



Leeds
CITY COUNCIL

Originator: Terry Moran

Tel: 0113 39 52110

Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 2nd December 2010

**Subject: APPLICATION NUMBER 10/03806/FU –
CHANGE OF USE OF VACANT RETAIL UNIT (CLASS A1) TO RESTAURANT (CLASS
A3) TO FACILITATE AN EXTENSION TO THE ADJOINING ITALIAN RESTAURANT AT
111 OTLEY ROAD, LEEDS 6.**

APPLICANT

Salvo's Restaurant –
J Dammone

DATE VALID

18 August 2010

TARGET DATE

13 October 2010

Electoral Wards Affected:

Weetwood

Y

Ward Members consulted

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

To defer and delegate refusal to the Chief Planning Officer for the reasons specified.

1. The Local Planning Authority considers that the proposed use of the premises would further contribute to the proliferation and dominance of non-retail uses within this shopping parade and the wider Headingley Town Centre. This is considered to result in a significant impact, both individually and cumulatively, on the retail vitality and viability of this parade of shops and the wider defined district centre. The scheme is therefore considered contrary to Policies GP5, S2 and SF8 of the Leeds Unitary Development Plan (UDP) Review (2006) and also contrary to national planning guidance contained within Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 4.
2. There is insufficient off-street parking associated with the proposed use, which is likely to lead to an increase in on-street parking. This would be to the detriment of highway safety contrary to Policies T2 and T24 of the Leeds Unitary Development Plan (UDP) Review (2006).

If, however, Members are minded to approve this application, the Panel is recommended to defer the application to the Chief Planning Officer for approval subject to the following conditions and subject to the signing of a legal agreement under Section 106 of the Planning Act to cover travel planning including the payment of a travel plan monitoring fee of £2500.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development to be carried out in accordance with the approved plans
3. Proposed car parking spaces to be laid out and retained.
4. Prior to the first use of the premises, a booking system shall be introduced which allows the booking of tables for 8 or more people at any one time, in accordance with the submitted Travel Plan, and shall thereafter be maintained.
5. The maximum number of restaurant covers shall not exceed 88 persons.
6. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) the use shall be limited to Class A3 restaurant or Class A1 retail. There shall be no change of use of the premises to Class A2 as defined in the Town & Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that order with or without modification) without the express planning permission of the Local Planning Authority.
7. Landscaping to be maintained in accordance with an approved management plan
8. Hard and soft landscaping works shall be carried out in accordance with the approved details.

1.0 INTRODUCTION:

- 1.1 This application was considered at the Panel meeting of 7th October 2010 and the report to that meeting is attached. The Panel resolved not to accept the officer recommendation to refuse the application at that time and deferred the application for further consideration of travel plan issues, car parking, and additional environmental improvements.
- 1.2 The view of Officers remains that the proposal should be refused planning permission for the reasons discussed at the October Panel meeting. It is considered that the proposed alterations to the scheme fail to overcome those issues relating to Shopping Frontages policy and Highway Safety.
- 1.3 Notwithstanding this view however, it is considered that the submitted Travel Plan details and other documents now comply with the requirements set out by Members at the October Panel.

2.0 BACKGROUND:

- 2.1 Members discussed this matter and concluded that the proposed loss of a retail unit would be acceptable and that the enlarged restaurant would be beneficial to the shopping parade.
- 2.2 Members were also advised at the October Panel that the proposal would be likely to increase the demand for car parking, thereby exacerbating the existing situation which the Highways Officer reported as being unsatisfactory due to insufficient off-street parking in the locality. Members concluded that the submission of a Travel Plan and the provision of additional staff parking should be sufficient to address these concerns.

2.3 Members also requested additional environmental improvements as part of the scheme.

3.0 RESPONSE FROM THE APPLICANT:

3.1 The applicant has now submitted additional information following the October Panel meeting. This information includes a Travel Plan, details of additional staff parking spaces to the rear of the site, new cycle parking, additional shower and changing facilities and also new landscaping and tree planting adjacent to the site.

3.2 The submitted Travel Plan incorporates measures to reduce the need to travel by car. These include the promotion of a variety of services such as “Your Next Bus” and journey planner websites, with other measures to promote cycling and walking including the promotion of websites such as “walkit.com” to illustrate safe and easy walking routes and new cycle racks to provide safe means of cycle storage for both staff and customers. The overall aim of these proposals is to reduce the number of car journeys to the site. It is proposed that these measures will be overseen by a newly appointed Travel Plan co-ordinator, funded by the restaurant, with the aim of reducing car journeys. The Travel Plan measures will be controlled by means of a Section 106 legal agreement. The applicant has also agreed to pay a fee for the continued monitoring of the proposals

3.3 In response, Officers initially considered that the proposed Travel Plan was inadequate, and requested more robust measures. Specifically, the Travelwise Team were concerned that Travel Plan had no fallback provision and, in the event that the proposed measures in fact failed to reduce car journeys to and from the site, that the current issues of inadequate parking provision would thereby be exacerbated. Following further discussions and a further revised document, however, the Travelwise Team is now satisfied with the content of the Travel Plan.

3.4 Additionally, new staff parking is to be laid out at the rear of the site. This involves the conversion of two substandard garages to form car-ports and the removal of a waste skip to provide an additional space. The applicant has indicated that this is likely to increase the availability of customer parking at the front of the site. This area will be laid out and surfaced, with additional lighting provided so as to increase levels of security for parked vehicles in that area.

3.5 The Highways Authority has commented that the proposed increase in parking provision is inadequate, and will not result in any significant improvement to the existing parking problems. It is considered that the enlargement of the existing restaurant will result in further demand for parking, with the increase in covers resulting in significantly more journeys to the restaurant than at present. Such measures as are proposed are therefore considered inadequate and do not overcome the objections from the Highways Authority.

3.6 The submitted landscaping details include a mixture of planters and also more permanent landscaping measures including trees and shrubs. A condition will be added to ensure that these works are carried out to the satisfaction of the local planning authority, if Members are minded to approve the application.

3.7 The applicant would also be willing to plant trees in the grassed verge to the front of the premises but this is land controlled by the Highway Authority and separate approval would be required for this.

3.8 The applicant is also willing to accept a restrictive condition to prevent the change of use of the unit to A2 (Financial Services). Officers do not consider that such a condition is sufficient, however, to address the loss of a retail unit as this would still be contrary to Shopping Frontages policies. These policies are aimed not just at preventing additional A2 uses, but at retaining and maintaining retail units for the benefit of the local community as a whole.

4.0 CONCLUSION:

4.1 The applicant has now submitted documentation which broadly reflects the recommendations of Members at the October Panel, but for which further clarification may be required. Members are requested to note the standing objection raised by the Highways Officer with regard to Highway Safety and also the objection by Officers with relation to Shopping Frontage policies prior to reaching a decision on the scheme as presented.

Background Papers:

Panel report, October 7th 2010;
Application and history files.



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PLANS PANEL WEST

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(referred to in report)

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RECOMMENDATION:

To defer and delegate refusal to the Chief Planning Officer for the reasons specified.

1. The Local Planning Authority considers that the proposed use of the premises would further contribute to the proliferation and dominance of non-retail uses within this shopping parade and the wider Headingley Town Centre. This is considered to result in a significant impact, both individually and cumulatively, on the retail vitality and viability of this parade of shops and the wider defined district centre. The scheme is therefore considered contrary to Policies GP5, S2 and SF8 of the Leeds Unitary Development Plan (UDP) Review (2006) and also contrary to national planning guidance contained within Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 4.
2. There is insufficient off-street parking associated with the proposed use, which is likely to lead to an increase in on-street parking. This would be to the detriment of highway safety contrary to Policies T2 and T24 of the Leeds Unitary Development Plan (UDP) Review (2006).

1.0 INTRODUCTION:

1.1 This application is brought before Members at the request of Ward Councillor Sue Bentley due to the high level of local interest which the proposal has generated.

2.0 PROPOSAL:

2.1 The proposal seeks to change the use of a vacant Travel Agency (which is a shop within Class A1) to become part of the adjoining restaurant (Class A3).

2.2 The proposal will result in an increase in covers of the existing restaurant to a total of 88 from 66 and incorporates an enlargement of the existing restaurant toilet facilities.

3.0 SITE AND SURROUNDINGS:

3.1 The unit is within a crescent of commercial units categorised as a secondary shopping frontage within the district centre of Headingley. The parade is at the northern edge of the (S2) defined district centre. There is an existing diversity of uses within the parade with food related outlets being particularly prominent. The adjoining unit to the northern side is currently occupied by Salvo's restaurant. There is a narrow access road to the front of the unit with limited vehicular access. At the rear of the unit is a hard-surfaced area used as parking for the commercial units. This area is separated from adjacent residential properties by mature trees.

4.0 RELEVANT PLANNING HISTORY:

4.1 Following a review of the Council's records the following planning history on the site is considered relevant:-

- 26/61/01/FU, 2 St Anne's Road, Change of use of shop to café (approved).
- 08/04299/FU: 2A St Anne's Road - Change of use of flat above shop to offices. (approved).
- 07/00702/FU 6 St Annes Road - Change of use from vacant shop to an estate agents office (approved).
- 09/04400/FU 10 St Anne's Road - Change of use of shop to Estate Agent. Refused and dismissed at Appeal, 28/06/2010.
- 26/49/96/FU, 10 St Anne's Road, Change of use of shop to HFTA (refused)
- 26/141/01/FU, 12 St Anne's Road, Change of use of hairdresser to HFTA (approved).
- 06/04543/FU - 103 Otley Road, Change of use of shop to Financial Services (A2) (refused but allowed on Appeal).
- 26/549/05/FU, 107 Otley Road, Change of use of shop to mixed A1/A3 use (approved).
- 26/195/97/FU, 109 Otley Road, Change of use of hairdresser to dentist (approved).
- 90/26/00107, 109 Otley Road, Change of use of shop to HFTA (takeaway) (refused).

- 26/61/94/FU, 113 Otley Road, Change of use of shop to restaurant (approved).

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Prior to submission of this application, the agent contacted the Case Officer at which point the Case Officer appraised him of the recent history of the site, indicating that such a Change of Use would be unlikely to gain officer support given the recent dismissal on appeal at 10 St Anne's Road.
- 5.2 The agent indicated that he intended to submit an application on the basis that the proposal had strong local support and differed significantly from the aforementioned Appeal decision.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 This application was advertised via site notices and also with an advert in the Press. 55 letters of support have been received from local residents and other interested parties, all emphasising that the restaurant is considered an important asset to the Headingley area and that its enlargement should be encouraged.
- 6.2 Councillor Sue Bentley has also commented on this application, requesting that it should be brought to Panel in light of the level of local interest..

7.0 CONSULTATIONS RESPONSES:

Statutory Consultees

- 7.1 None – due to the minor nature of the application.

Non- Statutory Consultees

- 7.2 **HIGHWAYS:**
Objects as the proposal would result in additional on street car parking to the detriment of highway safety.
- 7.3 **CITY SERVICES**
No objections as the proposal is unlikely to result in any impact on current refuse collection arrangements.

8.0 PLANNING POLICIES:

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Leeds Unitary Development Plan (Review 2006) unless material considerations indicate otherwise.

Development Plan:

- 8.2 The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below.
- 8.3 The adopted Leeds UDP (Review 2006) Proposals Map identifies the site as a Secondary Shopping Frontage within Headingley District Centre. A number of policies in the adopted Leeds UDP Review (2006) are relevant, as follows:

- Policy GP5 refers to detailed planning considerations and states that development proposals should seek to avoid loss of amenity.
- Policy S2: The vitality and viability of the following town centres (which includes Headingley) will should be maintained and enhanced. Non-retail development will not normally be permitted where it would reduce significantly the shopping function of a centre. Retail development will be encouraged unless it would undermine the vitality and viability of the centres or adversely affect the range of services and functions within the centres.
- Policy SF8: In secondary shop frontages changes of use of retail to non-retail will be determined on their merits.
- Policies T2 and T24 seek to maintain adequate levels of vehicle parking provision with no undue detriment to other highway users.

National Guidance/Statements:

8.4 In addition to the principal elements of planning policy other advice contained in Planning Policy Guidance Notes and replacement national Planning Policy Statements (PPS) may be relevant, including;

- PPS-1: Delivering Sustainable Development This PPG sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.
- PPG-13 Transport: This PPG's objectives are to integrate planning and transport at the national, regional, strategic and local level, to promote more sustainable transport choices both for carrying people and for moving freight, to encourage the active management of the pattern of urban growth and improve accessibility on foot and cycle.
- PPS-4 Planning for Sustainable Economic Growth. This sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas.

9.0 MAIN ISSUES:

9.1 Having considered this application and representation, it is the considered view that the main issues in this case are:

- Impact of the proposal on the retail vitality of the parade and the wider district centre;
- Highway Safety;
- Community Involvement
- Representations;
- Summary and recommendation.

10.0 APPRAISAL:

10.1 The existing property is within a designated secondary frontage of the defined district centre of Headingley. The centre is defined within the proposals map which is an annexe to the Unitary Development Plan. Policy S2 gives general advice in relation to the retail character of such defined centres. In such designated areas the retail vitality and viability should be maintained or enhanced. Non-retail development will be resisted where it would reduce the main shopping function of such centres.

Policy SF8 is also of particular relevance as this gives guidance in respect of secondary shop frontages. Applications of this type i.e. Changes of use from A1 to any other Use will be determined on their merits with the aim of safeguarding the overall retailing character of the shopping centre whilst recognising that uses other than A1 should be made available as a secondary element. The general thrust of the relevant retail policies is to safeguard and prevent the intrusion and over proliferation of non-retail functions within designated district centres.

- 10.2 This parade is already well served by non-retail premises as is the rest of the district shopping centre. Particularly noticeable within the Headingley Town Centre is the prevalence of food related outlets and estate agencies. If planning permission were granted, it would result in only three of the fourteen units on this parade remaining in A1 use with a subsequent likelihood that foot-traffic would thereby decline even further as there would be a marked loss of passing interest or variety for shoppers. This is particularly significant as the proposal would result in a contiguous run of three non-retail units which would be separated by only one retail unit (a hairdresser) from the remainder of the Otley Road frontage which is already in non-retail use between Salvo's café and the Thai restaurant on the corner. This would have a further detrimental impact on retail viability and appearance and prove even less appealing to future tenants of the parade. This particular parade is currently well-served by non-retail outlets, which is considered to have resulted in the noticeable decline in the viability of the remaining A1 units.
- 10.3 Whilst acknowledging that the unit is currently vacant, it is considered that the vacant state of the application site shows that there has indeed been a marked decline in recent years and that any further loss of retail units would be severely injurious to the viability of this parade, contrary to the aspirations of both PPS-4 and PPS-1. Furthermore, the unit has only been empty for less than three months. As such, the use of marketing may be a means by which to ensure that the unit can still be successfully rented out, which means that an argument that the use of the unit for A1 is unviable is not sufficient to warrant its loss in Planning terms. In addition, as the unit has not been vacant for a substantial period of time, it is not considered that the non-viability of this unit has been demonstrated. Moreover, the isolated location of this parade is such that any additional loss of retail units would further serve to accentuate the effect of the erosion in retail function. Indeed, the viability of A1 uses in this location is the key consideration of this application. This parade of shops is fairly isolated from the rest of the centre and as such it is of even greater importance that for it to retain an individual retail function to serve the retail and daily needs of the large residential estate located to the rear of the shopping parade.
- 10.4 It is considered that there is already an excessive provision of non-retail functions in the locality. This is reinforced by the recent Appeal Decision on 26th June this year, which dismissed an application within this parade for Change of Use from retail to non-retail, stating that the loss of a retail unit "would compound the change in balance so that the parade would be even more predominantly non-retail in make up" adding that this would "reduce its attractiveness and footfall and make it harder in future to resist the further loss of retail outlets". It is considered appropriate to attach substantial weight to this appeal decision.
- 10.5 The Highways Authority has objected to the proposal on the grounds that the proposed change of use from A1 to A3 would lead to an increase in on street car parking which cannot be accommodated in the vicinity and would be detrimental to road safety. The Highways authority has conducted daytime and evening site visits to this parade and has observed no free parking space, obstructive footway parking and illegal parking on existing waiting restrictions on both occasions. It is

considered that any intensification of this situation would be detrimental to pedestrian safety and general highway safety.

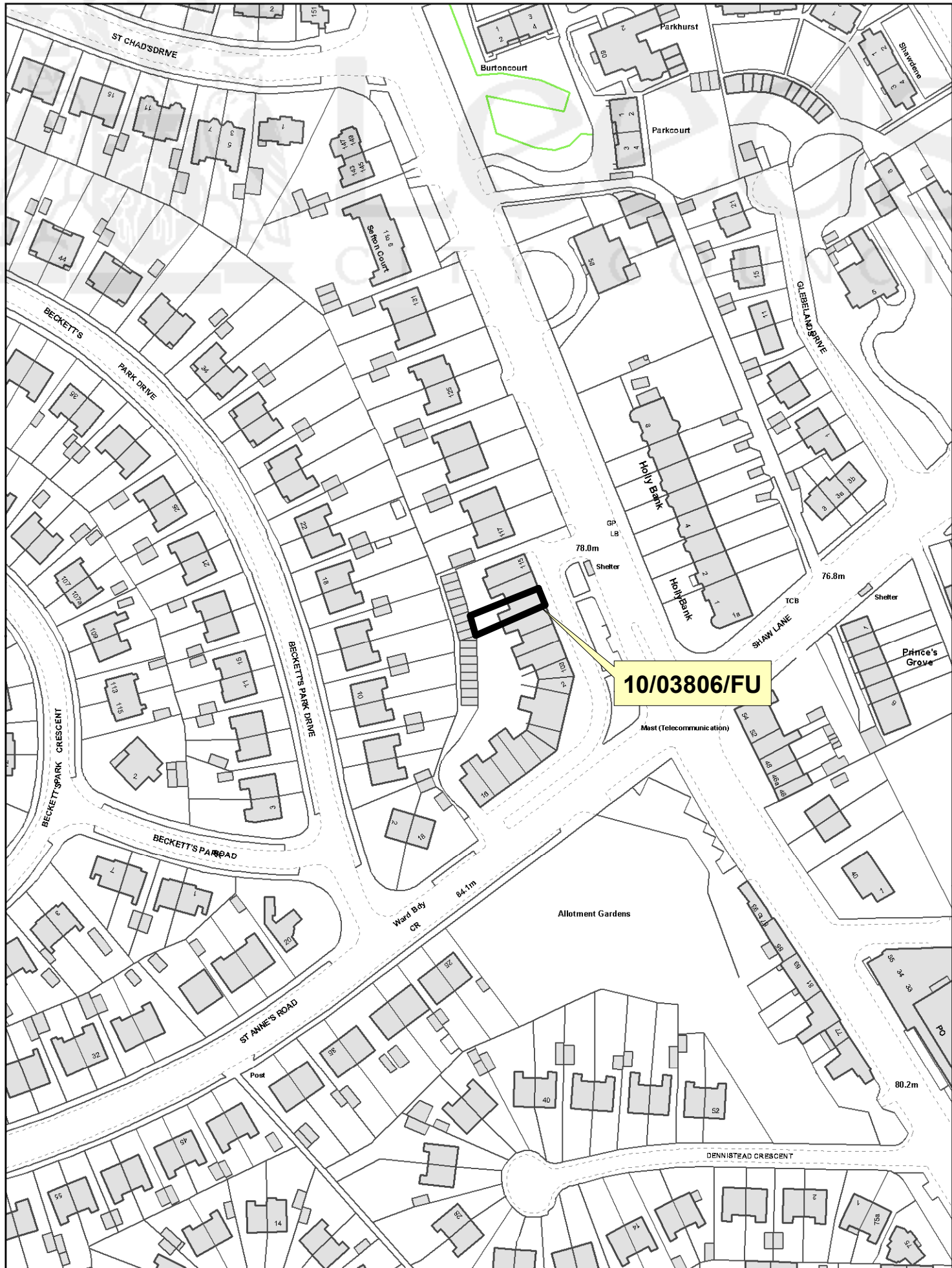
- 10.6 Planning Policy Statement 1 stresses the need to ensure that development proposals are carried out with the support of the local community. The developer states that local consultations have been carried out both with community groups and individuals, indicating that there is strong local support within the Headingley community. It is important, when considering the involvement of communities, to try to see the wider picture. In this case, the Local Planning Authority considers that this parade in fact has a wider role to play in the community than to simply provide non-retail services, whether those be Financial and Professional, medical or restaurants. Historically, this parade has formed an important local centre for all elements of society, hence the importance of retaining a strong retail presence in this position. It is considered, therefore, that the needs of the wider community are best served by resisting any further loss of retail units and therefore resist any changes of use which would further harm the retail vitality of this parade.
- 10.7 26 letters of support have been received, referring to the important role which Salvo's plays in maintaining the character of Headingley and requesting that the proposal be supported. It is considered that the points raised in those representations have been addressed within the body of this report.

11.0 CONCLUSION:

- 11.1 As discussed above, it is considered that the loss of one of the few remaining A1 units in this parade would prove unduly harmful to the continued retail vitality of this local parade with the likelihood that the parade would then only have 3 out of 14 units occupied in retail use, to the significant detriment of local amenity. It is considered that the retention of this unit in retail use is therefore important in attempts at revitalising the parade and of protecting the retail vitality of this secondary shopping frontage. It is not considered that the level of local support for the proposal is sufficient to override significant Policy concerns as although the existing restaurant is reported to have high level of local community involvement, with clear loyalty from both local and more distant patrons, it is considered that the retail vitality of the parade and its attractiveness to shoppers must take precedence so as to comply with the stated aims of PPS-1 which requires that Local Planning Authorities should ensure successful, safe and inclusive towns and cities for all members of the community. It is important to note that the relevant planning consideration is whether a restaurant use is appropriate to this particular unit in this location as the merits of any particular operator are of limited relevance as any planning permission would run with the premises rather than the current applicant. There is also an unacceptable parking provision associated with the proposal, with refusal being also recommended on Highways grounds. Refusal is therefore recommended, for the reasons set out at the head of this report.

Background Papers:

Application and history files.



WEST PLANS PANEL

