height, thereby being 2.8m higher to the ridge than the existing building on site. As such a fundamental point to ascertain is what level of harm would occur within this Green Belt context with regard to openness. The Inspectors findings during the 2012 appeal must play a part of this assessment and the weight she gave to the varying factors in terms of impact on the Green Belt. When assessing the previous scheme the Inspector identified the main impact on openness that the 11/04296/FU scheme presented:
- (i) The additional floor would result in a much larger volume at high level.
 - (ii) Its apparent volume would be extended by the overhang produced by its rotated form.
 - (iii) This would be further added to by the greater paved terrace area and the associated outdoor tables and chairs.

However, it should be noted that in her conclusions the Inspector states that she had:

“no reason to doubt that if built of high quality materials... it would be a positive addition to the visual environment of the park and the Conservation Area and, accordingly, it would not harm the visual amenity of the Green Belt”.

- 10.10 The two storey building subject to 11/04296/FU had a footprint of 18m by 6m. However, given the design and form of that proposed building; it was considered that this would be perceived as having a larger site coverage and that this represented a significant increase in the overall footprint than the existing building. In terms of height, the previously proposed building under 11/04296/FU had a maximum height of 13.8m, some 8.6m higher than the ridge height of the existing toilet block.
- 10.11 In this instance the additional storey and cantilevered roof also increase the perception of a larger building above the scale and mass of the existing but at a much decreased level than that assessed under 11/04296/FU with an increase in height of some 2.8m as opposed to the 8.6m proposed under 11/04296/FU. Moreover the cuboid design of the 11/04296/FU scheme appeared much greater in bulk and mass whilst the proposed arching of the scheme before Members is considered to reduce the perception of the increase above that of the existing building as well as presenting a much more elegant and innovative design. Moreover, the proposed external area is much reduced from that proposed under 11/04296/FU and the reduced levels of external use in terms of table and chairs would maintain greater levels of openness. It is therefore considered that the effect on the openness of the Green Belt would be much reduced than the previous scheme (11/04296/FU) proposed.
- 10.12 In addition to the proposed building not being considered to have a significantly greater impact on the openness of the Green Belt than the existing development; the existing trees would remain in situ and in strict terms the tree coverage also acts to interrupt 'openness', albeit these features are clearly not development. The trees would surround the building and would therefore remain a robust feature within the Green Belt and are considered to act to reduce the perception of the additional scale and height of the proposed building above that of the existing structure. There would remain penetrating views through the copse as currently exists and the proposed design would enhance the visual amenity of the Green Belt.
- 10.13 The proposed building would be 2.8m higher than the existing building and the wording of point 6 of para.89 of the NPPF is clear; that proposed development on the partial or complete redevelopment of previously developed sites (brownfield land), should have no greater impact on the openness of the Green Belt. The 2.8m increase in height is not considered to be significant and the openness of this Green Belt site would not be unduly harmed by the proposed building. In light of the above the scheme before Members is considered to be arguably inappropriate development within the Green Belt with some impact (albeit extremely limited with the increased height) on openness, however the 'very special circumstances' that can be applied to this development are the positive benefits that arise from the scheme in terms of the re-generation of this derelict site and the introduction of an end use that would be compatible and appropriate within its setting as well as being a positive addition to the Listed Park and Conservation Area. These positive benefits are considered to outweigh the harm to the Green Belt.
- 10.14 As well as the Green Belt issue the matter of Roundhay Park (Grade II Listed Park) and the Conservation Area, N1 green-space and N8 green corridor aspects of the site must be given due consideration. As detailed above this site has planning history for a café use. It is clear that the proposed development represents an increased intensification over and above the change of use planning permission for the existing building and this increase in intensification must also be weighed against the openness of the site within its Green Belt context. In the interests of maintaining openness it is considered that conditions should be imposed in order to restrict and

control outdoor activity to include the boundaries of any outdoor tables and chairs and the times when external use would retain the openness of this Green Belt site.

Effect on Trees

- 10.15 As part of the impact on the openness of the Green Belt the Inspector noted the effect of the previous scheme on the trees within the application site. She stated that:

"I am not convinced that a realistic assessment of the probable impact of the proposed development on the trees and vice versa with due allowance and space for their future growth and maintenance requirements to maximise the probability of successful tree retention has been made. I conclude, on balance, that the proposal would harm the future health and life expectancy of some of the surrounding mature trees, contrary to UDP policy GP5."

- 10.16 The proposed building would sit in amongst a number of mature trees with additional mature trees outside the application site; all are subject to protection given their location within Roundhay Park and the Roundhay Conservation Area. This was a point noted by the previous Inspector:

"These trees are a valuable and integral visual component of the character of the surrounding area..."

- 10.17 As part of the assessment of this application a technical view was sought from the Landscape Team. Having assessed the supporting arboricultural documentation submitted as part of this application Landscape colleagues came to a view to support this scheme subject to conditions. The applicant's agent has confirmed in writing (as part of the DAS) that they intend to use the existing foundations only as currently installed and which form the base of the existing toilet block and would not be extending any new foundations. The proposal would sit on a cantilevered frame which would not touch the ground. The agent has also confirmed that the patio area directly outside the building forms part of the cantilevered structure and would not sit on the ground. Moreover, the new footpath routes would also be built off post frames to minimise impact on the ground and root systems therein. The proposed height of the new building at 8.0m would not, in the opinion of the Landscape Team affect the canopies of the encompassing trees. A maintenance scheme can be conditioned for the future maintenance of the building i.e. leaf fall and sap on the building's roof.
- 10.18 This is an extremely sensitive site with regards to trees given those trees contribution to the Park, the Conservation Area and the Green Belt. The submitted Arboricultural Method Statement (AMS) includes for the ongoing engagement of a qualified Arboriculturist throughout the construction process. The AMS also includes for on- site monitoring including site visits at key stages and onsite supervision of specific operations that relate to trees as well as notifications etc. A condition can be imposed so that evidence must be submitted demonstrating that a qualified Arboriculturist has been appointed to carry out this aspect of the AMS. Evidence could include confirmation in writing of the appointment which must come directly from the appointed qualified Arboriculturist. The confirmation would need to describe in detail the scope of the appointment in relation to the approved AMS and brief progress reports confirming the involvement of the Arboriculturist at each of the Key Stages in the AMS. Such reports should be submitted in writing to the LPA by the Arboriculturist within 7 days of each intervention. Moreover, it is considered reasonable that the LPA seek to secure through condition a greater level of detail regarding foundations and the footpaths to ensure the avoidance of root severance.

- 10.19 The scheme before Members has been mindful of the previous issues and implications of the scheme refused and upheld at appeal and subject to the submission of further details secured by condition the resulting development would in the view of Landscape Officer negate any undue threat to the welfare of the on-site and surrounding trees.

Character and Appearance of Conservation Area, Listed Park and the setting of the Listed structure

- 10.20 Within the NPPF the Ministerial Foreword focus is given to standard of design “*which can be so much higher.....confidence in development itself has been eroded by the too frequent experience of mediocrity.*” Moreover, the NPPF states that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. 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. The NPPF also directs LPA’s when determining applications to give “*great weight*” to outstanding or innovative designs which help raise the standard of design more generally in the area.

- 10.21 The Leeds UDP (2006) identifies that the appearance of new buildings can play a major part in the overall character and quality of an area and can act to shape the image of the City. Policy N13 of the Leeds UDP (2006) states that:

“The design of all new buildings should be of high quality and have regard to the character and appearance of their surroundings. Good contemporary design which is sympathetic or complementary to its setting will be welcomed”.

It is not considered reasonable that the Council should be overly prescriptive with regard to architectural styles but as advised in the Development Plan it will encourage designs which are “modern and forward looking”. Design is a subjective realm and interpretation of appropriate design will of course vary according to the location within the City with special care and focus applied in sensitive areas such as Conservation Areas or within prominent sites. The application site is one such sensitive location being within the Roundhay Conservation Area, within Roundhay Park (a Grade II Listed Park) and within close proximity to Oakwood Clock (a Grade II Listed structure).

- 10.22 The existing building is constructed of stone with high level windows and a slate hipped roof. Currently the building is somewhat neglected and in a state of near dilapidation. The existing building is single storey with a relatively small foot-print and a discreetly set within tree coverage. The previous Case Officer found that its scale, appearance and position made it “unremarkable” and this is a fair assessment. The building whilst within the Conservation Area is not mentioned within the Roundhay Conservation Area Appraisal.
- 10.23 The NPPF also instructs LPA’s to identify and assess the particular significance of any heritage asset that may be affected by a proposal; in this instance this would be the Listed Clock Tower. The proposed building would have a design and style that would contrast with the surrounding architecture and the historic appearance of the clock tower, however it is not considered that such contrast is unduly harmful. The proposed building would be set within its own particular context of large, mature trees and as such would be seen as a separate form of development to the Listed clock tower and visual receptors would clearly see that the proposal represents

development of its own time. It is not considered that the proposed design would harm the clock tower's setting and would accord with Leeds UDP (2006) policy BD2 which requires that the design of new buildings should complement or enhance existing landmarks. In this instance the total separation in architectural terms is considered to actually emphasise the clock towers merits and the quality of the clock tower would not be eroded by the proposed building.

- 10.24 The proposed design would create a distinctive and 21st century addition to the area and it is considered that the design is strong enough to sit within the Conservation Area without eroding the existing character and appearance. Policy N19 of the Leeds UDP (2006) states that development in Conservation Areas should as a base aim seek to preserve the character and appearance and where possible development should seek to enhance the Conservation Area. Moreover, the NPPF (point 3 of paragraph 126) states that LPA's should take into account the desirability of new development making a positive contribution to local character and distinctiveness. In this instance the existing building is in the early stages of dilapidation but with work could be brought back into a good state of repair; notwithstanding that scenario which is an unlikely one the LPA consider that the proposed development can be assessed against the existing situation on site. Within the letters of representation a point that is echoed is the state of disrepair of the existing building, and when measured against this it is considered that the proposals actually act to enhance the site and as a result the wider Conservation Area as well as contributing to the variety of development within the public realm by adding a further distinctive landmark building.
- 10.25 The proposed materials would be a Glulam timber beam structure (Glulam is a timber product that consists of a number of layers of timber that are bonded together), smoked glass sitting in aluminium frames with a roof covering of a steel clad roof that would be grey in appearance in order to achieve the look of lead. However, the applicant would be willing to look at alternative roofing materials such as timber shingles to harmonise with the woodland setting of the site. Given the modern design within the context of the area a view was sought from an Urban Design Officer who is well versed in Conservation and Design matters. It is the view from the Urban Design Officer that the scheme is of an appropriate design within its context and within the wider Conservation Area; all samples of external materials can be secured by condition.
- 10.26 The proposed floor plan shows provision for the secure storage of bins off the highway and away from the public realm. A waste management plan can be conditioned. The waste would not be collected by the Council but would require a private contractor.

Local Centre

- 10.27 Whilst the proposed café building is not within the local centre it would sit on its very fringe and therefore can be regarded as playing a part in the vitality and viability of the local centre. Oakwood Centre has over a number of years developed into one of the City's more successful local centres with a wide array of choices for the local community and those travelling into the area for the wider public facilities within the envelope of Roundhay Park. It is considered that the proposed development would provide a potential for linked trips within the area given the greater choice of facilities as well as creating an increased level of vitality and viability as sought within the aims of Leeds UDP (2006) Policy S2. Moreover, whilst the proposal would increase the level of patron space over that of the approved change of use of the existing building to an A3 use this scheme would represent a relatively small facility in the

overall context of the local centre. This was also the conclusion of the Inspector at the time of the appeal of the previous scheme refused by the LPA. It is likely that the proposed development would in the main serve users of the park predominantly within daylight hours. When taken a view on the proposed evening restaurant use the Inspectors at the previous appeal was of the opinion that “it is difficult to envisage that the proposal would prove to have a serious impact on the vitality and viability of the Oakwood District Centre”.

10.28 In light of the above it is considered that the siting and physical relationship of the proposed development within the context of a mixed area comprising residential uses and commercial and public/community facilities and therefore the design approach whilst conspicuously 21st century within the architectural context of the immediate area is considered to add a route of architectural change that provides visual variety on the fringe of Oakwood local centre and would add another dimension to the community facilities within the context of Roundhay Park.

10.29 Highways Matters

The Inspector gave substantial weight to the harm caused because the proposal would fail to provide adequate customer parking and would consequently harm highway safety. No parking or vehicular access for servicing was shown as part of the previously refused scheme and the Inspector noted that “..whilst the extant approval for a café conversion made no parking or servicing provision, the proposal is for a much larger facility....”

10.30 The proposals before Members now include a service layby that has been designed in accordance with the Councils Highways Officers. This will entail some re-modelling of the existing pedestrian routes past the site in terms of the existing planter and lighting column. Conditions of the works to the planter can be secured by condition and the proposed re-location of the lighting column will require the applicant to liaise with the relevant team within the Councils Highways Department; details of this can also be conditioned. The existing pedestrian access would be retained and also re-modelled to allow direct pedestrian access past the proposed lay by. A footpath would also be available (bark surfaced to avoid an overly engineered solution) leading from Gledow Lane to the application site. A technical view was sought from Highways regarding the matter of parking provision as this formed a conclusive part of the previous Inspectors findings.

10.31 Highways are of the view that the proposed footpath would improve pedestrian access to the District centre and have highlighted existing parking facilities that are available within the local centre i.e. the Council run car park off Roundhay Road and the shoppers car park behind the Co-operative; parking facilities further along Princess Avenue and the Mansion car park are also available, albeit these option would require users to walk a little further to the Oakwood centre. Highways advise that the Council run car park opposite the application site has a 4 hour maximum stay and the Co-operative has a 2 hour maximum stay. In addition Highways have advised that there are on-street parking spaces available for on Roundhay Road. The car park adjacent to the site will be less utilised during the evening and this will reduce the pressure for parking especially once the local shops cease trading for the day and the user of Roundhay Park wither leave or number reduce significantly by early evening. This is therefore considered to provide a greater opportunity for parking which in Highways view equates to sufficient levels associated with the proposed development. Moreover, the application site is on good and established routes for public transport that travels frequently along Roundhay Road.

10.32 The existing Traffic Regulation Order will need to be amended at the applicant's expense, to reflect the 'loading only' area. There would also be a footpath link to Gledhow Lane and local residents would be able to gain access the proposed building from this path. The applicant will also have to fund:

- Changes to road markings, signage etc.
- Relocation of street lighting column
- Repositioning of the planter

10.33 In light of the above Highways considerations and conclusion which have been provided with the previous Inspector's findings in mind the proposal is considered to be acceptable in Highways terms subject to conditions.

Effect on Residential Amenity

10.34 The nearest residential properties are those located on Gledhow Lane and on Fitzroy Drive (approximately 50m from those on Gledhow Lane and approximately 75m those on Fitzroy Drive) to those from the application site. It is considered that the proposed development retains acceptable spacing between existing residential properties and the proposed commercial function without creating significant issues in terms of intrusion from light sources from the proposed A3 use; details of external light sources can be conditioned. Moreover, the separation distances and tree coverage around the proposed building would ensure that there would be no overlooking from the use of the upper floor balconies or that the neighbouring residential properties, moreover the separation distances achieved would negate any issues in terms of loss of light, shading and any perception of over-dominance.

10.35 In terms of noise and disturbance it is clear that the proposed building will provide more activity above that of the approved change of use of the existing building to an A3 use given the potential for greater levels of covers and thus greater levels of noise and disturbance could occur. In terms of the opening hours the change of use applications allowed hours of operation to be between 07:00 until 23:00 Monday to Sunday, whereas this application would seek hours of operation from 08:00 until 23:00 Monday to Saturday and 10:00 until 23:00 on Sundays and Bank Holidays. The site lies adjacent to a vibrant District centre where other A3 and A4 uses currently operate. Conditions can be imposed to restrict the times when the external areas (terrace and balconies) can be used and that there shall be no external methods of noise amplification (i.e. microphones, tannoys or music equipment) to avoid the transference of noise from these external areas towards the nearest noise sensitive residential properties. Given the retained separation distances to the nearby residential properties and that these properties sit adjacent to an existing district centre that functions into the night, the potential level of increased noise and disturbance as a result of this development would be unlikely to be significantly greater than what can be currently experienced. Similarly, the issue of odour from the proposed A3 use and the resulting cooking smells is a reasonable likelihood, however there are other A3 uses within the District centre within closer proximity to residential properties than the application site and it is not considered that the proposed A3 use would act to significantly increase the impact on living conditions than current levels even when considered cumulatively.

Other Matters

10.36 In response to the site notices and press advert 54 letters of representation have been received from local residents and a comment made by Cllr Bill Urry; of the 54 representations 44 are objections, 4 offer comment and suggestion and 6 offer support for the scheme. The majority of the objections have already been covered

within this report. With regard to other points raised the following comments are made:

(i) No evidence has been provided to substantiate that there is no need for another restaurant in such proximity to the local centre or that it would be detrimental to other A3 uses within the local centre.

(ii) The development within Roundhay Park would set a precedent - Certainly the architectural approach differs from anything within the context of the area and it is reasonable to assume that this may lead to other schemes being put forward to the LPA. However, granting planning permission for this site in this location for the reasons above is site specific and each planning application must be assessed on its planning merits.

(iii) A public toilet in this location is urgently needed – This point is duly noted but cannot be pursued as part of this planning application.

(iv) No provision for waste bins - Bins are provided as part of this scheme.

Covenant

10.37 This point is not a material planning consideration and it is irrelevant to the LPA's Assessment of this planning application. However, the matter has been raised and the LPA are of the view that a proportionate response outside the material planning issues is provided as part of this report. The LPA have taken legal advice on this matter which is detailed below:

10.38 The area comprising Roundhay Park was purchased by the Council on the 31st December 1872. The land and buildings forming the toilet block area were auctioned in 2009 with the purchaser being granted a 125 year lease. The freehold title to the land remains with the Council. Under the Local Government Act 1972 any disposal of land held as Public Open Space has to be advertised in a local newspaper and this was carried out prior to the auction. There are no records of any objections having been received.

The permitted use in the Lease states that any use within Classes A1 (retail), A2 (financial and professional services) or A3 (restaurants and cafes) of the Use Classes Order 1987 only (except use as a licensed betting office, taxi rank or hot food takeaway which shall not be permitted). No other use will be permitted.

Planning has been informed that as Property Services understand, the lease has not been registered at the Land Registry and therefore no reference to it is made on the title. This is something that should have been done by the purchaser's solicitors.

When the Council purchased the Roundhay Park Estate, the land was to be used for the purpose of public use or recreation under the provisions of the Leeds Improvement Act 1866. It is for the heirs and assignees of the original sellers to enforce the covenants against the Council. It would be for the landowner who sold to the Council, or their successors, to enforce any covenant(s). If a third party wishes to establish whether anyone has the benefit of any covenant then they are at liberty to do so. However, as stated above, issues as to potential non-compliance with covenants imposed on the land are not materials to the determination of this application.

11.0 CONCLUSION

- 11.1 As detailed above material change in Government guidance has occurred since the assessment of 09/00262/FU and 11/04296/FU where PPG2 has been replaced by the NPPF with amendments to the exceptions list of what constitutes as appropriate development within Green Belts. As stated above arguably the 2.8m height increase does have some impact on openness but this is not considered to be significant and in any event significant benefits arise act of outweigh the harm. Additionally the principle of an A3 use on this site has already been accepted by the LPA.
- 11.2 The proposed design is considered to represent an innovative solution that would enhance the visual amenity of the Listed Park and the Conservation Area and the method of construction would retain the existing tree coverage by avoiding damage to root systems and canopies thereby offering a significant improvement above previously refused schemes for the re-development of the site.
- 11.3 The technical view from Highways Officers was that that the development can adequately be dealt with by the existing car parking provisions within the area.
- 11.4 The nearest sensitive residential properties on Gladhow Lane and Fitzroy Drive are located a significant distance from the proposed building and its intended use so that there the level of impact in terms of noise and disturbance as well as cooking odours would not impede their living conditions. Also, given the separation distances and tree coverage there would be no harmful levels of overlooking, shade, loss of light or intrusion from internal light sources, with conditions of details of any external lighting imposed.
- 11.5 Oakwood Clock Tower is a significant landmark within the area and the setting of this structure has been given careful consideration. The appearance of the Listed clock tower is distinct as is the design of the proposed building and it is this distinctiveness of each that is considered to protect the heritage asset from being overwhelmed or 'out shined' by the new development. Each would represent their period and both are clearly of their own time. Therefore it is not considered that emphasis of the listed structure would be lost and its quality is strong enough that the proposed architecture does not compete and the setting of the clock tower would not be harmed. Nor is it considered that the Roundhay Conservation Area would be harmed and the additional A3 use adjacent to the District centre would have no serious impact on the vitality and viability of Oakwood centre.
- 11.6 All other materials considerations have been covered above and the effects of the scheme on these points are considered to be acceptable in planning terms. Therefore the scheme is considered to be compliant with the aims of the policies and guidance listed within this report as well as being mindful of the Inspectors findings during her assessment of the previous appeal for development on this site. Accordingly the application is recommended for planning permission for the reasons set out within this report and subject to the above list of conditions.

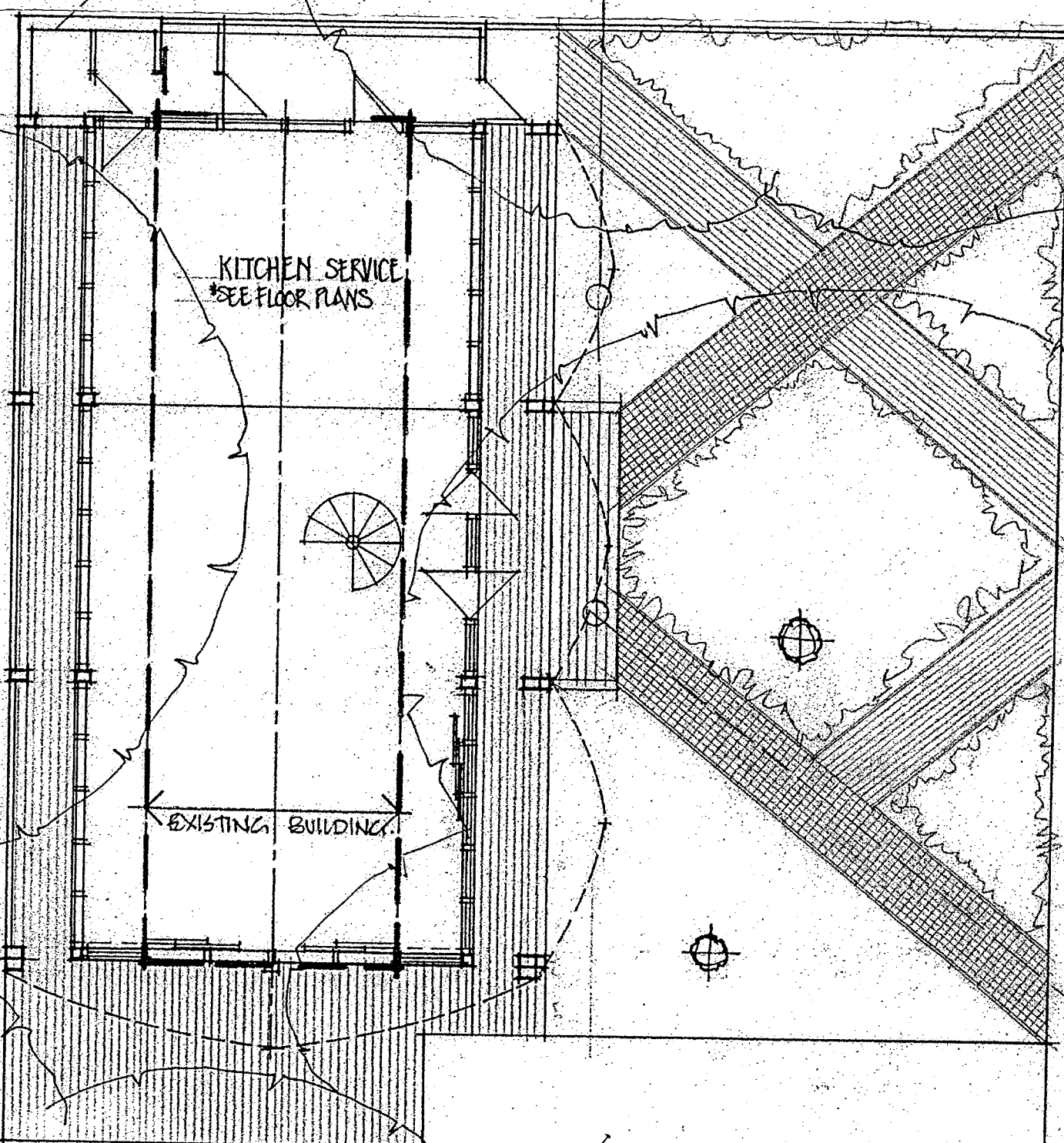
Background Papers:

09/00262/FU and 09/00264/CA

Certificate of Ownership (Cert B) signed by the agent for the applicant: 15 May 2014

Notice served on Leeds City Council.

SITE PLAN



NEW BUILDING RETAINS THE EXISTING BUILDING FOOTPRINT WITH NEW STRUCTURE BUILT OVER THE EXISTING AND CANTILEVERED OVER.

BE FROM TO MAINTAIN FOOTPATH WIDTH

9M TAPER

12M X 3M SERVICE LANE

PRINCES AVENUE

* NOTE:
EXISTING LIGHTING COLUMN TO BE RELOCATED
EXISTING FOOTPATH WIDTH MAINTAINED AROUND LANE
EXISTING PLANTER REDUCED OR REPLANTED
LANE TO BE 12M X 3M WITH 9M TAPER EITHER SIDE.

14/03/196

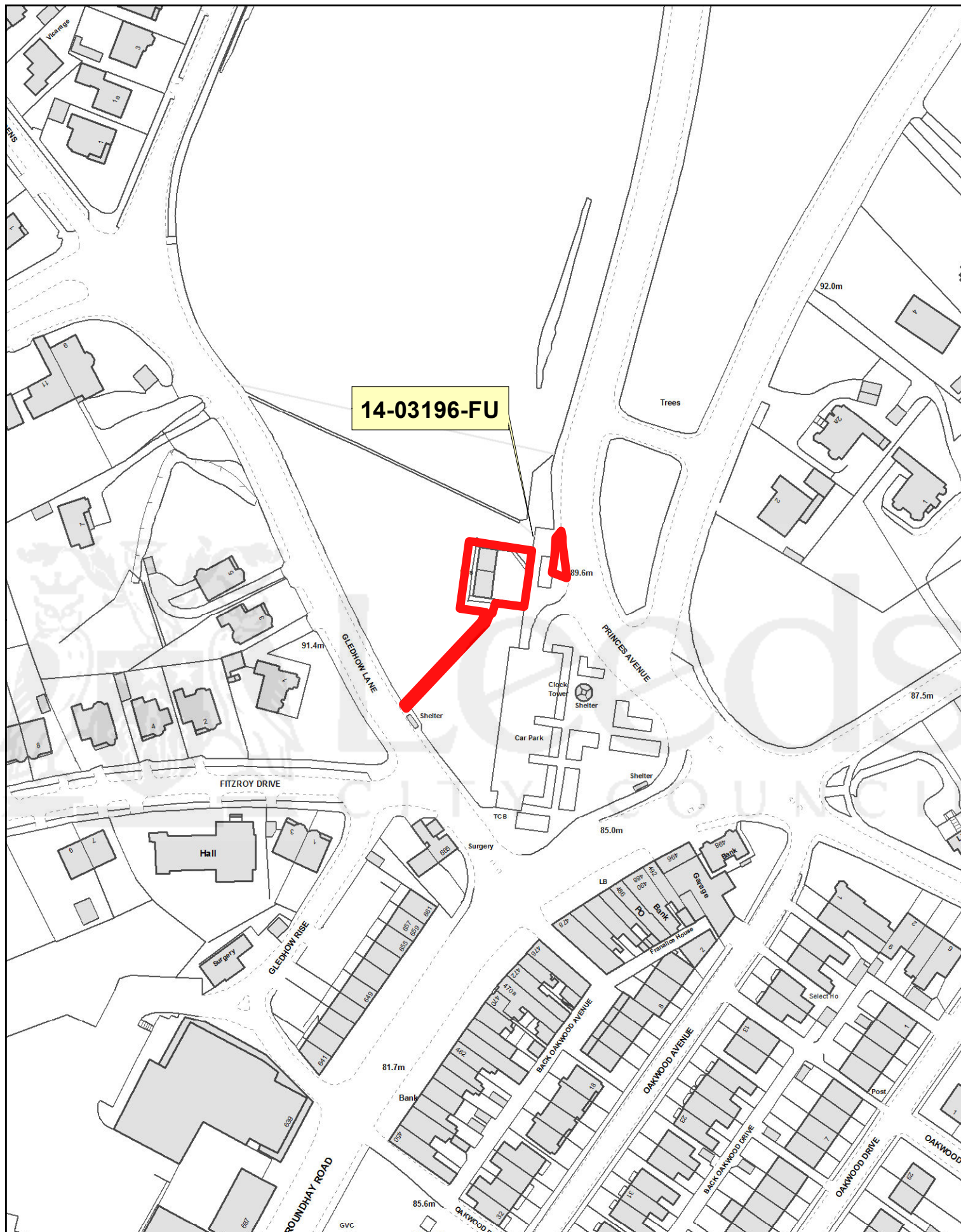
ADDITIONAL
02 SEP 2014

REVISED SITE PLAN WITH LANE

DATE: REVISION DESCRIPTION:
659A ROUNDHAY ROAD
OAKWOOD
LEEDS
LS8 4BA
TEL: 0113 2400012
FAX: 0113 2495766
MJF
ARCHITECTS LTD

PROJECT ~ PROPOSED NEW CAFE-RESTAURANT
PRINCES AVENUE, OAKWOOD, LEEDS

DRAWING DESCRIPTION: ~ SITE PLAN - PERSPECTIVES
CLIENT: ~ OAKWOOD PROPERTIES
SCALE: ~ 1:100
DRAWN/CHECKED BY: ~ 1203-02 A
DRAWING NUMBER: ~ 1203-02 A



NORTH AND EAST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

