



Report of the Chief Planning Officer

NORTH & EAST PLANS PANEL

Date: 15th June 2017

Subject: APPLICATION 16/05185/FU – Change of use on ground floor from doctors surgery/pharmacy to Public Bar (A4), two storey rear extension; pavement seating area; external alterations including new doors and windows, condenser and extraction equipment to roofspace; new fencing and parking to rear, 39 Austhorpe Road, Leeds 15

APPLICANT	DATE VALID	TARGET DATE
J D Wetherspoon PLC	26.08.16	30.06.17

Electoral Wards Affected:

Crossgates & Whinmoor

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: REFUSE planning permission for the following reasons:

1. The Local Planning Authority considers the proposed loading and unloading arrangements for the site which seek to route movements from Austhorpe Road via North Road to the rear of the building would cause pedestrian and vehicle conflict. Austhorpe Road is a busy and congested stretch of the highway network and in close proximity to a well-used bus shelter. The footway along North Road is narrow and there is not sufficient room for pedestrians and servicing trollies to pass. As a result of a combination of these factors the proposed development would be detrimental to highway safety and is contrary to Policy T2 of the Core Strategy, saved UDP Review policy GP5 and the general highway guidance as contained within the National Planning Policy Framework.
2. The Local Planning Authority considers the parking and bin storage facilities proposed for the upper floor use of the building to be both constrained in nature and have practical difficulties in terms of their general usability. This could result in these facilities not being fully utilised which may give rise to amenity and highway/pedestrian safety concerns. As such, the proposed development would be

contrary to the intentions behind Core Strategy Policy T2, saved UDP Review policy GP5 and the general guidance as contained within the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This application is brought to Panel due to the level of interest in the proposals from local residents. Representations have been received for and against the proposal. The application is considered to be of a sensitive and controversial nature and that the proposed development could have significant impact on the local community and therefore it is appropriate to report the application to Panel for determination. Members are asked to consider this application on its own merits and having appropriate regard to the policies of the Development Plan.

2.0 PROPOSAL:

- 2.1 The application proposes the change of use of the existing doctors' surgery and pharmacy at ground and first floor level to a public house (A4 use) at a commercial property on Austhorpe Road. The existing dental surgery at first floor level is to remain.
- 2.2 In addition to this, a two storey extension is proposed to the rear as well as a beer garden. These would occupy part of the original rear parking area although some parking is retained for use by the dental surgery. Alterations to the front elevation of the building are also proposed. The works are described in the following paragraphs.
- 2.3 At ground floor level it is proposed to create the main customer trading area in the space that was formerly occupied by the doctors' surgery and pharmacy. This will involve the removal of existing partitions which formed individual consulting rooms, to form a large open plan space. To the rear of the site, a new two storey extension is proposed which at ground floor, will provide a new purpose built kitchen to serve the public house. Above this a store (cold) is proposed and is served by a goods lift accessed externally.
- 2.4 Externally, a beer garden will be provided to the rear of the main building (with a floorarea of circa 138sqm) along with three car parking spaces which are available to the dentist surgery at first floor level. These spaces continue to be accessed from North Road. A refuse store is to be provided to the rear, adjacent to beer garden.
- 2.5 The footway on North Road is shown to be partially widened and brought up to adoptable standards.
- 2.6 The existing ground floor entrance lobby to the first floor dentist will be retained as will the full extent of the dental surgery. Those parts of the first floor, including the rear extension which will not be occupied by the dental surgery, will provide customer toilets to the proposed public house as well as staff facilities and cold storage. The dental surgery will be entirely self-contained from the public house.
- 2.7 All plant will be located at roof level, including kitchen flue, condensers and vents/flues. The equipment is now shown to be contained within the roofspace of the rear proposed extension following the introduction of a pitched roof. The plant is

also identified to be attenuated so that it operates within acceptable noise limits. The proposed kitchen extract flue is proposed to contain carbon filtration systems to mitigate odour issues.

- 2.8 The front elevation of the building is to be provided with a new shop front and doors, with some minor reconfiguration of the fenestration at ground floor level. On the rear elevation, much of the existing pipework and plant will be removed and the first floor area will be clad in timber. At ground floor level on this elevation, opening doors are proposed. A new canopy/awning will be installed along the length of the existing rear elevation.
- 2.9 On the side elevation of the existing building, new window openings will be installed and on the side elevation of the projecting outbuildings, timber cladding will be installed to the first floor. The proposed extension which will contain the kitchen and cold store will be rendered at ground floor level and timber clad at first floor, with plant within the pitched roof at second floor level. A revised plan has been received which sets in a section of the extension away from the boundary with No. 43, which is in residential use.
- 2.10 The applicant set out preferred hours of opening in the Appendix to their Planning Statement, as follows:
- Sunday to Thursday – 07.00am – 00.30am;
Fridays and Saturdays – 07.00am – 01.30am.
- 2.11 In addition, there are certain non-standards hours the site will be opened. The proposed use will open for an additional one hour beyond the hours shown above on the following days:
- Maundy Thursday; Christmas Eve; Boxing Day; New Year's Eve; Sundays before Bank Holidays.
- 2.12 Servicing will take place to the front of the site on Austhorpe Road and manually carried down North Road into the proposed kitchen and cold store above. Delivery times and arrangements are proposed to be managed.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is located to the north side of Austhorpe Road which is the main shopping street within Cross Gates centre, running in an east-west direction. The site comprises a 2 storey building located on the junction of Austhorpe Road (to the south) and North Road (to the west). With the exception of part of the first floor which is occupied by a dental surgery, the remainder of the building is now vacant, having previously been occupied by a pharmacy and doctors' surgery.
- 3.2 The building is part two storey and part single storey, constructed in brick and roof tiles. The frontage at ground floor comprises a shop front and also includes the entrance up to the dental surgery at first floor. The existing ground floor has been boarded up recently. The first floor of the frontage has been painted white and comprises traditionally proportioned sash windows.
- 3.3 The front part of the building has a pitched roof and behind this, is a two storey element which has a flat roof. A small series of adjoining buildings which are two storey and single storey in height are located to the rear of this, adjacent to the

eastern boundary of the site. On the eastern part of the site's frontage, is a small single storey element which has a pitched roof. This elevation contains a boarded up opening and air conditioning equipment.

- 3.4 The western boundary of the site is defined by the western elevation of the building which comprises a brick facade punctuated by two windows at first floor level.
- 3.5 Beyond this, an open car park area is provided, with access being gained from North Street to the rear part of the western boundary. The rear elevation of the building faces onto this car park area and is of red brick construction and contains various wall mounted installations including air conditioning units, soil stacks and aerials.
- 3.6 Immediately to the rear of the site (to the north) is a narrow unmade ginnel and beyond this, terraced properties, which front onto North Road. To the west, on the opposite side of the junction between North Road and Austhorpe Road are commercial properties including estate agents and solicitors. The area to the north of the application site is predominantly residential in character.
- 3.7 To the east of the application site, set back from Austhorpe Road is a row of terraces which have their north elevations facing onto East View and their southern elevations onto a car park area located on Austhorpe Road. This terrace comprises a mix of commercial and residential uses, with the closest residential property (No.43) being built onto the eastern elevation of the outbuildings which form part of the application site and project from the rear of the main two storey building.
- 3.8 On the opposite side of Austhorpe Road are commercial properties and approximately 25 metres to the south, is the Cross Gates Shopping Centre, which includes a large car park. Cross Gates railway station is located approximately 350 metres to the south west of the site and provides direct access to Leeds City Centre. This section of Austhorpe Road and the land to the south of Austhorpe Road is predominantly commercial in character.
- 3.9 The application site is shown on Leeds City Council's adopted policies maps as being located within the defined Cross Gates Town Centre.

4.0 RELEVANT PLANNING HISTORY:

On-site

- 4.1 15/05889/FU - Change of use on ground floor from Doctors surgery/Pharmacy to Public Bar, two storey rear extension; pavement seating area; external alterations including new doors and windows, condenser and extraction equipment to roof; new fencing and parking to rear. Withdrawn 07.12.15.
- 4.2 32/1/00/FU - Change of use of gymnasium to dental surgery. Approved 06.03.2000.

Off-site

- 4.3 15/02489/FU - The change of use of the Elinor Lupton Centre from educational facility (D1 use) to A4 public house together with minor external alterations. Listed building application for internal and external alterations to the Elinor Lupton Centre. Appeal against a refusal to grant planning permission. The appeal was allowed.

4.4 15/02492/FU - Change of use of social club to public house (A4); internal and external alterations; creation of external beer garden and associated works at 37 Main Street, Garforth – Approved 05.08.16

5.0 HISTORY OF NEGOTIATIONS:

5.1 Since the original submission, negotiations have taken place as follows:

- Removal of the front sitting out area adjacent to the bus shelter.
- Submission of Noise Impact Assessment, Sound Insulation Tests and Transport Statements
- Slight reduction in size of extension adjoining residential to rear of the site.
- Contribution of £15,000 to allow the highway authority to review the impact of the use when established and implement measures where necessary.
- Restrictions on hours of opening of the PH, hours of use of the beer garden and hours of delivery
- Restriction on noise levels of plant and machinery
- A revised building specification has now been proposed, which removes the externally sited plant from the flat roof area to the rear of the building and places it in an internal plant room contained within the revised structure of the building.
- Acoustic fencing.
- Improvements to design (negotiated prior to submission)

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by means of site notices and a notice published in the Yorkshire Evening Post. Site notices have been posted to advertise three sets of amended plans and additional/revised reports and allow further comments to be made.

Objections:

6.2 356 letters of objection were submitted in respect of the application, when originally advertised. Objections have been received from mainly local residents and local business, but also the Dental Surgery at first floor within the building, and their patients. The objections to the application in its original form are summarized as follows:

- Deliveries on Austhorpe Road will result in accidents and inconvenience on a busy stretch of road, where a bus lay-by is situated outside the premises.
- Austhorpe Road has a bad accident record, with recent fatalities, and introducing a large establishment selling alcohol would not be in the best interests of highway safety.
- The proposed parking is well below Council guidelines, and will result in massive on-street parking. Local TRO's are already breached, and not policed in the evening.
- The Cross Gates centre car park is not available after 6.00pm.
- North Road is too narrow for cars or service vehicles.
- Noise and disturbance from the building and in particular from the beer garden, which is in very close proximity to nearby houses. Acoustic fencing will not stop noise and smoke.
- The late licence would result in an increase in antisocial behaviour.

- The surrounding streets are very quiet in the evening, therefore, the change will be significant, and detrimental to living conditions.
- The vast majority of commercial premises close at 6.00pm, and do not cause harm to residents into the evening.
- People waiting for the buses, including many children will be adversely impacted upon by having people who have consumed alcohol being in very close proximity.
- The Neighbourhood Policing Team is ill-equipped to deal with possible disturbances at and off the premises.
- A finish of 1.00a.m. or later would be extremely harmful to residents.
- CCTV would only be effective on-site and doesn't deal with problems in surrounding footpaths, ginnels and streets.
- The best use would be enlarged dental surgery, and the dental surgery was 'gazumped' by Wetherspoons.
- The premises would adversely impact on the upstairs dental surgery through noise and disturbance, smoking and alcohol being consumed close to a dental practice.
- Noise and cooking smells from air conditioning/extractor fans
- It would be more appropriate to buy an existing PH, rather than creating an extra PH.
- The area is already well served by Public Houses and places to eat.
- The cheap food and drink will adversely impact other establishments, likely to lead to job losses elsewhere in the centre.
- Many of the support letters are not from those directly impacted upon by the proposals.
- The Public Consultation exercise carried out by the applicant was biased in favour of the proposal and should be disregarded.
- The existing poor state of the building has been created by Wetherspoons, who have made the building worse than it should be.

6.3 The application was readvertised by site notices on 28th October 2016, 6th January 2017, 27th January 2017 and 28th April 2017. An additional 170 letters of objection were submitted, mainly from previous objectors, reaffirming their objection, but the following points were also made:

- The proposal would result in the loss of a substantial retail frontage opportunity within the town centre.
- The opening of the link road will greatly increase congestion on Austhorpe Road.
- The recent revised transport plan for this development proposes the parking of urban artic vehicles on Austhorpe Road between the bus stop and the busy Church Lane junction, with provision that the unloading will not take place during peak travel time.
- There is an extremely busy road junction at all times of the day, with buses turning at least every 15 minutes in both directions. Church Lane is old and narrow with a large bus turning space required, additionally it is an important route for many schools in the area and is very busy from 3pm onwards.
- Objection on the grounds that there is not sufficient space for deliveries and the proposal will be hazardous to road safety for both pedestrians and vehicles.
- The Noise Impact Assessment focuses solely on the noise impact from fixed plant and the external terrace - it does not address the significant noise impact which will arise from customer flow to and from the premises.

An early decision to reject the application should allow for other more suitable options for the property to be explored and instigated.

6.4 An objection from the upstairs dental practice on the following grounds:

- The dental practice are noise sensitive premises, and the proposal therefore contrary to the NPPF, which advises that there should be no unacceptable noise impacts.
- Noise will be from the ground floor premises, through the party walls and from plant and equipment above, which will be intolerable.
- The proposal will not comply with the Health Technical Memorandum 08-81 in respect of noise levels.
- The practice will be unable to meet required standards of care.
- Concerns at anti-social behaviour and odour, due to close proximity of the premises.
- Parking is inadequate and poorly laid out.
- Servicing arrangements are inadequate and will lead to accidents.
- The extended hours of operation will impact on local residents, many of whom are patients.

Support:

6.5 125 letters in support were submitted in respect of the application, when originally advertised. The support is on the following grounds:

- Will provide local employment opportunities.
- Will bring a better atmosphere to the shopping centre during the day and evening.
- Will be a positive addition to the area.
- Wetherspoons premises are well run and always well maintained and attract families. There is no loud music.
- Wetherspoons always do a good job in refurbishing old buildings.
- Too many empty shops in the Cross Gates centre and Wetherspoons could help to bring new enterprises into the area.
- The building is boarded up and is rapidly becoming an eyesore.
- Sustainable central location where people can walk to. It is on a local bus stop route and near local taxi offices.
- Crossgates has in recent years deteriorated with many businesses and services leaving the area. Indeed, the vacant premises in question are as a result the Church View surgery being relocated some distance away. The Manston Surgery (across the road) has also been relocated which in turn will have led to reduced parking and footfall in the immediate vicinity. As such concerns over and increase in this regard should be discounted.
- Crossgates needs regenerating due to the number of shops which have left the Crossgates area in recently: Tesco, Bodycare, Fultons, Game and Superdrug to name but a few.
- There are a few nice restaurants in Crossgates now but few places nearby to enjoy a drink either before or after a meal. Indeed the proposed Wetherspoons itself will provide food (including breakfast) and should help encourage people to use Crossgates for shopping and hopefully lead to new businesses opening in the area. Indeed the proposed Wetherspoons itself will create a number of job opportunities (around 60). Crossgates should be a bustling centre of activity as it is the hub of the community.

- A pub situated in this location will be different than the same pub situated in the city centre. It is envisaged that many people local to the area use this place to socialise and will more reasonably priced offerings will offer value for money for residents and perhaps encourage people in nearby areas to visit and support local businesses.
- At the open evening we were assured deliveries would take place outside peak hours to avoid congestion. The recent improvements to the road layout on Austhorpe Road - the relocation of the pedestrian crossings and making Tranquility one way should also serve to reduce congestion in the area.
- The assumption that a Wetherspoons pub will encourage 'noise nuisance and criminal damage' is ridiculous and unfounded.
- A public house is appropriate in a mixed residential and commercial area.
- Wetherspoons have developed in Morley, Chapel Allerton and other town centres, similar to Cross Gates.
- Parking is not an issue as people do not drive to pubs.
- Austhorpe Road is already full of takeaways and restaurants, buses etc and is a busy area on a night.
- Licencing agreements will ensure the pub is not a nuisance to the nearby local residents.

6.6 The application was readvertised by site notices on 28th October 2016, 6th January 2017 and 27th January 2017. An additional 49 letters in support were submitted, mainly from previous supporters, reaffirming their support.

- There are already shops and outlets on Austhorpe Road. A pub with daily deliveries really isn't going to make that much of a difference.
- The newly opened Garforth Wetherspoons doesn't seem to have that many problems and you could argue that that's in an even busier location on Garforth Main Street.
- 'The Briggate' in Garforth has created 60 jobs for the local community - something Crossgates is crying out for.
- The current state of the building is a disgrace and it either needs razing to the ground or renovating.
- There is bound to be redevelopment and economic development in a town centre.

One letter of general comment:

6.7 Can see the pros and cons of the scheme, and would use the facility if approved.

Geographical distribution of respondents:

6.8 In respect of the representations, approximately 75% of the representations object to the application. Those living close to the application site are more likely to object to the proposal, and although a few living close to the site have supported the scheme, the supporters generally tend to live a greater distance from the application site.

Cross Gates Watch (CGW):

6.9 CGW's have submitted multiple and substantial objections to the application, that are summarised as follows:

- The Pub's location, size and capacity introduce a development that would radically and detrimentally change the character of the area. It would result in a significant reduction in the quality of life of local residents, and prevent the Dental Practice from providing a quality service (it might be forced to close).
- The area's unique nature of the old village and adjacent dwellings includes private unmade roads, dead ends, ginnels, nooks and crannies, and hidden areas, as well as poorly lit areas. But these unique characteristics make it highly vulnerable to a rapid decline in environmental amenity.
- The current interaction between Cross Gates Town Centre and local residents works because the hustle and bustle of the centre between 8am and 6pm (Monday to Saturday) is replaced then by a much quieter and peaceful environment in the evenings and night. This allows the residential area to maintain its character and provides a good living environment. Traffic and footfall surveys have confirmed this.
- The Applicant's Noise Assessments indicates that noise levels in the beer garden would be virtually non-existent. This went against common sense. It was found that the applicant had made a reduction of 5Db on the basis that all the people would be sat down. The Noise report also used insufficient numbers and in our view was far from robust.
- Regarding the Noise Assessment for the very large industrial kitchen vents on the new kitchen roof, these are very close to the attached residential building. They accept that it will cause a problem after 11pm, but then say that it will be OK because the kitchen vents will be turned off at 11pm (based upon last serving of food). This is impractical because the staff will have to clean up. The noise assessment is far from robust and will result in serious noise invasion for the next door and other local residents.
- The footpath at the rear of East View which abuts on to North Road is next to the houses, and only circa 1.5m from head height to bedroom windows. And other houses are generally between 4m and 6m from foot paths.
- Noise levels of patrons leaving the premises and in the vicinity would be at such a level (given the closeness to windows) that noise levels would exceed acceptable levels by a considerable margin, and would cause substantial annoyance to residents, and lead to a significant reduction in quality of life. We demonstrate that the area at the back of the proposed pub is highly susceptible to a rapid reduction in the quality of life of its residents because of the placing of this development in this location contrary to the Crime and Disorder Act 1998, and good design practice. It will increase crime and disorder and antisocial behaviour.
- The location of the pub would cause customers to be passing through unsafe, ill lit areas, contrary to the Chief Medical Officer's advice.
- The area behind the pub would be a haven for drug dealing.
- There will be a conflict between residents and customers.
- The Applicant is providing no on-site parking for the pub (three for the dentist due to his lease) despite the previous usage having nine spaces available (not including the three for the dentist). This does not meet the requirements of LCC 2016 Supplementary Parking Policy.
- In order to meet the requirements of the LCC parking Policy at full internal capacity, excluding the beer garden, but including staff, 176 car parking spaces would be required; at 40% of capacity it would still require 85 spaces. The foregoing will have a significant negative impact on parking in the streets around the development, the very thing that the parking policy is meant to prevent. Each street around the development needs to be considered to determine the likely impact in terms of safety, and ensuring

that parking does not cause local amenity problems for residents in compliance with the parking policy.

- The applicant's Transport Document for servicing the development details off-loading at the front of the building (14 HGV's per week, plus light vans) but fails to recognise that there was a bus stop with 244 buses stopping each day, and 242 on the other side of the road. They also failed to recognise that it was a bus clearway and no unloading is allowed. The current usage had no such problems: they offloaded in the rear car park.
- A previous planning appeal at 55 Austhorpe Road (Domino's pizza) had relevance to this application, and it had been refused on the basis of loss of amenity for local residents.
- The applicant's proposals to wrap the pub around a Dental Practice (a Dental Health Care Facility) is in direct conflict with the Department of Health Technical Memorandum 08-01: Acoustics, which says clearly that High Noise generating rooms should not be close to medium sensitive/sensitive rooms. A dental practice has both medium sensitive rooms and sensitive rooms. No specialist designer of healthcare facilities would approve of a pub being wrapped around a Dental Practice. It would be impossible for the Dentist to continue operating during the construction period, (due to noise and dust).
- We note that no noise analysis has been undertaken on the effect of the large mechanical plant compound placed on top of the Dentist's roof. We conclude that this will have a significant detrimental effect.
- There has been no consideration of the effect of vibration on sensitive equipment in the Dental Surgery, particularly from the plant compound on the roof of the Dental Surgery.
- The design is not inclusive (no parking for disabled, inadequate number of disabled Toilets).
- The transport assessment of the impact of the development is inadequate, and does not meet the requirements for a transport assessment of a development of this scale. Important issues are not considered, such as road safety.
- The applicant carried out a public consultation exercise, but did not consult this Association, the largest residents' association in East Leeds. Despite the Planning statement saying that this exercise demonstrated overwhelming support for the pub, this fatally flawed exercise showed nothing of the sort, and, if anything, the complete opposite.
- There is a severe lack of convenience (food) shopping facilities in the Cross Gates Town Centre, and this impacts on the vitality and viability of the Town Centre as locals go elsewhere. The building at 37-41 Austhorpe Road is in a good location and presents a golden opportunity to provide a significant sized food shop (bigger than the previous Co-op) and also retain the Dental Practice. This opportunity of a viable and compatible mixed use of the building would be highly beneficial to local people, cause far less amenity problems and would accord well with the aims of the Core Strategy.
- The alternative use as a proposed pub will on the other hand will result in a significant loss of amenity for many and be of little or no benefit to the local community.
- The Bin Enclosure is too close to the Smoking Shelter and the beer garden and is therefore poorly designed and located. It is too small and therefore not fit for purpose and will result in poor unplanned storage practices. The foregoing presents an unacceptable risk to the health and amenity of local residents and customers.

- The site is very constrained and everything is crammed in so as to avoid loss of customer space. The reality is that it is the wrong building in the wrong location for a proposed pub. It is not just a matter of increasing the size of the storage space, because that would impinge on another aspect of the development.
- None of the revised plans are considered an improvement over the original scheme, and a strong objection remains.
- The existing TRO's and location of the bus shelter and local pedestrian crossings have been only carried out recently, and in full consultation with residents, and there is no justification for the recently carried out works to be changed again

CGW Response to Environmental Health consultation response and the applicant's revised Noise assessment:

- It is clear from the foregoing discussion that this EH Consultation Report, while making many valid points, clearly fails to address several critical issues. A major one is that the Report nowhere recognises that the activity on the first floor is not offices, but a Health Care Facility, and that, as a consequence, completely erroneous procedures have been used by Dragon Fly to assess the impact on it of wrapping a Pub round it.
- The impact of the noise of patrons arriving, leaving and in the vicinity of the pub will have a considerable environmental health impact on surrounding residents, and this is not considered at all in this EH Consultation Report.
- The noise impact of the Beer Garden has not been properly assessed in this EH Consultation Report.
- The impact of mechanical plant on the roof has not been properly assessed. Thus the EH report does not cover all the significant areas required to properly evaluate noise and vibration issues in relation to this application. This means that the conclusion made that EH has no objection in principle is premature, and very likely to lead to significant noise and vibration problems if accepted in its current form.
- The Wetherspoons Noise Impact Assessment is fundamentally flawed and should carry no weight in either the Environmental Protection Team's (EPT) assessment or within the planning process.

6.10 Cross Gates Watch object to the proposed servicing arrangements due to existing congestion, narrow footpaths, size of vehicles and close proximity of general public.

7.0 CONSULTATIONS RESPONSES:

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

Statutory:

7.2 Coal Authority: No objections, subject to condition in respect of coal risk.

Non-statutory:

7.3 Transport Development Services: On balance, objections raised due to inadequacy of parking arrangements and inadequate servicing arrangements. See Appraisal section for details.

- 7.4 Flood Risk Management: No objections. No record of any flooding.
- 7.5 LCC Licensing: The Entertainment Licensing Section have no comments in relation to the planning application. The applicants will be required to apply for a premises licence under the Licensing Act 2003 to allow the sale of alcohol and regulated entertainment which will undergo a 28 day consultation period where responsible authorities and interested parties will be able to make comments on the application.
- 7.6 West Yorkshire Police: The Police do not tend to have problems with Wetherspoon's establishment - they do however have problems with some of its customers (depending on the site location). Generally the door staff work well with the Police and the CCTV inside most sites is of good quality. Measures that Wetherspoon's should look to include to reduce the likelihood of crime and disorder at this site – i.e. external CCTV, exterior lighting, security staff, parking security.
- 7.7 Environmental Health: Concerned about the lateness of the proposed opening hours. Conditions on delivery hours, hours of use of the outdoor amenity area, restrictions on plant noise levels all required. Further review of advice also to be provided following receipt of further representations.

8.0 PLANNING POLICIES:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. 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) and any Neighbourhood Development Plans.

Local Planning Policy:

- 8.2 The following Core Strategy policies are considered to be relevant:

SP1: Delivery of spatial development strategy.

SP2: Support for a centre first approach supported by sequential and impact assessments.

P1: Identifies town and local centre designations.

P2: Acceptable uses in and on the edge of town centres.

P5: New Food Store provision encouraged in Cross Gates town centre

P10: Seeks to ensure that new development is well designed and respect its context.

EN5: Seeks to manage and mitigate flood risk.

T2: Seeks to ensure that new development does not harm highway safety.

- 8.3 The application site lies within Cross Gates town centre as defined by the UDP Review (2006). The following saved policies are considered to be relevant:

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

N25: Seeks boundaries of sites to be designed in a positive manner using walls, hedged or railings where appropriate to the character of the area.

BD5: Seeks to ensure new development protects amenity.

BD6: Alterations and extensions should not harm neighbouring amenity

SF1A : Non Retail Uses within Shopping Frontages

SF9: Residual Shopping Frontages in Town Centres

Supplementary Planning Guidance:

8.4 The following documents are of relevance:

- Sustainable Urban Drainage (SPG22, adopted)
- Street Design Guide (SPD, adopted)
- Sustainable Design and Construction (SPD, adopted)
- Leeds Parking Guidelines

National Planning Policy:

- 8.5 The National Planning Policy Framework (2012) (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 8.6 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.
- 8.7 The NPPF gives a presumption in favour of sustainable development and has a strong emphasis on achieving high quality design and a good standard of amenity for all existing and future occupants.
- 8.8 Paragraph 17 confirms that, within the overarching roles the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These principles include:
...Proactively drive and support sustainable economic development to deliver ... business ... and thriving local places the country needs.
- 8.9 Paragraph 18 states that the Government is committed to securing economic growth in order to create jobs and prosperity....
- 8.10 Paragraph 19 states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.
- 8.11 Paragraph 197 - Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.
- 8.12 Paragraph 123- Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; ...

8.13 The Noise Policy Statement for England (March 2010) sets out the long term vision of government noise policy, to promote good health and a good quality of life through the management of noise.

8.14 National Planning Practice Guidance – Noise (March 2014) - Advises on how planning can manage potential noise impacts in new development. The NPPG states that neither the Noise policy statement for England nor the National Planning Policy Framework (which reflects the Noise policy statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- Principle of the change of use
- Residential amenity
- Highways and parking
- Visual amenity
- Other matters
- Conclusions

10.0 APPRAISAL:

Principle of the change of use

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 within Cross Gates, which is designated as a Town centre in the Development Plan under Core Strategy policy P1. As such, Policy P2 is applicable, which states:

“Town centres offer shopping and services intended to meet weekly and day-to-day requirements. The uses set out below are acceptable in principle in and will be directed towards the centres listed in Policy P1 [*which includes Cross Gates*].

- Shops, supermarkets and superstores,
- Non-retail services,
- Restaurants and cafes, drinking establishments and hot food takeaways,
- Intensive leisure and cultural uses including theatres, museums, concert halls, cinemas, leisure centres, gyms and hotels,

- Health care services,
- Civic functions and community facilities,
- Offices,
- Housing is encouraged in centres above ground floor in the primary and secondary shopping frontages, or outside the shopping frontages, providing it would not compromise the function of the town centre.”

10.3 A drinking establishment is an appropriate town centre use, under Policy P2. Under saved UDP policy SF9, the site is within the residual area of the centre, where such premises may provide an opportunity to accommodate a wide range of uses which could contribute to the overall attractiveness of a shopping centre without prejudicing the retail character of that centre. The drinking establishment use, therefore, complies with development plan policy, to increase the attractiveness of the centre, without impacting on its vitality and viability.

10.4 Under Policy S5, Cross Gates town centre is identified as a town centre where food store provision would be encouraged in order to expand the centre’s retail offer or expand their function. On this issue, the proposal will not lead to the loss of food retailing (the site is medical), and there are other opportunities, such as M&S site, which can accommodate food store retailing. There is a vacant building off Church Lane, within 70m of the site, to the north-west, which is currently being marketed for retail, which has a similar footprint to the application site, and is an opportunity for food retailing. Finally, as previously stated, the site is within the Residual Shopping Frontage of the centre, where a variety of town centre uses are encouraged under policy SF9. Accordingly, it is considered that the proposed food establishment use is acceptable in principle subject to other more detailed considerations which are appraised below.

(i) Economic Use

10.5 The proposals are estimated to generate in the order to 50 FTE jobs, and according to the applicant, the majority will be recruited from the local area. In addition to the effect of increased employment, an increase in household expenditure among the people who have gained employment through both the direct and indirect employment effects could be expected.

10.6 Further direct, indirect and induced jobs may also be generated throughout the construction phase, even if only for a temporary period.

10.7 Representations against the proposal state that the use would not create that many jobs, and may impact on other businesses in the locality with a similar offer, and drinkers would deter shoppers and reduce footfall. However, the proposal would certainly generate some local employment opportunities and as an acceptable town centre use the issue of competition between other uses offering the same/similar services is not considered to be an argument that carries any real weight from a planning perspective. Evidencing a specific link between this Public House proposal and the concerns about deterring other shoppers and footfall generally is also very difficult and no substantive information on this matter has been provided.

10.8 Appropriate weight can however be given to the fact that there would clearly be some job creation, and that the nature of the jobs would result in employment, particularly for younger local people, and that the proposal represents economic investment in the town centre.

(ii) Re-use of building

- 10.9 The buildings are currently sat empty and are not positively contributing to the appearance of the area or indeed the vitality and viability of Cross Gates town centre.
- 10.10 The proposal would enhance this part of the Town Centre and would boost the vitality and viability, attracting customers throughout the day and into the evening. The enhancement to the Town Centre may encourage other investment as the proposals have the potential to increase footfall which will benefit existing businesses as well as attracting new ones into the vacant units that exist. The application proposals represent opportunity to secure the long term occupation of the buildings and generate significant economic benefits for Cross Gates.
- 10.11 In terms of the re-use, the applicant states that the building has been marketed without success, and that the only realistic proposal to secure the use of the building is as a Public House. However, it is understood the first floor dental practice was initially interested in taking the entire building, before it was subsequently sold to Wetherspoons. It cannot therefore be said with certainty that the Public House proposal is the only realistic use for the building. From a policy standpoint, as outlined above, the premises would be suitable for a large store or many other town centre uses, including medical.
- 10.12 The only certainty is that a Public House use would bring about the re-use of the property, and appropriate weight needs to be afforded to this aspect.

Residential amenity

- 10.13 There are a number of elements associated with the use of a Public House that may impact upon the amenities of residents. Each is examined in turn in the following paragraphs.
- (i) Disturbance associated with customer parking:
- 10.14 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 some potential for noise and disturbance to occur during the evening, particularly on Friday and Saturdays. Noise would result from the to-ing and fro-ing of vehicles to the premises, including the delivery and pick-up of patrons by taxis. Most of these activities are expected to take place along the Austhorpe Road frontage although it is also possible that, because of the limited parking available compared with the floor area of the premises, some vehicle parking may take place within the nearby residential streets. Parking is unrestricted here after 18.00 hours and most other uses within the Cross Gates town centre boundary that also operate during the evenings do not have dedicated off-street parking. With this context in mind and having considered the information provided by the applicant relating to the parking position of similar proposals and also having considered the drinking establishment nature of the use within the context of Cross Gates, the anticipated volume and incidence of such parking taking place is not expected to be significant. Any on street parking is also likely to be distributed across a number of streets so will not necessarily be focused. For these reasons the potential for disturbance is not considered to be significant and an amenity objection to the proposal due to parking concerns is not advanced. Furthermore, if permission is forthcoming, the applicant has agreed to pay a contribution towards extending the existing day-time parking restrictions TRO into the evening, should parking become

an issue. Should this prove to be necessary, it is also likely to further dilute/reduce any potential parking issues as by its very nature the works would focus on 'concentrations'.

(ii) Disturbance associated with deliveries, loading/unloading:

- 10.15 The deliveries of foods and drinks will be unloaded from the delivery vehicle onto Austhorpe Road and from this point onwards the metal cages containing the goods will be rolled to rear of the building via North Road. Whilst rolling the cages, there will be unavoidable rattling noises, (metal on metal contact) and squeaking noises if the equipment is not properly maintained. There is likely to be some noise impact from these operations on the nearby residents.
- 10.16 As such, the Environmental Health Officer recommends a planning condition should be imposed on any permission, such that the hours of delivery to and from the premises including refuse collection shall be restricted to between 08.00-18.00 hours (Monday to Friday) and 10.00-16.00 hours on Saturdays with no deliveries or collections on Sundays and Bank Holidays. On that basis this element of the scheme is considered to be acceptable.

(iii) Use of external drinking area/beer garden:

- 10.17 The noise report estimates for peak periods 32 people will be in the in the beer garden and 1/3 will be using raised voices. Although no figures are given for the combined noise in the beer garden, it is stated that 1 male talking loudly will give a noise of 65dBA at a distance of 1m. It is the Environmental Health Officer's understanding that the maximum occupancy of the beer garden will be 85 people rather than 32 people. Given the close proximity of the proposed beer garden to the residential properties, Environmental Health Officers are not convinced that the patrons using the external areas (either sitting or standing) will not give rise to noise levels likely to impact on residential amenity particularly in the evenings and nights and summer time when the residents will have their windows open for ventilation or are more likely to use their own garden.
- 10.18 The Environmental Health Officers considers a planning condition such that the use of the external seating / drinking area (excluding smoking shelter) is required. In light of this advice it is considered, that subject to an appropriate condition, the use of the beer garden is acceptable. Notwithstanding this initial assessment, Environmental Health Officers are reviewing additional information that has very recently been submitted by objections and any further comments will be reported to the Panel verbally as part of the officer presentation.

(iv) Plant and equipment noise

- 10.19 A revised noise assessment with supporting documentation has been submitted by the applicant. The noise assessment describes predicted noise levels following changes to the structure of the plant room, to reduce noise disturbance from operating plant at the nearest noise sensitive receptors.
- 10.20 A previous consultation response by the Environmental Health Officer had highlighted concerns regarding noise disturbance from plant and equipment proposed to be located on the flat roof structure to the rear of the premises.
- 10.21 An assessment of the original noise report relating to plant and equipment on the roof identified potential noise disturbance, in that the BS4142 assessment had not

included rating penalties for the proposed plant, to take account of factors such as tonality, impulsivity, intermittency or specific noise readily distinct from the residual environment.

- 10.22 A revised building specification has now been proposed, which removes the externally sited plant from the flat roof area to the rear of the building and places it in an internal plant room contained within the revised structure of the building. The building now includes a pitched roof over the flat roofed area. The revisions proposed to the design of the building to include an internal plant room, have improved the barrier effect in regard to operating plant and equipment.
- 10.23 Based on the revised noise assessment data, Environmental Health Officers consider the introduction of an internal plant room in the building design will reduce noise disturbance from plant and equipment at the nearest noise sensitive receptor (including the dental surgery) to below the Lowest Observed Adverse Effect Level (LOAEL).
- 10.24 Provided the final building design as approved includes the revision of an internal plant room as proposed, Environmental Health Officers do not consider operation of the plant and equipment will cause an adverse impact to the nearest noise sensitive receptor.
- 10.25 On this basis, the previously made objections by Environmental Health Officers to the scheme are withdrawn and subject to a condition as outlined above, the noise impact associated with the plant and equipment is considered acceptable.

(v) Management of the premises:

- 10.26 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 the site including noise disturbance from the 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 in close proximity to 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.
- 10.27 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 use of the beer garden after 22.00 in order to minimise noise disturbance. Signage advising of this restriction will be placed adjacent to the entrance of the beer garden. Smokers will be allowed to use the canopy area after 2200 up until the close of the premises. 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.

- 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.
- 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 2100 and 0900 the following day.
- 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.

10.28 This plan will be reviewed by the Premises Manager on a regular basis and where it is identified upon review that amendments are necessary, it will be updated. Should Plans Panel be minded to support the proposal, the implementation and review of the Management Plan would form a planning condition.

10.29 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. 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, and potentially the parking of cars in nearby streets. The overall numbers of people will undoubtedly add some noise and potential disturbance in the area, although the extent of this is not envisaged to be so significant as to warrant a refusal of the application. Overall it is considered that the development will not result in any significant harm which cannot be controlled through planning conditions and good management practice to the nearby residents and other nearby properties. As such, the proposal accords with saved Policy GP5 of the UDP.

(vi) Impact on residents from the extension:

- 10.30 Revised plans have been submitted which set the first floor of the proposed rear extension away from the boundary with the adjoining residential property at No. 43. In addition, although the proposed extension is in relative close proximity to 3 North Road, that property presents a blank elevation towards the application site, with its main windows facing in an easterly direction, and would not be overlooked or be detracted from by loss of light. No openings are proposed in the elevation which would overlook adjoining residential properties. As such, it is considered that the two storey extension would not dominate, overshadow or overlook adjoining residential properties. As such, the proposal accords with saved Policy GP5 of the UDP.

Highways and parking

(i) Accessibility:

- 10.31 The site is within the town centre boundary as defined by the Core Strategy. The site is accessible via alternative transport modes.
- 10.32 The Core Strategy Accessibility Standards recommend that social Infrastructure uses be within a 5 min walk of a bus stop offering a 15 min service frequency to a major public transport interchange or a 10 min walk to a rail station offering a 30 min frequency service.
- 10.33 Numerous bus services are accessible within a 5 minute walk of the site including the frequent services 40 and 56. These services also extend into the evenings and weekend periods. In addition Cross Gates railway station is within a 10 minute walk of the site. The Core Strategy Accessibility Indicator is the population within a 30 min journey time of the site. The population within this journey time is considerable.
- 10.34 The site is clearly very accessible by walking and public transport.
- 10.35 The site is also within reasonable distance of advisory cycle routes and cycle lanes on the highway network. These routes also give access to the strategic City Connect cycle scheme.
- 10.36 Notwithstanding the above, the immediate pedestrian infrastructure on North Road is substandard. As requested by Highways Officers, the latest plans show the footway/dropped crossing widened to 2m north of the existing building. This would also improve the access visibility as detailed in the following section. The widening to adoptable standards would need to be secured by condition.
- 10.37 For the reasons set out above the accessibility of the site is considered to be acceptable.

(ii) Vehicular Access

- 10.38 The latest plan has removed the restriction to visibility that was created by the previous layout. The long dropped crossing should be removed and reinstated as footway with full height kerbs and the access entrance properly defined.
- 10.39 The latest plans show the removal of the high brick wall at the northern boundary of the site being replaced by a 1m high boundary fence. This will improve visibility to

the north. Final details including restricting the height to no more than 1m should be controlled by condition.

(iii) Parking

- 10.40 Highways officers have considered the amount of parking against the requirements in the Council's Parking SPD. It is concluded there can be no objection on lack of on-site parking as it is difficult to justify in the context of the NPPF which states that development should only be refused on transport grounds where the impacts are 'severe'.
- 10.41 During the weekday and weekend daytime periods it is considered that a significant number of vehicular trips at the Cross Gates site would be combined / linked with other trips that already take place in the town centre. It is considered that the number of people making specific trips by car, only to the proposal, will be relatively limited.
- 10.42 During the evenings it is considered that a number of customers arriving by car would be dropped off or arrive by taxi, and the actual parking demand should be safely accommodated on-street in surrounding roads. This parking could take place safely from a highway perspective.
- 10.43 Notwithstanding this, the applicant has agreed to a Section 106 traffic management contribution of £15,000 to allow the highway authority to review the impact of the use when established and implement measures where necessary. The S106 can include a claw-back clause should the use of the money not be necessary.
- 10.44 Notwithstanding the above, from a highways perspective it is desirable that the parking to the rear be retained to maximise the level of parking in the town centre. Alternatively, it would be possible to retain some additional parking on the site and still maintain a beer garden. The applicant has indicated that they are not prepared to make this change and as discussed above officers do not consider this translates into a highway reason for refusal noting the advice contained in the NPPF on this matter.
- 10.45 Details of cycle parking to the front of the property could be agreed through condition which can also be positioned so are not to cause any access difficulties which has been raised as a concern in the representations received.

(iv) Servicing

- 10.46 The surrounding highway network to the site is challenging in terms of how the site can be serviced. North Road to the west, and the routes that it leads to, are narrow and unsuitable for larger vehicles and therefore do not provide a suitable means to service the proposal. The proposed extensions at the rear of the building have inevitably led to reduction in the parking/turning area. The extensions have therefore reduced and restricted space at the rear of the building for smaller delivery vehicles. The eastern boundary does not have a frontage with the highway, and the northern frontage is a private street/track called East View which does not appear to offer an alternative servicing arrangement. Austhorpe Road is the most obvious location for larger vehicles to service the use, but a bus stop and its associated clearway extends across the frontage of the site. Servicing would therefore have to take place to the east of the bus stop clearway where there are double yellow lines but loading is permitted for a period of up to 30 minutes.

- 10.47 The applicant has submitted an updated Transport Delivery Management Plan dated 22 March 2017 which confirms that servicing will be focused in this area. However, servicing from this location is far from ideal for a number of reasons. Firstly, servicing from here will have some impact on the use of the bus stop (which has a very high frequency of bus service and use), and buses will have to pull out from the stop to pass a service vehicle on what is a busy stretch of road with other parking and general activity associated with the town centre. Servicing will therefore add a further level of disruption at this location which has a known accident history. Secondly, servicing would be in close proximity of Church Lane, the closer a vehicle gets to Church Lane, the greater the impact on visibility of the junction, visibility when emerging from the junction, and the ability of vehicles to turn left safely into Austhorpe Road. Thirdly, the route from a service vehicle past the entire site frontage is generally busy with pedestrians and people at the bus stop.
- 10.48 The plan confirms that servicing would involve vehicles parking to the immediate east of the eastbound bus stop on Austhorpe Road, then deliveries being transported to the rear of the building via North Road rather than through the Austhorpe Road entrance. This will inevitably lead to service vehicles being parked on Austhorpe Road for longer than would be the case than if servicing were taken through the front of the building, with the resultant disruption and issues referred to above exacerbated.
- 10.49 The developer has proposed that a banks person is used to ensure that the narrow North Road footway is clear of pedestrians before goods are moved along it. However, the use of North Road has previously been highlighted as an area of concern due to the width of the footway, and the need to wheel cages and trolleys along this route. The applicant has confirmed that cages would have a width of up to 730mm. The width of the footway narrows down to as little as 810mm on North Road (adjacent to street furniture) leaving a tolerance of only 40mm either side, this is not considered suitable as it gives rise to the possibility of cage wheels falling from the kerb. In addition, blue badge holders are known to regularly park on this stretch of North Road where wing mirrors inevitably overhang the footway to the extent that cages could not pass. Highways Officers are concerned that that the proposal relies on the use of a banks person, with the risk remaining that a pedestrian would still step into the road, and/or that as a result of the narrowness of the footway, cages and trolleys will be taken along the carriageway. The use of North Road also increases the travel distance of cages which in turn is likely to add to the overall loading/unloading time on what is a very busy section of the highway, particularly from a pedestrian perspective due to the positioning of the bus stop.
- 10.50 The applicant has confirmed servicing through the front of the building is unacceptable so a condition to secure this cannot be applied as this would effectively tie them to a form of development that has not been applied for and it is not prepared to accept. The reason stated is because it would lead to conflict with customers and damage the interior of the building.
- 10.51 Traffic Officers have also been consulted on the proposals and proposed servicing arrangements, and advise that relocating the bus stop is not supported since a stop is required in this area and other constraints mean it cannot be moved. The position of the existing bus stop is therefore fixed. Further dialogue with the Traffic Authority has considered the implications of deliveries taking place in front of the bus stop and the associated potential for conflict with buses at the bus stop and the proximity to Church Lane. The distance between where buses actually dock at the shelter and the end of the clearway is approximately 8m. This would allow still allow a bus to pull out if a service vehicle is parked in front of the bus. However, it is essential that

the positioning of a service vehicle is controlled so not to conflict with Church Lane. Although the number of service vehicles is not particularly high, it would take place in a sensitive location and the characteristics of servicing a pub are different to the former use as a doctor's surgery/pharmacist. The change of use brings with it more challenging servicing requirements on Austhorpe Road. A build-out at the Church Lane junction is required to control the positioning of a delivery vehicle and improve visibility of and from the junction. The exact dimensions of the build-out would be subject to detailed design to achieve the optimum layout of enhancing visibility and allowing the left turn into Church Lane.

- 10.52 In summary, although the timing of deliveries could be restricted to avoid peak traffic periods and other identified sensitive times and a build-out towards the Church Lane junction with Austhorpe Road can be provided to provide the required visibility requirements, the proposal to service the use via North Road is not only likely to extend the time period during which loading and unloading takes place, it would also introduce pedestrian and vehicle conflict in what is already a very sensitive part of the highway network. For these reasons, the proposed servicing arrangements for the use cannot be supported.

(v) Internal Layout - Rear Yard

- 10.53 One of the three car parking spaces has now been converted to a disabled parking space which is supported. This has been achieved by adjusting the bin storage area. However, the bin store cannot be accessed except through the beer garden or if the adjacent parking space is empty (although no gate is indicated into the rear parking area). The applicant has confirmed that the dentist will be able to utilise the bin storage space and this could be controlled by condition. However, it is unclear how the dentist would access the bin store as access through the beer garden does not appear practical for a separate business user.
- 10.54 Tracking has now been provided showing how all three of the spaces can be accessed and how they can be exited. However, the tracking diagrams only serve to highlight how tight the parking and manoeuvring area proposed is. Several of the manoeuvres show the vehicle swept paths with very little or no tolerance to adjacent spaces or physical boundaries within the area. More generally, it is also questionable whether the bin storage area is sufficient for the proposed Public House and dentist, as any overspill storage or access difficulties are likely to further impact on the usability of the spaces shown..
- 10.55 It is considered that the parking/turning area to be unnecessarily constrained. A further reason for refusal relating to these concerns is therefore advanced.

(vi) Fall-back position in relation to highway matters:

- 10.56 The applicant states the application site has historically been used as a doctors' surgery (D1 use) and pharmacy (A1 use) although these have now relocated elsewhere within Cross Gates. These uses, in themselves will have generated traffic, deliveries and general activity although the availability of both parking and space at the rear is such that these areas were used more frequently. It is inevitable that any future occupier, including the current applicant will need to service the building and will attract customers, some of which travelling by car. This existing baseline situation is therefore an important material consideration as although the building is currently vacant, it has consent for commercial uses. The applicant states that many of the issues raised by Highway Officers would therefore exist however the building is occupied.

10.57 Officers however do not agree that the existing permitted uses would create the same highway impacts and therefore consider the fall-back position to be given little weight. The principal existing use is Class D2. And the servicing requirements for a Public House are very different to the previous doctors surgery and can be considered on their own merits. In addition to the proposed change of use, the applicant is proposing a relatively large extension to the rear and beer garden which impacts significantly on the parking and servicing arrangements that have historically been available at the site. For these reasons officers do not consider the fall-back position to be of such relevance to alter the overall highway assessment that has been reached regarding the acceptability of the current planning application.

(vii) Off-site highways works:

10.58 Footway widening/kerb reinstatement/access works to the North Road frontage are necessary, as detailed above, requiring a S38/278 (as appropriate) with the Highway Authority.

10.59 Build-outs/footway widening and associated changes to road markings at the junction of Church Lane and Austhorpe Road are necessary requiring a S278 with the Highway Authority.

10.60 The applicant has agreed to a S106 contribution towards traffic management measures / TRO's.

(viii) Road safety

10.61 As detailed above the car park turning area and proposed servicing arrangements are not supported. The proposal is considered to be contrary to Core Strategy Policy T2, and advice in the NPPF.

Visual amenity

10.62 The application property is currently vacant and boarded-up and therefore its re-use is considered to have a positive visual impact on this part of Austhorpe Road. The site is prominent in the street scene, and abuts a bus shelter which is very busy. Although objectors state that it is the applicant who has blighted the building, the building is boarded up and is likely to be so until an economic reuse of the building is implemented.

10.63 The proposed building's overall usage and aesthetics are going to be altered. Aesthetically, the building will be improved by repairs and repainting to the front of the building to complement the character of the wider streetscape. The rear of the building will be renovated in a more contemporary way, to conceal existing unsightly services, visible from North Road, and merge the existing and new buildings. The use of hardwood timber windows is supported.

10.64 The extension would be constructed in vertical timber boarding at first floor, with render at ground floor. The ground floor of the building is to be predominantly designed to house the customer area of the Public House. The customer area will have fully glazed summer opening doors onto the rear beer garden as well as the street frontage - giving a greater connection between inside and out. The beer garden will be enclosed by a 1800mm high boundary fence. The kitchen has been provided with a large open space to service the pub and allowing good separation

between public areas and service areas. The kitchen is accessed from a rear gate for deliveries and refuse collection.

- 10.65 In addition, the plant equipment is to be sited to the roof top, within a pitched roof at second floor level, and hidden from ground level view. The proposed external works will also comprise the laying out of tables and chairs, low fencing to the perimeter, block paving, smoking shelter and the acoustic fencing. Overall, the proposed external works are considered to be respectful to the appearance of the application property and will not be harmful and can improve the current visual amenity of Austhorpe Road, North Road or the wider area.

Other matters

(i) Health

- 10.66 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 recognise 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.

(ii) Crime and disorder

- 10.67 It would be for an applicant for a licence to demonstrate that its operation would not impact on the prevention of crime and disorder, the prevention of public nuisance, public safety or the protection of children from harm. In the event of planning permission being granted, the appellant would need to satisfy the four licensable objectives referred to above under the Licensing Act 2003. This operates as a separate regime to that of planning and which should provide concerned residents with a degree of extra assurance as to the management of the proposal. For example, planning permission was granted to Wetherspoons at premises in Headingley, however an application for a licence was declined.

(iii) Flood Risk

- 10.68 There are no records of flooding incidents at the site, and Flood Risk Management raise no objections.

(iv) Coal Risk

- 10.69 The applicant's Preliminary Geoenvironmental Investigation Report has been informed by an appropriate range of sources of information; including a Coal Mining Report, BGS geological mapping, and borehole records. Based on this review of existing sources of geological and mining information the Report concludes that shallow mining poses a risk to the proposed development that cannot be entirely discounted. Accordingly, appropriate recommendations are included for intrusive site investigation works in order to establish the exact situation regarding ground conditions and to enable appropriate remedial measures to be identified, if

necessary. The Coal Authority also welcomes the fact that due consideration has been afforded to the potential risk posed by mine gas to the proposed development, which would need to be considered further should shallow coal mine workings be encountered. The Coal Authority therefore raises no objections, subject to the imposition of a suitable condition.

(v) Loss of retail opportunities

10.70 It has been stated in representations that the proposal is contrary to UDP Policy S2, which states:

'Non-retail development within the above centres will not normally be permitted where it would reduce significantly the shopping function of a centre, or lead to the loss of development or redevelopment opportunities capable of accommodating major retailing.'

However, this policy is not a 'saved' policy was superseded by Core Strategy policies SP2, P1, P2 and P9.

11.0 CONCLUSION

11.1 In reaching a recommendation for the proposed development it is important to acknowledge that the recommendation is finely balanced and that some further comments from the Environmental Health officer are still expected. However, in assessing and determining development proposals, Local Planning Authorities should apply the presumption in favour of sustainable development and proposals should be determined in accordance with the development plan unless material considerations indicate otherwise.

11.2 The economic benefits associated with the proposed development in terms of local employment opportunities and spend are acknowledged and are material planning considerations in favour of the development. As is the bringing back into active use a vacant building (at ground floor level) which has a poor external appearance and currently makes no contribution to the centre or the local economy.

11.3 Although reuse of the building is clearly desirable in principle, the detailed proposals seek a change of use and extension/alterations to accommodate a Public House use. In assessing the acceptability of all these changes, the site is noted to abut a congested section of road in close proximity to a well used bus shelter. The proposed servicing arrangements via North Road specifically would be harmful to users of the highway, including pedestrians and significant weight is given to this harm. Furthermore, whilst the absence of off-street parking associated with the proposed change of use is not formally objected to, the parking and servicing facilities that are proposed for the upper floor use are considered to be sub-standard/impractical and this is likely to impact on their overall usability, contributing further to the highway concerns that already exist with the proposal.

11.4 In terms of amenity considerations, there is still concern about the proposed opening hours and how this might adversely impact on nearby residents. Alterations have nevertheless been provided to ensure plant and machinery is contained within the envelope of the proposed extension and this will improve their overall acoustic performance. Other measures are also proposed in the form of direct management and physical measures (e.g. an acoustic fence around the beer garden) to help mitigate any noise and disturbance concerns.

11.5 In conclusion, various elements of the proposal accord with the relevant provisions of the development plan and the NPPF. However, overall Members are advised that these material considerations when added together do not outweigh the harm that has been identified to highway safety. Overall therefore, officers conclude on the planning balance that the application should be refused for the specified reasons. A further update regarding the amenity impacts of the development will also be provided to ensure this matter is fully considered in the light of the late representations received.

Background Papers:

Application file.

Certificate of Ownership



NORTH AND EAST PLANS PANEL

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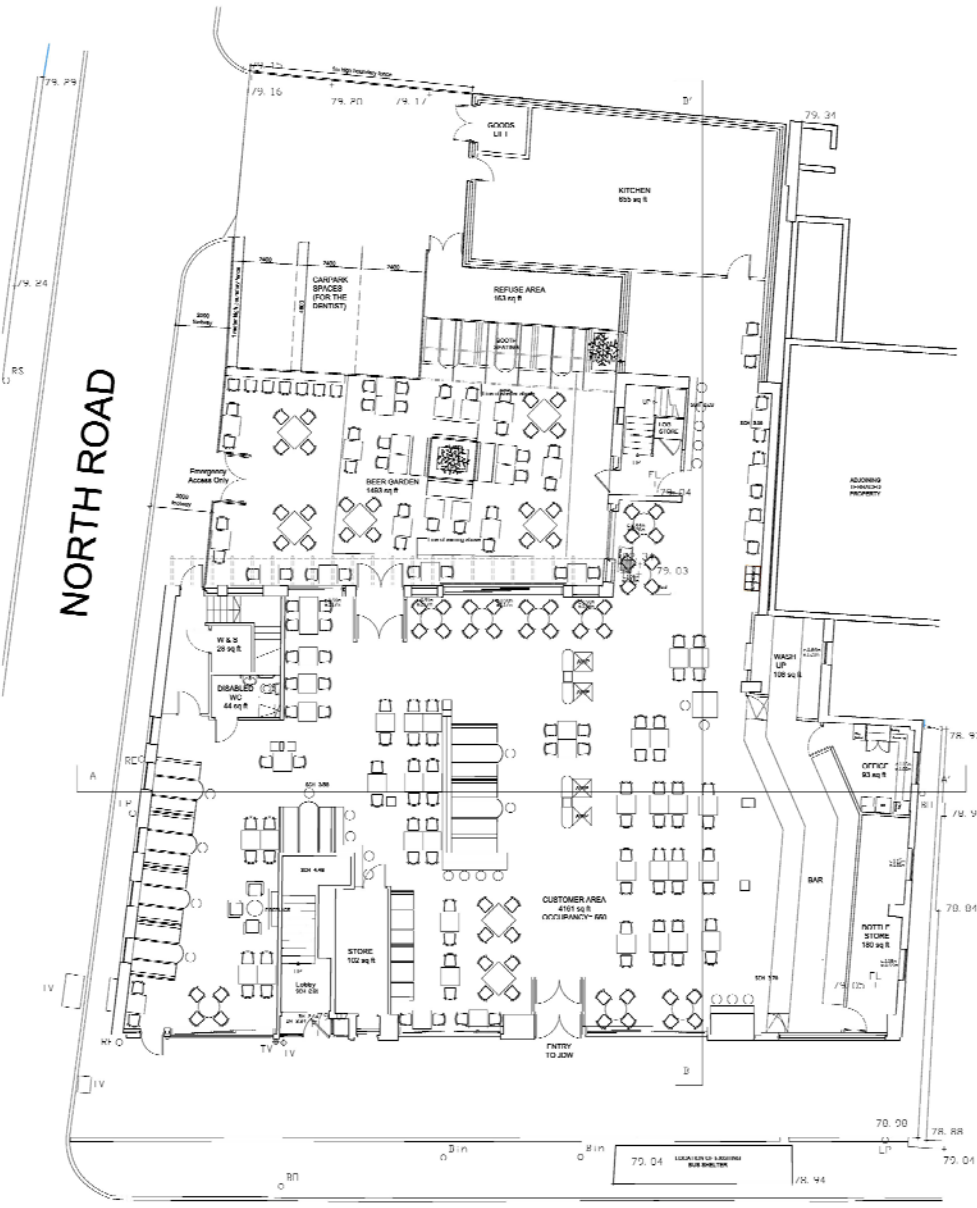
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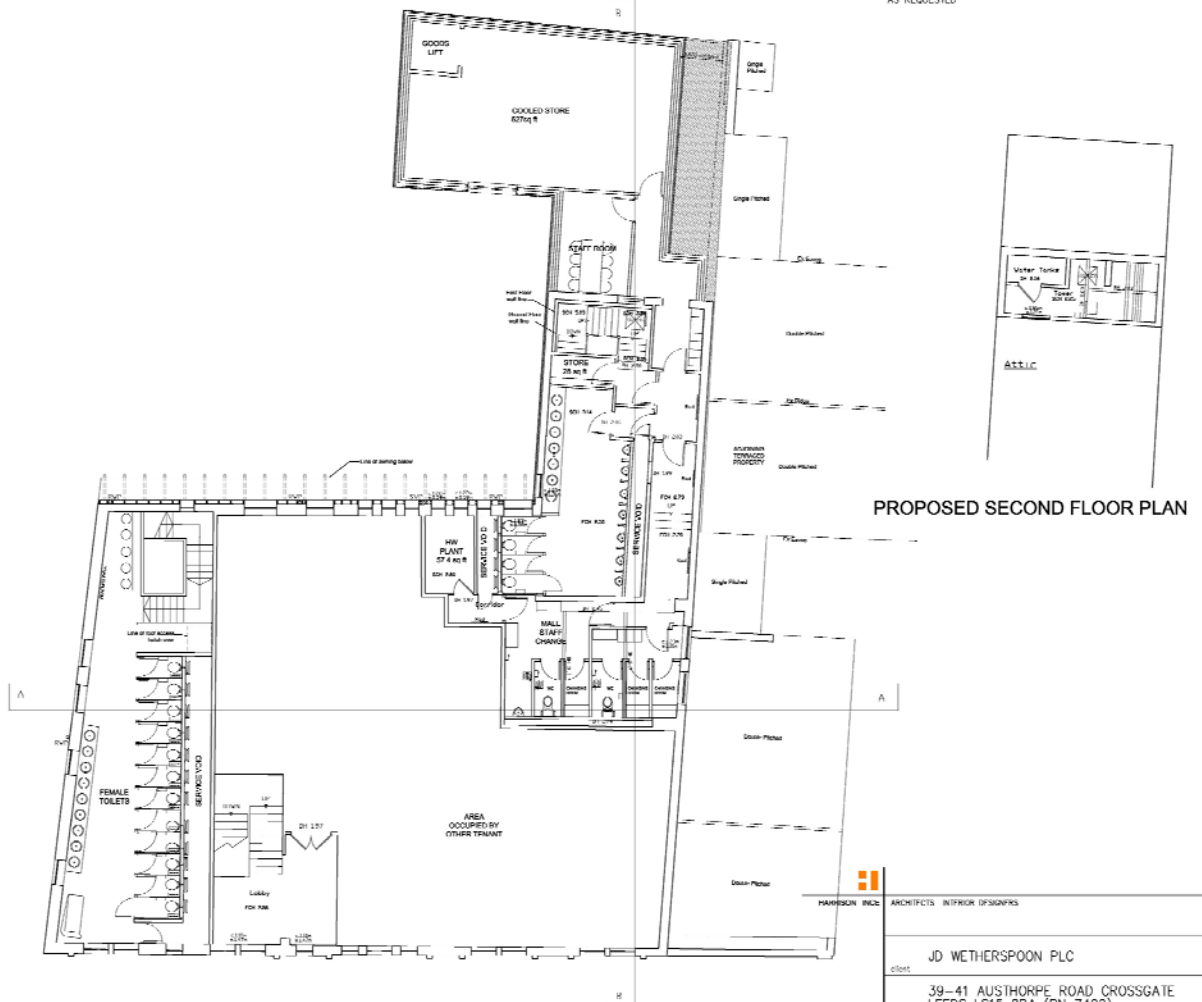


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Revisions			
-	HKSI ISSUE	24.09.15	AM
A	REVISED CAR PARKING LAYOUT	11.04.16	LR
B	REVISED CAR PARKING, UPGRADE TO GOODS LIFT, REVISION TO REFER CASKIDEN	05.06.16	OC
C	REVISED CAR PARKING	12.05.16	JW
D	ADDITION OF DIMENSIONS TO PLAN	13.05.16	JW
E	AMMENDMENT TO WINDOW PLACEMENTS	02.06.16	JW
F	REMOVAL OF PAVEMENT SEATING RESIDE DENTIST AS AGREED WITH CLIENT	05.07.16	JW
G	ADDITION OF BICYCLE HOOPS	05.07.16	JW
H	REMOVAL OF PAVEMENT SEATING & BUS STOP LOCATION	10.08.16	JW
I	DESIGN CHANGE: HOSTI COUNCIL FEEDBACK	19.10.16	JW
J	2m WIDE FOOTPATH OUTSIDE BEER GARDEN AS REQUESTED	16.01.17	JW



PROPOSED GROUND FLOOR PLAN



PROPOSED FIRST FLOOR PLAN

PROPOSED SECOND FLOOR PLAN

HARRISON INC. ARCHITECTS INTERIOR DESIGNERS

client: **JD WETHERSPOON PLC**

project: **39-41 AUSTHORPE ROAD CROSSGATE LEEDS LS15 8BA (PN 7402)**

PROPOSED FLOOR PLANS

title: _____

date: **SEP 2015** scale: **1:100 @ A1**

job no: **JD420** design no: **AL01 J**

drawn: **(AM)/AM** checked: _____