



Report of the Chief Planning Officer

SOUTH AND WEST PLANS PANEL

Date: 18th July 2013

Subject: 13/00626/FU: Detached drive through restaurant at Cardigan Fields Leisure Park, Kirkstall Road, Burley LS5.

APPLICANT

X-Leisure (Leeds 1) Ltd &
X-Leisure (Leeds 2) Ltd

DATE VALID

13th February 2013

TARGET DATE

10th April 2013

Electoral Wards Affected:

Kirkstall

Yes

Ward Members consulted

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: Approval, subject to the below conditions:

1. Standard 3 year time limit.
2. Build in accordance with the approved plans.
3. Detail of materials to be submitted.
4. Off-site highways works to be completed prior to first occupation.
5. Vehicle space to be laid out and sealed.
6. Development not to be occupied until cycle/motorcycle facilities provided.
7. Details of existing drainage to be provided.
8. Surface water run-off management.
9. Evacuation Plan
10. Details of finished floor levels to be submitted
11. Opening Hours
12. Phase I desk top study to be provided re contamination
13. Precautionary requirement for amended remediation statement if required.
14. Verification report to be submitted following remediation.

1.0 INTRODUCTION:

- 1.1 This application is brought to Panel at the request of Councillor John Illingworth whom has expressed concerns regarding the effect this proposal will have as regards Public Health due to an existing concentration of fast food outlets in this locality.

2.0 PROPOSAL:

- 2.1 The proposal seeks consent for a detached drive-through restaurant to be located on an area of overspill car parking serving the wider Leisure Park. The gross internal floor area will be approximately 237sqm with an external floor area of approximately 264sqm excluding the bin store/plan area. The footprint is staggered but the building will measure approximately 28m wide and 13m deep measured at its widest and longest points. The bin store measures approximately 5.7m x 2.8m. The plant area measures approximately 5.8m x 4.8m. The main element of the structure will have a flat roof measuring approximately 5m high. The plant and bin stores will be lower in height at approximately 3m. The structure is of a modern design with significant glazed elements to the customer area and modern cladding to the majority of the walls, with brick elements to the store and plant elements and a brick plinth around the base. The site is approximately 0.18m in area and the area not taken up by the building will be used for parking and to allow access to the drive through facility. There will be 26 spaces and 2 disability spaces plus 8 cycle spaces. The parking is broken up with some areas of low level landscaping to retain adequate visibility splays but hard surfacing will dominate.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is currently used as overspill parking for the wider Leisure Park. It is located close to the main Kirkstall Road frontage and adjacent to the main vehicular access point to the Leisure Park. The area has a commercial character containing a mixture of Leisure, Industrial, office and retail units. It occupies a frontage onto a major arterial route (A65) into the City Centre. The majority of the site is laid out for formal parking provision interspersed with areas of low-level landscaping. A tool hire shop is located on the opposite side of Kirkstall Road and to the rear there is a large multi-screen cinema and printing business. To the east is another parking area and to the west of the site is the main vehicle access to the Leisure Park and a pre-existing drive through restaurant.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 24/40/04/FU: Detached drive-through restaurant to car park (Withdrawn).
- 4.2 99-24/21/94/OT: Leisure development, car parking, landscaping and new access road (Approved).
- 4.3 99-24/6/95/RM: Leisure complex with cinema restaurants bingo hall health club and public house with car parking (Approved).
- 4.4 11/03248/FU: Unit 1 Kirkstall Industrial Park, Change of use of industrial unit to health and fitness club (Approved).

4.5 24/351/03/FU: 1 two storey office block and 1 three storey office block with car parking (Approved).

5.0 HISTORY OF NEGOTIATIONS:

5.1 This proposed scheme was submitted following guidance given by Officers prior to submission.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was advertised by three site notices posted around the edge of the site on 1st March 2013.

6.2 Five letters of objection have been received in relation to this application. Two of the objections have been received on behalf of two nearby businesses. Two other objections have been received from members of the public who may use the Leisure Park facility but who do not live in close proximity to the site. One of the letters of objection from a nearby commercial business has been supported by Cllr Illingworth.

7.0 CONSULTATIONS RESPONSES:

7.1 Environment Agency: No objection provided that the measures detailed in the Flood Risk Assessment are carried out and suitably controlled by conditions.

7.2 Drainage: No objection subject to the attachment of suitable conditions similar to those suggested by the Environment Agency.

7.3 Highways: No objection subject to a slightly amended layout and the attachment of suitable conditions.

7.4 Contaminated Land Team: The site is considered to have low vulnerability therefore no objection subject to suggested conditions.

7.5 Public Health: Insufficient policy basis to justify a reason for refusal.

8.0 PLANNING POLICIES:

8.1 Following revocation of the Regional Spatial Strategy the development plan is the adopted Leeds Unitary Development Plan (Review 2006).

8.2 The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination and an Inspector has been appointed. It is expected that the examination will commence in September 2013.

8.3 As the Council has submitted the Publication Draft Core Strategy for independent examination some weight can now be attached to the document and its contents recognising that the weight to be attached may be limited by outstanding representations which have been made which will be considered at the future examination.

8.4 Relevant UDP Policies:

GP5: Development proposals should resolve detailed planning considerations.

N12: Development proposal should respect the Council's priorities for Urban Design.

N13: The Design of new buildings should be of high quality and have regard to local character. Good contemporary design appropriate to its setting will be welcomed.

N38A: Advise on development in the functional flood plain.

N38B: Requires a flood risk assessment in areas of high flood risk.

S9: Provides criteria to satisfy where retail/town centre type uses are proposed outside a UDP designated Centre.

T2: Development proposals should not add to or create issues of highway safety.

T5: Safe and secure access for pedestrians and cyclists will be required within highways schemes/new development.

T6: Provision for disabled people will be required within highways schemes/new development.

T7A: Secure cycle parking.

T7B: Secure motorcycle parking.

8.5 National Planning Policy Framework

This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

9.0 MAIN ISSUES

- Principle
- Flood Risk
- Highways
- Design
- Public Health
- Representations

10.0 APPRAISAL

Principle

- 10.1 The development proposed is for an A3 restaurant use. In the interests of sustainable development it is generally considered and encouraged both by local and national planning policies and guidance that this type of use should be located within designated Town Centres. Cardigan Fields is not designated as such a Centre but never-the-less in functional terms and along with other commercial uses on Kirkstall Road it does operate as a de-facto centre. This site is within a significant Leisure destination serving the City and would complement the commercial activity within the existing Leisure Park. However on a strict interpretation of current development plan policy the proposal would fail to accord with the sequential preferences for this type of business. Further sequential testing of the proposal was required from the applicant during the application process and this was submitted, assessed and considered satisfactory by the Case Officer. The applicant refers to the Town/Local Centres Study commissioned by the Council to support the forthcoming Core Strategy. Given the advanced stage of the Core Strategy the proposals within it are a material consideration in the determination of this application. The site would be considered on

the edge of the Kirkstall Road Centre proposed by that document which is considered to better reflect the current realities of this area than the current development plan policies it aims to supersede and that were adopted 10 years prior to that report. Although still not in the most sequentially preferred location officers consider it fairer to consider the merits of this proposal in light of the most recent evidence as opposed to the historic development plan position. In addition and in further mitigation the specific nature of this proposal is considered to be of particular relevance. It is not a standard A3 use and Officers agree with the applicant's assertion, that given the Leisure destination function and the main arterial route frontage, there are differing operational and market requirements that would be served by the drive-through that will limit the direct competition with other similar uses, located in nearby Town Centres. The site is currently vacant and serves as overspill Car Parking for the Leisure Park. The application is considered to have successfully argued that the net loss of parking can be sustained without significant adverse impacts to highway safety and this is explored in further detail in a later section of this appraisal. This leaves the site as a vacant brownfield site within a commercial setting with a significant main road frontage leading to the City Centre. Development of the site should therefore be supported in principle give that an appropriate commercial use is proposed on this brownfield site. The proposal is therefore considered on-balance to satisfy the relevant criteria of policy S9 and the sequential requirements contained within the NPPF to justify this particular type of use in this location given that it is not within a formally designated Town Centre.

Flood Risk

- 10.2 The proposal is in an area of significantly elevated Flood Risk. A suitable Flood Risk Assessment has been provided by the applicant's which is considered to have demonstrated that there are no sequentially preferable sites and that the flood risk is capable of being mitigated. The FRA has gained the in principle support of both the Environment Agency and the Councils own drainage Officers subject to conditions. The conditions suggested have been attached. The proposal is therefore considered to accord with policies GP5, N38A and N38B of the Unitary Development Plan and the guidance on the assessment of flood risk contained within the NPPF.

Highways

- 10.3 The proposal will result in a net loss of car parking to the wider Leisure Park. It is the applicant's assertion, although this is disputed by some of the objectors that the car-park is infrequently required to serve the demands of the Leisure Park. Anecdotal evidence of a relatively frequent user of the Leisure facilities over the last 10 years would tend to agree with the applicant's statement rather than those made by the objectors. Over that period and in visiting the site numerous occasions by car It is suggested that it has never been known or required the use of the overspill car park and space has always been available within the main parking area; even on busy weekends and school holidays. The applicant's assertion is supported by the assessment of the Highways Officers. They consider that the net loss of parking can be sustained and that the additional traffic generated will not significantly impact upon the operation of the Quality Bus Corridor recently constructed along the A65. In respect of the bus route and even taking the worse-case scenario it was estimated that the proposal would affect the bus times by adding only 1 second to their journey. Whilst leading to a net loss of standard parking space the proposal will add two spaces designed for disabled users and incorporate new space for motorcycles and bicycle users improving provision for those types of users. The net loss of parking can therefore be sustained by the remaining level of parking within the site and the wider Leisure Park and the highways works facilitating access to and within the site will accommodate the additional traffic without significant detriment to the traffic flow and particularly the bus route along the A65. The proposal is therefore consider to accord

with the relevant Transport Policies i.e. T2, T5, T6, T7A & T7B of the Unitary Development Plan.

Design

- 10.4 The building is of a modern contemporary design which is considered appropriate in the local context of similar relatively recent commercial buildings. It stands favourable comparison with the other nearby drive-through in terms of design and overall visual appearance. Given the site is currently a car park, the layout of the scheme with the building surrounded by parking, is considered acceptable and reflects the relationship and setting of other similar units within the wider Leisure Park. The quality of the buildings design and the consequential reduction in hard surfacing is considered to represent an improvement to the views from Kirkstall Road and will help to identify and frame the main vehicular entrance to the wider Leisure Park. The proposal is therefore considered to accord with policies N12 and N13 of the UDP and the guidance on good design appropriate to the local context contained within the NPPF.

Public Health

- 10.5 At the request of the Chief Planning Officer, following concerns raised by the local ward member(Cllr Illingworth) regarding the health impacts of the proposed use in combination with a proliferation of similar types of uses in this locality, Officers from the Public Health Department were consulted in relation to this application. There are no specific policies either within the Unitary Development Plan or the forthcoming Core Strategy that would specifically restrict fast-food outlets on Public Health grounds. There are obviously aspirations in both planning documents that planning should do what it can to aid public health improvement objectives. However the evidence base whilst growing does not show any specific causal link between fast-food outlets and obesity. Officers consider that in the absence of any evidential harm and specific policy basis that the application could not be refused on these grounds. Were the LPA to try to adopt the approach suggested by the local ward member then similar Public Health concerns could be levelled at almost any other commercial business applying for uses involving the sale of any food or drink.

Representations

- 10.6 The main concerns expressed by the objectors relate to parking, highway safety and the proliferation of fast-food outlets in this area and their associated impacts. The majority of the highways matters raised have been dealt with above in section 10.3. The layout of the scheme is considered to be well designed to encourage appropriate vehicle and pedestrian movements. This proposal nor any other planning application could not be held responsible for pedestrian and vehicle users who may ignore these routes and appropriate restrictions. In respect of concerns relating to rats/litter the proposal contains an appropriately designed and secure bin storage area. Whilst not disputing the observation of rats by objectors, there is no specific evidential link to the proposed premises or the existing food outlets in this area and may be due to the proximity of the river/canal and nearby waste processing facility. This is also a matter that is better addressed by other legislation outside the planning system. There is a concentration of food outlets in this location due to its function as a leisure destination. The proposal will not lead to an over proliferation of such uses merely it will reflect the existing functionality of the area. One objector has questioned the demand for such a use, but this is clearly demonstrated by the submission of the application because if there were no demand there would be no commercial interest, and also by the success of other similar types of businesses nearby. Following publication of the NPPF it is no longer incumbent on the applicant to have to demonstrate a need for their proposal. The same objector also questions the quality of the design and objects to the loss of landscaping/trees. The existing landscaping of the site is of limited quality and does not make a significant contribution to the character of the area.

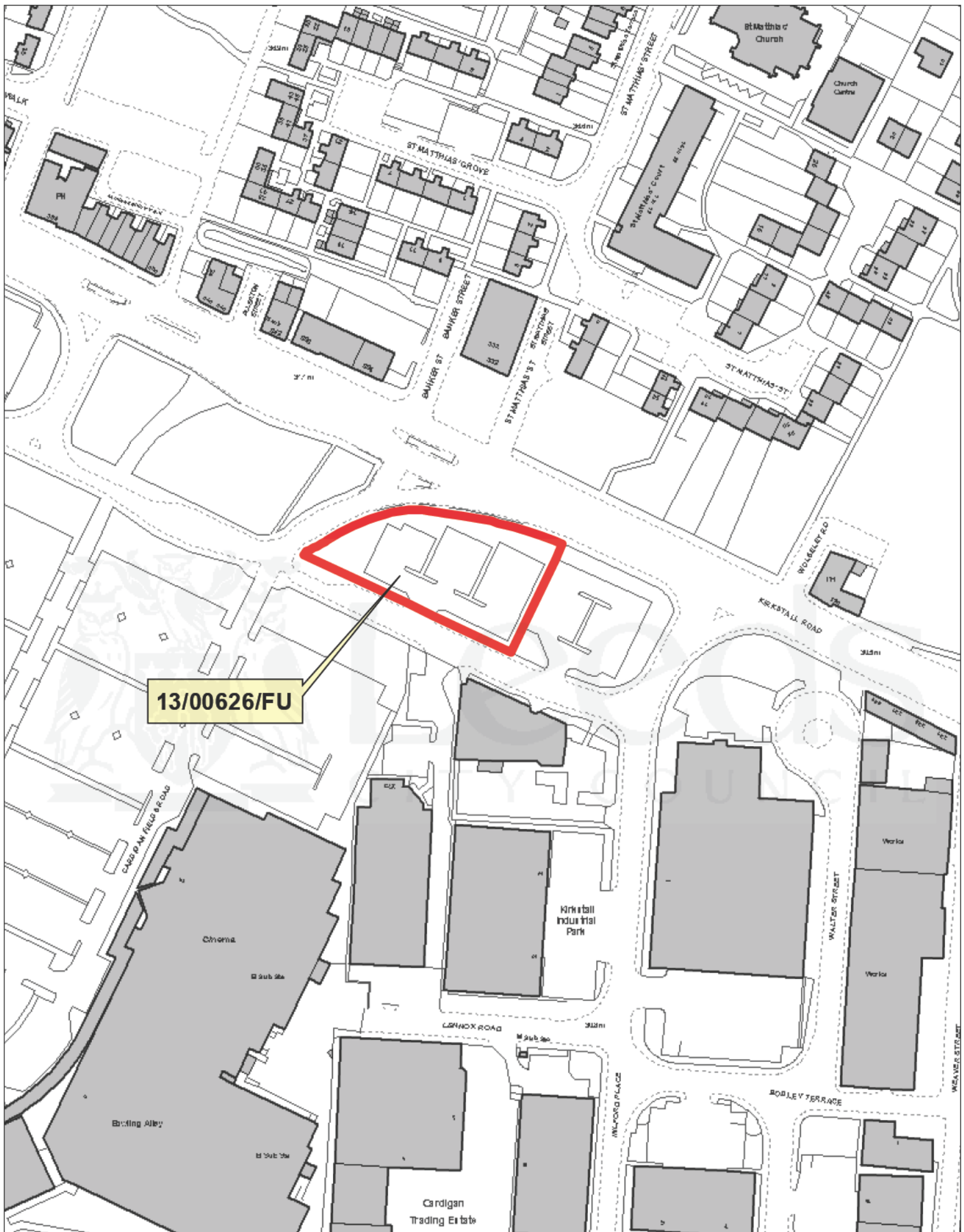
Some landscaping will remain and this is considered to result in an acceptable appearance for the site in the local context. Finally a comparison is made with an Office scheme with planning consent adjacent to the site. The objector intimates that this scheme is unlikely to come forward should consent be granted for this application and that the other scheme would provide much greater economic/employment benefits. Both schemes may or may not come forward as the planning system grants consent, but cannot insist that these are built. It would not be appropriate to withhold consent for one scheme purely on the basis of whether another scheme comes forward. Each application must be judged on its own merits and in accordance with the development plan. The proposal will not physically restrict development of the adjacent site. There is no evidential harm to support the objector's assertions. In the current economic climate any employment opportunities no-matter the perceptions of the type of work should be encouraged and are a significant material consideration weighing heavily in favour of commercial applications. The jobs on offer are likely to appeal to a young demographic which is section of the job market that has been particularly affected by the recent recession.

11.0 CONCLUSION

- 11.1 The proposed scheme provides economic development on a previously developed area of land no-longer required for its existing car parking use. The significant site constraints both in terms of Flood Risk and Highways have been addressed through the submission of appropriate details and these have satisfied both the relevant consultees and planning officers. Although not the ideal location in sequential terms for the use proposed, the site circumstances and evidence provided is considered sufficient to justify the proposed use. In coming to this view officers were mindful of the specific nature of the use proposed and the limited options regarding alternative uses given the site circumstances.
- 11.2 The proposal is considered to accord with the relevant local and national planning policies and guidance. It is further considered that are no other material considerations that would outweigh the above and therefore the Officer recommendation is that the application should be approved.

Background Papers:

File 13/00626/FU



SOUTH AND WEST PLANS PANEL

