



Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 7 October 2010

Subject: APPLICATION 10/01289/FU. – Detached single storey drive through restaurant with associated car parking and landscaping at land adjacent to 419 and 421 Kirkstall Road, Burley, Leeds LS4 2EZ

APPLICANT

Duffield Properties Ltd – M
Duffield

DATE VALID

19 March 2010

TARGET DATE

14 May 2010

Electoral Wards Affected:

Kirkstall

Yes

Ward Members consulted
(Referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Members are asked to grant planning permission subject to the following conditions:

1. Time limit on full permission, (3years).
2. Plans to be approved
3. Samples of all walling and roofing materials to be submitted.
4. Sample panel of brickwork
5. Samples of surfacing materials to be submitted.
6. Submission of door and window frame details.
7. Details of all boundary treatment (including to the flood risk mitigation area) to be submitted
8. Details of external lighting to be submitted
9. Submission of a service management plan for the car park area
10. Permanent closure of the access from Airedale House car park
11. Area used by vehicles to be laid out, surfaced and sealed
12. Restriction on the height of boundary treatment on Kirkstall Road frontage
13. Cycle parking details to be submitted
14. Details of storage and disposal of litter to be provided including details of bin stores

15. Standard opening hours (08.00 to 23.30 hours Monday to Saturday, 11.00 to 23.00 hours Sunday)
16. Details of extract ventilation system to be submitted
17. Details of sound insulation of plant and machinery to be submitted
18. Provision of grease trap
19. Submission of a detailed scheme for the flood risk mitigation area to include details of proposed ground levels, measures to protect existing riverside trees and further planting and long term management
20. Submission of landscaping details
21. Landscape implementation
22. Landscape maintenance scheme to be submitted
23. Submission of information relating to contamination and remediation
24. Amendment of remediation statement
25. Reporting unexpected contamination
26. Submission of verification reports
27. Development to be carried out in accordance with the approved Flood Risk Assessment
28. Separate system of drainage on and off site
29. Submission of details of work for dealing with surface and foul water discharges from the development
30. No infiltration of surface water drainage into the ground without prior approval.
31. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the consent of the Local Planning Authority
32. Details and provision of oil interceptor

Reasons for approval: The application is considered to comply with policies SP3, GP5, N8, N11, N12, N13, N24, N49, N50, T2, T24, A4, BD5 and LD1 of the UDP Review 2006, with the Core Strategy 'Preferred Approach' of the emerging Local Development Framework, and having regard to all other material considerations, as such the application is recommended for approval.

1.0 INTRODUCTION:

This application seeks approval for a single storey detached drive through restaurant, to be operated by 'Subway' (sandwich sales). The application is brought to the Plans Panel West at the request of Ward Councillor John Illingworth.

2.0 PROPOSAL:

- 2.1 This is a full application and seeks approval for a single storey detached drive through restaurant on the south western side of Kirkstall Road. The submitted plans indicate that the proposed restaurant will be operated by 'Subway'. The submitted plans also show a large totem sign adjacent to the Kirkstall Road frontage. This sign does not form part of the current application and would be subject of a future application for advertisement consent.
- 2.2 The proposed restaurant building will be set back into the site by approximately 9 metres from the Kirkstall Road frontage. The proposed building will be of brick construction with large powder coated aluminium windows to the north eastern (front) elevation and much of the south eastern (side) elevation. Circular 'feature lights' will be used to break up sections of solid wall elsewhere on the building. The building will have a flat roof. Metal roofing with projecting canopies will be provided over the window areas to add interest to the building.
- 2.3 The main entrance into the building will be through a glazed door on the south eastern elevation. A pedestrian ramp protected by steel railings will provide level

access to this entrance. Two serving hatches, (approximately 1.7 metres wide and 1 metre deep and faced in render), for drive through customers will project from the north western (side) elevation. A solid door in the south western (rear) elevation provides a second entrance into the building.

- 2.4 There will be one combined vehicle entrance/exit point into and out of the site. This will be towards the end of the no through road, which runs from Kirkstall Road alongside the south eastern site boundary. This road also provides vehicular access to the adjacent shopping centre and commercial buildings at the rear. A pedestrian entrance into the site will be provided from Kirkstall Road.
- 2.5 Within the site, the drive through route will run round the building and through the rear car park. Fourteen parking spaces, including one disabled space, will be provided within the site at the rear of the building and alongside the south eastern boundary. The submitted site layout plan also shows a bin storage area concealed by a high timber fence to the rear and an external patio area to the front of the building, where cycle parking facilities and benches will be provided.
- 2.6 Tree, shrub and low level planting is proposed along the Kirkstall Road frontage and elsewhere within the site. The existing brick boundary wall, which runs along the much of the site boundary will be retained and extended.
- 2.7 The application site includes a substantial area of undeveloped land to the south west of the proposed restaurant. This land, (the flood risk mitigation area), will remain undeveloped but ground levels will be reduced in accordance with measures detailed in the Flood Risk Assessment, which was submitted with the application.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site consists of two very distinct areas of land located between Kirkstall Road and the River Aire – the proposed restaurant site and the proposed flood risk mitigation area to the south west.
- 3.2 The proposed restaurant site consists of a flat hard surfaced area of land located on the south western side of Kirkstall Road. The land is currently disused but was last used as a drive through car wash. The buildings and structures associated with this use have been cleared although road markings within the site provide evidence of the former use. The land is surrounded by low brick walls to the north eastern, north western and south eastern boundaries and temporary railings to the south eastern boundary. Vehicle access is currently through the car park to Airedale House (421 Kirkstall Road). There is also an access from the side road to the south eastern boundary, which has been temporarily blocked off.
- 3.3 The second area of the site is an undeveloped area of land to the south west of the site, which runs down to the River Aire. This part of the site is overgrown with vegetation. The mature trees adjacent to the river bank are protected by Tree Preservation Order.
- 3.4 The application site is located within an area of mixed land uses. On the southern western side of Kirkstall Road, commercial uses predominate.
- 3.5 Adjoining the application site to the south east is a modern single storey shopping centre comprising a supermarket and several smaller shop units. The shopping centre is of brick construction with a steep roof with overhanging eaves and two roof tower features. There is a large car park in front of the shopping centre. The adjoining buildings to the north west are 419 and 421 Kirkstall Road, which are also

within the applicant's ownership. 421 Kirkstall Road, (Airebank House), is a large two storey brick building with a saw tooth roof and large car parks to either side. It is occupied by the Duffield Printers at ground floor level with offices for letting above. 419 Kirkstall Road is a detached three storey brick building set back from Kirkstall Road and is occupied by Media Innovations. To the rear of the site is 415 Kirkstall Road, a two storey brick industrial building, occupied by auto engineers.

3.6 The north eastern side of Kirkstall Road is of more mixed character. Opposite the application site is Kirkstall Valley Primary School, a single storey brick building, at a much higher level separated from the main road by extensive grounds and a high brick boundary/retaining wall with metal railings on top. Either side of the school, traditional brick terraces of houses predominate with some end units converted into retail or business uses.

3.7 The nearest fast food outlet to the application site is a fish and chip shop at 402 Kirkstall Road, approximately 100 metres away. There are also several hot food takeaways and restaurants along Kirkstall Road, which are within easy walking distance of the application site. These include a drive through McDonalds restaurant at Cardigan Fields leisure complex

4.0 RELEVANT PLANNING HISTORY:

4.1 H26/221/86 – Planning permission was granted on 15 September 1986 for a car wash centre, comprising detached was hall including control room, store, toilet, pump room and re-circulation.

4.2 10/01559/FU – This application, which was submitted by Netto Food Stores, (who occupy the adjoining supermarket at 385 Kirkstall Road), proposed alterations to the access, (which will also serve the proposed restaurant), including installation of signals, pedestrian crossing point and relocation of bus stop. The application was withdrawn on 1 June 2010 prior to determination.

5.0 HISTORY OF NEGOTIATIONS:

5.1 The application was submitted following pre-application discussions with the applicant's agents, in summer 2009. These discussions focussed on the principle of development and the scope of the assessment required under Planning Policy Guidance PPS6 'Planning for Town Centres.' (This document is now superseded by Planning Policy Guidance 'Planning for Sustainable Economic Growth – PPS4). Detailed design issues were not discussed.

5.2 Negotiations have also taken place with the agents during consideration of the current application. As originally submitted, the proposed development was considered unacceptable with highway, landscape, design and access officers being unable to support the application. The applicant has taken positive action to address outstanding concerns and as a result the submitted plans have been revised twice during assessment of the application.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was advertised by a site notice dated 1 April 2010. The publicity period expired on 22 April 2010. Several representations were received; these are summarised below. Contributors were also notified about the submission of the latest set of revised plans on 19 August 2010 but to date no further representations have been received.

6.2 Councillor John Illingworth has objected to the application – in summary impact on traffic congestion and the bus priority scheme on Kirkstall Road, increased traffic in

close proximity of a primary school and the area is already saturated with drive through facilities and fast food outlets. He also declares his interest as a governor of Kirkstall Valley Primary School and asks if the application could be discussed by school governors.

6.3 Councillor Bernard Atha is generally supportive of the application. He considers that the proposed development would have no detriment to the immediate area and would result in a considerable improvement.

6.4 A petition signed by five Kirkstall residents and two individual letters objecting to the proposed development has been received raising the following issues:

- The proposed development will increase concerns about child safety as children will cross the road to get to it
- There will be increased smells and traffic
- The proposed development will result in increased crime, disorder and public nuisance and the restaurant will become a meeting point for youths.
- Given the number of food outlets which already exist between Cardigan Fields and the application site, adding another will turn the area into a fast food ghetto at the expense of industrial and retail activity
- Litter will increase with customers discarding food wrappers – pedestrians close to the site and motorists further along Kirkstall Road
- The design and access statement seems to imply extending recreational use along a longer stretch of Kirkstall Road with a view to supplanting the industrial usage of other sites in the vicinity thereby changing the character of the area.
- The site is opposite a primary school, which is inappropriate in the light of childhood obesity concerns and will encourage young children to cross an extremely busy road in search of snacks.
- Most pedestrian trade will come from houses on the north side of Kirkstall Road and as the pelican crossing is over 150 metres away there is a high risk of accidents.
- The difficulties faced by traffic turning onto Kirkstall Road from the adjacent shopping centre will increase.
- The design of the building, which looks like every other drive through in England, is out of character with the area. (Note – the design has subsequently been revised).
- The proposed restaurant will impact adversely on other businesses on Kirkstall Road.

6.5 The applicant, Martyn Duffield, has submitted a statement, and has requested this be brought to Plans Panel' attention together with copy of a letter sent to an objector in response to his concerns. He makes the following points:

- He also declares an interest in Kirkstall Valley Primary School in relation to provision of free printing and factory visits for pupils and has sent a copy of his statement to the head teacher so that the school is aware of the proposal.
- The former car wash with its associated blow up clowns and flapping signs caused nuisance to Kirkstall Valley Primary School. The nature of the brand is for the healthier food option. In any case, the children are not at liberty to leave school during the day and cross the busy Kirkstall Road to purchase snacks.
- A number of local residents, businesses and other local Councillors are in favour of the development. Service infrastructure is required to attract much needed development to the area.
- The proposed development will create 22 local jobs and is in place of a car wash, which employed one person. In addition the proposal will provide an essential facility to the new business centre on the upper floor of Airedale House that will potentially attract 18 new businesses and up to 100 new jobs along and to the 40 existing employees at the printing works.
- Duffield have had a presence on Kirkstall Road for 50 years and have responsibly maintained its building and locality. There will be a clause in the lease of the restaurant covering collection and disposal of all discarded waste in keeping with Duffield's example.
- A comprehensive survey has concluded there will not be a significant impact on traffic congestion on Kirkstall Road.
- There is only one other drive through restaurant along Kirkstall Road.
- An objector's comments about inappropriate design have been taken on board in the preparation of revised plans.

7.0 CONSULTATION RESPONSES:

Statutory:

Yorkshire Water

No objections subject to conditions

Environment Agency

The proposed development will only be acceptable if measures detailed in the Flood Risk Assessment submitted are implemented. Environment Agency has therefore requested conditions to cover this.

Non-statutory:

Sustainable Development Unit – Landscape

Objected to the proposals as initially submitted – in particular the design of the building, the inadequate landscape buffer between Kirkstall Road and the turning circle/building apron, lack of landscaping in the car park and poor pedestrian connectivity with Kirkstall Road. These issues have now been addressed on the latest revised plans. Also concerned that the reductions in levels for flood storage will have a serious impact on the riverside trees – suggest that a buffer zone around the trees is maintained at current levels.

Sustainable Development Unit – Nature Conservation

The site lies next to the River Aire, which is an important wildlife corridor and has been identified as a biodiversity priority area in West Yorkshire. The proposed reduction in ground levels may have an impact on riverside trees, which provide some useful cover for otters and feeding habitat for bats. A landscape scheme for this part of the site will be required and should include native tree and shrub planting to screen the development from the river and provide additional cover. A boundary fence should be provided to restrict access to the flood mitigation area. These issues can be covered by conditions.

Sustainable Development Unit – Design

Objected to the proposed design of the building as initially submitted. The revised proposals are much better and the building design is now considered acceptable. Requests conditions to cover submission of building materials for future approval.

Sustainable Development Unit – Land Contamination

No objections subject to conditions.

Architectural Liaison Officer

There have been a number of fatal road traffic accidents along this section of Kirkstall Road so it is important that highway officers are satisfied that the proposed development does not compromise road safety. Does not consider that the proposed development and internal access arrangements will detrimentally impact on local crime.

Access Officer

Initially objected to the design of the disabled parking space and the access ramp. These issues have been addressed on the revised plans – now no objections.

Local Plans

The site lies outside a designated town centre on the Leeds Unitary Development Plan (Review 2006). Although Local Plans have reservations about the PPS4 sequential approach which the applicant has adopted, they are not objecting to the proposed development. The site lies close to Kirkstall Local Centre as defined in the Core Strategy (Preferred Approach). Although boundaries are not given in the Core Strategy to the extent of Local Centres, it could be argued that the site lies next to the Local Centre, which includes the properties close to Cardigan Fields Leisure Park and the shopping centre adjoining to the site. Also flood risk restrictions limits alternative uses for site – the only appropriate uses which are not main town centre uses would be a B2 industrial use or a motor related use.

Environmental Protection

No objections subject to conditions.

Highways

Initially had concerns about the accuracy of the junction capacity assessment and the site layout. However these concerns have since been resolved through the submission of revised plans and highways officers no longer have any objections but request conditions covering a service management plan for the site, closure of the access to Airedale House car park, hard surfacing and draining of areas used by vehicles, restrictions on the boundary treatment height across the site frontage and details of secure cycle parking.

Mains Drainage

No objections subject to conditions.

Waste Management

The proposed refuse arrangements are acceptable.

8.0 PLANNING POLICIES:

Leeds Unitary Development Plan (Review 2006) (UDPR)

The site of the proposed restaurant is located within the main urban area with no specific allocation on the Leeds Unitary Development Plan (Review 2006). The river bank area is within a wider area designated urban green corridor and other open land in built up area and Leeds Local Nature Area, (Kirkstall Valley 'Nature Reserve'). The following policies are considered relevant:

- SP3 Development location strategy
- GP5 Requirement of development proposals
- N8 Urban Green Corridors
- N11 Open land in built up areas
- N12 Priorities for urban design
- N13 Design and new buildings
- N24 Development next to Green Corridors
- N49 Nature conservation
- N50 Nature conservation and protected sites
- S9 Small retail developments (sequential test)
- T2 Transport provision to development
- T24 Parking provision and new development
- A4 Safety and security provision
- BD5 Amenity and new buildings
- LD1 Landscaping schemes

Core Strategy 'Preferred Approach' of the Leeds Development Framework
Identifies Kirkstall Road as a local centre in the Leeds Centre Hierarchy

Central Government Guidance

- PPS1: Delivering Sustainable Development.
- PPS4: Planning for Sustainable Economic Growth
- PPS9: Biodiversity and Geological Conservation
- PPG13: Transport
- PPS25: Development and Flood Risk

9.0 MAIN ISSUES

The main issues are:

- Principle
- Building and landscape design
- Transport and access issues
- Flooding
- Nature conservation and landscaping issues
- Impact on residential amenity

10.0 APPRAISAL

Principle

The proposed use as a drive through restaurant is classified as a main town centre use in PPS4 and as such should be assessed under the requirements of PPS4. The application site is not within a town centre area as defined in policy S2 of the UDPR.

The applicant therefore submitted a sequential assessment as part of the application documentation in line with the requirements of PPS4 to justify the development.

Local Plans consider that it would be difficult to justify refusal of the application on policy grounds given that Core Strategy 'Preferred Approach' of the Leeds Local Development Framework Preferred identifies a new Leeds Centre Hierarchy within the main urban area of Leeds city centre, town centres and local centres. Kirkstall Road is identified as a local centre. Although the Core Strategy does not give precise boundaries, the Local Centre includes the properties close to Cardigan Fields Leisure Park and the shopping centre next to the application site. Local Plans are therefore of the view that the application site is located at the edge of the emerging local centre.

The application site is accessed from the same side road as the shopping centre and physically could be seen as an extension to the shopping area. It is also in a sustainable location – several bus routes to various destinations run along Kirkstall Road and the site is within easy walking distance of the residential properties on the north eastern side of Kirkstall Road .

Furthermore, if the proposed restaurant use is considered to be unacceptable, consideration needs to be given to other appropriate uses for this vacant site. As it is located outside a main town centre, office development is likely to be resisted. Flood risk restrictions hinder development further. Therefore the only alternative uses likely to be acceptable in principle are B2 industrial use or a motor related use, which could be problematic in other respects, for example in terms of traffic and noise.

It is therefore considered the principle of a restaurant on this site is acceptable.

Building and landscape design

As originally submitted, the application proposed a brick flat building of 'brick box/American diner design'. The proposed building failed to take account of the local built form and did not enhance the quality of the built environment along this section of Kirkstall Road. Furthermore landscaping along the Kirkstall Road frontage was lacking so the internal road round the building dominated the site frontage. By contrast the McDonalds drive through restaurant at Cardigan Fields has substantial landscaping to the Kirkstall Road frontage.

The applicant's response to these concerns has been positive. Possible design options were explored with his architect and the building has been re-designed and revised plans submitted. It is considered that the proposed building is now of a better design, which will stand out on its own merits and thereby play a positive role in the enhancement and regeneration of this section of Kirkstall Road. To turn to the external environment around the building, landscaping is now proposed along the Kirkstall Road frontage and elsewhere within the site together with a pedestrian access direct from Kirkstall Road.

Transport and access issues

A transport statement was submitted with the application – however highway officers had concerns about the internal site layout and the capacity of the junction of the side road with Kirkstall Road in view of traffic congestion particularly at peak times along Kirkstall Road. A traffic statement addendum and revised plans were submitted in response to these concerns. In addition highway officers have considered the junction independently of the Transport Statement. Their conclusion is that the proposals are now acceptable on highway grounds and they have now withdrawn their previous objection.

The revised plans also resolve the access officer's previous concerns regarding disabled car parking space and ramp design.

Flooding

The site is located within Flood Zone 3a where there is a high risk of flooding. The land use proposed by the application is defined as a 'less vulnerable use' by PPS25. Such uses will only be permitted in Zone 3a where the sequential test and exception test have been applied.

Whilst there are sequentially preferable sites available outside Flood Zones 2 and 3 which could accommodate the proposed use, as stated earlier in this report PPS25 makes it difficult to find an alternative use for the site. Given that Environment Agency have no objection to the proposed development provided the measures detailed in the submitted Flood Risk Assessment are implemented, it would be difficult to justify refusal of the application on flooding issues. The site incorporates a substantial area of undeveloped land located between the proposed restaurant and River Aire, which will be used for flood risk mitigation.

Nature conservation and landscaping issues

Ground levels will be reduced in the flood risk mitigation area to meet Environment Agency requirements. It is considered important to ensure that these works do not impact adversely on the long term health of the protected trees as they are a very attractive feature along the river bank and provide cover for otters and feeding habitats for bats. As detailed proposals for this area have not been submitted, they have been conditioned.

The proposed development also represents an opportunity to carry out further planting in this area to enhance biodiversity and secure better management of this land. These matters can also be addressed through condition.

The flood risk mitigation area will remain undeveloped and will therefore continue to provide an effective transition between the built environment and the urban green corridor/open land adjoining the river.

Impact on residential amenity

The nearest houses are on the opposite side of Kirkstall Road. Whilst Kirkstall Road is a busy road during the day, the volume of traffic reduces significantly at night with a resultant drop in noise levels. Environmental protection officers consider that noise from within the restaurant is unlikely to be a problem but disturbance could arise from the volume of cars accessing the drive through facility and have therefore suggested that opening hours are restricted from 08.00 to 23.30 hours Monday to Saturday and from 19.00 to 23.00 hours on Sunday. Given the nature of the restaurant it is considered that it would not be unreasonable for it to open during the day on Sunday so 11.00 to 23.00 hours is considered to be an acceptable compromise.

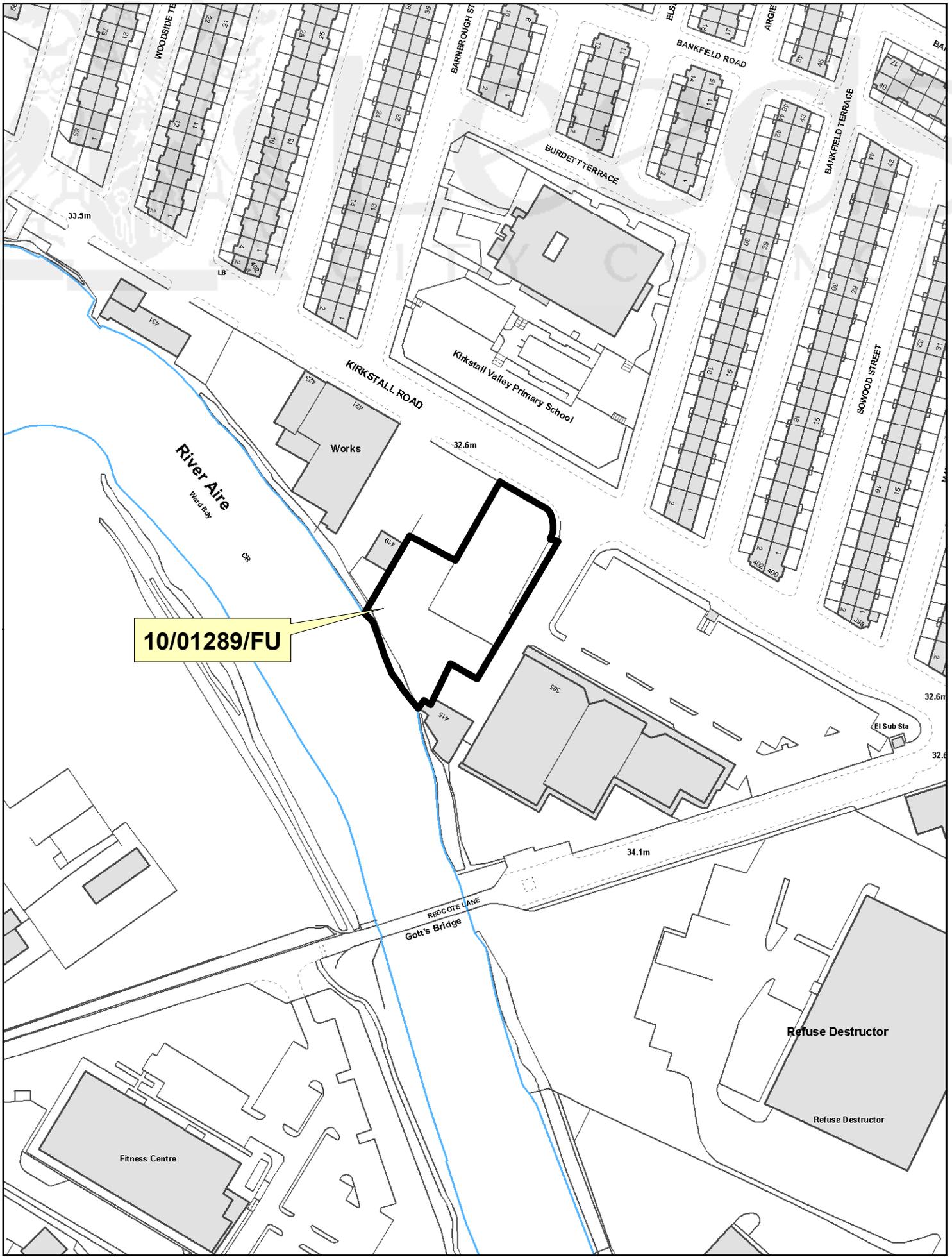
11.0 CONCLUSION

The application as initially submitted was unacceptable and would have been recommended for refusal given highway, access, design and landscape officers' concerns. However the applicant through his agents has responded positively to officers' concerns and has submitted revised plans, which are now acceptable. It is therefore recommended that planning permission is granted.

Background Papers:

Application and history files – application file 10/01289/FU

Certificate of Ownership...Certificate A on application form completed



10/01289/FU

WEST PLANS PANEL



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