



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 9th April 2015

Subject: 14/06051/FU & 14/06052/LI – Full and Listed Building applications for external and internal alterations, single storey extension and addition of new air conditioning and condenser units at Crown Hotel, 128 High Street Boston Spa, Wetherby LS23 6BW

APPLICANT

Tesco Stores Ltd

DATE VALID

25th November 2014

TARGET DATE

20th January 2014

Electoral Wards Affected:

Wetherby

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. Time limit
2. Development shall be carried out in accordance with the approved plans.
3. Sample of new stonework to be submitted
4. Details of any new windows and doors including materials and sections to be provided.
5. Details of the boundary wall (close to the rear entrance) shall be submitted. The details shall show the boundary wall to be retained and any modification that may be proposed.
6. Details of any external lighting shall be submitted.
7. The air conditioning and condensing system to be installed and operated in accordance with the details outlined in the specification and operation document which have been submitted with the application.

RECOMMENDATION: GRANT LISTED BUILDING CONSENT subject to the following conditions:

1. Time limit
2. Development shall be carried out in accordance with the approved plans.

3. Sample of new stonework to be submitted
4. Details of any new windows and doors including materials and sections to be provided.
5. A full schedule of internal architectural features within the listed element of the building.
6. Retention and exposure of cornices and original ceiling.
7. Details on the treatment of the vestibule including a method statement and treatment of how this will be done.
8. Before and after internal elevations of the wall proposed for removal at lower level and a method statement of its partial demolition.

1.0 INTRODUCTION

- 1.1 These applications are brought to Panel at the request of Councillor John Procter due to history of the site and the public interest shown in the application.
- 1.2 Members should note that it has been the long term aspiration of the applicant to use this property as a shop. The General Permitted Development Order (GPDO) grants planning permission for a Public House to be used as a shop. Accordingly planning permission would not be required for this change of use from the council.
- 1.3 The building is located within the conservation area and the right hand portion of the building is listed.

2.0 PROPOSAL

- 2.1 These applications seek permission to make internal and external alterations to the Crown Hotel, 128 High Street, Boston Spa. The Listed Building Application seeks consent for internal and external alterations to that part of the building that is listed. Planning permission is sought for the extensions, including the enclosure and erection of the air conditioning and condenser units, and the insertion of new entrance doors. The full extent of the proposed works are described below:

External Alterations

- A small section of the rear elevation of the building which features a small canopy and door will be removed and the area will be infilled with matching stonework.
- Part of the existing building (the narrow extension to the rear) will be partly demolished to make more room for parking.
- Installation of a new doorway to the western elevation to allow a separate access to the first floor of the building.
- Removal of two central windows on the rear elevation that faces existing hard-standing and to replace this with a glazed level access.
- Partial demolition of the rear wall and making good.
- Installation of plant and machinery (including an external freezer unit, air conditioning and condenser units) to be contained within a service area enclosed with a 2.4m high stone wall with railings and a 2.4m high close boarded timber gates.
- New signage is shown on the submitted plans, but this will be dealt with under a separate application for advertisement consent.
- All stonework would be made good to the façade of the building and where necessary. To repair any windows as required. The bay window on the

right hand side of the building (as noted in the listing) is to be retained and refurbished, with the glazing replaced to meet current building standards.

Internal Alterations

- Removal of the majority of the internal fixtures and fittings and partition walls.
- Elements that will be retained include the door surrounds, fireplaces, porch area (includes entrance door and fanlight) and cornicing. One of the existing walls will be retained at high level.
- Installation of suspended ceilings and stud walls (to create one open retail unit with some private areas located to the rear of the building)
- Blocking up a doorway.
- Installation of service entrance door.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is identified in the Leeds UDP (2006) as being within the Boston Spa Conservation Area and within the Boston Spa local centre. The Boston Spa Conservation Area Appraisal identifies the building as listed (the buildings right hand side is Grade II Listed) and it also identifies it as a positive building within the Conservation Area.
- 3.2 The village of Boston Spa is a linear settlement running either side of the A659 and parallel to the River Wharfe, with its central point at the junction of High Street and Bridge Road. Architecturally, the village has a predominating Georgian architectural style.
- 3.3 Buildings are predominantly two storey in height but this increases to three storeys in the core of the Boston Spa. Magnesian limestone is the dominant building material and a key characteristics of Boston Spa.
- 3.4 The application site is accessed from High Street and from a rear access off Church Street; the building provides a strong feature on the junction of High Street and Church Street. The Crown is the dominant building on a terrace of four properties and is an attractive feature within the local centre both in historic and architectural merit. The existing/former use of the building is as the Crown Hotel, public house. As stated above the building is in part listed in respect of the right-hand part of the building. The building comprises of an early 19th century two storey building (plus an attic) constructed in ashlar magnesian limestone under a pitched Welsh slate roof with a gable end facing Church Street. There are a number of chimneys to the roof with a tall stack rising from the roof slope on the left and a cement-rendered end stack on right. The listed section also has two bays to the ground and first floors, a paneled door and over-light with radial glazing bars on left of a two storey bow window having sashes of four, twelve and four panes with projecting stone sills and chamfered stone mullions. Above the door is a later four pane sash with projecting sill and flat arching and paired brackets to wooden eaves cornice act to form the gutter. The rear elevation has two sashes with glazing bars to the first floor and a graduated slate roof. The fenestration detailing is read as a round-headed stair window with sash and glazing bars; a smaller round-headed attic window and a number of other windows.
- 3.5 The rear yard is enclosed by a stone boundary with punctuations in the boundary wall in respect of a gated pedestrian access and a wider vehicular access further up

Church Street. The vehicular access provides a route from Church Street to a car-park associated to the building, this access passes the garden area of No.1 Church Street (a residential property bounded from the access route and car-park by stone wall and established planting).

- 3.6 As well as commercial and community uses Boston Spa High Street and Church Street have a number of residential properties that are located in near proximity to the application site.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 In 2012 full and listed building applications were submitted to make alterations to the building so that the building could be used as an A1 unit (app ref: 12/02156/FU & 12/02157/LI). The works proposed were similar to those proposed under this application. The application was refused on the basis that works proposed were premature, as the premises (regarded by the LPA as a Hotel) could not be lawfully used as an A1 retail store and that planning permission for the use of the site should be gained before the proposed works could be approved.
- 4.2 Consequently, the applicant submitted a Certificate of Lawfulness to establish that the property was used as a Public House (Class A4), which would mean that the property can be lawfully changed as an retail store (Class A1) without requiring planning permission from the council (12/04329/CLE). The application was refused on the basis the evidence submitted by the applicant was not sufficient prove that, on the balance of probabilities, the application site was used predominantly as a public house.
- 4.3 The applicant lodged an appeal against this decision and the Inspector upheld the appeal and found that the lawful use of the site was a public house falling within the A4 use class. The impact of the Inspector's decision is that the premises can be used as an A1 retail store without the need for a formal planning permission.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant was advised by the Conservation Officer that a number of key internal features of the Listed Building such as the door surrounds, fireplaces, porch area (includes entrance door and fanlight) and the existing cornicing will need to be retained. Therefore, the applicant has revised the plans to show the details highlighted as being retained.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 Site Notices advertising proposal as effecting the Listed Building and the character of the Conservation Area were posted 05.12.2014. Advertised in the Yorkshire Evening Post 17.12.2014
- 6.2 Parish Council raises the following concerns;

- Harmful impact of the use of the site on highway safety
- Noise implications of the use of the site
- External lighting may be harmful to residential amenity
- The upper floors should also be brought back into use

- 6.3 The application has attracted 10 letters of objection and one support letter. The comments provided in objection focus heavily on the use of the property, impact on highway safety and the noise implications of the use particularly from delivery vehicles. Apart from the concern raised with regards to the use of the site the following valid issues has also been raised;
- Loss of the historic fabric
 - Noise from the service plant yard
 - External lighting of the car park to have an negative impact on the character of the area and on will be harmful to the amenity of neighbouring dwellings.
 - Attaching the plant equipment to the property will have a negative impact on the Listed Building.
 - The timber fence around the plant area is unacceptable.
 - The loss of the boundary wall to accommodate disabled parking
 - Lack of information on the rear parking area.

7.0 CONSULTATIONS RESPONSES:

- 7.1 Conservation Officer- raises no significant concerns to the application provided that pre-commencement conditions relating to the following are attached;
- Submission of full schedule of internal architectural features within the listed element of the building.
 - Retention and exposure of cornices and original ceiling.
 - Details and method statement on the treatment and the blocking up of the vestibule.
 - Before and after Internal elevations of the wall proposed for removal at lower level and a method statement of its partial demolition
 - Details of the external materials, doors and changes to any windows
- 7.2 Highways – Raise no objections in principle to the development. It is noted that the supporting information makes it clear that the application is not seeking to establish the principle of the acceptability of a change of but to establish whether the proposed external and internal alterations would be acceptable to the Council. As the proposed alterations in themselves are very minor and would not result in any material change to the operation of the site in traffic/transport terms, a highways objection to the application could not be justified.

However, it is considered that the change of use would raise a number of highway issues. Including servicing, the layout and illumination of the car park and the use of the car park.

8.0 PLANNING POLICIES:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

Core Strategy:

8.2 The Core Strategy and CIL was adopted by The Council on 12 November 2014 and forms part of the Statutory Local Plan for Leeds.

8.3 Core Strategy Policy:

P10 Seeks to ensure development for buildings and spaces, and alterations to existing, should be based on a thorough contextual analysis and provide good design that is appropriate to its location, scale and function with high quality design that protects and enhances amenity and the wider street scene.

P11 – Relates to conservation.

8.4 Relevant Saved UDP Policies:

GP5 seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

BD6 All alterations and extensions should respect the scale, form, detailing and materials of the original building.

N14 There will be a presumption in favour of the preservation of listed buildings. Consent for the demolition of substantial demolition of a listed building will be permitted only in exceptional circumstances and with the strongest justification.

N16 Extensions to listed buildings will be accepted only where they relate sensitively to the original buildings. In all aspects of their design, location, mass and materials, they should be subservient to the original building.

N17 Whenever possible existing detailing and all feature, including internal feature which contribute to the character of the listed building should be preserved, repaired or if missing replaced. To the extent that the original plan form is intact, that plan should be preserved where it contributes to the special character and appearance of the building.

N19 All new buildings and extensions within or adjacent to conservation areas should preserve or enhance the character or appearance of the area.

8.5 Boston SPA Conservation Area Appraisal and Management Plan.

National Planning Policy Framework:

8.6 This sets out the government's aims for promoting growth and sustainable forms of development.

National Planning Policy Framework states in paragraph 17 that the planning system should "*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*" and in

8.7 Paragraph 56 that "*good design is a key aspect of sustainable development*" and stresses in paragraph 58 that developments should be "*visually attractive as a result of good architecture*" with paragraph 64 stating 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*".

8.9 National Planning Policy Framework states in paragraph 126 that "*heritage assets are an irreplaceable resource*" which should be conserved "*in a manner appropriate to their significance*" and in paragraph 132 that "*as heritage assets are irreplaceable, any harm or loss should require clear and*

- 8.10 Sections 72 and 66 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. Moreover, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

9.0 MAIN ISSUES

1. Principle of development
2. Character and appearance of the Listed Building and wider Conservation Area
3. Residential amenity
4. Highways implications
5. Public representation

10.0 APPRAISAL

Principle of development

- 10.1 In terms of the principle of the retail use of the development site, a change of use from a Public House to a shop is permitted development.
- 10.2 Officers are of the view that there is a realistic prospect of this fall-back position being realised (i.e. it is not a theoretical fall-back position) and therefore it is a highly material consideration when it comes to the consideration of the application. The proposals should be considered in the light of what the site could be used for without requiring planning permission from the council.
- 10.2 In light of the fact that the site can be used as an A1 retail unit without the need for a formal planning permission, it is considered that the works proposed which will help facilitate the site to be used as a A1 are acceptable in principle provided subject to the works meeting all other planning considerations.

Character and appearance of the Listed Building and wider Conservation Area

- 10.3 It is considered that the removal of the majority of the internal fixtures and fittings and the external alterations proposed are considered acceptable and this has been agreed with the Conservation Officer. Through negotiations the important internal elements such as the door surrounds, fireplaces, cornicing and the porch area (includes entrance door and fanlight) will be retained. Therefore, it is not considered that the proposed internal alterations will harm the integrity or the historic fabric of the Listed
- 10.4 The external alterations proposed will not significantly alter the appearance of the building with majority of the works proposed to the rear which will not appear prominent from the main highway. Therefore, it is not considered that the extension will harm the character of the Conservation Area or the Listed building. All the works proposed have been evaluated by the Conservation Officer who has raised no concerns. Conditions will be attached to ensure that the works are carried out

sensitively taking care of the historic fabric and ensuring that the materials used are in keeping with the original building.

- 10.5 The most substantial works proposed is the installation of plant and machinery (including an external freezer unit, air conditioning and condenser units) to the rear of the site. It is considered that this area will be enclosed by a 2.4m high stone wall with railings and a 2.4m high close boarded timber gates. It is considered that the enclosure will effectively hide the plant area from public view and thereby ensuring that the impact on the character of the Conservation Area and the listed building section of the building is minimal.

Impact on residential amenity

- 10.6 A number of objections have been made by members of the local community with regards to the noise output of the proposed air conditioning and condenser units as well as the external freezer and the impact from external lighting. The application premises is located within the local centre fronting onto High Street but having the proposed service yard adjacent to Church Street. Church Street is generally residential and High Street whilst generally commercial does also have a clear residential presence, therefore the proposed development would have some effect on residential amenity. Although the Environmental Protection Team were not consulted on this application, they did however comment on the similar 2012 application (see Planning History section of the report). After evaluating the details of the condenser and the air conditioning units (the same as proposed now), it was found that the acoustic output of the proposed external equipment would not disadvantage the existing levels of amenity of nearby occupants of residential properties and that a condition could be attached to ensure plant equipment is operated in accordance with the submitted operation details. It is also not uncommon for such units to be in proximity to residential properties.
- 10.6 With regards to the external lighting, the plans do not show any external lighting being installed so this issue cannot be assessed. However, it is considered that a condition regarding the installation of external lighting should be imposed in order to avoid doubt that such works will require planning consent.

Highways implications

- 10.7 The Highways Officer has made a number of queries with regards to the parking and deliveries arrangements on the site and members of the public have raised similar concerns and have also raised issues with regards to highway safety. As previously mentioned the change of use of the building from an A4 use to A1 (retail) is permitted development and represents a fall-back position which should be accorded considerable weight. The fact that the site could be used for retail development without the need for planning permission from the council, it would be unreasonable for the Local Planning Authority to impose controls on the level of parking provision or to take into account the management of such needs in the appraisal of the current proposals (as these matters are not directly related to the applications to be determined).

Public representation

- 10.8 The majority of the representations respond to the implication of the use of the site as an A1 retail store with issues such as highway safety, parking, noise being sited.

These issues fall outside the scope of this application as the use of the site not under consideration.

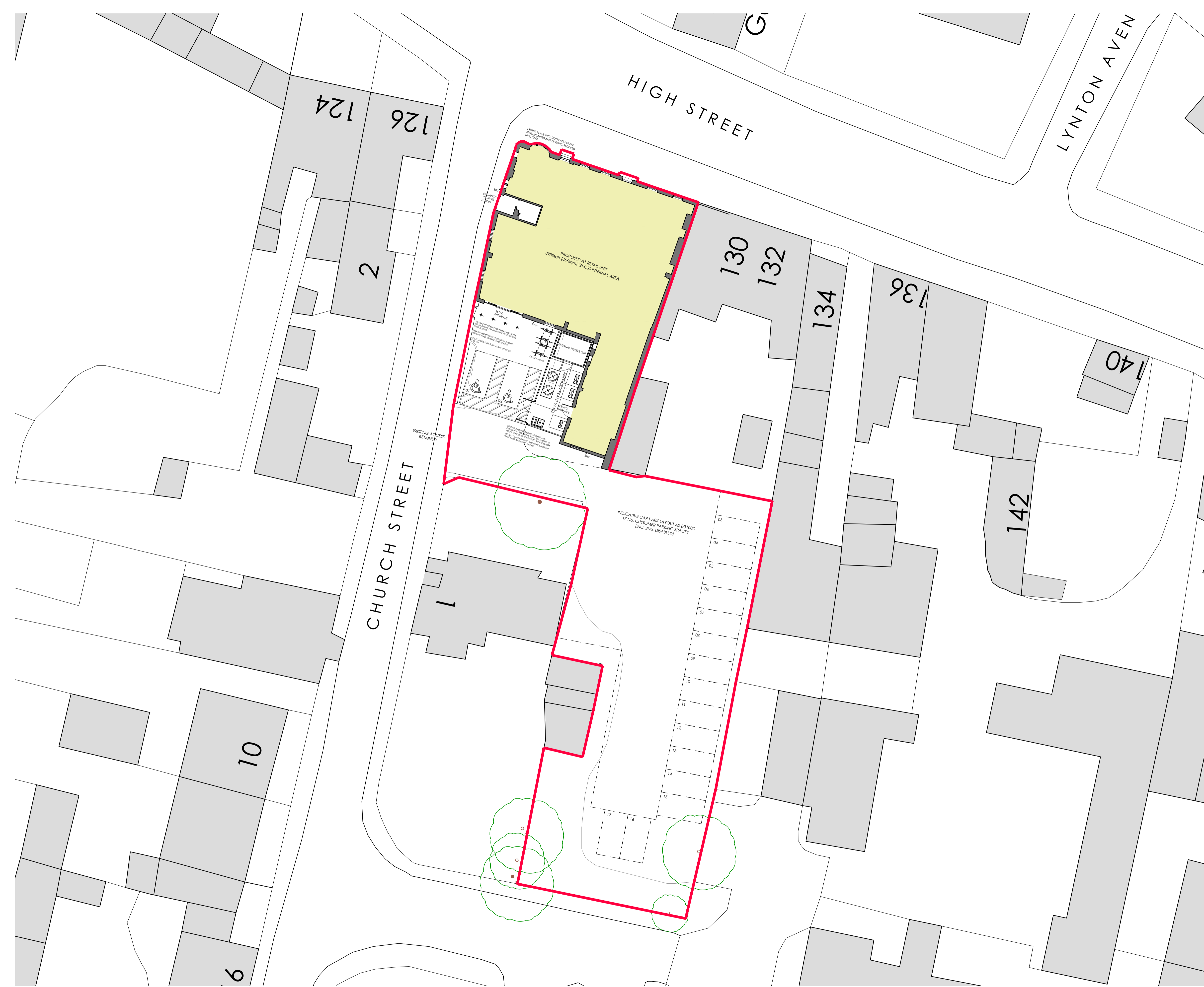
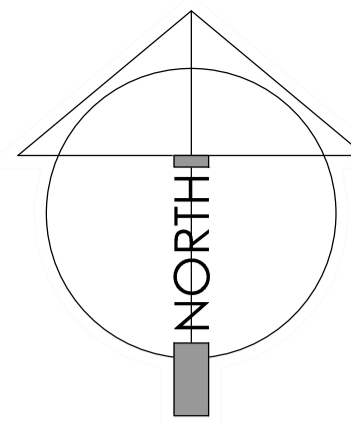
- 10.9 The comments made with regards to the internal lighting, loss of historic fabric, impact of the proposed development on the character of the listed building, noise from the service plan equipments, have been addressed in the report.
- 10.10 The comments made that the upper floors should also be brought back into use, is noted. However, the Local Planning Authority cannot reasonably force the applicant to use the upper floor of the site.
- 10.11 The concerns raised that the loss of the boundary close to the entrance of the site is a valid planning point. It is considered that a condition will be attached to ensure more details of this wall are submitted and that the wall is retained.

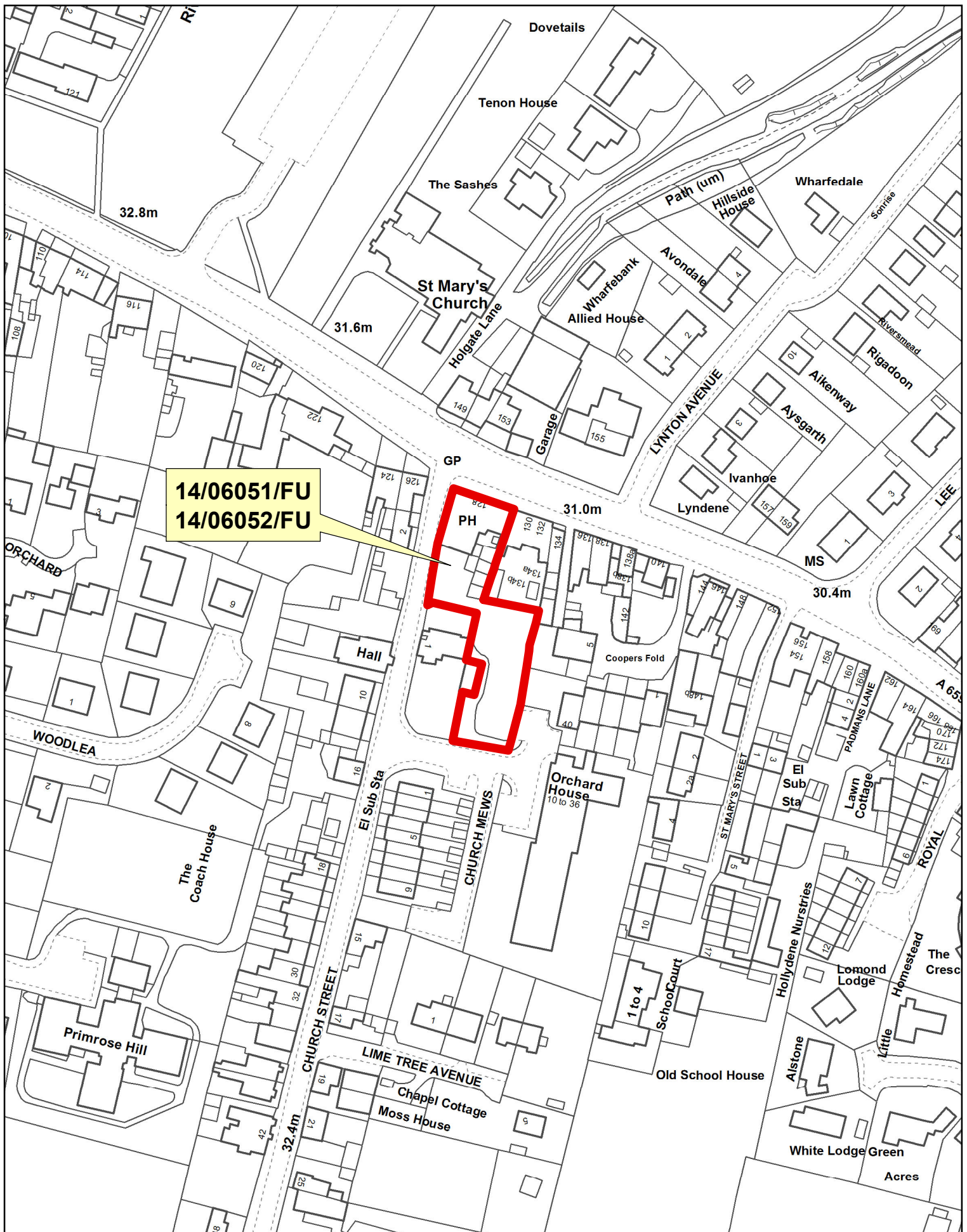
11.0 CONCLUSION

- 11.1 The 'fall-back' position is a material consideration where it can be shown that the development and uses to which the site might be put without further planning permission, having regard in particular to the Use Classes Order, would bring about a similar situation to that for which permission is sought. A change of use from the current use of the site as an A4 Public House unit (as established by the Inspector's Appeal Decision) to an A1 retail use does not require planning consent. The principle of retail use of the site is therefore established. In view of the fall-back position officers are not of the view that it is necessary to make the retail use acceptable in planning terms and therefore should not be taken into account in determining the planning application.
- 11.2 It is considered that proposed internal and external works proposed will not have an adverse impact on the design or the character of the Listed Building or the character of the Conservation Area. It is also considered that the proposals will not cause any harm to the living conditions of any surrounding residents. In this context it is recommended that the applications are approved.

Background Papers:

Application file: 14/06051/FU & 14/06052/LI
Certificate of Ownership: Tesco LTD





NORTH AND EAST PLANS PANEL

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

SCALE : 1/1500

