

Report of the Chief Planning Officer

SOUTH AND WEST PLANS PANEL

Date: 22nd October 2015

Subject: APPLICATION 15/02489/FU & 15/02490/LI– Change of use of educational facility (D1 use) to A4 public house, external alterations and creation of outdoor areas to the front of the building and car parking to the rear and accompanying Listed Building Application– Former Elinor Lupton Centre, Richmond Road Headingley LS6 1BX

APPLICANT

J D Wetherspoon PLC

DATE VALID

11.05.2015

TARGET DATE

30.10.2015 (as extended)

Electoral Wards Affected:

Headingley

☐ Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION:

DEFER AND DELEGATE for approval of planning application 15/02489/FU to the Chief Planning officer subject to the conditions below and subject to the signing of a Section 106 agreement within 3 months of the date of resolution unless otherwise agreed in writing by the Chief Planning Officer to include contributions of £10,000 towards bus shelter improvements on Headingley Lane and £20,000 for a Traffic Regulation Order and the Public House Management Plan designed to prevent serious harm to neighbouring amenity from occurring. A Local skills and training clause is also proposed.

GRANT Listed building Consent for application 15/02490/LI subject to the conditions listed below.

15/02489/FU

1. Time limit condition
2. Plans to be approved;
3. Development shall not commence until a scheme (ie drainage drawings and summary calculations) detailing the surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall comply with Council's Minimum Development Control Standards for Flood Risk - see the Natural Resources and Waste LDF. The works shall be implemented in accordance with the approved scheme before the development is brought into use.
4. Materials details and samples of all external walling, roofing and surfacing
5. Hard and soft landscape scheme to be approved in writing and implemented.
6. Landscape management plan
7. Preservation of retained trees/hedges/bushes
8. Provision for replacement trees/hedges/bushes
9. Details of cycle and motorcycle parking
10. Details of access, storage, parking, loading/unloading of contractors plant, equipment materials, vehicles
11. Details of bin stores
12. Specified operating hours (construction) of 08.00-18.00 weekdays, 09.00-14.00 Saturdays; no Sunday / Bank Holiday operations;
13. Submission of statement of construction method
14. Hours of opening of the Public House shall be restricted to Sunday to Thursday 8am – 11.00pm and Friday & Saturday 8:00am – 11.30am including public holidays. Last orders shall be 30 minutes before closing time specified in this condition.
15. The outside area to the front of the building shall not be used for the consumption of food or drink before 9am or after 10pm any night. Notwithstanding the information shown on the approved plans there shall be no tables and chairs sited located outside of the defined front beer garden area.
16. There shall be no food or drinks consumed outside of the building except in the defined areas.
17. The rear glass doors onto the ramp shall be closed no later than 10pm each night.
18. Bottles shall not be placed in any outside receptacles after 8pm or before 9am.
19. There shall be no amplified music or televisions audible outside of the premises at any time.
20. There shall be no deliveries to the site before 8am or after 6pm Monday to Saturday and not before 9am or after 1pm on Sundays and public holidays.
21. Deliveries shall be carried out in accordance with the approved delivery management plan which describes the routes for delivery pre and post NGT (if constructed)
22. Only on the event NGT is constructed and Richmond Road is closed to traffic from Headingley Lane then the existing Eastern access into the site from Headingley Lane shall be opened to cars and light good vehicles as an 'in' only access. A scheme for signage and physical barriers to prevent access out on to Headingley Lane shall be approved before NGT is constructed.
23. Plant and mechanical equipment shall not be audible above 5ba at the nearest noise sensitive point.
24. The details of the acoustic fencing shall be approved prior to the commencement of building works and installed prior to first use of the Public House.
25. A car park management plan to be submitted and approved.
26. Restriction of permitted development change of use.

15/02490/LI

1. Time limit condition
2. Plans to be approved
3. Samples of materials
4. Details of repairing and reinstating internal features of the building

1. INTRODUCTION:

- 1.1 This application is brought to Panel due to the level of interest in the proposals from local residents. Members are asked to consider this application on its own merits and having regard to the policies of the Development Plan to determine the application unless other material considerations indicate otherwise.
- 1.2 The application is finely balanced. There will be impacts on the amenity of local residents by the creation of a Public House in a predominantly residential area which is also covered by the Cumulative Impact Policy (CIP) which is a Licensing Policy that would normally resist any further Public Houses in this area unless the applicant demonstrates that they can overcome the 4 elements that make up the CIP (set out in the consultation section of the report below). The CIP is a relevant material planning consideration, the weight to be attached to this policy is for the decision maker to decide but officers would suggest that only limited weight is afforded because the policy is not a Development Plan policy that has been subject to a process of consultation or sustainability appraisal testing that is required as part of a Development Plan document.
- 1.3 It is possible that this harm to the neighbours can be ameliorated by the controls imposed by the planning conditions recommended above and through the adoption of a Management Plan to control the potential for noise and disturbance emanating from the comings and goings of a Public House including from cars and delivery vehicles. Set against this harm is the considerable weight that is afforded to the restoration and reuse of the listed building which is also a positive building within the Headingley Conservation Area. The building is on the At Risk Register as advised by Leeds Civic Trust. The investment required to restore this listed building is substantial. The building has been vacant for around 6 years and actively marketed for sale for around 5 years. During that time significant interest was received from prospective purchasers for a range of uses, including residential, offices, gyms, leisure use and social enterprises for community uses. Many of these expressions of interest materialised into offers to buy the building (subject to planning) but none were taken through to sale or even taken through to formal planning applications, primarily because of viability concerns, securing sufficient funding for the task of repairing the listed building and the potential challenges of securing listed building consent and or planning permission. The NGT scheme also results in the closure of Richmond Road from Headingley Lane and the creation of an NGT stop directly outside of the building which has substantial impacts on how the site would be serviced and accessed by all vehicles.
- 1.4 Public Houses are Main Town Centre uses and the site is located in an area classed as 'out of centre' being midway between Headingley town centre and Hyde Park Corner. The Core Strategy and NPPF would tell us this type of development should in the first instance be located in the defined town centre, then edge of centre and only out of centre following a sequential and impact assessment to see if there exist's any more sequentially preferable sites within this hierarchy. Simply, the proposal is contrary to policy P8 of the adopted Core Strategy and does not comply with the Town Centre first approach of the NPPF. When making a decision on the application Members must have regard to the development plan and make decisions in accordance with the policies within that plan unless other material planning considerations indicate otherwise. Although this development is not

sequentially preferable it is not likely to cause any noticeable harm to the existing businesses located within any of the nearby centres.

- 1.5 The applicant proposes to create a significant number of jobs, both permanent and full time positions (equivalent to 50 full time jobs) which are positive elements of the economic investment they propose to make into the premises. In addition the site is possibly one of the most sustainable locations in terms of accessibility considerations.

2. PROPOSAL:

- 2.1 The proposal is for alterations and refurbishment and the change of use of Elinor Lupton Centre from educational facility (D1 use) to an A4 public house together with minor external alterations.
- 2.2 External changes to the building are to be limited to rear of the building. An insertion is to be made into the south wall in order to link internal and external spaces. Symmetry of the building is to be retained with structural glass windows.
- 2.3 All existing entrances onto the site are to be made use of without the creation of any new ones. The existing vehicular access point onto Richmond Road will be widened to allow for deliveries. The rear outside area which was last used as car parking will be reused as a car park (17 spaces), bin store, bin store and delivery area. Directly outside the front elevation behind the retained existing hedge is proposed to be used as an outside eating and drinking space.
- 2.2 As the site is affected by the NGT Scheme the developer has supplied two plans to allow for the current situation before NGT and should NGT be constructed an alternative vehicular access strategy is shown. At present delivery vehicles can access the site from Richmond Road off Headingley Lane, as can all vehicles. Should NGT be constructed a plan is provided which shows the existing eastern access single width track opened up and available for cars and light goods vehicles to access the site from Headingley Lane. Signage would be installed to prevent cars exiting the site from this route. The access onto Richmond Road would continue to be two way. The servicing route for HGVs would require Traffic Regulation Orders (TROs) to protect the junction from Buckingham Grove and Richmond Road and around the mouth of the access into the site.
- 2.3 There is a Listed Building Consent (LBC) application for internal and external alterations to Elinor Lupton Centre that accompanies this Full application. Members are reminded they are being asked to determine both the LBC and this Full application at the same time.

3. SITE AND SURROUNDINGS:

- 3.1 The site relates to a Grade II listed building (No 465421) within the Headingley Hill, Hyde Park and Woodhouse Moor Conservation Area. It is partly 2 storeys with a basement, all dressed in Portland Stone. It is both different in style and materials from the predominant Victorian stone villas on Headingley Hill but a landmark building in its own right. Buckingham House which adjoins the site is a grade II listed building and has been converted into apartments.

- 3.2 The site is located in a predominantly residential area and the building front Headingley Lane, there is an existing historic vehicular access located between the building and the neighbouring site of Buckingham House (also grade II listed). The main vehicular access and car parking area is accessed from Richmond Road. Headingley Lane is a main arterial route into the City centre, whilst Richmond Road represents a solely residential environment. The site sits mid way between the defined town centre of Headingley and the local centre of Hyde Park Corner.
- 3.3 The doors and windows are all now boarded up and there is graffiti, especially on the front elevation.

4. RELEVANT PLANNING HISTORY:

- 4.1 15/02490/LI: Listed Building application for change of use of educational facility (D1 use) to A4 public house, external alterations and creation of outdoor areas to the front of the building and car parking to the rear. Presented to Panel on the 22nd October 2015 for a determination at the same time as this Full application and considered during the appraisal section of this report.
- 4.2 The site has been nominated twice to be included in the on the List of Assets of Community Value. Each nomination has been rejected on the grounds that the site does not meet the criteria for inclusion on the list. For the property to have been successfully listed it must have had an eligible non-ancillary use in the recent past that furthered the social interests or social wellbeing of the local community. At time of the nomination it was decided by the Director of City Development that the local community did not use the building, it was exclusively used by pupils and parents of Leeds Girls' High School and they alone were not considered to be the local community.
- 4.3 Planning Permission has been granted for the redevelopment of the Main Leeds Girls High School site on Headingley Lane and the site of the former Swimming Pool and Sports hall on Victoria Road. Both for residential development and development is underway on the Main School site.

5. HISTORY OF NEGOTIATIONS:

- 5.1 Prior to the application being submitted a pre-application enquiry was submitted by Wetherspoons to considered the proposed change of use. (PREAPP/14/00984)
- 5.2 The advice given in February 2015 was that although considerable weight was attached to the re-use and restoration of the listed building and the local employment opportunities that the development would create it is not considered that these elements will outweigh the harm to the character of the area or the living conditions of the surrounding neighbours particular arising from the use of the outside rear space.
- 5.4 The application held a community consultation event on 2nd February 2015. About 100 residents attended the event. The applicant acknowledges the majority of comments received were negative but they did also receive some positive comments and suggestions.
- 5.5 Headingley Ward Members have been briefed on the scheme as originally submitted and the subsequent revised scheme. Ward Members remain concerned

with the proposed change of use to a Public House due to the impacts on the surrounding neighbours.

- 5.6 The original application included a substantial rear outside drinking and eating area that occupied around half of the space in the rear yard. A container bar was also proposed to service this outside space. This was omitted from the plans during the course of negotiations to protect the amenity of nearby residents. The hours of opening of the premises have also been reduced significantly from what was originally requested and the servicing arrangement pre and post NGT have been defined.

6. PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised by means of site notices, neighbour notification letters and a notice published in the Yorkshire Evening Post. Site notices were posted to advertised the amended plans and allow further comments to be made.

- 6.2 92 letters of representation were received from local residents and a comment from Greg Mulholland MP following the initial notification of the applications. Concerns and comments raised are summarised as follows (88 object and 3 support):

- A Pub will harm the community
- Contrary to cumulative impact policy
- Create noise and disturbance
- Anti social behavior problems
- Excessive traffic and cars, including taxis
- Devalue properties
- Force families out of the area
- There is a community project that would make a better use of the building
- The pub is out of centre
- Will add to the Otley Run pub crawl
- Over provision of pubs in the area
- Will end up being a student pub
- Late night disturbance
- Large numbers of people will be coming and going from the pub
- Photographs submitted showing parking congestion
- Servicing of the pub is a concern
- Friends and Residents of Orville Gardens object to the application
- North Hyde Park Neighbourhood Association object to the application
- South Headingley Community Association object to the application
- Far Headingley Village society objects to the application.

- 6.3 Greg Mulholland MP has provided comments on the application reiterating the concerns

- 6.4 Following the originally submitted plans being revised by removing the proposed rear beer garden local residents were notified of the revisions and given the opportunity to provide further comments. 30 further letters of objection were received. The majority of the objections received to the publicity of the revised plans were from the original objectors.

7. CONSULTATIONS RESPONSES:

7.1 An outline of the mains points raised are provided below:

7.2 **Statutory:**

Yorkshire Water: No objection subject to conditions requiring agreement of foul and surface water drainage.

Transport Development Services: On balance no objections subject to conditions covering cycle storage and unallocated parking. Funding for a potential TRO, pre and post NGT access and servicing arrangements need conditionings.

7.3 **Non-statutory:**

Flood Risk Management: No objections subject conditions requiring the submission and agreement of drainage details.

7.4 LCC Licensing: Any subsequent application for a Premises License under the Licensing Act 2003 will have to specify the hours and activities the premises will operate, they will also have to state how they will not impact on the 4 Licensable Objectives those being:

1. the prevention of crime and disorder,
2. the prevention of public nuisance,
3. public safety,
4. the protection of children from harm.

It should also be noted that these premises fall within the Headingley/Hyde Park Cumulative Impact Area (Area 2) which states the following:

It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 2 for the following premises:

- Alcohol led premises such as bars, pubs and nightclubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants
- Premises seeking to sell alcohol for consumption off the premises after midnight, such as off licenses and convenience stores.

It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

Therefore whilst the Licensing Authority have no objection or comment in respect of the planning application the applicants will under the Licensing Act 2003 have to satisfy the 4 licensable objectives and also that the premises will not impact on the Area 2 Cumulative Impact Policy.

7.4 LCC Conservation Team: The alterations to this listed building will cause harm (less than substantial) to this listed building in accordance with the NPPF, because of the creation of seating around the front entrance to the building which harms the setting of the listed building (this has been conditioned to be omitted from the plans and only seating in the defined area located behind the hedge is acceptable). This harm should be weighed against the public benefits of the proposal including securing its optimum viable use. The applicant has provided a marketing statement which argues that after a long marketing campaign very few uses were either viable or practicable given the physical constraints of the building. The conservation team accepts this analysis and accepts that the current proposal is the optimum viable use which justifies the harm to the listed building.

- 7.5 Air Quality Management Team: No objections on the grounds of air quality as Public Houses are not sensitive receptors under the air quality management regime.
- 7.6 Public Health: Headingley is a student area with a large number of licenced premises; it is a CIP Cumulative Impact Policy which means that there are usually no additional licences issued within the defined area. Public health would like to highlight the following concerns relating to alcohol.
- There is an increase in harmful drinking amongst students.
 - Practice level data from the Leeds student medical practice indicates that 40% of students are hazardous or high risk drinkers and the Healthy Lives Survey in 2012 indicated that 82% of students binge drink on the occasions when they do drink.
 - NHS Leeds West CCG identified alcohol harm reduction as a strategic objective and funded the Student Alcohol Harm Reduction Project in 2013/14 and in 2014/15 academic year the funding was used to embed the project into day-day business and across higher education partners.
 - Findings from a Leeds Teaching Hospitals Trust Accident & Emergency data project underline that the student population are a key population to target in terms of reducing A&E attendance.
- 7.7 West Yorkshire Combined Authority: Request a contribution of £10,000 towards bus stop improvements along Headingley Lane
- 7.8 Leeds Civic Trust: While accepting the principle of a change of use which will enable the listed building to be restored and its setting improved, we think the creation of the rear outdoor drinking area, notably the placing of a 'container bar' right at the back of the site, is not acceptable in a residential area. (Note the container bar and rear drinking area was removed from the application during the course of negotiations).
- 7.9 Historic England: This Grade II listed building has been vacant for over eight years and despite being marketed for sale during this time has been unsuccessful in securing a new use. The current proposal involves some alterations which will cause some harm to the significance of the listed building. However, on balance, the public benefits of securing a long-term sustainable new use could be assessed as outweighing this harm and could be judged to be acceptable in order to secure its optimum viable use, in accordance with paragraph 134 of the NPPF.
- We commend J D Wetherspoons for developing such a broadly sympathetic scheme and recommend that any minor amendments suggested by your Conservation Officer should be addressed, along with a robust set of conditions to ensure appropriate materials and quality detailing. This should be sufficient in this case to ensure that the heritage significance of the building is maintained by the proposal.
- 7.10 Victorian Society: It is noted that external seating at the rear of the building has been omitted, an improvement to the original scheme. We urge that other external seating proposed at the front entrance between the curved wing walls should also be omitted.
- 7.1 West Yorkshire Police: Support the application on the grounds of the applicant's successful track record of improving problem Public Houses and managing other premises successfully.

8. PLANNING POLICIES:

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan for Leeds is made up of the adopted Core Strategy (2014), saved policies from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Development Plan Document (DPD), adopted January 2013.
- 8.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies and contains policies on a range of issues including housing, sustainable development, Green Belt, conservation, the local economy and design.
- 8.3 In respect of design it states that "good design is indivisible from good planning" and Local Authorities are encouraged to refuse "development of poor design", and that which "fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted".
- 8.4 Paragraph 24 relates to out of centre development proposals:
Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

Paragraph 69 of the NPPF sets out the importance of the planning system in creating healthy balanced communities.

Paragraph 131 states

In determining planning applications, local planning authorities should take account of:

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

Paragraph 132 states:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

Paragraph 134 states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

8.5 Core Strategy policies:

Policy SP1: Location of development in main urban areas within settlements

Policy P8: Out of centre developments

Policy P10: High quality design

Policy P11: Conservation

Policy P12: Landscaping

Policy T1: Transport management

Policy T2: Accessibility requirements

8.6 Saved UDPR policies:

Policy GP5: General planning considerations;

Policy N19: Conservation areas and new buildings

Policy BD6: Extensions and alterations

Policy LD1: Criteria for landscape design;

Policy T7A: Cycle parking

Policy T24: Parking provision

8.7 Supplementary Planning Documents:

Street Design Guide SPD

Neighbourhoods For Living SPG

Headingley and Hyde Park Neighbourhood Design Guide SPD

Headingley Hill and Hyde Park Conservation Area Appraisal SPD

9 **MAIN ISSUES:**

9.1 The following main issues have been identified:

- Principle of the change of use and out of centre development
- Impact on visual amenity and the character of Headingley Conservation Area and the affect upon the of the special character of the listed building
- Residential amenity
- Highways and parking
- Other matters
- Conclusions

10 **APPRAISAL:**

Principle of the change of use and out of centre development

- 10.1 In assessing the principle of the development the starting point is that decisions should be made in accordance with the Development Plan unless other material considerations indicate otherwise.
- 10.2 The site is located midway between the defined centres of Hyde Park Corner and Headingley. The change of use from an educational facility to a Public House results in a form of development which in the first instance would normally be located in a defined centre as it is what is known as a 'Main Town Centre Use'. The NPPF and the Core Strategy require applications for out of centre Main Town Centre Uses to undertake a sequential assessment (ie locate Main Town Centre Uses in town centres first, then edge of centre locations before considering out of centre options) or depending on the size of the building an impact assessment might be required. The site is defined as being Out of Centre in sequential assessment terms.
- 10.3 As this application relates to a total of 1589sqm (gross) floorspace then both a sequential test and an impact assessment is required as the threshold of 1500sqm set out in Core Strategy Policy P8 is exceeded. This involves a review of all sites that could accommodate the proposed A4 Public House Use within a 15 minute driving time catchment radius. In assessing proposals for main town centre uses the Council will require development proposals to follow a sequential approach to site selection. This requires development proposals for town centre uses to assess sites for their availability, viability, and suitability within existing centres of their catchment area in the first instance. Where no in-centre sites exist, preference will be given to 'edge of centre' locations which are well connected to the centre by means of easy pedestrian access. Edge of centre is defined as up to 300 metres from the primary shopping area for retail uses. If there are no sites available, viable or suitable in or edge of centre, out of centre locations that are well served by a choice of transport modes and that are close to the centre with the potential of forming linkages with the centre in the future will be favored before other less sustainable sites. Developers must demonstrate flexibility in their business model in terms of the scale, format, car parking provision and scope for disaggregating specific parts of the development to enable them to locate within the centre before considering less central sites.
- 10.4 One of the main concerns with out of centre development proposals is what is the effect they would have upon existing businesses within the defined town centres and would they harm the vitality and viability of the town centres by drawing trade away. This is particularly important for small and independent traders. The impact assessment carried out by the developer (as shown in the table below) sets out the likely trade that will be taken from the existing centres by the introduction of the proposal. The proposal is envisaged to generate a turn over of around £2,300,000

per year. As can be seen the predicted impact on the existing businesses in the centres shown below is likely to be low and not have a noticeable impact.

Location	Turnover	Trade loss	Impact
Hyde Park Corner	£2.194M	£0.043M	2%
Meanwood	£6.086M	£0.093M	1.5%
Headingley	£20.039M	£0.481M	2.4%
Wetherspoons Chapel Allerton	£2.39M	£0.167M	7%
Wetherspoons Bramley	£1.195M	£0.059M	4.9%
Leeds	£164.7M	£1.447M	0.8%
Total		£2.39M	

- 10.5 All town centre use proposals should consider the accessibility of the proposal to public transport and none private car based travel options. They should also be assessed against the need to ensure high quality and inclusive design- which improves the character and quality of the area and the way it functions. The proposal should also be considered against the impact on economic and physical regeneration of the area and also on the impact on local employment. When considering the application in light of these considerations the proposal is considered to perform well.
- 10.6 Given the proximity of this site to surrounding centres of Kirkstall Road, Kirkstall town centre, Weetwood, Butcher Hill, Hawksworth, Burley Lodge, Headingley, Hyde Park Corner, Chapel Allerton, Meanwood, Horsforth and the City Centre a considerable number of sites could potentially emerge that are likely to be more sequentially preferable than the application site. The applicant's particular business model does often seek out unusual, characterful and challenging historic buildings that require substantial investment that they can convert into Public Houses. The Elinor Lupton Centre is one such building and clearly it cannot be moved into a more sequentially preferable location. Given the building is 'out of centre' the application does not accord with the aims of Policy P8 of the Core Strategy however, the harm that arises from this breach of policy is mitigated by the other positive economic elements and factors set out in the preceding paragraph. Members are advised that a reason for refusal based on Policy P8 would likely be outweighed by the other material considerations set out in this report and chiefly the substantial weight that is required to be afforded to the re-use and restoration of the important heritage asset, the Elinor Lupton Centre.

Residential amenity

- 10.7 Careful consideration has been given to the impact the development will have on the residential amenity of nearby residents. During the daytime the proposal is not envisaged to cause any serious harm to local residents by reason of noise and disturbance but there is potential for noise and disturbance to occur during the evening, particularly on Friday and Saturdays. The servicing arrangements are set out in the highway section of the report but overall subject to planning conditions the impact from the servicing of the site is not envisaged to cause demonstrable

harm to the amenity of nearby neighbours. The likely harm to the neighbours amenity if it arises is going to be from the 'comings and goings' from the premises by patrons either arriving on foot from surrounding streets or coming by car or taxi.

- 10.8 Officers initially expressed significant concerns with the proposal due in part to the scale of the public house that would be created. The proposed public house would require car parking and servicing facilities. It would also need an outdoor space for smokers. The premises is also located on Headingley Lane which is known being a thoroughfare for its busy night time economy and being a route that links Headingley town centre to Hyde Park Corner and on to the City Centre as part of the 'Otley Run'.
- 10.9 The most concerning of all the elements that might cause harm to amenity from the activity associated by patrons being on the premises that was likely to come from activity in the large outside drinking and eating area that was proposed with its own dedicated bar in the rear yard area of the site. This part of the site is in closest proximity to the neighboring premises of Buckingham House and Richmond Road who would be the most affected by the activity associated with the public house. The mitigation proposed by the applicant to support this element of the application included hours of use controls and acoustic fences and management plans. In proposals for this outside space the applicant's were supported by their acoustic consultant's report. The findings of which were also accepted by LCC Environmental Health officers. However, officers considered that the amenity impact of this outside area were beyond what could be covered by planning conditions and good management even having regard for the acoustic report. The applicant removed this element completely from the plans through negotiations. This space was also needed for car parking and servicing, which on its own will generate some noise and disturbance to surrounding residents but officers consider this can be controlled by planning condition and good management. This revision to the plan was significant in shifting the planning balance in favour of the application.
- 10.10 The applicant has provided additional details of the proposed management plan for the site. The applicant also clearly has a good track record of managing establishments in the City and this has been endorsed by the Police however this cannot be taken into account in the determination of this application. The management plan has been developed to protect all persons who will live, work or engage in other activities in the immediate vicinity of Elinor Lupton Centre including noise disturbance from the outside terrace areas and other outside areas ancillary to the operation of the premises. In formulation of this plan, regard has been had in a particular to the proximity of nearby residential properties surrounding the premises, with a view to ensuring the public house is compatible with them. Ensuring implementation of this plan will be the responsibility of the Premises Manager and their team with the support of the premises Area Manager and Regional Manager. All staff at the premises will be expected to be familiar with its contents. The key points of the plans are set out below:
- The premises will operate as a traditional JD Wetherspoon without music of any type so there will be no music noise escape when customers exit or enter the premises before or after using the external area.
 - The arrangements for smokers will be reviewed with the LPA three months after opening, to confirm that it is operating satisfactorily.
 - There shall be no consumption of food or drink in the beer garden after 2300 in order to minimise noise disturbance. Signage advising of this restriction will be placed adjacent to the entrance of the front beer garden. Smokers will be

allowed to use the canopy area after 2300 up until the close of the premises but will not be allowed food or drinks after 2300. The area will be checked and monitored regularly by the Duty Manager and the area will have CCTV coverage which can be monitored from behind the bar. JDW will operate a zero tolerance policy for this area and will review the management plan on a regular basis to ensure the plan is being enforced.

- Large groups in fancy dress will not be permitted entry into the premises or external areas.
- Members of staff will conduct regular checks of the terrace areas at all times the premises are open to the public. The site will also be subject to CCTV coverage. Coverage will operate for 24 hours with images retained for 30 days.
- Signage will be erected within the outside terrace areas and by all exits to the premises to remind customers of the need to respect the rights of our neighbours to the quiet enjoyment of their homes, businesses and other activities.
- If on occasion customers are found to be making excessive noise a member of staff will take immediate action to rectify the situation, e.g. ask the customer to talk more quietly or if problems persist, ask them to return inside the premises or leave the premises entirely.
- Information as to local private hire/taxi operators will be displayed at the premises and customers who have ordered a vehicle will be allowed to wait inside the premises until that vehicle arrives.
- The premises will liaise with local private hire/taxi operators to establish a “pick – up protocol” which will require drivers not to sound horns, leave engines running for prolonged periods of time or play music at levels likely to cause disturbance whilst waiting for customers. A recommended location for ‘pick-ups’ will be provided (in the rear car park area off street).
- A telephone number will be circulated to residents to allow any complaints as to noise from the premises or as to any other elements of its operation to be communicated easily.
- If any complaints of noise disturbance are received by a member of staff, the complaint will be brought to the attention of the manager on duty and immediate steps will be taken to prevent a recurrence of the situation.
- Deliveries, collections and outside disposal of waste and bottles from the premises will be at times which will not disturb our neighbours. Glass bins will not be emptied between 2000 and 0900 the following day.
- The staff car park will be locked once all staff have left the premises.
- The premises management will ensure that staff are made aware of the need to respect the rights of our neighbours to the quiet enjoyment of their homes, businesses and other activities and staff will be advised to keep their noise levels to a minimum when they are using the external areas and arriving and leaving the premises at the beginning and end of trading hours.
- Regular residents meetings will be convened unless it is apparent through poor attendance that such meetings are no longer necessary. The meetings will allow for issues which arise from the operational issues of the premises to be discussed.

10.11 In assessing this management plan the vast majority of the bullet points are considered well thought out, achievable and manageable. They are also considered to be matters that staff and patrons and surrounding residents should all be able to abide by without too much difficulty. The main area that seems challenging is related to the rejection from entry into the premises of large groups in fancy dress. This seems difficult to enforce but one the applicant is prepared to commit to. However, given the application only proposes a small outside area to the front of the premises and noise will be contained within the building and

controlled by conditions there is not considered any significant harm that might occur when people are in the premises. Groups in fancy dress doing the 'Otley run' would be walking along Headingley Lane regardless of this current application. Although the introduction of a new A4 venue midway between Headingley and Hyde Park might become an attractive stop for revelers given the route on foot along Headingley Lane is already well used no serious concerns are raised in this regard. It is noted that many of the objectors are concerned about the 'Otley Run' but given this exists and people already go past the ELC towards Hyde Park it is difficult to qualify any significant additional harm being caused by another A4 premises along this route. The premises licence (which Members should note is separate to planning but a necessity nonetheless) will include a bespoke risk assessment which is regularly reviewed and which informs day to day management of the premises in so far as promoting the licensing objectives and will also dictate the door supervisor management plan. Responsibility for compliance with the requirement will rest with the Public House manager on duty. Members are advised the licence can be revoked at any time if it is not being complied with and therefore to a large extent, these controls need to be relied upon as part of the consideration of the planning application as it is an extra layer of compliance which is designed to ensure the premises are managed correctly. In this regard the Cumulative Impact Policy (CIL) will be assessed in detail by the Licensing application but the application has demonstrated through the Management Plan that regard has been had for the CIL as a material planning consideration.

- 10.12 When patrons arrive by car or on foot they could add to the noise and disturbance in the locality. However, when considering pedestrians this is difficult to qualify because of the sites location on a busy main road and in an area with significant number of people already moving about on foot both during the day and night. Any increase of pedestrians could be difficult to attribute directly to patrons of the proposed public house but it is acknowledged that introducing a Public House in the area will add to general levels of existing noise and disturbance and more people generally in the area. Overall it is considered that the development will not result in any significant harm which cannot be controlled through planning conditions and good management practise to the nearby residents and other nearby properties. As such, the proposal accords with Policy GP5 of the saved UDPR (2006).
- 10.13 The impact of car based travel and people waiting for taxis at the end of the night is considered likely to generate the biggest impacts on residential amenity. Although the rear yard of the premises has been used as car parking historically the nature of the previous school use coupled with a lower frequency of events and overall numbers of people will undoubtedly add to noise and disturbance in the area. The extent of this is not envisaged to be so significant as to warrant a refusal of the application but Members are advised that this element of the proposal is harmful and this weighs against the application in the consideration of the planning balance.
- 10.14 Planning conditions governing the hours of use, where patrons can drink and congregate will mitigate most of the effects, good management plans again will help. The erection of an acoustic fence will also help. One of the main challenges that creates a significant number of car movements in the surrounding residential streets is caused by the NGT scheme which when constructed stops access onto Headingley Lane from Richmond Road. If NGT does not get constructed then the existing access arrangements should mean that the actual harm from car travel is not as significant on the neighbouring residents because the distance from Headingley Lane onto Richmond Road into the car park does not take cars past a

lot of residential properties. The introduction of NGT however, will likely force most cars and taxis to use the side roads parallel to Headingley Lane, namely Manor Terrace and Manor View. In addition when NGT is constructed it will prevent cars from waiting on Headingley Lane outside the ELC, this will further add to cars and taxis needing to wait on the rear car park area. Or, as may happen, on Richmond Road as well. This will add to the residential amenity concern although a condition requiring liaison with the Taxi Drivers Forum to encourage them to use the Eastern Access route might help mitigate this to some extent. The existing historic eastern access into the site from Headingley Lane will be opened up to one way car traffic to allow drivers in from Headingley Lane. This should help mitigate some of the traffic diverted by the closure of Richmond Road but it will not probably mitigate all the traffic. Therefore Members must consider that this element of the proposal would cause some harm to the living conditions of neighbouring residents.

Impact on visual amenity and the character of Headingley Conservation Area and the special character of the listed building

- 10.15 In assessing the proposal it is important to consider the impact on visual amenity and character to ensure the development meets the legal test to preserve or enhance the character of appearance of the Conservation Area. The proposal must also be assessed by the decision maker having special regard to the desirability of preserving or enhancing the character and appearance of the listed building. The desirability of preserving the setting of listed buildings should not simply be given careful consideration by the decision maker for the purpose of deciding whether there would be some harm, but should be given considerable importance and weight when the decision maker comes to balancing out the planning considerations.
- 10.16 The NPPF is very clear that significant weight should be attached to the reuse and restoration of heritage assets. The more important the asset, the greater the weight should be. It does not distinguish between heritage assets but clearly a listed building in a conservation area is very important. The building also makes a positive contribution to the character and appearance of this part of the conservation area. The proposed works to the listed building are considered sensitive and well thought out. Although some harm will arise from the creation of an outdoor seating area to the front of the premises this harm is less than substantial and will largely be screened behind the hedge and the detail design of the garden furniture can be controlled through condition. The NPPF tells us where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset; this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 10.17 The proposed change of use is considered the optimum viable use for the building. This is based upon the amount of interest in the building from other operators that failed to materialise into formal planning application or actual purchase of the building. The extent of alterations required to create an A4 premises is fairly minimal in relation to subdivision or significant changes to the existing internal spatial qualities of the building. The main auditorium space will be kept open and largely unaltered. Possibly this will be enhanced by the restoration of the lantern glazing in the ceiling which is currently in disrepair and covered up due to the form use of the space as a theatre. The raked floor will be leveled up to create a surface that is fit for purpose (which any use would need to be in order to create an accessible building) but the internal spatial quality of the theatre will remain largely intact. In addition the revisions to the internal layout plans that have taken place during both the pre-application phase and since the original application

submissions have had positive effects of enhancing the special qualities of the listed building.

- 10.18 The repair and restoration of the internal elements of the building take significant investment. The applicant have provided some cost estimates from their QS, Turner and Townsend to set out what is involved with bringing the listed building back into use and to achieve a high quality internal and external refurbishment for an A4 Use. The applicant is seeking to invest around £3.2 Million into the refurbishment project. Members should bear in mind that some of the costs relate to the fitting out of the building for an A4 use public house use (around £1m) which would not apply to other uses. The estimate provided by Turner and Townsend doesn't include the purchase cost of the building. The figures are not submitted in support of any viability argument and therefore are not in the public domain as they contain sensitive commercial costs around the operation of a Public House but they do show that costs involved in refurbishing the building are considerable, possibly over £2m just to get the building to first fix which alternative operators such as social enterprises would still need to achieve in order to have a building fit for purpose. Members should attach significant weight to the reuse and restoration of the listed building in the conservation area as part of the application when determining the proposal.
- 10.19 Having considered that the harm to the heritage asset is less than substantial and overall the detail of the scheme should result in a high quality restoration project of an important listed building in a prominent location it is important to assess its impact within the conservation area. When considering any planning application decision that affects a conservation area a local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Currently the building is becoming an eye sore and suffering from anti-social behavior, including graffiti. The building is a substantial local landmark and the proposal is considered to respect its setting within the conservation area. Although the creation of small outside area to the front of the building (principal elevation) will create some clutter in the form of tables and chairs and ancillary garden furniture this is not considered to detract from the overall appearance of the building and as the features are not permanent additions they will not result in any serious harm. In addition the retention of the hedge boundary treatment further softens the outside elements and planning conditions to control the landscaping including the garden furniture should adequately deal with this detail. To the rear the intervention to the listed building is acceptable and will create a modern contrast with the insertion of a window of glazing. Therefore overall the proposal brings back into use a vacant building for public benefit and is envisaged to have a positive impact on the desirability to preserve or enhance the character and appearance of this part of the conservation area.

Highways and parking

- 10.20 The applicants Transport Statement advises that there are likely to be at least two large delivery vehicles per day and the tracking provided shows that it would not be possible to negotiate the before NGT and after NGT routes if cars were parked on street. As such a TRO is required to protect the junctions at Buckingham Grove and the junctions Richmond Road and at the mouth of the site access. The TRO will also potentially cover the junctions at Buckingham Road. The extent of the TRO is not yet fully established but the TRO will allow servicing vehicles to route around Buckingham Road, Buckingham Grove and up Richmond Road into the site and the exiting allow this route to be carried out in reserve. This route will only be

required should NGT be constructed. The impacts of NGT will alter how many buildings along Headingley Lane are serviced. The NGT scheme is being promoted in partnership with West Yorkshire Combined Authority by the City Council and as such the ability for sites to come forward will be altered by the NGT proposal. In this location the changes will impact on residents living behind the site along Buckingham Grove and the lower end of Richmond Road and also to a lesser degree Buckingham Road. The servicing route proposed by the applicant is considered acceptable. The frequency of servicing vehicles using the route will be low and a condition has been attached to prevent early morning or late night deliveries. As such no serious harm from the servicing arrangements or TRO proposals is envisaged.

- 10.21 With regards to the parking implications of the development, the revised scheme increased the number of spaces available in the rear yard area to 17 spaces. This is the most that can be achieved off street allowing for space for servicing to take place off street. Considering the size of the building there must be some concern about customers and in particular restaurant customers bringing a car to the site and not being able to park off street. Although some on street parking existing in the locality this would not be in the best interest of highway safety due to existing on street parking demands in the locality. This will mostly affect the residents of the Manors' and Richmond Road who may experience a degree of increased on street parking demand. Ideally more spaces would be sought but given this is a conversion scheme and a site in a highly sustainable location with a higher proportion of people walking than in other parts of the City on balance the parking provision is acceptable with the provision of TROs both pre and post NGT.

Other matters

- 10.22 The retention of the hedge to the front and side of the site is a positive outcome of negotiations. The hedge will both provide screening from the outside eating and drinking area and also provides a positive boundary treatment for the listed building. The trees both within the site and adjoining should not be adversely affected by the proposed development. Some remedial tree works may be required to those trees which overhang the eastern access route to prevent conflict with motorists but that should not have any serious effects on the trees.
- 10.23 Of the other issues raised by the representations not covered within the report, devaluation of property prices is not a relevant material planning consideration. The proposal is not considered likely to force families out of the area. The proposal will open up a previously private listed building, that is becoming an eye sore in a very prominent location as a Public House that is available to all sections of the community. The proposal is not targeted as a student premises, clearly the area has a high concentration of students but the premises is not likely to become student focused given it is part of a nationally operated chain which in its management plan has set out how it intends to be inclusive and available for all section of the community.
- 10.24 The proposal is not envisaged to have any serious impacts on health and wellbeing or to add significantly to issues associated with alcohol. The management plans coupled with the planning conditions are designed to ensure this premises can operate effectively without causing harm to the neighbours. The Police have been contacted about the proposal and recognize the applicant's ability to operate effectively and to help reduce crime and disorder and antisocial behavior. These elements accord with the aims of the Core Strategy and the Vision for Leeds. The effects on health for patrons, staff and neighbours associated with the proposed

public house are also considered to be acceptable which again accords with one of the central aims of narrowing the health inequality gap which is part of the Vision for Leeds.

- 10.25 The Management Plan will form part of a Section 106 Agreement as will a local employment and skill training obligation. The requirement for both a Management Plan and an employment initiative is considered to meet the 3 tests set out as being necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development

11 Conclusions

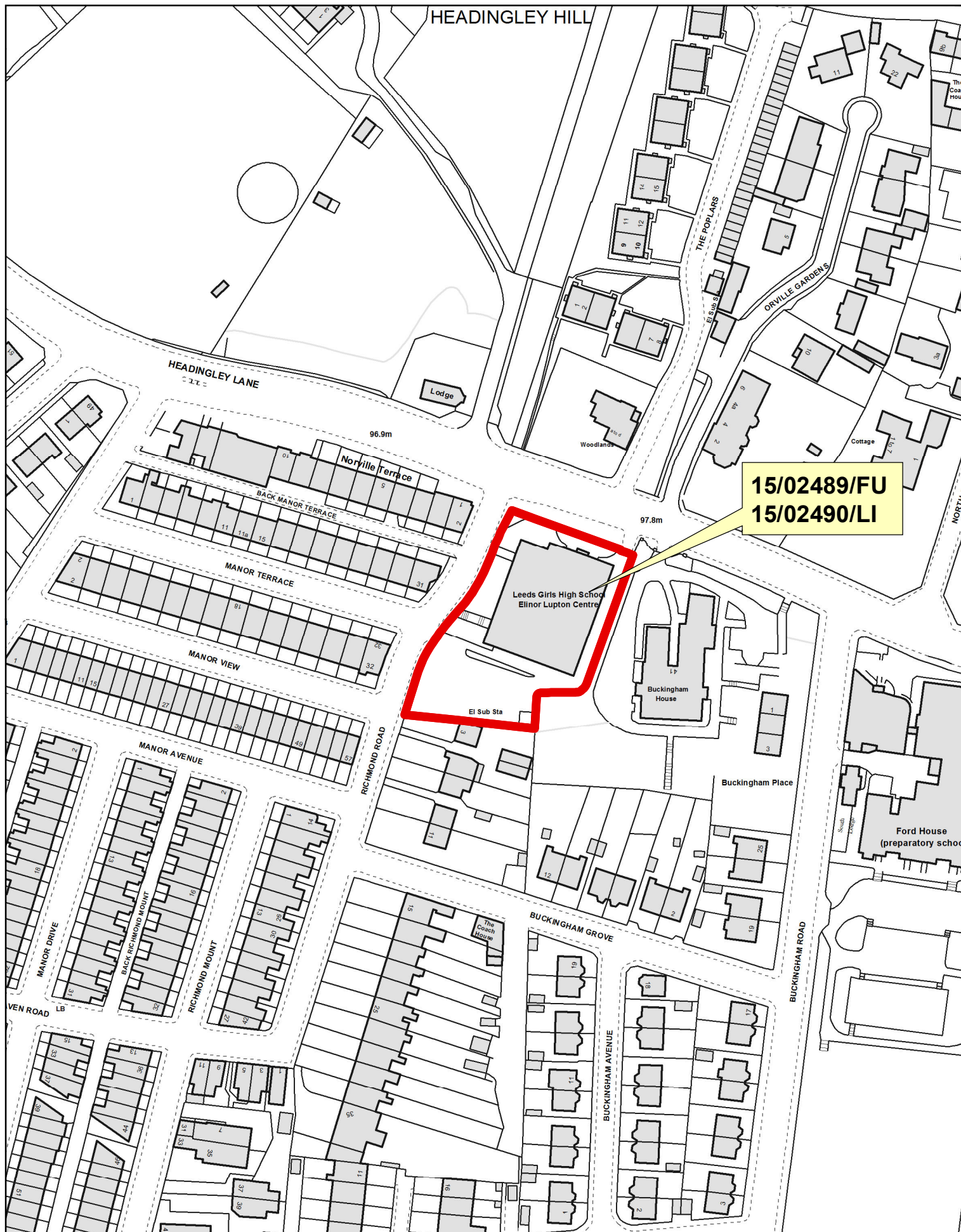
- 11.1 In reaching a recommendation to approve the proposed development it is important to acknowledge that the recommendation is finely balanced. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.
- 11.2 The elements that cause harm to the proposal are set out in detail in this report. The principle amongst these is the potential for harm to the living conditions of nearby residents from noise and disturbance arising from the comings and goings of patrons, particularly if NGT is constructed from those travelling in cars and taxis. Planning conditions restricting the hours of use, delivery arrangements and the applicant's management plan will mitigate a large degree of this harm. Saved UDPR Policy GP5 is concerned with the protection of residential amenity. This policy is breached by the proposal and therefore the proposal in this regard is contrary to the development plan. In light of the mitigation measures that can be achieved the weight to be attached to this harm is less than substantial.
- 11.3 The creation of an A4 establishment in an out of centre location is contrary to Policy P8 of the Core Strategy. However, as the site relates to an existing building that is in need of a viable reuse and is located in an out of centre location there is a reasonable justification to accept a Main Town Centre use here in this circumstance. In addition it is acknowledged the site scores well on the accessibility criteria for sustainable development. The actual effect on trader's vitality and viability within the nearby centres has been accepted as being low and should not cause any serious demonstrable harm to these existing businesses. Therefore the harm that is afforded to this departure from the development is mitigated by the material planning considerations and is also therefore less than substantial.
- 11.4 Weighing in favour of the development is the considerable weight afforded to the reuse and restoration of the listed building in this conservation area setting. The scheme will have a positive effect on bringing this building back into beneficial use and will have a positive effect upon the character and appearance of this part of the conservation area. This strongly accords with the aims of policy P11 of the Core Strategy and the aims of the NPPF to reuse and restore heritage assets. Members are advised therefore that they have a recommendation to grant Listed Building Consent.
- 11.5 It is considered that the management plans and planning conditions should adequately mitigate any substantial harm that might arise from the noise and disturbance generated by the comings and goings of patrons and cars and taxis. There are no serious concerns arising from the delivery arrangements, pre or post NGT. The use of planning conditions is encouraged to help overcome issues that could warrant reasons to refuse a planning application.

- 11.6 The economic benefits of creating around 50 full time equivalent jobs is also a considerable boost for local employment opportunities which is a material planning consideration in favour of the development.
- 11.7 These elements accord with the relevant provisions of the development plan and the NPPF. Overall Members are advised that these material considerations when pooled together and added to the considerable weight given to the reuse of the listed building amount to substantial weight in favour of the application. They outweigh the harm that has been identified. Overall therefore officers conclude on the planning balance that the application can be recommended for approval subject to conditions.

Background Papers:

Application file.

Certificate of Ownership



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