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**SOUTH AND WEST PLANS PANEL**

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**Meeting to be held in Civic Hall, Leeds, LS1 1UR on  
Thursday, 3rd October, 2024  
at 1.30 pm**

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**MEMBERSHIP**

Councillors

R Finnigan  
N Manaka  
A Rontree  
P Wray (Chair)  
B Anderson  
S Firth  
M France-Mir  
Z Hussain  
R Jones  
A Parnham  
P Stables

Please do not attend the meeting in person if you have symptoms of Covid 19 and please follow current public health advice to avoid passing the virus onto other people.

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Note to observers of the meeting. To remotely observe this meeting, please click on the 'View the Meeting Recording' link which will feature on the meeting's webpage (link below) ahead of the meeting. The webcast will become available at the commencement of the meeting: [Council and democracy \(leeds.gov.uk\)](https://www.leeds.gov.uk/council-and-democracy)

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**Agenda compiled by:  
Tasha Prosser  
natasha.prosser@leeds.gov.uk  
Governance Services  
Civic Hall**

Enquiries specific to planning applications on the agenda should be directed to Panel Team; Phone 0113 3786980  
Email; [planspanel@leeds.gov.uk](mailto:planspanel@leeds.gov.uk)

# A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p><b>SITE VISITS</b></p> <p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	

Item No	Ward	Item Not Open		Page No
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p><b>RESOLVED –</b> That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p> <p><b>No exempt items or information have been identified on the agenda</b></p>	
3			<p><b>LATE ITEMS</b></p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p><b>DECLARATIONS OF INTERESTS</b></p> <p>To disclose or draw attention to any interests in accordance with Leeds City Council’s ‘Councillor Code of Conduct’.</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p>	

Item No	Ward	Item Not Open		Page No
6			<p><b>MINUTES OF THE PREVIOUS MEETING - 5 SEPTEMBER 2024</b></p> <p>To consider the attached minutes of the previous meeting held Thursday, 5<sup>th</sup> September 2024, as an accurate record.</p>	9 - 14
7			<p><b>23/01441/FU - LAND ADJACENT UNIT 1 , KIRKSTALL RETAIL PARK, SAVINS MILL WAY, KIRKSTALL, LEEDS, LS5 3RP</b></p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for a restaurant with drive-thru (Use Class E and Sui Generis) including car park alterations, landscaping, and associated works at Land Adjacent Unit 1 , Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP.</p>	15 - 34
8			<p><b>24/03369/FU - 16 CHILTERN COURT, RODLEY, LEEDS, LS13 1PT</b></p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for change of use from a C3 (Dwelling House) to a C2 (Residential Institution) as young person's supported accommodation at No. 16 Chiltern Court, Rodley, Leeds, LS13 1PT.</p>	35 - 54
9			<p><b>23/07393/FU - NEWALL CHURCH HALL, NEWALL CARR ROAD, OTLEY, LS21 2AF</b></p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for conversion of Newall Church Hall to form 2 dwellings and residential development of land to the rear for 4 dwellings with associated greenspace, landscaping and infrastructure at Newall Church Hall, Newall Carr Road, Otley, LS21 2AF.</p>	55 - 80



Item No	Ward	Item Not Open		Page No
10			<p><b>22/00158/FU &amp; 22/00159/LI - CHURCH OF THE HOLY SPIRIT, TEMPEST ROAD, LS11 7EQ</b></p> <p>To receive and consider the attached report of the Chief Planning Officer regarding a Change of Use Planning Application and Listed Building Consent relating to redundant Listed Grade II church to online clothing business and ancillary café at the Church Of The Holy Spirit, Tempest Road, LS11 7EQ.</p>	81 - 96
11			<p><b>DATE AND TIME OF THE NEXT MEETING</b></p> <p>To note that the date and time of the next meeting is proposed as Thursday, 31<sup>st</sup> October 2024 at 1.30pm.</p> <p><b><u>Third Party Recording</u></b></p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <ul style="list-style-type: none"> <li>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</li> <li>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.</li> </ul>	

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To all Members of South and West Plans Panel

**Planning Services**  
The Leonardo Building  
2 Rossington Street  
Leeds  
LS2 8HD


Contact: Steve Butler  
Tel: 0113 224 3421  
steve.butler@leeds.gov.uk

Our reference: SW Site Visits  
Date: 19/09/2024

Dear Councillor

**SITE VISITS – SOUTH AND WEST PLANS PANEL – THURSDAY 3<sup>rd</sup> OCTOBER 2024**

Prior to the meeting of the South and West Plans Panel on Thursday the following site visit will take place:

Time			
Depart Civic Hall 09.00			
Arrive 09.20 Depart 09.45		<b>22/00158/FU</b> Change of Use of redundant Listed Grade II church to online clothing business and ancillary cafe. Church Of The Holy Spirit <b>Tempest Road</b> <b>Beeston LS11 7EQ</b>	
Arrive 10.10 Depart 10.30		<b>24/03369/FU</b> Change of use from a C3 (Dwelling House) to a C2 (Residential Institution) as young person's supported accommodation <b>16 Chiltern Court</b> <b>Rodley LS13 1PT</b>	
Arrive 11.00 Depart 11.30		<b>23/07393/FU</b> Conversion of Newall Church Hall to form 2 dwellings and residential development of land to the rear for	
www.leeds.gov.uk	general	enquiries 0113 222 4444	

		4 dwellings with associated greenspace, landscaping and infrastructure. <b>Newall Church Hall</b> <b>Newall Carr Road</b> <b>Otley LS21 2AF</b>	
12.00		Return Civic Hall	

Please notify Steve Butler (Tel: 3787950) if this should cause you any difficulties as soon as possible. Otherwise please meet in the Ante Chamber at 08.55am. Can I also advise Panel members to wear footwear appropriate to the prevailing weather conditions on the day as the Otley site visit may involve walking on grass.

Yours sincerely

Steve Butler  
Group Manager  
South and West

## SOUTH AND WEST PLANS PANEL

THURSDAY, 5TH SEPTEMBER, 2024

**PRESENT:** Councillor P Wray in the Chair

Councillors N Manaka, A Rontree,  
B Anderson, S Firth, M France-Mir,  
Z Hussain, R Jones, A Parnham and  
P Stables

### SITE VISITS

The site visit was attended by Councillors P. Wray, R Jones, M France-Mir, A Parnham and N Manaka prior to the meeting.

#### **22 Appeals Against Refusal of Inspection of Documents**

There were no appeals against refusal of inspection of documents.

#### **23 Exempt Information - Possible Exclusion of the Press and Public**

There were no exempt items.

#### **24 Late Items**

There were no late items.

#### **25 Declarations of Interests**

In relation to Agenda Item 7 -24/01430/FU - Change of use from Dwellinghouse (Use Class C3) to 5 bed HMO (Use Class C4); insertion of 2no. rooflights to rear; infill of first floor rear window; new lightwell and render to rear at 21 Longroyd Terrace, Beeston, Leeds LS11 5JH.

- Cllr Wray advised the Panel that although he was the Ward Councillor for Riverside and Hunslet, he had not been involved in conversations with residents about the proposals for the HMO, and he would be considering this application with an open mind.

In relation to Agenda Item 8 -23/01441/FU Restaurant with drive-thru (Use Class E and Sui Generis) including car park alterations, landscaping, and associated works at Land Adjacent Unit 1, Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP.

- Cllr Rontree informed the Panel this application was in his ward and he had been in consultation with the residents and the applicants. Therefore, he would be withdrawing from the meeting during consideration of the item.

#### **26 Apologies for Absence**

No apologies were received.

#### **27 Minutes of the previous meeting - 1 August 24**

- RESOLVED** – That the minutes of the meeting held on 1<sup>st</sup> August 2024, be approved as a correct record.
- 28 24/01430/FU - 21 Longroyd Terrace, Beeston, Leeds, LS11 5JH**

Members considered the report of the Chief Planning Officer which presented proposals for change of use of existing C3 residential dwellinghouse to a 5 bed House in Multiple Occupancy (HMO) C4 at 21 Longroyd Terrace, Beeston, Leeds LS11 5JH.

The report recommended to the Panel that the application be granted subject to conditions, as set out within the submitted report.

Slides and photographs of the site and proposals were presented by the Planning Officer who outlined the application and contents of representations received as detailed in the submitted report.

Representations were made by Ward Councillor Carlisle in objection to the proposals. Councillor Carlisle provided responses to the questions raised by Panel Members, which in summary, related to the following:

- Parking issues in the area.
- Crime and anti-social behaviour

Representations were made to the Panel by the applicant's agent. In response to questions from the Panel it was noted that the purchase of the property was still ongoing and at the time of the meeting there had been limited consultation. However, the applicant would be happy to engage with the community going forward.

Questions and comments from Panel Members then followed, with officers responding to the questions raised, which in summary, included the following:

- Issues in the community relating to Parking, crime, and anti-social behaviour. It was noted there had been no reports of anti-social behaviour related to any of the current HMOs in the area.
- Number of HMOs in the area. It was noted that there were approximately 490 properties in the area with 14 registered HMOs. Members were advised that officers would have concerns if there were more than 20% HMOs in an area, and there should be no more than two consecutively in a row of houses.
- A management plan for HMOs can be agreed to ensure that HMOs are run properly.
- It was acknowledged that when the bin store and cycle storage were erected in the courtyard to the rear of the property it would not leave a large space for residents to use.
- It was suggested that a working group be established to recommend guidelines for Members when considering applications for HMOs. The Chair said that he would take this suggestion to the meeting of Plans Panel Chairs.

**RESOLVED** – To grant permission with the conditions set out in the submitted report, with an additional condition in relation to the agreement of a management plan.

1. Time limit for full permission (3yrs).
2. Implement in accordance with approved plans / specifications.
3. Implement cycle and bin storage facilities.
4. Agreement of an operational management plan.

**29 23/01441/FU - Land Adjacent Unit 1 , Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP**

Prior to the start of this item Cllr Rontree withdrew from the meeting. Minute 25 refers.

Members considered the report of the Chief Planning Officer which presented proposals for a restaurant with drive-thru use Class E and Sui Generis including car park alterations, landscaping, and associated works at land adjacent unit 1, Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP.

The report recommended to the Panel that the application be deferred and delegated for approval to the Chief Planning Officer subject to the planning conditions specified within the submitted report.

Panel Members referenced above had attended a site visit prior to the meeting.

Slides and photographs of the site and proposals were presented by the Planning Officer who outlined the application and contents of representations received as detailed in the submitted report.

The Panel heard representations from Cllr Venner the Kirkstall Ward Councillor and a resident of Kirkstall in objection to the application. Following this they answered questions in relation to:

- Traffic congestion.
- Safety issues in relation to the entrance and exit to the site, and pedestrians using this site and the retail park.
- Traffic accidents at the junction.
- Air quality in the area.

The applicant's agent made representation to the Panel and following the representation responded to questions in relation to:

- Highways modelling undertaken by the applicant, including predicted traffic volumes.
- Parking capacity.
- Operational Deliveries.
- Deliveries for takeaway.
- Safety impact assessments.

Questions and comments from Panel Members then followed, with officers responding to the questions raised, which in summary, included the following:

Draft minutes to be approved at the meeting  
to be held on Thursday, 3rd October, 2024

- Highways data in relation:
  - to the current congestion at this junction,
  - the number of accidents at this junction. It was noted there that since 2021 there had been 30 collisions at this junction with 8 of those serious. The majority of accidents was due to driver error.
  - the use of the yellow box cameras
- Poor air quality, which until recently had been a hot spot in the city.
- Concerns in relation to cyclists accessing the drive through restaurant to pick up takeaway deliveries.
- Concerns in relation to the blocking of the bus lane by customers, and delivery drivers.
- Through flow of traffic round the retail centre.
- Car park capacity for both the retail centre and the proposed restaurant.
- Concerns for pedestrians accessing and exiting the retail centre and restaurant.
- Suitable location for delivery vans. It was noted that deliveries to the restaurant would be 1 per day, occasionally 2. They would use the same controlled delivery hours of those retail stores already located at the retail park.
- It was acknowledged that Kirkstall currently has some huge housing development underway. Members were advised that the predicted volumes of traffic would increase without this application for the restaurant. Currently there are 21,000 vehicles using the A65. Contributions from the applicant would be used to improve the traffic light system at the junction.
- It was noted that as part of the modelling exercise undertaken by Highways, all safety aspects were considered.
- Community safety aspect. It was recognised that with the proposed restaurant it would mean that the area would be better lit and there would be more people around, making it safer for pedestrians. However, it may also attract young people to congregate and there was the potential for anti-social behaviour. It was noted that the Police had not been asked for their comments on the proposal.

Members considered a number of options for their decision and were provided with advice and guidance from planning officers and the legal officer.

**RESOLVED** – That Panel be minded to refuse permission, based on concerns regarding traffic impact, and safety of pedestrians and cyclists in and around the site, and for the detailed reasons for refusal to be brought back to the Panel for further consideration.

### 30 **Date and time of the next meeting**

**RESOLVED** – To note the next meeting would on Thursday 3<sup>rd</sup> October 2024, at 1.30pm.

*The meeting concluded at 4pm.*





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Originator: M Doherty

## Report of the Chief Planning Officer

### SOUTH & WEST PLANS PANEL

Date: 3<sup>rd</sup> October 2024

**Subject: 23/01441/FU Restaurant with drive-thru (Use Class E and Sui Generis) including car park alterations, landscaping, and associated works at Land Adjacent Unit 1 , Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP**

#### APPLICANT

NewRiver Retail (Ramsay Investment) Ltd

#### DATE VALID

7<sup>th</sup> March 2024

#### TARGET DATE

2<sup>nd</sup> May 2024

#### Electoral Wards Affected:

Kirkstall

Yes

Ward Members consulted (referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### RECOMMENDATION:

Following Members resolution on application 23/01441/FU, 5<sup>th</sup> September 2024, where they resolved minded to refuse this application and defer to allow the Chief Planning Officer to prepare and bring back detailed reasons for refusal with officer guidance on the strength these reasons the report is presented to members with a dual recommendation consider and select.

#### DUAL RECOMMENDATION:

RECOMMENDATION (1) REFUSAL OF PLANNING PERMISSION FOR THE REASONS SET OUT BELOW:

1. The Local Planning Authority considers that the proposals would result in increased traffic generation detrimental to the free and safe flow of traffic in the locality thus detrimental to the safety of pedestrians and cyclists, by virtue of the proposed layout crossing an existing footpath and access from Savins Mill Way in to the wider retail park, along with wider highway safety within the locality contrary to Policy T2 of the Core Strategy, GP5 of Unitary Development Plan (Review 2006) and the Transport SPD.

Or, RECOMMENDATION (2) DEFER AND DELEGATE TO THE CHIEF PLANNING OFFICER FOR APPROVAL subject to the specified conditions outlined in the Officer's First Report dated xxxxxx (outlined in Appendix 1 of this report) and (any others which he might consider appropriate) and also the completion of a S106 agreement

## EXECUTIVE SUMMARY

2. The application was considered at Panel on 5<sup>th</sup> September 2024. The Panel resolved not to accept the officer recommendation to approve the proposals subject to the completion of a section 106 agreement and imposition of relevant conditions. It was requested that the application be reported back to Panel setting out a detailed reason for refusal based upon the concerns raised in respect of traffic generation and safety of pedestrians and cyclists in and around the site. Members considered that in approving the proposals for a drive-thru restaurant the scheme could result in traffic generation and an overall adverse impact upon highway safety. The suggested reason for refusal for members to consider is set out below:
3. The Local Planning Authority considers that the proposals would result in increased traffic generation detrimental to the free and safe flow of traffic in the locality thus detrimental to the safety of pedestrians and cyclists, by virtue of the proposed layout crossing an existing footpath and access from Savins Mill Way in to the wider retail park, along with wider highway safety within the locality contrary to Policy T2 of the Core Strategy, GP5 of Unitary Development Plan (Review 2006) and the Transport SPD.
4. A copy of the previous report is attached for Members information as Appendix 1.
5. As part of the previous application, member considerations and below, appended, Panel Report information has been submitted by the applicant in the form of a detailed traffic modelling assessment which has been assessed by Highways officers and found to demonstrate that the associated impacts of the proposed drive-thru restaurant are not severe and thus traffic generated by the development, subject to the implementation of red light violation cameras and improved signal technology would not be considered sufficient to warrant a refusal. The Panel may choose to accept officer's previous recommendation to approve the application and not, as previously resolved, decide to refuse the application – see the dual recommendation for your consideration.
6. In deciding whether to refuse planning permission Members need to have regard to the specific development applied for in light of the development plan and all other material planning considerations. In the event that the Panel resolves to refuse the application and thereby adopt resolution 1 the applicant has indicated that they may exercise their right of appeal, and it is likely that this would result in a hearing or Public Inquiry. Furthermore, and based upon the applicant's documentation submitted with these applications, it is highly probable that the applicant would make an application for an award of costs – this is expanded on further below with officer reasoning

7. Circular 8/93 makes it clear that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily. In this instance members attention is drawn to the fact the applicants have provided significant additional information, in the form of traffic modelling and surveys, as requested by Highways officers. Furthermore, the applicants have agreed to the proposed Section 106 mitigation measures and thus an off-site contribution of £72,000. Members are not bound to accept the advice of their officers, provided that their decision is reasonable and is reached on proper planning grounds.
8. Should an appeal, against a refusal, be forthcoming members should be aware that through the appeal an inspector may decide to grant permission subject to varied conditions and requirements as set out by the original officer recommendation and thus potentially less restrictions. In addition, there is potential that an inspector may consider the outlined off-site mitigation measures, secured via a Section 106, are not required and thus the development would be permitted without such measures in place.
9. In reaching its decision the Council must have regard to, and give proper weight to, the advice of its officers as previously given and set out in the attached report, national and local policy and all other material planning considerations. If Members refuse the application, then it must be based on grounds which can be fully justified and evidenced at any subsequent appeal and to be shown as not acting unreasonably in the event that an application for an award of costs is made.
10. In summary, Members are advised to take into account the original officer recommendation and the implications following a refusal of planning permission and resulting hearing or Public Inquiry in the decision making process. Officers would reiterate that the Panel is entitled to change its mind over the previous resolution as a consequence of the content of this report and approve the application, subject to a Section 106 Agreement. If this is the course of action that the Panel decides, then a further report would be brought back to the Plans Panel in order to give the opportunity for public speaking in accordance with the approved constitution. Opposingly, Members may decide that refusal is the appropriate decision and if so, the Panel should consider the suggested reason for refusal as set out within paragraph 1.1 of this report.



Originator: M Doherty

## Report of the Chief Planning Officer

### SOUTH & WEST PLANS PANEL

Date: 5<sup>th</sup> September 2024

**Subject: 23/01441/FU Restaurant with drive-thru (Use Class E and Sui Generis) including car park alterations, landscaping, and associated works at Land Adjacent Unit 1 , Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP**

#### APPLICANT

NewRiver Retail (Ramsay Investment) Ltd

#### DATE VALID

7<sup>th</sup> March 2024

#### TARGET DATE

2<sup>nd</sup> May 2024

#### Electoral Wards Affected:

Kirkstall

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: DEFER AND DELEGATE approval to the Chief Planning Officer subject to the planning conditions specified below and also the completion of a Section 106 agreement to include the following obligations:**

**Highways contributions in the sum of £72,000, consisting of £30,000 for signal timing improvement technology towards the A65/Savins Mill Way and £42,000 toward red light violation cameras within the gyratory.**

**In the circumstances where the Section 106 has not been completed within 3 months of the Panel resolution to grant planning permission, the final determination of the application shall be delegated to the Chief Planning Officer**

1. Time limit for full permission (3yrs)
2. Permission implemented in accordance with approved plans/ specifications
3. Materials as per approved specification
4. Details of external extract ventilation systems and plant
5. Litter management plan
6. Construction practice management plan
7. Opening Hours

8. Delivery Hours
9. Signage (In and Out)
10. Cycle/Motorcycle Storage
11. Vehicle space to laid out, surfaced and drained
12. Provision for contractor parking
13. Specified highways works for dropped kerbs, pedestrian crossing etc
14. Landscaping details
15. Landscape management plan
16. Provision for replacement trees
17. Development carried out in accordance with biodiversity net gain assessment
18. Development to be carried out in accordance with approved drainage details
19. Requirement to report unexpected contamination
20. Details of any imported soil or imported materials required to be approved

#### **INTRODUCTION:**

11. This planning application involves the creation of a new drive-thru restaurant, car parking area, landscaping and associated works. The application is brought to Plans Panel at the request of ward Councillor Fiona Venner who advises a number of factors are leading to significant highway safety concerns through an increase in traffic, including nearby residential developments and thus the Kirkstall Gyratory system is in crisis leading to regular occurrences of gridlock. This request meets the requirements for referral under the scheme of delegation, giving rise to concerns affecting more than neighbouring properties.

#### **PROPOSAL:**

12. This application seeks to create a new Class E (formerly class A3) retail and Sui-Generis use to the site. The proposed development will comprise of a new single storey retail unit on the site with a drive thru facility, providing a total of 190.9sqm Gross External Floor Area on a Site Area of circa 0.44acres. The unit will be situated on an existing car park which has been out of use for several years.
13. The scheme creates a stand-alone unit which is to be accessed via the existing retail park from Savins Mill Way, via the main route into the existing car park with no changes to the existing access arrangements to the wider site. The existing pedestrian access across the site will be retained providing a link between the bus stop and the neighbouring retail units.
14. The building will sit centrally within the site with a new, one way, drive-thru route creating a circular arrangement along with additional parking, a service bay to the existing route at the east of the site (to the rear of the existing retail units), provision of new landscaping and a small area of external seating.

#### **SITE AND SURROUNDINGS:**

15. Kirkstall Retail Park is located to the south of Savins Mill Way and comprises a parade of three units along the eastern boundary (Matalan, Boots and B&M) with a Morrisons supermarket towards the southern boundary and a petrol filling station and car wash to the northern boundary; the remainder of the site is laid out for car parking with circa 505 spaces.
16. The application site was originally identified for car parking for 39 spaces (including 6 disability spaces) although these spaces have evidently been unavailable for a number of years given the previous permissions on this site for retail units under

applications 14/04851/FU and 16/02515/FU, approved by South and West Plans Panel in July 2015.

17. Vehicular access to the retail park is achieved from Savins Mill Way, adjacent to the rugby ground whose playing pitches adjoin the site to the west, with a separate dedicated service vehicle access further to the east from Savins Mill Way. An additional access road sits to the east of the site which serves the wider developments service yard allowing deliveries.

#### **RELEVANT PLANNING HISTORY:**

##### Planning applications:

18. Ref: 16/02515/FU  
Description: Retail development (A1 Use Class)  
Decision: Approved  
Date: 28.11.2016

19. Ref: 14/04851/FU  
Description: Construction of two new retail units (class use A1)  
Decision: Approved  
Date: 01.10.2015

##### Pre-application enquiries:

20. None.

##### Planning Enforcement cases:

21. None.

#### **HISTORY OF NEGOTIATIONS:**

22. The application has been the subject of negotiation with highways officers with further information requested regarding traffic and congestion with the scope of a traffic survey extended and agreed between Highways, Traffic Management and the applicants in order to fully assess vehicle movements and highway safety impacts.
23. Meetings have been held with the applicant, case officer and ward members to discuss general concerns raised regarding highway safety impacts, traffic generation and vehicle movements

#### **CONSULTATION RESPONSES:**

##### Statutory Consultees:

24. Coal Authority: No objections

##### Non-Statutory Consultees:

25. Flood Risk Management: No objections subject to conditions.
26. Contaminated Land: No objections subject to conditions.
27. Environmental Health (Pollution Control): No objections subject to conditions.

#### **PUBLIC/LOCAL RESPONSE:**

28. Site notice displays posted 27.03.2023  
Newspaper Advertisement published 07.04.2023



26 Letters of objection have been received, including objections from Cllr Fiona Venner, Cllr Hannah Bithell, Cllr Andy Rontree, Cllr Adele Rae and Cllr Kevin Ritchie raising the following concerns,

- Highways safety impacts through additional traffic congestion and vehicle movements, compounded by neighbouring developments underway
- Provision of existing drive-thru restaurants within the locality and thus saturation
- Harm upon existing wildlife and biodiversity
- Air pollution and noise generation
- Additional litter and refuse
- Antisocial behaviour

## **PLANNING POLICIES:**

### *LOCAL PLANNING POLICY AND GUIDANCE*

#### The Development Plan

29. Section 38(6) of the Planning and Compulsory Purchase Act states that for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan, unless material considerations indicate otherwise. The development plan currently comprises the adopted Local Development Framework Core Strategy (as amended 2019), those policies saved from the Leeds Unitary Development Plan Review (2006), the Aire Valley Leeds Area Action Plan (2017), the Natural Resources and Waste Local Plan (as amended 2015), the Site Allocations Plan (as amended 2024) and any made Neighbourhood plan.

30. The following policies from the **Core Strategy** are of most relevance to this development proposal:

	General Policy:	Sustainable Development and the NPPF
	Policy SP1:	Delivery of spatial development strategy
	Policy SP4:	Regeneration priority programme areas
	Policy P1:	Town Centre Designations
	Policy P2:	Acceptable uses in and on the edge of Town
Centres	Policy P9:	Community Facilities
	Policy P10:	Design
	Policy 12:	Landscape
	Policy T2:	Accessibility requirements and new development
	Policy G1:	Enhancing/extending Green Infrastructure
	Policy G9:	Biodiversity improvements
	Policy EN5:	Managing flood Risk
	Policy EN8:	EVCP

31. The following saved policies from the **Unitary Development Plan** are of most relevance to this development proposal:

resolve amenity	Policy GP5:	Seeks to ensure that development proposals detailed planning considerations, including
	Policy N12:	Urban Design
	Policy N13:	Design
	Policy N23:	Open Space around a development
	Policy N24:	Boundaries to open space

area

Policy N25: Boundaries of a site to respond positively to the

Policy BD5: Building design

32. The following policies from the **Natural Resources and Waste Local DPD** are relevant to this development proposal:

Policy Land 1: Contamination  
 Policy Land 2: Development and trees  
 Policy Water 1: Water efficiency  
 Policy Water 6: Flood Risk Assessments  
 Policy Water7: Surface water management

33. **Site Allocations Plan:**

The site lies within Kirkstall Town Centre (Retail Centre) as outlined within the adopted SAP and map 24 Town Centre Inset Maps along with Map 4 (Hierarchy of Centres) within the Core Strategy.

34. The application site lies outside the defined Aire Valley Leeds Area Action Plan (AVLAAP) and its policies are therefore not relevant to this application.

35. The site lies within the Kirkstall Neighbourhood Area boundary and thus falls within the scope of the Kirkstall Neighbourhood Plan which is not yet adopted. The Kirkstall Neighbourhood Plan is in early draft but has not yet been Made at Referendum.

Relevant Local Supplementary Planning Guidance/Documents

36. The most relevant local supplementary planning guidance (SPG), supplementary planning documents (SPD) are outlined below:

Hot Food Takeaways SPD

SPG22 Sustainable Urban Drainage (2004)

SPG13 Neighbourhoods for Living (2003)

SPD Transport (2023)

Other relevant documents and Emerging Plan Policies

37. Kirkstall Valley Strategic Green Infrastructure

38. Leeds Habitat Network

39. Climate Change Mitigation: SP0

40. Tree Replacement: G2C

41. Drive-Thru Development EN9

***NATIONAL PLANNING POLICY AND GUIDANCE***

National Planning Policy Framework

42. The National Planning Policy Framework (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.

43. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004). The National Planning Policy Framework is an important material consideration in planning decisions.

44. The following sections of the NPPF are most relevant for the purposes of determining this application:

**Chapter 4: Decision-making**

**Chapter 5: Delivering a sufficient supply of homes**

**Chapter 8: Promoting healthy and safe communities**

**Chapter 9: Promoting sustainable transport**

**Chapter 11: Making effective use of land**

**Chapter 12: Achieving well-designed places**

**Chapter 14: Meeting the challenge of climate change, flooding and coastal change**

National Planning Practice Guidance

45. The Planning Practice Guidance (PPG) provides commentary on the application of policies within the NPPF. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects.

**CLIMATE EMERGENCY:**

46. The Council declared a climate emergency on the 27<sup>th</sup> March 2019 in response to the UN's report on Climate Change.
47. The Planning Act 2008, alongside the Climate Change Act 2008, sets out that climate mitigation and adaptation are central principles of plan-making. The NPPF makes clear that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions in line with the objectives of the Climate Change Act 2008.
48. As part of the Council's Best City Ambition, the Council seeks to deliver a low-carbon and affordable transport network, as well as protecting nature and enhancing habitats for wildlife. The Council's Development Plan includes a number of planning policies which seek to meet this aim, as does the NPPF. These are material planning considerations in determining planning applications.

**PUBLIC SECTOR EQUALITY DUTY:**

49. The Equality Act 2010 requires local authorities to comply with the Public Sector Equality Duty. Taking into account all known factors and considerations, the requirement to consider, and have due regard to, the needs of diverse groups to eliminate discrimination, advance equality of opportunity and access, and foster good relations between different groups in the community has been fully taken into account in the consideration of the planning application to date and at the time of making the recommendation in this report.
50. In this instance it is considered that the proposals do not raise any specific implications in these respects and therefore it is not considered that a full Equality, Diversity, Cohesion and Integration Impact Assessment (EDCI) is required.

**MAIN ISSUES:**

1. Principle of development
2. Impact on visual amenity
3. Impact on residential amenity
4. Highways implications

5. Landscaping and Biodiversity
6. Other matters
7. Representations

## **APPRAISAL:**

### **Principle of development**

Spatial Policy 1 of the Core Strategy seeks to deliver the spatial development strategy based on the Leeds settlement hierarchy and to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance of brownfield and greenfield land. The distribution and scale of development will be in accordance with the following principles:

- (i) The largest amount of development will be located in the Main Urban Area and Major Settlements. Smaller Settlements will contribute to development needs, with the scale of growth having regard to the settlement's size, function and sustainability,
- (ii) In applying (i) above, the priority for identifying land for development will be as follows:
  - a. Previously developed land and buildings within the Main Urban Area / relevant settlement,
  - b. Other suitable infill sites within the Main Urban Area / relevant settlement,
  - c. Key locations identified as sustainable extensions to the Main Urban Area / relevant settlement,
- (iii) For development to respect and enhance the local character and identity of places and neighbourhoods,
- (iv) To prioritise new office, retail, service, leisure and cultural facilities in Leeds City Centre and the town centres across the District, maximising the opportunities that the existing services and high levels of accessibility and sustainability to new development.

Spatial Policy 2 supports a centres first approach supported by sequential and impact assessments. The Council will direct retailing, offices, intensive leisure and culture, and community development to the City Centre and designated town and local centres in order to promote their vitality and viability as the focus for shopping, employment, leisure, culture, and community services. Proposals which would undermine that approach will not be supported.

The application site lies within Kirkstall Town Centre, as designed by the Site Allocations Plan and Policy P1 of the Core Strategy. The National Planning Policy Framework (NPPF) is supportive (para 86) of town centres and retail stating that Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management, and adaptation.

Policy P2 outlines acceptable uses in and on the edge of Town Centres. 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, subject to a sequential assessment, edge of centre, and will be directed towards the centres listed in Policy P1.

- 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,

The site is considered to fall within a highly sustainable location with excellent public transport links, including bus stops within 10 meters of the site, along with the site being linked to Savins Mill Way and the A65, a main arterial route into the City Centre.

The application site is located within Flood Zone 2 and there have been no records of any recent flooding within the property or adjacent areas. An initial review has also identified that there are no known surface water flood risks which would impact on the proposed development. Wider works to reduce flood risk are now partially complete with works at Kirkstall Bridge underway as part of the Flood Alleviation Scheme (FAS)

The Council has prepared a Supplementary Planning Document (SPD) on Hot Food Takeaways (HFT). This aims to control the location of hot food takeaways that are in close proximity to secondary schools, and where clustering of several hot food takeaways can produce negative impacts. Whilst the use-class order has changed since the adoption of the SPD, it is clear from table 5 (page 7) that the guidance should be applied to fast food drive through proposals.

HFT1 makes clear that planning permission will not be granted within 500m of a secondary school main entrance, except within the boundaries of designated centres. The development site does not lie within 500m of a secondary school.

HT2 states that permission will not be granted where the proposal would result in the clustering of hot food takeaway uses which would detrimentally hard the function and vitality of centres and neighbourhood parades, or would have a detrimental impact on the amenity of occupants of the adjacent and connected properties. A definition of clustering is provided within the SPD. In the case of this application, it is acknowledged two existing HFTs are present to the A65, close to the junction with Beecroft Street (Pizza Connection and Pizza Pizza). As each of the parades contains less than 5 units and two HFTs are present this does not meet the definition of "clustering" as defined by the SPD.

HFT3 relates to amenity considerations. It identifies that when considering suitable opening times, the impact on residential amenity, whether there is an existing nighttime economy in the area, and the existing character and levels of activity and noise in the area, will need to be taken into account. An assessment of the proposals against Policy HFT3 will set out in detail within the Residential Amenity section of this report.

Furthermore, the site history identifies that two previously granted permissions for retail units (16/02515/FU and 14/04851/FU) have not been implemented with the applicant siting long term occupancy for retail provision has been unviable due to introduction of Class E on 01.09.2020 which allows flexibility to move from some 'main town centre uses', e.g. retail, food and drink, offices, but also includes other uses which are not defined as "main town centre uses", e.g. medical services and some industrial uses without the need for planning permission.

It is considered the proposals, given the use sought, are acceptable within the designated Kirkstall Town Centre meeting with the aims of Spatial Policies 1 and 2 which carry significant weight, above that of the HFT SPD. In addition, given the sites sustainable location it is considered the principle of the development is acceptable.

### **Impact on visual amenity (incl. design, appearance, character):**

The application site lies within the Town Centre surrounded by various commercial uses and the main highway (Savins Mill Way and A65) along with existing, large scale, retail units to the south and a petrol filling station to the west. Given the commercial nature of the wider

area it is considered re-developing the site for use as a drive-thru restaurant creates a limited impact upon visual amenity, with such schemes directed toward Town centres.

The design of the building comprises of a low-rise, part single storey building, when viewed against the larger adjacent retail units. The design of the building is dictated by the drive-thru itself, providing a compact layout with the principal drive thru entrance being easily visible and accessible from the existing access road for both take away and dine in customers. The proportions of the facades have been designed to provide a contemporary style building with more glazing, bracing up any associated bulk and mass.

The building's façade feature a combination of masonry, feature timber cladding and composite cladding consisting of the following,

- Yellow Multi-Brick – Istock Coleridge
- Flat, smooth composite cladding (Mushroom Colour), Kingspan KS1000 FL-S
- Feature Parapet cladding (Traffic Red RAL 3020)
- Timber effect cladding, Nichiha traditional Cedar

It is considered the use of such materials within a Town Centre location is acceptable due to the mixed palette of materials and presence of various signage, advertisements and building forms. The proposed materials are subject to a condition which requires installation and use as per the approved specification.

The design of the proposed building is considered appropriate for the Town Centre location and thus, subject to the aforementioned conditions. The proposal is therefore considered to accord with policy P10 of the Core Strategy and the guidance on good design appropriate to the local context contained within the NPPF

### **Impact on residential amenity:**

The proposals seek to create a new restaurant and drive-thru thus require the provision for external extract systems and plant to facilitate the cooking of food and odour removal. The installation of such external plant within the site is considered acceptable given its commercial, town centre, location. The development site sits isolated from any residential properties due to its location within the wider retail park. The nearest residential properties are located at the junction of Savins Mill Way and the A65 approximately 40 meters from the site along with existing flats to the east, fronting onto the A65, approximately 50 meters away. These distances are considered sufficient to prevent any significant adverse impact upon residential amenity through noise generation or odours.

Conditions are attached to the recommendation which require full details of external plant, ventilation systems and extract provision in order to ensure these do not adversely impact neighbouring amenity through noise or odours. The conditions specify that noise emitted from any external plant shall be no higher than existing background noise when measured at noise sensitive premises along with requirements that the plant is installed and maintained in accordance with any approved details.

The applicant seeks operational hours of 07:00 to 00:00. It is acknowledged this allows the restaurant to operate over the majority of the day however given the commercial location of the site it is considered to create a limited impact upon neighbouring amenity with the adjacent businesses and uses operating various hours along with an absence of residential properties in close proximity which carries further weight. It is considered the opening hours, within the site's context, are not excessive and thus are acceptable. In addition, delivery hours of 07:00 to 17:00 are sought which would prevent delivery vehicles attending the site late at night and thus preventing any noise associated with deliveries during unsociable hours.

Environmental Health officers have been consulted on the proposals and raised no objections subject to the attachment of suitable conditions requiring operational specifications of external plant and ventilation equipment are provided. These details will ensure the LPA can make a full assessment of such equipment, prior to installation, to ensure that suitable noise mitigation measures are in place or noise limiting equipment is used. In addition, Environmental Health officers have requested a condition is attached which requires a litter management plan and thus a strategy on how the applicant will prevent issues of excess litter being created.

It is considered, given the Town Centre location of the site, the proposals do not create a significant adverse impact upon neighbouring residential amenity.

### **Highways implications:**

#### Access:

The proposals seek to re-establish access from the sites frontage, within the retail park, with a one-way drive-thru system. The access creates a circular route around the main restaurant which allows drivers to utilise the drive-thru windows or park and enter the restaurant.

#### Parking

The parking provision as set out in the Transport SPD for Restaurants, Cafés and Drinking Establishments is 1 space per 10 sqm of the customer floor area. The proposed customer floor area is 63 sqm as noted on plan MH1269-02 Rev. B, hence provision of 6 car parking spaces (including 1 disabled space) is acceptable. In addition, 2 grill bays are proposed to the south of the restaurant building by converting two existing spaces which is considered acceptable.

One of the car parking spaces should have a rapid EV charge point (50 kW), and be 2.6m in width with a requirement that the disabled parking space should also have an accessible EV charge point. These details can be secured by and appropriately worded condition.

A Transport Statement (TS) has been submitted in support of the planning application. The car park has 510 spaces in total, of which approximately 338 spaces were occupied on a Friday afternoon (i.e. 66.3%) and 404 spaces on a Saturday afternoon (i.e. 79.2%). The surveys were undertaken on Friday 18th November 2022 and Saturday 19th November 2022. From this data, it is accepted that the retail park does have capacity to accommodate parking overspill (if any) generated by the development.

In terms of cycle parking, the applicant has sought to provide Sheffield type stands near the main entrance and to the south of the proposed car park which are acceptable in principle. However, the stands should be spaced by at least 1.2m from each other and thus amended details provided via the suggested conditions. The ASGARD shed for long stay cycle parking (for staff) is also considered acceptable providing that this could be secured/locked and is covered.

Conditions are also recommended that details are provided to the LPA for contractor parking, including a statement of construction practice to ensure a suitable arrangement is provided during the development. These details are required to indicate vehicle routing, means of loading, deliveries, methods to control mud and dirt on the highway and how the statement will be made publicly available.

#### Traffic Impact Assessment:

The development is expected to generate 24 and 30 two-way 'primary' trips during the Friday PM peak and the Saturday peak hours respectively. Similarly, it would generate 31 and 57 two-way 'pass-by' trips during the Friday PM peak and Saturday peak hours respectively. Therefore, a capacity assessment was undertaken for the A65 / Savins Mill Way gyratory to assess the impacts. Given the proximity and how the signals interact with each other, the whole gyratory was modelled for the Friday PM peak and Saturday peak hours. Extensive discussions and consultation have taken place between the Local Highways Authority and the applicants transport consultant to agree the basis of a TRANSYT model for the A65 / Savins Mill Way gyratory, which was received on 21.03.2024.

The model for the entire gyratory recorded the highest degree of saturation on Savins Mill Way and Bridge Road during a Friday PM peak. This was tested in two assessment scenarios; the first one included committed developments in the area and the background traffic growth. The second assessment scenario included committed developments, background traffic growth and the proposed development's traffic. In the first assessment scenario, the degree of saturation was recorded at 112%. In the second assessment scenario, the degree of saturation was recorded at 107%. Similarly, during the Saturday peak, the highest degree of saturation was recorded at 125% for the first assessment scenario and 124% for the second assessment scenario.

The model therefore reflects that with an improved technology (which would be secured through a S106 contribution), the development in of itself would not result in a severe impact or exacerbate the traffic conditions on the A65. The model reflects that some delay could be reduced at the gyratory by manipulating the existing detectors / signal timings to give more responsive signals, through technology upgrades and thus near real time monitoring across a greater area. These smart changes would allow for increased queue and occupancy monitoring across the gyratory providing further gains to the operation of the gyratory. Furthermore, these improvements would allow closer monitoring of real time information to allow signal timings to be altered on demand.

Additionally, the A65 / Savins Mill Way meets the requirements to introduce red light violation cameras. Therefore, a further £42,000 would be required for such infrastructure to be provided, which would enhance safety by enforcing against red light violations.

Subject to implementing the above measures through a S106 contribution, the impact of the development on the adjacent highway network could be cost-effectively and proportionally mitigated to an acceptable degree, thereby meeting the aims of policy T2 of the Core Strategy along with the NPPF tests and the Transport SPD. The applicants accept the above recommendations and are agreeable to a S106 agreement to secure the required contributions.

#### Internal Layout, Servicing and Refuse Storage:

The proposed bin store to the rear of the unit is considered acceptable. Additional bins will need to be provided near the main entrance, adjacent to the car parking spaces and near the proposed grill bays in order to ensure adequate refuse capacity to avoid excessive litter. These details, in conjunction with both highways officers and environmental health officers requirements can be secured by condition, requiring a litter management plan.

Highways raise no objections to the proposed development, subject to the aforementioned conditions and S106 contributions towards the A65 and Savins Mill Way. In light of this the proposals are considered to comply with Core Strategy Policy T2 along with the Transport SPD.



## **Landscaping and Biodiversity**

The proposed layout includes the provision for the retention of the existing ornamental shrubbery to the north eastern boundary which is included within the Leeds Habitat Network along with an existing tree (T3 – Horse chestnut). The applicant has submitted a Biodiversity Net Gain Assessment which outlines the majority of the existing scrub to the site is in poor condition with no on-going management, assessed as having a baseline score of 0.76 habitat units. The scheme seeks to remove these areas of scrub with re-planting of ornamental species along with a further four Horse Chestnut's to the northern boundary which will provide screening from Savins Mill Way and a green buffer to the site frontage. This replanting creates a post-development score of 0.82 habitat units and a biodiversity net gain of 7.64%.

It is acknowledged the above score does not achieve the current 10% mandatory net gain however, the application was validated on 07.03.2023 prior to the adoption of the mandatory requirement on 12.02.2024 thus the development is considered to provide a net gain inline with the requirements of policy G9 of the Core Strategy and is thus considered compliant. Conditions are recommended to be attached which require the development is carried out in accordance with the approved biodiversity assessment with the measures implemented prior to the commencement of operations.

The development seeks to incorporate general new landscaping measures to its layout along with the proposed planting. A condition is attached to the permission which requires details of hard and soft landscaping measures to be agreed prior to first use along with a landscape management plan to ensure landscaping is maintained for the lifetime of the development. In addition, given new tree planting is proposed a condition is recommended which requires any trees which are damaged, up rooted or die be replaced within the first five years of the development to ensure new trees are well established and maintained.

### **Other matters:**

#### **Drainage**

51. The applicant has provided full surface and foul water drainage details. These are considered acceptable and demonstrate that the development can be drained in accordance with the relevant regulations. Therefore, subject to the works being completed in accordance with the submitted information, Flood Risk Management have no objections to the proposed development.

#### **Contamination**

52. An up-to-date desk top study has been submitted in support of the application. These details are considered acceptable by contamination officers, subject to the attachment of conditions requiring notification in the event of unexpected contamination and information regarding any imported soil to the site.

#### **Access**

53. The Disability Discrimination Act 2005 requires building designs to promote equality of opportunity for people with disabilities. Access and inclusion will be facilitated in the design through complete compliance with Building Regulations Approved Document Part M. The design of the development aims to promote access for all users and ensure that all users, including disabled people, older people and younger children, can move across the site on equal terms.

### **CONCLUSION:**

54. The proposed restaurant and drive-thru is considered acceptable within Kirkstall Town Centre and would not unduly impact on the residential amenity or create a significant

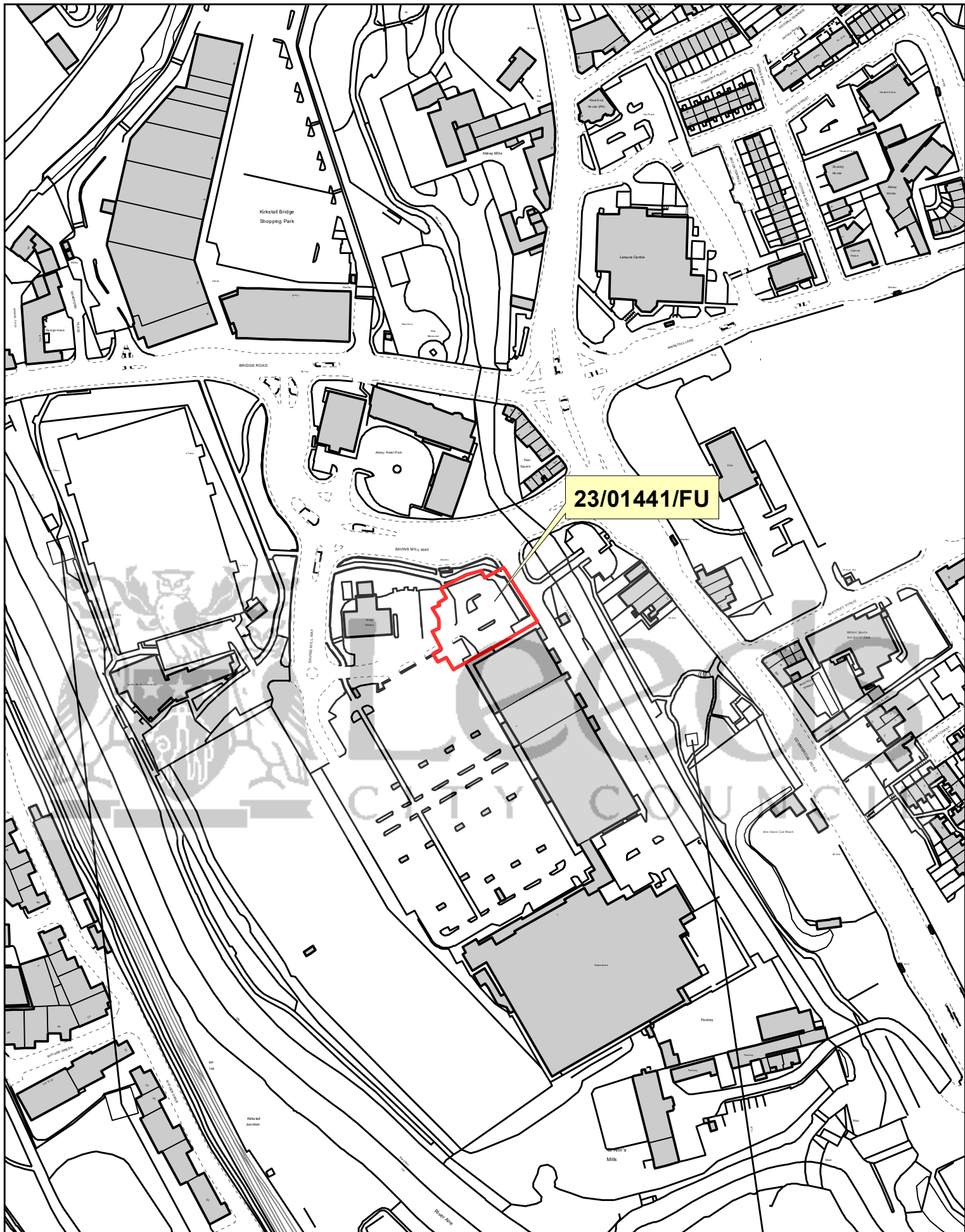
adverse impact upon the highway network, subject to the above mitigation measures secured via a S106 agreement.

55. The submitted proposal is therefore considered to accord with up-to-date planning policies within the Development Plan with no material considerations to indicate otherwise. In accordance with guidance within the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act, it is recommended that the application be **approved** subject to specified conditions.

**BACKGROUND PAPERS:**

Application file reference: 23/01441/FU

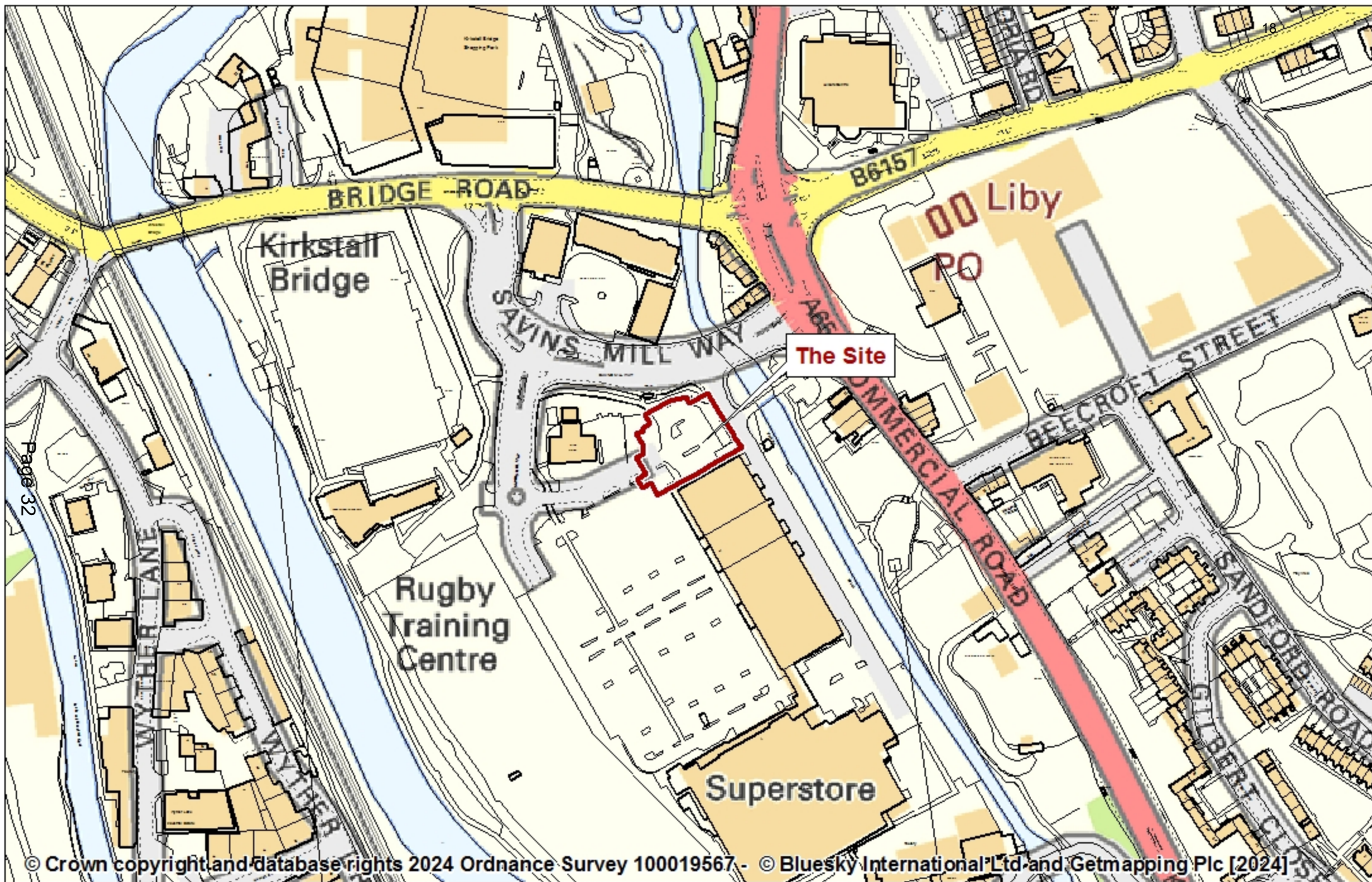
Certificate of ownership: *Certificate A signed on 24<sup>th</sup> February 2024 by the appointed planning agent.*



# SOUTH AND WEST PLANS PANEL







# PLANS PANEL PRESENTATION

SCALE 1:2500







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# PLANS PANEL PRESENTATION

SCALE 1:2500



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Originator: Aaron Casey

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## Report of the Chief Planning Officer

### *South and West Plans Panel*

Date: 3 October 2024

**Subject: Application 24/03369/FU: Change of use from a C3 (Dwelling House) to a C2 (Residential Institution) as young person's supported accommodation at No. 16 Chiltern Court, Rodley, Leeds, LS13 1PT**

**Applicant: Amethyst247support**

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#### **Electoral Wards Affected:**

**Calverley & Farsley**

Yes

Ward Members consulted: (referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**RECOMMENDATION: GRANT PERMISSION subject to the following conditions**

#### **Conditions:**

1. Time limit – Commencement within 3 years.
2. Development to be carried out in accordance with approved plans.
3. Restrictions on number of residents that reside at the site at any one time to three
4. Restrictions on number of resident staff on site at any one time to two (except for a 30 minute cross over period between shifts)



5. Details of bins (siting and method of storage) to be submitted for written approval.
6. Details of electric vehicle charging points to be submitted for written approval.

### **INTRODUCTION:**

1 The application is brought to Plans Panel at the request of Councilors Andrew Carter who has set out the below reasons:

- Staff and visitors to the property are likely to increase traffic in an already congested cul de sac.
- Extra pressure on parking, making the cul de sac less safe for both residents and the young people themselves.
- There has been a proliferation of this type of application to change residential properties into what are essentially commercial businesses, with a subsequent loss of residential properties.
- Property type unsuitable for use, e.g., insufficient outdoor area, and extremely close to other properties, therefore unsuitable for the young people themselves and detrimental to the amenities of local residents.

### **PROPOSAL**

2 The proposal is for the change of use of a dwelling house within the Use Class C3 to a young person's supported accommodation within Use Class C2.

- This home will be for three young people aged between 16 and 25 years of age. The Applicant has confirmed that the age range of residents would be arranged on compatibility e.g., three 16 years old residents rather than having a younger resident with the upper age range.
- The facility will be supported by 2 members of staff at any one time, with staff working on a rota basis:
  - Morning shift: 07:30 hrs until 20:00 hrs.
  - Night shift: 20:00 hrs until 08:00 hrs
  - The above suggest that there would be 30 minutes in the morning where staffing rotas cross over.
- There are no proposals for alterations to the external or internal parts of the building nor do the submitted details indicate that there would be any alterations to the grounds.



- The existing off-street parking facilities equates to one surface parking space and this would be utilised by the proposed use.
- Residents of legal driving age would not have access to car use.
- Visitations by relevant professionals and family would be planned and arranged. The family visits would be arranged for one residents at a time and the Applicant has advised that in their experience family visits result in residents and their families going out from the facility rather than spending the visitation time on site.
- The residents will be in full time education, employment or training.
- The Applicant advises that they will be registering the facility with OFSTED.

#### **SITE AND SURROUNDINGS:**

- 3 The application site comprises a semi-detached 5 bedroom semi-detached dwelling located at No. 16 Chiltern Court, Rodley, Leeds, LS13 1PT. Rodley is identified as being identified as being within the Main Urban Area within Map 3 (Settlement Hierarchy) and Table 1 (Identification of Settlement Types) of the Core Strategy.
- 4 No.16 is a 5 bedroomed semi-detached house set within a relatively small rectangular plot. A private amenity area is located to the front of the house with a shallow area of garden to the rear facing Town Street, but this is generally open to public view and represents a landscape area rather than any meaningful amenity space. The parking space is divorced from the house and immediate plot and located to the front of No.16. Access to No.16 is down steps to the front as the building is set lower than street-level.
- 5 Chiltern Court is a cul-de-sac of three storey dwellings laid out in terraced and semi-detached formation to the eastern side of the cul-de-sac with a wooden area of mature and well-established trees to the western side. Chiltern Court is accessed from the eastern side of Bagley Lane. The houses have integral garages at ground floor with staircases leading to the first floors and front doors. The wider character of the area is residential with detached and semi-detached dwellings of single and two storey heights, ranging from approximate periods of construction throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries. There are also a range of services, hospitality and commercial offers along Town Street as well as the waterways to the north of Chiltern Court.

- 6 The site is located close to existing designated centres in Pudsey and Fardsley as well as the Owlcotes retail park and access to these areas can be achieved along the existing highway infrastructure. It is considered that given the wide range of existing amenities, existing highway infrastructure, public transport routes in union with the well-established residential settlement within the main urban area, the site can be regarded as being within a sustainable location.

#### **RELEVANT PLANNING HISTORY:**

- 7 24/02006/CLP: Certificate of Proposed Lawful Development for Use as a house for semi-independent supported living: The certificate was not issued as the LPA are of the view that the use represents a change of use to Use Class C2.
- 8 Members attention is drawn to the following appeal decision for change of use from C3 to C2 and highlights the position Officers are in regarding the resistance of change of use of dwellings for care facilities due to the size of the building and the extent of outdoor space with the plot:
9. 16/07459/FU: 13 Wellington Grove, Bramley for a Change of use of dwelling (C3) to a residential children's care home (C2) – This site falls outside of the area of the site but given that the proposal is for a change of use from a C3 to a C2 use the findings of the Inspector dealing with the subsequent and relatively recent appeal are considered to be relevant in this instance. The LPA refused this application for the below reason:

*The Local Planning Authority consider that the proposed use of the host property as a Children's Care Home (C2 Use Class) is unacceptable by reason of the increased noise and disturbance from the comings and goings of staff associated with the running of the proposed use, resulting in the intensification of the use of the building, which would result in multiple users that would be above those levels reasonably expected if the building was in use as a family home. This would therefore have an undue effect on the living conditions of neighbouring residents, compounded by the back-to-back nature of the dwellings. As such the proposal is contrary to saved Policy GP5 of the Leeds UDP (2006) and the advice contained within the National Planning Policy Framework (2012).*

*The Local Planning Authority considers that this property, a back to back house, is unsuitable for the provision of specialist care for children due to the lack of outdoor amenity area, limited scope for private/quiet rooms, and the higher levels of noise transfer from surrounding properties. It is considered that the likelihood of the children to be homed here having severe emotional and behavioural disabilities would be higher than with a typical family and that the type of property could therefore create a more harmful environment for them to*

*live in. This would be detrimental to their amenity, contrary to policy GP5 of the UDP.*

This was subsequently allowed at appeal. With regard to noise and disturbance the Inspector notes in his findings that:

*“.....it is argued that the potential emotional and behavioural difficulties of a child at the property would contribute to adverse and excessive noise and disturbance from within the property for neighbouring occupiers. However, I have seen no substantive evidence to support this. Furthermore, whilst the children likely to reside at the property may have such difficulties, I find it unreasonable to assume that such behavioural and emotional needs would inevitably result in anti-social behaviour and excessive noise or disturbance.”*

Member’s attention is drawn to the above as it is pertinent to the determination of this application now before Panel. It should also be noted that the Inspectors finds refer to the change of use of a back-to back property, thereby much smaller than the application site with much less outdoor space.

#### **HISTORY OF NEGOTIATIONS:**

- 10 The proposal before Members is unchanged from the date of its submission.

#### **PUBLIC/LOCAL RESPONSE:**

- 11 This application was advertised by 1 x site notice close to the site on the 5 July 2024. This application has attracted 12 letters of representation including representation from Councillor Andrew Carter.

#### Ward Members

- 12 Councillor Carter has objected to the application for the reasons cited in Paragraph 1.

#### Other Public Response

- 13 The issues raised through the representations received from the local residents are summarised below:

#### Objections from local residents

- The facility is an inappropriate use with the residential street.
- Increased levels of noise, disturbance, comings, and goings.
- Increase in anti-social behavior and crime.
- Welfare and safety concerns of residents close to roads, waterways and public houses.

- Highway safety issues.
- LCC Refuse vehicles no longer access Chiltern Court due to space restrictions from on-street parking.
- There are no footpaths on Chiltern Court and the use may exacerbate vehicle and pedestrian conflicts.
- Would result in an increased parking demand.
- Added parking pressures when staffing change over occur twice a day for 30 minutes at a time.
- The development does not include Electric Vehicle Charging points or disabled parking.
- The use has the characteristic of a House in Multiple Occupation (HMO) and fails the tests of adopted Core Strategy policy H6<sup>1</sup>
- Would result in the loss of a family home.
- How would the risks of conflicts and absconding be managed?
- The stepped access to the property and the number of floors within the building mean that it is not accessible to all.
- There is little outdoor space to serve the use and its residents.
- Any modification that require planning permission would be constrained by the sites Conservation Area Location.
- Inaccurate details on the application form.
- No Certificate B has been issued<sup>2</sup>
- No neighbour notification letters were issued nor was a site notice placed.
- The property has restrictive covenants.
- There has been no community engagement.
- Potential increase in bins exacerbating the existing issues of on-street storage on collection days.
- Drainage implications.
- The proposed use would have a direct impact on a vulnerable, elderly neighbour through impacts of noise and any anti-social behavior.

## **CONSULTATION RESPONSES:**

### Highways

- 14 No objections and no concerns raised with regard highway safety and that the dedicated parking space was in accordance with adopted guidance within the Transport SPD. .

<sup>1</sup> Policy H6 refers to houses in multiple occupation, student accommodation and flat conversions

<sup>2</sup> Certificate B should be issued by Applicants if there is shared ownership (All other owners/agricultural Tenants known) This should be completed if the Applicant is not the sole owner, or if there are agricultural tenants, and the Applicant knows the names and addresses of all the other owners and/or agricultural tenants.

## **PLANNING POLICIES:**

- 15 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Leeds is made up of the Core Strategy (Review 2019), saved policies from the Leeds Unitary Development Plan (Review 2006) (UDP), the Site Allocations Plan (2019) and the Natural Resources and Waste Development Plan Document (DPD), adopted January 2013, the Aire Valley Leeds AAP, as well as any made neighbourhood plans.

### Relevant Policies from the Core Strategy:

- GENERAL POLICY: Presumption in favour of sustainable development
- Spatial Policy 1: Location of development in main urban areas on previously developed land.
- P10: Design, context and amenity consideration
- T2: Accessibility

### Relevant Saved Policies from the UDP:

- GP5: General planning considerations

### Supplementary Planning Guidance and Documents

- SPG13: Neighbourhoods for Living: A Guide for Residential Design in Leeds
- Transport SPD

### National Planning Policy

- 16 The National Planning Policy Framework (NPPF). One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

The below sections of the NPPF are considered to be most relevant:

- Section 2 – Achieving sustainable development
- Section 8 – Promoting healthy and safe communities
- Section 9 – Promoting sustainable transport

## **CLIMATE EMERGENCY:**

- 16 The Council declared a climate emergency on the 27<sup>th</sup> March 2019 in response to the UN's report on Climate Change.

- 17 The Planning Act 2008, alongside the Climate Change Act 2008, sets out that climate mitigation and adaptation are central principles of plan-making. The NPPF makes clear that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions in line with the objectives of the Climate Change Act 2008.
- 18 As part of the Council's Best City Ambition, the Council seeks to deliver a low-carbon and affordable transport network, as well as protecting nature and enhancing habitats for wildlife. The Council's Development Plan includes a number of planning policies which seek to meet this aim, as does the NPPF. These are material planning considerations in determining planning applications.

#### **PUBLIC SECTOR EQUALITY DUTY:**

- 19 Through the application process, the Local Planning Authority (LPA) have been made aware of some particular circumstances and sensitive issues, where it is necessary to have regard to the Equality Act (2010). The Equality Act 2010 defines discrimination under the law as unfair treatment because of what it terms 'protected characteristics'. As a decision maker, LPA's have a duty under the Equality Act 2010 to actively seek to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations. In particular, the Public Sector Equality Duty states that public body must, in the exercise of its functions, have due regard to the need to:

1. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In accordance with (1 and 2) above, a public body must also have due regard to the need to advance equality of opportunity persons who share a relevant protected characteristic and persons who do not share. This involves having due regard, in particular, to the need to:

1. Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

2. Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  3. Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- Based on information received, this application raises matters of Protected Characteristics which must be considered by the Local Authority in its capacity as LPA, in discharging its Public Sector Equality Duty. In taking the information received into account, having regard to the Equality Act 2010 in the assessment of this particular application. Consequently, due regard has been given to the impact of the application on a nearby resident who shares a protected characteristic. The matter relevant refers to the final bullet point within paragraph 13 but refers to concerns raised through representation that does not include any sensitive information (i.e. medical data) and therefore does not warrant a pink paper for Members to discuss the contents of the representation in private. The matters relate solely to impacts on neighbours amenity and this is responded to throughout this report.

## MAIN ISSUES

- Principle of development
- Character and Appearance
- Impact on residential amenity
- Highways
- CIL
- Other issues

## APPRAISAL

### Principle of development

- 20 Spatial Policy 1 of the Core Strategy relates to the location of development and confirms the overall objective to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance between Brownfield and Greenfield land.
- 21 The proposal seeks to change the use of No. 16 Chiltern Court, Rodley, Leeds, LS13 1PT from a family house within the Use Class C3 to young person's supported accommodation within the Use Class C2.

- 22 The proposed end use would be within a well-established urban area that sits close to existing amenities (shopping, medical and education) within the immediate and wider areas of Pudsey and Farsley. The travel times and methods of travel to these shopping and service areas are the same as they would be if the house stayed within a C3 use, and there is no requirement that a supported accommodation facility for young people operating from an existing building would need to be any closer to the existing local amenities than the surrounding residential population. Moreover, the immediate area is well served by public transport routes to designated centres within Pudsey and other surrounding areas, as well as the Owlcotes Retail Park. Therefore, the site is considered to be within a sustainable location.
- 23 Officer take the view that the end use would respond to the residential context of the area and the number of occupants at any one time would be no more than one could expect if a family occupied this five bedroom dwelling. This proposed use and the occupancy limits of three young people and the care and managerial staffing numbers that would be on-site at any one time, would have a neutral impact on the use of the building and implications on local services, as there could be a very similar, if not the same impact from a family occupation of the site. This would be a residential facility offering independent living support within a residential area, albeit the dynamics differ from a family home (i.e., that the staff would work there rather than it being their home).
- 24 The use is considered to accord with the aims of Spatial Policy 1 and there is no policy context that could reasonably prevent a change of use from a C3 use to C2, and therefore the principle of the change of use is considered to be acceptable.

#### Character and Appearance

- 25 There are no physical changes proposed to the external parts of the building or to its grounds. It is not considered that the use of the site with the limited level of three residents and associated on-site staff or any visiting support specialists would change the residential character of the site or over-intensify it beyond what could reasonably be expected if this five bedroom semi-detached dwelling remained in family use. Any internal alterations (*e.g., fire doors*) can be undertaken without the need for planning permission and any external alterations that may be required in future to meet the needs of residents (*e.g., ramps*) would need to pass the tests of planning policy through applying for planning permission.
- 26 The scheme is considered to be compliant with the aims of Core Strategy Policy P10 and saved UDP Policy GP5 and the policy contained within the NPPF.

#### Impact on residential amenity



- 27 It is not considered the proposal would have any impact on existing residents, in terms of over-shadowing and over-looking as there are no alterations proposed to the building or its plot.
- 28 The building is semi-detached with the access areas to the front that that adjoin neighbouring sites. Whilst it could be argued that the chances of noise and disturbance could be higher than if a family occupied the property, any instances of difficulties would be dealt with by the staff that will be on site. It is not considered that any levels of noise and disturbance from the three residents and the on-site care team would be significantly greater than a family situation, and there is no evidence to suggest otherwise.
- 29 The care home would provide accommodation for three compatibly aged young people at a time. and until referrals are made it would not be clear to the Applicant exactly to what extent of care and supervision the individuals will need. Nevertheless, this is a facility with a duty of care and one that will be subject to assessment by a regulatory body.
- 30 It is a usual requirement that operators record and log any complaints made and that the regulatory body (e.g., OFSTED) would then investigate. In principle and dependent upon the scenario, operators run the risk of their licenses being revoked should they fail to meet the relevant and required standards.
- 31 In Officers opinion the proposed use would not result in unduly increased comings and goings from staff changes and transportation of the residents than the existing C3 use. The home will be supported by 2 staff members at any one time, 24 hours a day and one manager working a day shift. As with a family home visits and activity could occur throughout the day and at sociable hours into the evening and at a similar level of vehicles and visitors.
- 32 In light of the above, Officers acknowledge that many attributes of family life could occur however, the nature of the occupation, involving the rotation of the care workers due to their shift patterns, the comings and goings to the site may on occasion be more numerous than could be anticipated for most family homes but it is not considered that the levels of comings and goings would be significantly greater than those a family could attract. The impact on the surrounding neighbours would in Officers view, not be unduly harmful. Moreover, conditions restricting resident and staffing numbers will ensure that the site would not be overly intensified beyond the limits of the property if it remained a family home. In respect of future resents, the levels of outdoor space would be the same if a family occupied the house and the C3 use remained. There is no policy requirement for a C2 use to provide for outdoor space than for a C3 use. Members attention is drawn to an Inspectors findings that is set out in paragraph 9 of this report.

- 33 Officers are of the view that the scheme is compliant with Core Strategy Policy P10, saved UDP Policy GP5 and with the policy of the NPPF.

### Highways

- 34 Core Strategy Policy T2 requires that new development should be located in accessible locations that are adequately served by existing or programmed highways, by public transport and with safe and secure access for pedestrians, cyclists and people with impaired mobility. Whilst paragraph 115 of the NPPF directs LPA's not to withhold or refuse development on highways grounds unless there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 35 As part of this application a technical view was sought from Highways who have indicated that the site is within an accessible location with a bus stop adjacent to the site access (stop ID: 45024096) with a service of around 1 bus an hour to Keighley. There is also a bus stop around 180m from the site on Town Street (stop ID: 45012600) with a frequent service to Leeds Bus Station / White Rose Centre with around six buses in peak time. Highways also note that refuse vehicles do not currently access Chiltern Court and residents take their bins to the junction bell mouth. This is due to an LCC decision to stop refuse vehicles access due to conflicts with parked cars and this has resulted in the bin collection location.
- 36 In respect of parking facilities - the existing residential dwelling has five bedrooms, and the proposal would not change this. Staff shifts will be rotating with the morning shift from 07:30 until 20:00 and the night shift from 20:00 until 08:00 with two care staff on each shift with the addition of a site manager through the day shift. The adopted Transport SPD sets out that in response to C2 uses, parking provision is one space per three residents. Therefore, as the proposed use would not exceed the limit of three potential car users, namely the two staff and manager as the three resident young people would not have access to their own vehicles. However, the ratio of 3:1 also responds to the number of residents i.e., the resident capacity. Therefore, the parking provision of one space meets with the guidance within the adopted SPD and Highways have provided a view that No road safety concerns would arise from the proposed use. Members attention is also drawn to the likely scenarios that if No.16 was to remain in C3 use as a five bedroomed family home then unregulated use would be in place where two car ownership may occur perhaps more if children are of driving age. Moreover, visitations would still occur that attracted vehicular activity and the need to park for varying periods of time and on an *ad hoc* and unknown pattern (*e.g. family, deliveries, maintenance, medical etc*)

37 Therefore, Highways have concluded that the proposal is acceptable in highways terms. The scheme is compliant with Core Strategy Policy T2, saved UDP Policy GP5 and with the policy of the NPPF.

### CIL

38 The proposal is a change of use and is therefore exempt from CIL under the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013, and 2014)

### Other issues - Representations

40 The points raised in representation have in the main been covered within the above report. The remaining points are responded to below:

- Increase in anti-social behavior and crime.
  - There is no evidence provided to substantiate that the future residents would partake in or add to levels of anti-social behavior or crime and no weight can be attributed to this assertion.
- The development does not include Electric Vehicle Charging points or disabled parking.
  - The scale of the development and limitations of the end use have not attracted the need to provide for a disabled parking space. Whilst Highways have not requested the provision of an Electric Vehicle Charging Point Core Strategy EN8 sets out that new development which include provision of parking spaces will be required to meet the minimum standard of provision of electric vehicle charging points. This requires that residential uses should provide one 1 charging point per parking space. A condition is recommended to secure this provision.
- The use has the characteristic of a House in Multiple Occupation (HMO) and fails the tests of adopted Core Strategy policy H6.
  - Whilst the shared communal areas and bathroom can be mirrored in a HMO situation, the proposed use is fundamentally different and Policy H6 is not relevant. The Town and Country (Use Class Order) 1987 (as amended) sets HMOs within their own Use Class of C4 and had the Government and whilst some characteristics can be aligned between C2 and C4 there are within different use classes and are specifically set out as so within the use class order.

- Inaccurate details on the application form.
  - The submitted plans and statements regarding the building and its proposed operational use have been precise enough in planning terms to assess the application before Members and for Officers to arrive at the recommendation presented.
- No Certificate B has been issued.
  - This matter was raised with the Applicant and notice was served on the relevant resident through the submission of Certificate B.
- No neighbour notification letters were issued nor was a site notice placed.
  - No neighbour notifications were issued but a site notice was placed near the turning head of Chiltern Court on the 5 July 2024. This was done in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) 2015 which sets out that an application for planning permission must be publicised by the local planning authority to which the application is made in the manner prescribed by this article. In paragraph 2 of Article 15 it sets out that an application must be publicised by a site display in at least one place on or near the land to which the application relates for not less than 21 days.
- The property has restrictive covenants.
  - This is not material to the determination of the planning merits of this application.
- There has been no community engagement.
  - The LPA has no powers to request that the Applicant shall engage with residents or the wider community.
- Potential increase in bins exacerbating the existing issues of on-street storage on collection days.
  - There is no indication that the existing level of bins would be increased. The use would remain a residential function albeit with an element of support and care. The occupancy levels and operational use do not suggest to Officers that the levels of waste or bin numbers would be more than would be expected if the property remain in C3 use. Therefore, it is not considered that there would be any exacerbation on the bin storage methods that residents on Chiltern Court employ on collection days, namely taking their bins to a collection point as refuse vehicles no longer enter the cul-de-sac.

- Drainage implications.
  - There are no concerns that the occupancy level or operational use of the building would place any greater pressure on the drainage capacity of the building or wider drainage infrastructure.
- Safeguarding and welfare.
  - The above matters would be dealt with through separate regulatory frameworks that would deal with these issues outside of planning legislation. Therefore, this is not considered to be material to the determination of this application.

### Inclusivity

- 41 Local Planning Policy seeks to ensure developments proposals are accessible to all. This proposal is predominantly for a change of use with no external changes. It is noted that there are steps to the main entrance doors, however the providers will need to comply with any disability requirements as laid down by Ofsted and depending on the individual needs of the occupants

### **CONCLUSION**

- 42 The proposal is considered to comply with both national and adopted local planning policy in terms of establishing sustainable development. The application site would operate within a use that would attract occupation and levels of noise and disturbance from comings and goings, akin to those that could reasonably and likely occur if a family resided at this five bedroomed property.
- 43 The size of the building and its grounds provides suitable accommodation for three residents and the on-site staff and Highways have concluded that the parking provision is in accordance with the Councils adopted guidance. Moreover, the site is considered to fall within a sustainable location.
- 44 It is therefore recommended that this application is approved, subject to the suggested conditions set out at the head of this report.

### **Background Papers**

Application Files: 24/03369/FU



24/03369/FU

RODLEY

# SOUTH AND WEST PLANS PANEL







# PLANS PANEL PRESENTATION

SCALE 1:2500







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# PLANS PANEL PRESENTATION

SCALE 1:2500



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Originator: Laurence Hill

## Report of the Chief Planning Officer

### SOUTH AND WEST PLANS PANEL

Date: 3<sup>rd</sup> October 2024

**Subject: 23/07393/FU - Conversion of Newall Church Hall to form 2 dwellings and residential development of land to the rear for 4 dwellings with associated greenspace, landscaping and infrastructure. Newall Church Hall, Newall Carr Road, Otley, LS21 2AF**

#### APPLICANT

B Houldworth & Sons Ltd

#### DATE VALID

07.12.2023

#### TARGET DATE

01.02.2024

#### Electoral Wards Affected:

Otley and Yeadon

Yes

Ward Members consulted

(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

#### RECOMMENDATION:

**Defer and delegate approval, subject to the following conditions, to enable completion of the advertisement period of the application as a departure from the Development Plan:**

#### Conditions

1. Time limit on outline permission
2. Development to accord with approved plans
3. External materials to be approved
4. Surfacing materials to be approved
5. Boundary treatments to be approved
6. Permitted development rights for extensions and alterations removed
6. Construction Method Statement to be approved
7. Highway lighting scheme to be submitted
8. Visibility splays provided
7. Vehicle areas to be laid out
8. Off site highway works to be carried out
8. Bin storage to be provided

9. Electric vehicle charging points to be provided
10. Landscape scheme to be approved
11. Landscape scheme to be carried out
12. Preservation of existing trees and hedges
13. Protection of existing trees and hedges
14. Biodiversity net gain plan to be submitted
15. Imported soil tests to be approved
16. Phase 1 and 2 contamination reports to be submitted
16. Unexpected contamination to be reported
17. Drainage details to be submitted
18. Conversion of Newall Church Hall to be completed prior to first occupation of new build dwellings

## **INTRODUCTION**

1. This application is brought to Plans Panel in accordance with the scheme of delegation. The development involves the development of an area protected natural greenspace as allocated in the Site Allocations Plan, as a result the development is contrary to the Development Plan.

## **PROPOSAL:**

2. The application is for the conversion of Newall Church Hall to form 2 dwellings and residential development of land to the rear for 4 dwellings with associated greenspace, landscaping and infrastructure.
3. The proposed residential development comprises a mix of 2, 3 and 4 bedroom dwellings in the following mix.
  - 2 x 2 bed dwellings within the existing Church Hall;
  - 2 x 3 bed detached dwellings); and,
  - 2 x 4 bed semi-detached dwellings
4. The conversion of the Church Hall proposes limited alterations to the building largely limited to the insertion of a first floor to create bedroom accommodation together with the addition of a number of conservation roof lights on both the north and south roof planes. Garden space is provided to both dwellings to the south and east of the building. Four parking spaces are provided beyond the garden space.
5. The two detached dwellings are located within the centre of the site with the front elevations facing north and the rear elevation south with views over the adjacent park and across to Otley Chevin. The dwellings are designed with front and rear gables with ridge lines that run north/south and east/west. The dwellings are to be constructed from stone and natural slate. Fenestration detailing includes a projecting bay window to the side and heads and sills to all windows.
6. The two semi-detached properties are located in the eastern portion of the site with the front elevation facing west over the development site. The design includes gable elements with a roof ridge running east/west linked with a large roof with a ridge running north/south. A secondary gable is located on the southern elevation affording views over the adjacent park. The dwellings are to be constructed from stone and natural slate. Fenestration detailing includes heads and sills to all windows.
7. The layout of the development includes two parking spaces for all properties with an additional visitor space. Cycle storage are provided for the properties without garages. EV charging points are provided for all properties. All existing stone boundary walls are

to be retained with mixed native hedging located on all public fronting boundaries. Fencing is limited to boundaries between the rear boundaries of the 4 new build dwellings.

## **SITE AND SURROUNDINGS**

8. The application site is located off Newall Carr Road in Otley, immediately north of Newall Carr Road children's park and greenspace . The land lies immediately east of Newall Carr Road and comprises the existing Newall Hall building, with pedestrian access off Newall Carr Road.
9. Newall Hall is a single storey stone building with a a large roof pitch. The building was constructed as a Sunday school in circa 1927 and subsequently as a church hall. The quality of the building and local significance is sufficient to be considered a non-designated heritage asset.
10. The area to the rear of the Church Hall is designated within the Site Allocations Plan as an area of natural green space (G771). The adjacent park (G772) is designated as an area of protected green space.
11. A stone wall forms the western boundary to the footpath on Newall Carr Road. Boundary treatment on the eastern and southern boundaries comprises a mix of trees and low boundary stone walling. The rear boundaries of existing semi-detached properties on The Crescent form the northern boundary. The boundary treatment mainly comprises close boarded fencing.
12. The site is located in a predominantly residential area that has a mixed architectural and spatial character, comprising semi detached two storey properties to the north on Newall Carr Road and The Crescent, and a mixture of detached two storey and detached dormer bungalows to the north west off Croft House Drive. Prince Henrys Grammar School lies to the immediate south of the local greenspace and park off Newall Carr Road. The school playing fields lie to the immediate east of the Site and the main school buildings to the south east of the Site.
13. The Site is north of the River Wharfe and within walking distance to Otley town centre which contains a range of local services and shops. Wharfedale Hospital lies a short distance away to the north west of the Site.

## **RELEVANT PLANNING HISTORY:**

### Newall Church Hall:

PREAPP/17/00718 - 10 semi-detached houses including access and parking – Advice given.

PREAPP/18/00512 - Demolish existing church hall and construction of 10 dwellings – Advice given

23/00202/FU - Demolition of Newall Church Hall and development of 8 semi-detached dwellings with associated greenspace and landscaping – Withdrawn

PREAPP/23/00216 - Conversion of Newall Hall to form two apartments and the development of four dwellings – Advice given

Land at Ash Grove:

21/10180/OT - Outline application for residential development of two dwellings – Refused and dismissed at appeal

**HISTORY OF NEGOTIATIONS**

14. As illustrated in the planning history for the site there has been a number of proposals for the development of this site since 2017. Initial responses advised that the redevelopment of the site would unlikely be supported given the loss of designated greenspace and the harm that would result from the demolition of Newall Church Hall which is considered to be a non-designated heritage asset.
15. A planning application was submitted in 2023 for the development of the site including the demolition of the Church Hall. Officers advised that the demolition of the Church Hall would not be supported though further discussion for the redevelopment of the site which included the retention of the Church Hall could be discussed through a pre-application in light of the recent appeal decision at the Land at Ash Grove site. The application was withdrawn and a further pre-application enquiry submitted.
16. Following consideration of the plans submitted in support of the pre-application and after discussions with Ward Members a full response was provided to the applicant. This concluded that:

*“It is the position of the Local Planning Authority that the site remains a protected area of natural greenspace within the SAP and any development that results in its loss will be contrary to the policies within the Development Plan.*

*The recent Ash Grove appeal decision is a material consideration in assessing applications which relate to the and appeal site though its reasonable for the Council to afford less weight to the decision on other greenspace sites.*

*Any future planning applications for the development of this site will be considered against all material planning considerations including the recent appeal decision. Officers will have to conclude whether on their own or together the material considerations are sufficient (or not) in their opinion to outweigh any conflict with G6.*

*The overall conclusion needs to weigh up the merits of the whole development and other material considerations not related to greenspace are still sufficient to outweigh the loss of this area of protected natural greenspace.*

*With regards to the planning balance the loss of the protected natural greenspace within the Otley and Yeadon ward, where there is an identified deficiency, weighs significantly against the development. The surplus created by the inclusion of Otley Plantation is given only minimal weight as this area is located outside both the Ward and, significantly, the Leeds administrative area.*

*It is however noted that there are some qualitative elements to the scheme that weigh in favour of the development. Firstly, any development that retains the Church Hall and in which it is sensitively converted would weigh in favour of development. Secondly, It is also accepted that the Otley Neighbourhood Plan did not designate this area as*

*greenspace as it was considered that it did not meet landscape, recreation and accessibility criteria for doing so*

*Overall, in the event of a further planning application being submitted for the development of this site it reasonable to advise that, given the above and the considerable local concern for the loss of this area of natural greenspace, it is unlikely that this will be supported by Leeds City Council.*

*If an application is pursued it as advised that emphasis should be given to developing an exceptionally high-quality scheme that clearly would outweigh this presumption against development resulting in the loss of the greenspace.”*

17. As part of negotiations of the current application, the layout of the development and the design of the detached properties have been amended. The detached properties have been redesigned to reflect the design and form the semi-detached properties given the form and design of these properties are considered appropriate for this site. The design of these properties as submitted was considered incoherent, with a contemporary additions with no apparent design justification. The orientation and position of these properties have been relocated in order to create a stronger street scene and to afford these properties views over the adjacent park and beyond this Otley Chevin.
18. The two, four-bay car ports were omitted from the scheme as these were considered unnecessary and harmful to the appearance of the development. Attached garages have been provided on the two detached properties.
19. The landscaping has been amended to better define and provided improved areas of garden spaces to all properties. Hedge boundary treatment has been included to provide additional screening to the existing stone walls without the need for close boarded fencing throughout the site.

**PUBLIC/LOCAL RESPONSE:**

20. Otley Town Council: Objection: Given the location, the vehicular entrance is potentially dangerous; it will require a Traffic Regulation Order to move the vehicles already parked there resulting in a net loss of on street parking; the house design is poor and uninspired; the dwellings will be built on the site of Newall Old Hall and before a decision is taken the Town Council ask that a full archaeological exploration of the whole site be carried out; the Neighbourhood Plan lists Newall Church Hall as a Community facility which should be protected: in the Leeds Local Plan the space at the back is protected green space.
21. Ward Councillors: While the retention and reuse of the existing Church Hall is to be welcomed we (Cllr Ryk Downes and Cllr Sandy Lay) have reservations regarding the wider development.

These concerns include (in no particular order), There is little reference to Newall Old Hall which was on this site (The Otley Museum has in their collection a number of photographs showing the original building) along with associated structures and topographical features. The application mentions these but given the importance of the building within the Newall area we feel there should be a full archaeological exploration of the site.

Landscaping around the proposed new build is poor and that in the wider area seems to include land outside the developers control. There seems to be little or no biodiversity

net gain proposed, the original site was covered in naturalised grass and shrubs but this was removed by the developer.

The area to the rear of the hall is designated as green space in the Leeds SAP. It is recognised by the City Council that within the Leeds Council ward which includes Otley there is a shortage of green space. The Councillors do not accept the premise that an area of green belt in an adjacent authority and some distance from this site can be used as mitigation against the loss of local green space.

The house styles and layout are uninspired.

There are a number of highways concerns regarding the entrance to the site. Traffic traveling north have limited visibility an issue which should be addressed. To create appropriate sight lines at the entrance a number of parked vehicles (neighbours and visitors to the hospital/school will have to be displaced by a traffic regulation order. These will leak onto neighbouring residential estates. Any development should address this.

For the above reasons we cannot support this development.

22. Ward Councillors: Notwithstanding the new plans the ward Councillors still regard the construction of houses in local plan green space to be contrary to Council policy and should be resisted.

We also have concerns as to the accuracy of the Archaeological report. In particular where it refers to Newall Old Hall. It fails to mention the 1840 map which clearly shows the hall in this location but does not show some of the roadside buildings described in the 1849 map. It also fails to evidence the photographic record which clearly shows the hall. Given this is the documented site of a medieval tower house the proposed archaeological works are inadequate and the development, if allowed will destroy the site.

23. Fifteen letters of representation have been received on the originally submitted and subsequently amended scheme raising the following concerns:

- The development will be detrimental to highway safety with insufficient sight lines and impact on other nearby road junctions.
- The development will impact on pedestrian safety close to the site
- The development will displace existing on street parking on Newall Carr Road to surrounding streets.
- The development will potentially impact on drainage and flooding locally.
- The loss of the use of the community building will impact the community and should be retained for community use.
- There will be issues of noise and nuisance from vehicular movements associated with the development.
- The development will result in overlooking of properties on The Crescent.
- The development will impact on the outlook from properties on The Crescent.
- The removal of trees will be harmful to biodiversity.
- Mature trees should be retained on the site.
- Additional houses will result in further strain on schools and health services.
- The siting of the refuse store is too close to neighbouring properties.
- The use of materials on the dwellings does not reflect the surrounding properties.
- The development will result in the loss of green space.
- Consideration should be given to the archaeological significance of the site.



- The development does not provide any affordable housing.

24. One letter of support has been received as the development will provide good quality family housing in a small housing development.

#### **CONSULTATION RESPONSES:**

25. Historic England: No comment – the application does not meet the relevant statutory provision requiring comment from Historic England

26. Environmental Studies – Transport Strategy: No objection. Environmental Studies have been consulted on this application due to its proximity to the road network. On examination of Defra's strategic noise maps and the layout and orientation of the proposed dwellings, noise from road traffic is unlikely to be of a level that would require specific measures over and above standard building elements. Therefore, in this case we do not require an acoustic assessment to be submitted.

27. West Yorkshire Archaeology Advisory Service: It is recommended that an archaeological evaluation comprising trial trenches is undertaken to assess the site's archaeological potential, in particular the nature of feature D (Geophysical Survey figure 6 shows its location). To identify if the feature was a building, and, if possible, to determine its date and function. Ideally this evaluation should take place prior to the determination of the application to allow an appropriate archaeological response to be developed should significant remains be present. The programme of archaeological works should be secured by placing an appropriate condition on any grant of planning consent awarded by LCC.

28. Highway Services: No objections. Highway Services have commented on the scheme and have raised no objections to the development of the site for 6 dwellings subject to conditions covering off site highway works, visibility spaces, lighting scheme, construction management, bin and waste storage provision, laying out of hard surfaced areas and provision of electric vehicle charging point.

29. Flood Risk Management: The application site is located within Flood Zone 1 and there have been no records of any recent flooding within the property or adjacent areas. An initial review has also identified that there are no known flood risks which require specific mitigation and would impact on the proposed development.

The drainage proposals shown in AMA Flood Risk Summary and Drainage Strategy dated November 2023 are satisfactory to FRM. Surface water discharge from the development is restricted to 3 l/s for storm events upto the 1 in 100 year return period with climate change allowance. Consent to connect to the culverted watercourse is to be sought from LCC. A construction phase drainage plan is required to ensure the adjacent area is protected from flooding and pollution while site is being built.

30. Contaminated Land: Based on the available information, a minimum of a Phase 1 Desk Study report is required. Depending on the outcome of the Phase 1 Desk Study, a Phase 2 (Site Investigation) Report and Remediation Statement may also be required.

It would be preferable to receive the requested information prior to recommending conditions, however should the planning officer be minded to grant permission or have insufficient time to obtain the requested information please use the relevant Conditions and Directions which will allow for appropriate documentation to be submitted

31. Sport England: Concerns raised regarding the potential conflict between the residential development and adjacent park. Consideration should be given to the a ball strike risk assessment to be carried out.

## **PLANNING POLICIES:**

### Development Plan

#### The Development Plan

32. Section 38(6) of the Planning and Compulsory Purchase Act states that for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan, unless material considerations indicate otherwise. The development plan currently comprises the adopted Local Development Framework Core Strategy (as amended 2019), those policies saved from the Leeds Unitary Development Plan Review (2006), the Aire Valley Leeds Area Action Plan (2017), the Natural Resources and Waste Local Plan (as amended 2015), the Site Allocations Plan (as amended 2024) and any made Neighbourhood plan.

33. The following Core Strategy policies are considered most relevant:

- Spatial Policy 1: location of development.
- Policy H2: New housing on unallocated sites.
- Policy H4: Housing Mix
- Policy H9: Minimum Space Standards
- Policy H10: Accessible Housing Standards
- P10: Design.
- P11 - Conservation
- P12: Landscape
- T2: Accessibility and highway safety.
- Policy G1: Greenspace
- Policy G6: Protected greenspace
- Policy G9 - biodiversity improvements
- Policy P9: Community facilities
- EN2 – Sustainable design and construction.

34. The following saved policies within the UDP are considered most relevant to the Determination of this application:

- GP5 - Development proposals should resolve detailed planning considerations.
- BD5 – New development and protection of amenity.
- LD1 – Protection of vegetation.

35. The following policies from the **Natural Resources and Waste Local DPD** are relevant to this development proposal:

Policy Land 1: Contamination  
Policy Land 2: Development and trees  
Policy Water 1: Water efficiency

36. The following Supplementary Planning Policy documents are relevant:

- Neighbourhoods for Living.
- Street Design Guide.
- Building for Tomorrow Today: Sustainable Design and Construction.

#### Neighbourhood Plan

37. Otley Neighbourhood Plan

Policy H1: Housing development on non-allocated sites  
Policy GE2: Local Green Infrastructure  
Policy GE5: Protection and Improvement of Biodiversity  
Policy GE8: Development and Replacement Trees  
Policy BE8: Protection and enhancement of non-designated heritage assets  
Policy CF1: Protection and Enhancement of Community Facilities

#### National Planning Policy and Guidance

##### National Planning Policy Framework

38. The National Planning Policy Framework (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.

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004). The National Planning Policy Framework is an important material consideration in planning decisions.

##### National Planning Practice Guidance

39. The Planning Practice Guidance (PPG) provides commentary on the application of policies within the NPPF. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects.

#### **CLIMATE EMERGENCY:**

40. The Council declared a climate emergency on the 27<sup>th</sup> March 2019 in response to the UN's report on Climate Change.

The Planning Act 2008, alongside the Climate Change Act 2008, sets out that climate mitigation and adaptation are central principles of plan-making. The NPPF makes clear that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions in line with the objectives of the Climate Change Act 2008.

As part of the Council's Best City Ambition, the Council seeks to deliver a low-carbon and affordable transport network, as well as protecting nature and enhancing habitats for wildlife. The Council's Development Plan includes a number of planning policies which seek to meet this aim, as does the NPPF. These are material planning considerations in determining planning applications.

#### **PUBLIC SECTOR EQUALITY DUTY:**

41. The Equality Act 2010 requires local authorities to comply with the Public Sector Equality Duty. Taking into account all known factors and considerations, the requirement to consider, and have due regard to, the needs of diverse groups to eliminate discrimination, advance equality of opportunity and access, and foster good relations between different groups in the community has been fully taken into account in the consideration of the planning application to date and at the time of making the recommendation in this report.

In this instance it is considered that the proposals do not raise any specific implications in these respects and therefore it is not considered that a full Equality, Diversity, Cohesion and Integration Impact Assessment (EDCI) is required.

#### **MAIN ISSUES**

1. Principle of development
2. Design and character
3. Residential Amenity
4. Highway Safety and Parking
5. Other material planning issues
6. Local representation
7. Conclusions

#### **APPRAISAL**

##### Principle of development

42. With regards to the principle of whether the addition of six properties on this site is acceptable Policy H2 is the relevant policy. This states that:

*"New housing development will be acceptable in principle on non-allocated land, providing that:*

- (i) *The number of dwellings does not exceed the capacity of transport, educational and health infrastructure, as existing or provided as a condition of development,*
- (ii) *For developments of 5 or more dwellings the location should accord with the Accessibility Standards in Table 2 of Appendix 3"*

43. As the site located within a predominantly residential area with good access to public transport and local services the location of the site is considered to be appropriately sustainable therefore meeting the requirements of the first part of Policy H2.

44. However, Policy H2 also states that:

*“Greenfield land:*

- a) Should not be developed if it has intrinsic value as amenity space or for recreation or for nature conservation, or makes a valuable contribution to the visual, historic and/or spatial character of an area,*
- b) or b) May be developed if it concerns a piece of designated green space found to be surplus to requirements by the Open Space, Sport and Recreation Assessment.*

45. The application site is predominantly greenfield and therefore it is essential to assess whether the site is of in light of this, it is essential to assess whether the intrinsic or spatial value of the site is of a quality that requires preserving and whether, as designated greenspace the site is deemed surplus to requirements.

46. As the proposed development is on land that is designated as Green Space in the Development Plan. Site Allocations Plan, 2019 (typology “natural”). Designated greenspace the site is protected by policy G6 of the Core Strategy (As amended 2019). Policy G6 of the Core Strategy States:

*“Green space (including open space and pedestrian corridors in the City Centre) will be protected from development unless one of the following criteria is met:*

- i. There is an adequate supply of accessible green space/open space within the analysis area and the development site offers no potential for use as an alternative deficient open space type, as illustrated in the Leeds Open Space, Sport and Recreation Assessment; or*
- ii. The green space/open space is replaced by an area of at least equal size, accessibility and quality in the same locality; or*
- iii. Where supported by evidence and in the delivery of wider planning benefits, redevelopment proposals demonstrate a clear relationship to improvements of existing green space quality in the same locality “*

47. In assessing the development against the criteria of Policy G6 a recent appeal decision for residential development on as designated area of natural greenspace in Otley is material to the consideration of this application. A proposal for two houses on a designated area of natural greenspace at Land at Ash Grove was refused planning permission and subsequently appealed by the applicant. While this appeal was dismissed by the Inspector, comments and justification made by the Inspector had implications for the potential future development of areas of natural greenspace within Otley. The Local Planning Authority and local Ward Members had concerns regarding this decision, particularly with regards the potentially implications for justifying the development of other areas of natural greenspace within the Otley and Yeadon Ward. As such, legal advice and discussion with senior officers took place to establish Council’s position to ensure a clear and consistent approach for future proposals for the redevelopment of natural green space sites.

48. With reference to G6(i) the Analysis Area in assessing Surplus and Deficiencies for Green Space in this case is the Otley and Yeadon Ward. When assessed against this measure Green Space is in deficiency within the Analysis Area and therefore the proposal to develop the site is contrary to Policy G6 .

49. In considering the Land at Ash Grove appeal the Inspector agreed with this position stating that:

*, '....the greenspace policies of the SAP and CS were formulated by LCC based on evidence from their own local authority area at the time. This is clear from the Site Allocations Plan Green Space Background Paper 2017 (GBP) which informed the SAP. The analysis area for considering proposals against the policy should therefore be taken to be land within the LCC administrative area, and more specifically the ward area, which in this case is that of Otley and Yeadon. This means that, notwithstanding the allocations contained within the ONP, there remains a deficit of natural greenspace in the analysis area. Accordingly, the proposal fails to accord with Policy G6 of the CS.'*

50. The Otley Neighbourhood Plan (ONP) (made in November 2021) further identifies 'Local Greenspace' designations.

51. The ONP does not identify the application site as a 'local green space', the reasons why this is the case will be considered, however it is important to note this does not remove the Local Plan designation under Policy G1 of the SAP which continues to carry full weight. The two policies are mutually compatible and 'Local Green spaces' are additional too, not replacements of, designated land. In other words, by virtue of the ONP not considering this site as a 'local greenspace' this does not supersede the SAP designation.

52. It is necessary to consider the latest position and include 'local greenspace' designations when assessing surpluses and deficiencies. However, the position on considering the additions of ONP 'local greenspaces' into surpluses and deficiencies is complicated by the position that the ONP extends into a small area of Harrogate, outside of Leeds district. The land outside the Leeds District Boundary contains an area of Natural Green Space known "Otley Plantation" which is identified in the ONP as 'local greenspace'. If "Otley Plantation" is added to the Analysis Area, then there becomes a surplus when measured against G6 (i). Without "Otley Plantation" there is still a deficit.

53. It should be noted that the Green Area (Otley Plantation) lies beyond some housing that is also in the ONP but outside the Leeds Area and not in the Leeds administrative area. The LPA do not calculate land supply for other uses outside of the Leeds District boundary.

54. However, in considering the Appeal (App/N4720/W/22/330444) for the Land at Ash Grove site, the Inspector's reasoned that:

*'... the fact that the ONP allocates natural greenspace within its plan area is a consideration that requires weighing against the conflict with the development plan that I have identified. In particular, it is pertinent that Otley Town Council determined that a larger area than the parish, encompassing areas of land within HBC, should be defined as the Neighbourhood Area for the ONP. This was on the grounds that these areas are clearly part of the urban expansion of Otley and their inclusion provided a more sensible boundary for planning purposes. Having consciously identified such a boundary and included Otley Plantation within it as greenspace of an appropriate quality, it would be remiss to choose to disregard that site in making an assessment of the greenspace provision in Otley'*

55. As stated earlier it is accepted that the Inspector placed material weight on a) the ONP site (Otley Plantation) being included and b) the site (Otley Plantation) being included in the calculation. However, the Council maintains that the weight that is given should be limited as the site is outside the district as identified above.

56. The advice is that the Land at Ash Grove appeal decision is a material consideration in assessing applications which relate to the appeal site and its reasonable for the Council to afford less weight to the decision on other greenspace sites such as the site subject to the application. The appeal decision needs to be weighed up along with other material planning considerations.
57. As such, it is essential that the proposal for the development of this site is considered against all material planning considerations including the recent appeal decision. In reaching a decision it will need to be concluded whether on their own or together the material considerations are sufficient (or not) to outweigh any conflict with G6. The overall conclusion needs to weigh up the merits of the whole development and other material considerations not related to greenspace are still sufficient to outweigh the loss of this area of protected natural greenspace.
58. Given the above, when assessing the development against G6, it is clear that the Site Allocations Plan protects the site from development unless a specific list of requirements that justify its loss of met. In this case, as there is a deficit of greenspace in the Otley and Yeadon Ward and the development does not fully meet any of the three policy criteria which would enable the setting aside the protection the policy provides the development is contrary to Policy G6. This weighs significantly against the development.
59. With regards to the Otley Neighbourhood Plan, this document allocates areas of local greenspace taking a different approach to the evidence boundary. This takes defines a Neighbourhood Area for the purposes of the Plan and, in doing so, includes an area within Harrogate Borough Council. As discussed, this results in Otley Plantation being included within the Neighbourhood Area results in a surplus of natural greenspace. When assessing the quantitative provision of natural greenspace within Otley and Yeadon the allocation of Otley Plantation needs to be given weight in reaching a decision as a material consideration.
60. As well as a quantitative analysis, a quantitative approach it is also important to assess the specific benefits of the area of natural greenspace. The Inspector for the Land at Ash Grove appeal advised that:
- “the site was considered for allocation as local greenspace in the ONP but the surveyor recommendation was not to proceed to allocation. Within this recommendation was an assessment that the site has no local or community value, no landscape value, no recreational value and no known historical value. It is also relatively small in size and situated to the end of two private roads, with no public access rights across it and few views of it from the public domain. As a result of these factors, it makes only a limited contribution to greenspace provision in Otley.”*
61. In assessing the qualitative benefits of the application site a similar conclusion can be reached. The site was also considered for allocation as local greenspace in the Otley Neighbourhood plan but the surveyor recommendation was also not to proceed to allocation.

<b>Newall Parish Church Hall Field</b>	
Location	As green space G771 Newall Carr Road.
Size	0.34 ha
Adjacent to existing properties?	Yes - Church Hall and adjacent houses on Newall Carr Road and houses on The Crescent to the north of site.
Local or community value	No evident practical value, other than as a wild amenity area to look out on
Landscape value	No in sense that not easily visible from the road and neglected appearance in being heavily overgrown.
Historical value	None known
Recreational value	Little evident though appears used as a shortcut by schoolchildren to housing on Newall estate
Wildlife or green infrastructure value	Local only - some natural regeneration provides some habitat value being bordered by managed grassland in PHGS playing field to east and Newall green play space to south. Within Local Green Infrastructure.

Summary Assessment/Basis of Recommendation	Site has some limited wildlife/infrastructure value but does not meet any other criteria.
Recommendation	<b>Not designate as Local Green Space</b>

62. The above table summarises the surveyor's assessment of the area of greenspace and reaching the conclusion that its quality and accessibility was such that it did not meet enough of the criteria to warrant being designated as Local Green Space. Weight needs to be given the qualitative value of the site in reaching a decision.

63. In assessing the loss of the greenspace against the Core Strategy and Otley Neighbourhood Plan there is a degree of tension, though not direct conflict, between the greenspace policies of the two documents. The development is contrary to Policy G6 of the Core Strategy given the deficit of greenspace in the Otley and Yeadon Ward. The Otley Neighbourhood Plan approach to designating Local Greenspace results in a small surplus of greenspace. More significantly though, the ONP assessed the site and did not proceed to designation given the lack of community, recreational and landscape value and only limited wildlife value the site offered.

64. To summarise, any consideration of the development of this site and needs to weigh up the following issues in reaching a decision on the application:

- Compliance or otherwise with Core Strategy policy G6 which carries full weight
- The Otley Neighbourhood Plan (ONP) insofar as it relates to the Leeds Boundary will carry full weight
- Other material consideration including but not limited to:
  - o ONP insofar as it falls within Harrogate district.
  - o Appeal decision
  - o Design and heritage
  - o Highway Safety issues
  - o Any other material planning issues

65. The report will go on to consider all other material planning issues relevant to the proposal before weighing up all the issues as part of the planning balance in order to reach a recommendation.

### Design and character

66. In considering the appropriateness of the design and scale of proposed dwelling it is important to consider the design of the development in isolation together with how it will



sit within its immediate and wider site context including the impact on the appearance and setting of Newall Church Hall which is considered to be a non-designated heritage asset.

67. Looking at each element of the development in isolation it is considered that the works proposed for the conversion of the Church Hall together with the design and detailing are of appropriate quality responding positively to the traditional materials and vernacular of Otley.
68. The conversion of the Church Hall only involves minimal alteration to the external envelope of the building with the alternations largely limited to the insertion of conservation roof lights to the north and south roof planes to provide windows to the new first floor accommodation to be located within the roof space. A new floor is to be inserted splitting the existing double height space with this cutting across the ground floor windows. The glazing of the windows is to altered to provide screening to the new floor. This work is considered sympathetic to the building as the internal space does not have any specific special character such that the subdivisions together with the modest external alterations will ensure that the historic character and external fabric of the building is preserved.
69. The two detached properties (1 and 2) within the centre of the site are well designed dwellings with traditional pitch roofs, gables, projecting bay windows, stone walls, slate roof and stone heads and sills ensuring good quality dwellings which pick up on the traditional vernacular of Otley.
70. The same applies to the two semi-detached properties (3 and 4) located in the eastern portion of the site. These area also well designed dwellings with traditional pitch roofs, gables, stone walls, slate roof and stone heads and sills appropriate for this setting.
71. The layout of the development is well considered. Vehicular access is located to the north of the site allowing the retention of the Church Hall. The access requires only alterations to the part of the site fronting Newall Carr Road such that the majority of the historic stone wall is retained ensuring the historic setting of the Church Hall when viewed from the highway is preserved.
72. Garden space and parking area is located to the rear/east of the Church Hall providing important separation between the retained building and new dwellings on the site. The detached properties (1 and 2) are designed and sited to ensure an attracting an active frontage onto the new access road into the site.
73. The semi-detached properties (3 and 4) provide an attractive terminus to the site with the attractive and well-detailed front elevations being prominent when accessing the site. The design and siting of properties 1 to 4, all fronting the new road, will ensure that a well-designed street scape will be created by the development.
74. Consideration has also been given to how the development will be viewed from the public park to the south. The rear elevations of the detached properties (1 and 2) have been designed such they have a comparable design quality and primacy as the elevations fronting the new access road. The semi-detached property closest to the park (property 3) has been designed with an active side elevation with a projecting gable facing the park ensuring that this property also make a positive contribution to views from the park. In addition the, low stone wall forming the boundary between the site and the park is to be retained with a native hedge being planting to provide additional screening between the two sites. It is considered that the design approach

taking will result development that will enhance the setting of the Church Hall and the wider appearance of the site when viewed from the public park.

75. The layout and landscaping of the site proposes the retention of all stone walls and the planting of native hedges. The use of fencing is limited with its only use in gardens where there they will not be seen from public vantage points.
76. In summary, it is considered that the proposed development constitutes a good quality and well-designed small-scale residential development which enhances the appearance of the site, preserves the character and setting of Newall Church Hall and responds positively to its wider residential context. As such, the development is considered to be compliant with policy P10 and P11 of the Leeds Core Strategy, GP5, BD5 and P10 of the Saved Unitary Development Plan Review (2006) and Otley Neighbourhood Plan.

#### Residential amenity

77. It is important that the impact the development will have on the amenity of the occupants of nearby properties is fully considered. The properties that will be most directly impacted on by the development are those on The Crescent as these are located to the north of the development site there is the potential for the dwelling to overshadow habitable rooms and private outdoor amenity space and certain parts of the day.
78. However, the nearest dwelling facing the properties on The Crescent is located approximately 30 metres from the main rear elevations of the neighbouring properties, in excess of the 21 metres minimum as advised in the Neighbourhoods for Living SPG to ensure levels of privacy are maintained. This degree of separation is also sufficient to ensure that no issues of overshadowing, dominance or loss of outlook to the properties on The Crescent. It is noted that the development will change the view of form these properties, which is currently over a natural area of greenspace and public park to Otley Chevin beyond. However, given the degree of separation and the spaces between the proposed properties, while this view will change, views of the public park and Otley Chevin will be retained.
79. Property 4 to the east of the site is located relatively close to 15 The Crescent and therefore consideration needs to be given to the impact on this specific property. While property 4 will be located to the south of 15 The Crescent a distance of approximately 4 metres is retained to the shared boundary. This degree of separation will ensure that no harmful overshadowing or dominance will occur with any additional overshadowing largely falling on the roof or the existing outbuilding to the side of 15 The Crescent rather than on private garden space. Property 4 has no habitable room windows to the side to ensure no overlooking or loss of privacy to the occupants of 15 The Crescent will occur.
80. The development proposes an access road to be located to the north of Newall Church Hall adjacent to 31 Newall Carr Road. It is inevitable that introduction of a new access road will increase the noise from disturbance from vehicular movements. However as, the development is for 6 additional dwellings and landscape screening will be retained on the boundary, it is not anticipated that noise and nuisance will result from additional vehicular movements will result in harm to the amenity of the occupants of 31 Newall Carr Road.
81. With regards to the amenity offered to the future occupants of the proposed development, good quality private amenity space is provided to the side and rear of all properties and the level and quality of the internal accommodation together with the

attractive open outlook over the public park will ensure that the occupants will benefit from a good quality living environment.

82. Overall, it is considered that the proposed development responds sympathetically to the amenity of neighbouring residents ensuring that any impact will not result in significant harm to residential amenity locally. As such the proposed development is considered to comply with policy GP5 of the Saved Unitary Development Review (2006), P10 of Leeds Core Strategy, Otley Neighbourhood Plan and the guidance within the Neighbourhoods for Living SPG.

### Highway Safety and Parking

83. With regards to highway safety and parking, the proposed development provides two parking off street parking spaces per property which is considered sufficient off-street car parking for the development. Adequate space for vehicles to turn within the site to ensure they can exit the site in a forward gear is provided. As such, it is considered that the development will not contribute to additional on street parking pressures or wider highway safety issues.

84. A new private access to the north of the church is proposed at 4.8m width for the first 10m. Visibility of 2.0m x 45m is shown. The measured x-distance is acceptable in this case owing to the lightly trafficked use of the proposed access and the recorded average speeds on Newall Carr Road at 25mph. The proposed access is at raised point on the road and the visibility in the vertical curve to Newall Carr Road is not compromised.

85. The internal road is shown 4.0m wide, which is acceptable. An 8.7m long fire tender has been tracked and can get to within 45m of all front doors. A refuse collection point is shown within 25m of the highway.

86. A revised HSS has been submitted in support of the planning application (7th May 2024). It should be noted that the double yellow lines to protect the site access (as indicatively shown on plan AMA-20795-SK014) will be subject to TRO and should be secured by condition. In terms of trip generation, it is accepted that the proposed development would not result in a severe impact on the capacity and operation of the highway network during the peak hours.

87. An S278 agreement would be needed to create a new access. The existing pedestrian guard rails in front of the church should be removed (and returned to the depot).

88. In light of the above, it is considered that the development complies with policy GP5 of the Saved Unitary Development Plan Review (2006) and T2 of the Leeds Core Strategy.

### Other Material Planning Issues

#### Community Asset

89. Whilst the site is not designated for a specific land use and redevelopment would enable previously developed land to be reused and provide new housing (the existing use of the building as a Church Hall is a community use).

90. Policy P9 of the Core Strategy is an important consideration in protecting existing community uses *“Where proposals for development would result in the loss of an*

*existing facility or service, satisfactory alternative provision should be made elsewhere within the community if a sufficient level of need is identified”.*

91. Policy CF1 of the Otley Neighbourhood Plan provides further policy protection to community facilities, stating:

*“Development which would result in the loss of any of the following community facilities, as shown on The Neighbourhood Plan Map and detailed in Appendix 9, must provide alternative equivalent facilities that are equally accessible to existing users, wherever a sufficient level of continuing community need is identified..... vii. Social and entertainment... Where it can be demonstrated that operation of the existing facility is no longer viable, following the marketing of the facility for at least one year, loss of community facilities will be supported. Development which would improve or add to the facilities listed above will be supported.”*

92. The applicant has provided details of the how the vacant Church Hall has been marketed. The Site has been the subject of a marketing campaign since August 2021. The marketing information has indicates that there limited interest in re-using the existing building, with no appropriate offers received during the marketing period. The current state of the building is now in a condition that investment in the fabric of the building to bring the building back into a useable state. The marketing campaign has illustrates a lack of interest for the continued use of Newall Church Hall for community purposes and it is therefore considered the principle of the loss of Newall Hall for a community use. Given the Church Hall has remained vacant for since and that the property has been marketed for a period in excess of the requirement of Policy CF1 the change of use of the building to a non-community use can now be considered.

#### Non-designated heritage asset

93. Newall Church Hall has both architectural merit and local historical significance and it for these reason it is considered to be a non-designated heritage. The development involves the retention and sympathetic conversion of the Newall Church Hall. The retention of the building, conversion to two residential dwellings and incorporation into the wider development of the site is considered to be a meaningful benefit of the scheme. It is however recommended that the works are conversion of the building are condition to ensure that this is carried out and completed prior to the first occupation of the new build dwellings in order to ensure this benefit is secured.

94. It is however important to note that the conversion of the Church Hall is not enabling development in that the new build development is not required to enable or cross fund the works to the Church Hall. Residential conversion or other uses for the building could come forward independently from the development of area of natural green space and no evidence has been provided that residential development is required to make the reuse of the Church Hall viable.

#### Archaeology

95. Newall Church Hall and the wider site is located on the side of the former Newall Hall. The site therefore has the potential to contain archaeological remains or features that require identifying, recording and, if of historical significance, preserving. During discussion and comments on the application Ward Members have raised this as a significant issue. As a result, further discussion has taken place with the applicant and the West Yorkshire Archaeological Advisory Service (WYASS) to agree a scope of works required prior to the commencement of any development of the site.

96. Following this discussion that applicant has provided a 'Written Scheme of Investigation for Archaeological Evaluation (WSI)' which agrees the scope of works that is required to be carried out. This scheme has identified the possible archaeological features on the site and advise the location of 3 trenches required to carry out an appropriate investigation of the site.
97. The WYAAS have reviewed this document and have confirmed that the WSI is acceptable for evaluation and can be approved. Depending on the results of the evaluation further archaeological mitigation works may be required.
98. Consideration has also been given to whether the archaeological investigation should be carried out prior to the determination of the application. The WYAAS have advised that, while it is always preferable for works to be carried out prior to determination, as the potential for archaeological remains is low to moderate and the significance of any remains is as yet undetermined but again is likely to be low to moderate, the conditioning of the investigation to be carried out prior to the commencement of development is appropriate in this case.

#### Tree and Landscaping

99. There are a number of important mature trees on the boundaries of the site particularly on the boundary with the public park. These trees are a positive feature of both the setting of the site and wider street scene contributing significantly to the character of this the site and wider area. The development has been designed and layout amended to ensure that these trees are retained and that the layout does not require encroachment Root Protection Areas of these trees and sufficient distance is retained to the trees to ensure that there will be no future conflict between the dwellings and mature trees that may result in future pressure to thin or remove these trees.
100. The Church Hall is sited close to the boundary such that there mature trees located closer to the converted properties than is ideal. However, given windows to habitable rooms are located on both the north and south side of the building and garden space is located to the east and west as well as the south of the building it is considered that any conflict with the trees from overshadowing and leaf drop is not so significant as to warrant resisting the conversion of the building to residential use.
101. The development of the site requires 4 trees to be removed (T3, T7, T24 and T29). Trees T7, T24 and T29 are all low value category C trees. One tree to be removed falls within category B. These trees removed from the northern boundary of the site, primarily to facilitate the construction of the access drive. Two trees at the entrance to the site have fallen during stormy weather since the submission of the planning application. The Arboricultural Impact Assessment assessed these trees as U category and recommended these trees ,T1 (which is Dead) and T2, , are removed regardless of the development proposals. The landscape scheme proposes replacement trees at more than three to one ratio providing an appropriate number of replacement trees which also contribute to a good quality soft landscaping scheme across the site.

#### Biodiversity net gain

102. Policy G9 of the Core Strategy requires that there is an overall biodiversity net gain within development proposals proportionate to the scale of the development. ONP Policy GE2 requires development within or adjacent to Local Green Infrastructure to include measures to enhance or extend it. ONP Policy GE5 supports development within the Extended Leeds Habitat Network that demonstrate there will be an overall biodiversity net gain, including positive contribution to the network through habitat

protection, enhancement and creation; the enhancement of existing wildlife habitats and new areas and opportunities for wildlife via design; and no significant adverse impact on the integrity and connectivity of the network.

103. As the application was submitted prior to 12th February 2024 the development is exempt from specific Biodiversity Net Gain requirements. However, as previously discussed, the proposed landscaping scheme will provide new native tree, scrub and hedgerow planting which is identified will provide an enhancement and extension to the Extended Leeds Habitat Network along the southern, western and eastern boundaries. Overall, it is anticipated that tree losses to facilitate the development will be offset by the provision of 15 new native broadleaved trees, which complies with local policy regarding replacement tree provision.
104. In addition, further off-site landscaping is proposed, with the addition of 15 native broadleaved trees to the immediate south of the application site, which will increase tree provision in the neighbourhood area, offering further landscape and ecological enhancements. These benefits could be secured through a condition or legal agreement.
105. The BNG assessment results in a positive on-site gain therefore in compliance with Core Strategy Policy G9 and ONP Policy GE5.
106. In summary, it is considered that the landscape and biodiversity net gain proposals and ecological benefits comply with ONP Policies GE2, GE5 and GE8 and Core Strategy Policy G9.

#### Local representation

107. It is noted that a number of letters of representation have been received raising a number of concerns regarding the impact the development will have on local character, landscape and wildlife, residential amenity, archaeology, highway safety, parking, and pedestrian safety the loss of community facility and the wider impact additional residential development will have on the local community. These issues, together with all other material planning issues raised, have been fully considered in assessing the application with alterations to the design and scale being made to address these impacts.

#### **CONCLUSION**

108. In reaching a decision on the proposal it is essential to consider all the material planning issues weighing each up to reach a decision on the planning balance. In this case there are a number of key material issues that need to be given due weight in reaching that decision.
109. As previously listed in the report these key issues are as follows:
- Compliance or otherwise with Core Strategy policy G6 which carries full weight
  - The Otley Neighbourhood Plan (ONP) insofar as it relates to the Leeds Boundary will carry full weight
  - Other material consideration including but not limited to:
    - o ONP insofar as it falls within Harrogate district.
    - o Appeal decision
    - o Design and heritage
    - o Highway Safety issues
    - o Any other material planning issues

110. With regards to Policy G6 of the Core Strategy it is clear that the development fails to accord with this policy given that the development will result in the loss of a site designated as natural greenspace. As there is a deficit of this typology of greenspace in the Otley and Yeadon Ward the development does not meet any of the three criteria justifying the loss of the green space. This weighs significantly against the development.
111. The Otley Neighbourhood Plan designates areas of local green space within the plan area. It is notable that in the process of adopting the plan the application site was considered for designation. However, through a qualitative analysis of the site it was considered that site did not meet the range of criteria justifying its designation as local green space and therefore did not come forward as one of the areas of designated areas of local greenspace within the plan. As the site as not designated an area of local green space following this qualitative analysis this weighs in favour of allowing the site to be developed for residential development.
112. In assessing quantum of greenspace based on the Otley Neighbourhood Plan area this shows a surplus, rather than a deficit, of the natural greenspace. The Neighbourhood Plan area includes areas which form the logical boundary to Otley for the purposes of the ONP but fall outside of the Leeds City Council administrative area. The 'Otley Plantation' to the north east of Otley has been designated local greenspace within the ONP and when this is taking into consideration across the boundary of the plan then this results in a surplus of natural green space within this area. As it is the inclusion of a site within Otley Neighbourhood Plan boundary but outside the Leeds City Council administrative area it is appropriate to give this less weight. However, the surplus of natural green space within the Otley Neighbourhood Plan does weigh in favour of allowing the redevelopment of this site.
113. The development results in the loss of a protected community facility which weighs against development. However, as the building has been vacant for a period of time and has been marketed for a period in excess of a year the loss is not contrary to Core Strategy or Otley Neighbourhood Plan policy.
114. The development involves the retention of and sympathetic conversion of Newall Church Hall within the development. As Newall Church Hall has architectural merit and is important historic building within the local community, its retention, and particularly its sympathetic conversion as part of the wider development of the site is considered to weigh in favour of the development.
115. The development provides six new dwellings with a mix of 2, 3 and 4 bedrooms within a well-designed high-quality development which is considered to enhance the appearance of the site and provide a comprehensive soft landscape scheme including a number of replacement and additional trees. The creation of high-quality small scale residential development within an existing residential area of Otley with convenient access to Otley Town Centre together with a range of community facilities is considered to weigh in favour of the development.
116. In summary, it is clear that a decision to allow the development of this site is very much a matter of planning balance for the council as planning decision-maker. Significant weight needs to be given the site's designation of as natural green space within the Site Allocation Plan and protection from development from Policy G6 of the Leeds Core Strategy. However, given the benefits laid out above and justification within the report it is considered that, in this specific case on this specific site, the harm resulting from the loss of this area of natural greenspace is outweighed by the benefits

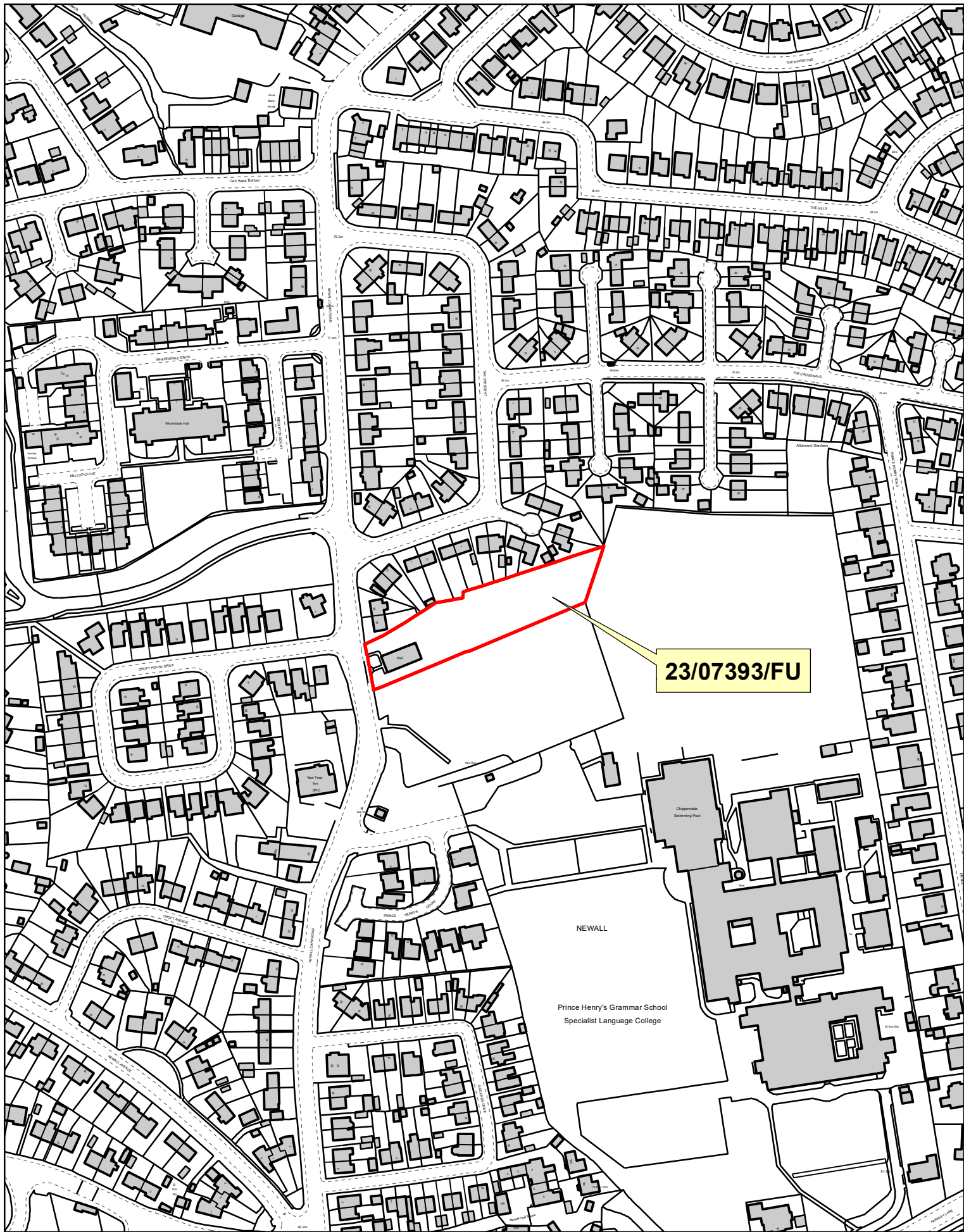
that this well-designed, small scale residential development provides. As such, it is recommended that, on balance, planning permission should be granted subject to conditions.

**Background Papers:**

Certificate of ownership: signed by applicant.

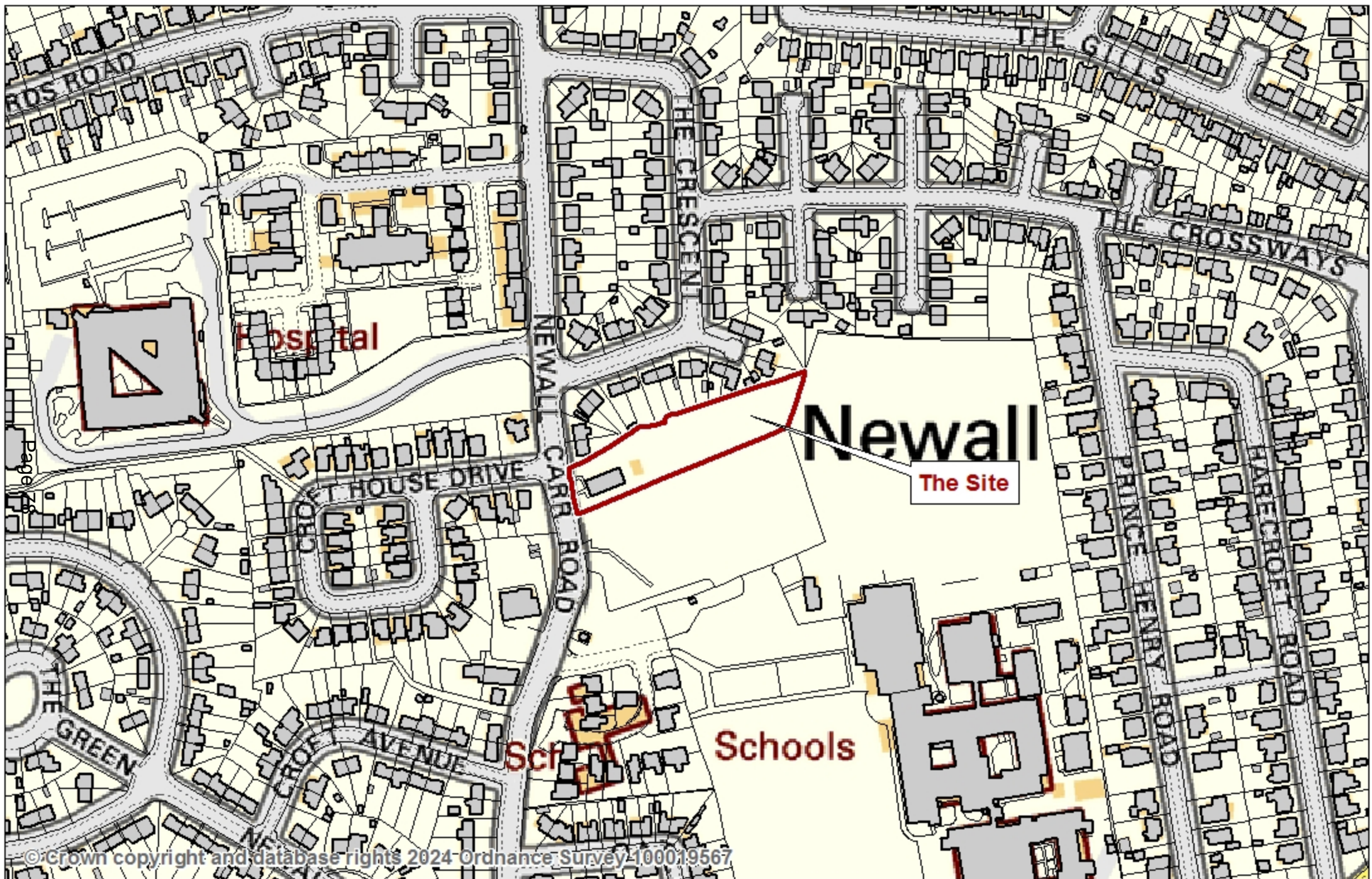
Planning application file.





# SOUTH AND WEST PLANS PANEL





# PLANS PANEL PRESENTATION

SCALE 1:2500







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# PLANS PANEL PRESENTATION

SCALE 1:2500





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Originator: Lydia Lloyd-Henry  
Tel: 0113 378 5470

**Report of the Chief Planning Officer**

**SOUTH & WEST PANEL**

**Date: 03.10.2024**

**Subject: 22/00158/FU & 22/00159/LI – Change of Use Planning Application and Listed Building Consent relating to redundant Listed Grade II church to online clothing business and ancillary café at the Church Of The Holy Spirit, Tempest Road, LS11 7EQ**

APPLICANT	DATE VALID	TARGET DATE
Via Agent – Crooks Architecture	07.01.2022	28.06.2024

**Electoral Wards Affected:**

Hunslet and Riverside

Yes Ward Members notified (referred to in report)

**Specific Implications For:**

Health and Wellbeing

Inclusive Growth

Zero Carbon

**RECOMMENDATION: GRANT PERMISSION to 22/00158/FU subject to the conditions set out below (with amendments or addition to the same as deemed appropriate):**

**GRANT LISTED BUILDING CONSENT to 22/00159/LI subject to the conditions set out below (with amendments or addition to the same as deemed appropriate):**

**Conditions 22/00158/FU**

1. Time Limit
2. Approved Plans
3. Building Opening Hours
4. Retail by Appointment only
5. Delivery Hours
6. Delivery Vehicles
7. Waste Storage
8. Cycle Storage

**Conditions 22/00159/LI**

1. Rooflight Details
2. Masonry Repair Details

3. Roof Repair Details
4. Guttering Details
5. Window Repairs and Refurbishment Details
6. Void Management Plan
7. Pictures/Poster
8. Hoist for Bins
9. External Vents
10. Steel Framework and Mezzanine Details
11. Glazing Details
12. Balustrades and Handrail
13. Platform Lift
14. Stairs
15. Dais Removal Details
16. Organ Screen Details
17. Timber Stud Walls
18. Fixtures and Fittings
19. Lighting, Heating, Fire Detection

### **INTRODUCTION:**

1. These applications are brought to Plans Panel at the request of Ward Cllrs Iqbal, Wray and Carlisle who have raised concerns relating to parking and highways issues and the desire to retain the building for a community use. It is considered that the applications should be referred to this Plans Panel for determination as the matters relating to parking and highways raised by Ward Members are material planning considerations that give rise to concerns affecting more than neighbouring properties. This meets the criteria outlined in the Officer Scheme of Delegation and it is appropriate to report the applications to Panel for determination.
2. Members are asked to determine both applications 22/00158/FU and 22/00159/LI together. The full planning application (22/00158/FU) relates to the change of use of the building and the insertion of two rooflights with other minor external alterations and the listed building application relates to the internal and external alterations, repairs and refurbishments to the listed building. The details of which are set out within the appraisal of this report.

### **PROPOSAL:**

3. The proposal relates to the change of use of the vacant Grade II Listed, Church of the Holy Spirit to an online clothing business and an ancillary café, with internal and external alterations to the building, including the insertion of 2 rooflights. Some 'in person' retailing is also anticipated but will be by appointment only. The building is situated in Beeston Hill built at the turn of the 20th Century. The full application covers the change of use of the of the Church from F1(f) to a mixed-use E(a) and E(b) use and the insertion of two rooflights with other minor external alterations. The listed building application covers the internal and external alterations to the building such as, but not limited to, refurbishing the windows and doors, creating a mezzanine and the insertion of partition walls.

The building operating hours will be as follows;  
Monday – Saturday: 6am – 19:00pm

Sunday/Bank holidays: Closed

The ancillary appointment-based retail business will operate as follows;

Monday – Friday: 9:30am – 17:15pm

Saturday: 11am – 4pm

Sunday/Bank holidays: Closed

The ancillary café and heritage hub opening hours will operate as follows;

Monday Tuesday Thursday Saturday: 10:00 am – 4:00pm

Wednesday Friday Sunday: Closed

## **SITE AND SURROUNDINGS**

4. The site relates to a Grade II Listed Church located in Beeston. The church is situated to the South of Jamia Masjid Abu Huraira Mosque and to the North of Building Blocks Nursey. The area surrounding is predominantly residential comprising of terraced red brick properties with a parade of cafes, takeaways and commercial businesses. The Church is constructed of coursed squared gritstone with ashlar details a slate roof and gable copings in a Gothic Revival style. The external boundary treatment consists of wrought iron railings painted black. To the West of the Church outside of the application boundary lies a small landscaping strip with a monument and shrubbery.

## **RELEVANT PLANNING HISTORY:**

5. 21/102/00/RM - Detached healthy living centre and detached church and community hall – Approved – 15.08.2000  
21/114/02/FU - Two 2 storey extensions and single storey extension and disabled access ramp to church hall – Approved – 13.06.2002  
21/56/02/FU - Detached community hall and parenting centre – Approved – 21.05.2002

## **HISTORY OF NEGOTIATIONS:**

6. The applicant has sought to improve the scheme to address concerns raised by local residents and by local ward members. The applicant has provided a travel plan and parking management information which is supported by the highways team. The applicant has also provided a detailed plan on how to manage the concerns of fly tipping and anti-social behaviour in the voids surrounding the building. Initial concerns were raised regarding the level of information provided with regard to the listed building. This has now been addressed through the submission of a heritage statement along with the agreement to a number of pre-commencement conditions relating to the further detailed design of the internal and external alterations to the listed building.

## **CONSULTATION RESPONSES:**

### Statutory Consultees:

7. Flood Risk Management – No objection

### Non-Statutory Consultees:

8. Highways – No objection subject to conditions regarding details of cycle and waste storage
9. Historic England – No comment
10. Conservation – No objection

*“I’m supportive of the proposed scheme that will secure a sustainable use for the redundant listed church which is in a declining condition. Due to its condition and vacancy, I have added it to the Council’s Heritage At Risk list and will be in touch with the Diocese, as current owners, regarding works urgently required to prevent further damage. The proposals do involve a degree of harm, but this can be mitigated through design and detailing and is justified and acceptable as it delivers a use that retains heritage significance better than likely alternative possible uses for the building such as residential use. The nave and chancel remain full height spaces with subdivision being restricted to the aisles and detailed as highly glazed interventions. Much of the detail is to be designed following purchase and therefore I recommend a number of conditions to agree full construction detail proposals.”*

#### **PUBLIC/LOCAL RESPONSE:**

##### Ward Member Comments:

11. Ward members object due to the unsuitability of the site and its impact on parking and local amenity
  - Two other venues nearby create significant traffic
  - No parking available on site for employees
  - Loading and unloading delivery vehicles will be an issue for parking
  - Refuse collection concerns and storage
  - Land dispute with the adjacent nursery
  - Densely packed community
  - The building should remain in community use
  - Not convinced how long lasting the café and heritage centre will be

##### MP Comments:

12. MP Hilary Benn objects to the application
  - Unsuitable location for online sales business
  - Lots of deliveries and collections will be a lot of pressure on parking in the area
  - Area of Building Blocks Centre wrongly shown as part of the application

##### General Comments:

13. The voids around the church are an environmental hazard for fly tipping and vermin
  - A sustainable plan should be in place to prevent this
  - If they can’t address this I am against the application

##### Comments in Objection:

14. Increase in traffic, vans and Lorries
  - Already too much traffic in the area from nearby shops
  - Out of character with others on Tempest Road
  - This should be on an industrial estate
  - Children crossing roads nearby
  - Property map includes the garden of adjacent site
  - Noise from business activities and during the building works
  - Voids around the church encourage fly tipping, antisocial behaviour and litter



Object to the use of specific doors due to their location adjacent to children's play areas

Will the applicant and on-site managers liaise with the nursery

Will the building work impact the outdoor space of the nursery

## **PLANNING POLICIES:**

### *LOCAL PLANNING POLICY AND GUIDANCE*

#### The Development Plan

15. As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan currently comprises the adopted Local Development Framework Core Strategy (2019), those policies saved from the Leeds Unitary Development Plan (Review 2006), the Site Allocations Plan (2019, as amended 2024), the Natural Resources and Waste Development Plan Document (2013, as amended 2015), the Aire Valley Leeds Area Action Plan (2017).
16. The following policies from the Core Strategy are considered to be of most relevance to this development proposal:
  - General Policy** – Sustainable Development and the NPPF
  - P9** – Community facilities
  - P10** – Design
  - P11** – Conservation of Historic Environment
  - T2** – Accessibility requirements
17. The following saved policies from the Unitary Development Plan are considered to be of most relevance to this development proposal:
  - GP5** – Detailed Planning Considerations
  - BD6** – Extensions and Alterations
  - N15** – Change of use of Listed Buildings
  - N17** – Features and Internal Features of Listed Buildings
18. The following policies from the Natural Resources and Waste Local DPD are considered to be of most relevance to this development proposal:

General Policy 1

Relevant Local Supplementary Planning Guidance/Documents
19. The most relevant local supplementary planning guidance (SPG), supplementary planning documents (SPD) are outlined below:

Transport SPD (2023)

### *NATIONAL PLANNING POLICY AND GUIDANCE*

#### National Planning Policy Framework

20. The National Planning Policy Framework (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.
21. The following sections of the NPPF are most relevant for the purposes of determining this application:
22. Chapter 16: Conserving and Enhancing the Historic Environment
- National Planning Practice Guidance
23. The Planning Practice Guidance (PPG) provides commentary on the application of policies within the NPPF. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects.
- Other Relevant Legislation
24. Under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant planning permission for a development which affects a listed building or its setting the council must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses

#### **CLIMATE EMERGENCY:**

25. The Council declared a climate emergency on the 27<sup>th</sup> March 2019 in response to the UN's report on Climate Change.
26. The Planning Act 2008, alongside the Climate Change Act 2008, sets out that climate mitigation and adaptation are central principles of plan-making. The NPPF makes clear that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions in line with the objectives of the Climate Change Act 2008.
27. As part of the Council's Best City Ambition, the Council seeks to deliver a low-carbon and affordable transport network, as well as protecting nature and enhancing habitats for wildlife. The Council's Development Plan includes a number of planning policies which seek to meet this aim, as does the NPPF. These are material planning considerations in determining planning applications.

#### **PUBLIC SECTOR EQUALITY DUTY:**

28. The Equality Act 2010 requires local authorities to comply with the Public Sector Equality Duty. Taking into account all known factors and considerations, the requirement to consider, and have due regard to, the needs of diverse groups to eliminate discrimination, advance equality of opportunity and access, and foster good relations between different groups in the community has been fully taken into account in the consideration of the planning application to date and at the time of making the recommendation in this report.

## MAIN ISSUES:

Principle of Development  
Design and Character of the Listed Building  
Highway and parking matters  
Accessibility  
Other Matters  
Representations

## APPRAISAL:

### Principle of Development

29. Saved Policy N15 states “*where the original use of a listed building is no longer required, proposals for a change of use will be favourably considered providing that the new and adapted use does not diminish the special architectural or historic value of the building and its setting*”. The church was closed for public worship on 1<sup>st</sup> March 2018 and has been vacant since this point. When a Church is proposed for closure the Church Commissioners undertake a lengthy statutory consultation process under Ecclesiastical legislation called the Mission and Pastoral Measure 2011. The Diocese of Leeds and the Church Commissioners for England extensively marketed to find a new owner and sustainable use for the building. As the use of the church as a place of worship is no longer considered to be required, a change of use should be favourably considered, as stated by Policy N15. In view of the passage of time and the previous marketing undertaken, no conflict with policy P9 is identified also.
30. The applications will ensure the heritage asset is brought into use and will help to retain its important features within the streetscene. The Conservation Officer has noted that the proposal does involve a degree of harm but has set out how this harm can be mitigated through design and detailing conditions.
31. NPPF paragraph 203 states that in determining applications LPA’s should take account of;
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.*

When considering part a, the use of the Church as a place of worship has ceased and is no longer required within the area. The Conservation Officer considers that the change of use proposed will retain the heritage significance better than likely alternative possible uses for the building. When considering the proposal in relation to part b, the proposed use will provide a positive economic contribution to the local community through the growth of the business which will seek to employ up to an additional 8 members of staff. When considering part c, the proposal will not significantly alter the external fabric of the building aside from repairs and the insertion of two rooflights with other minor external alterations. The repairs to the external fabric of the listed building will make a positive contribution to the local character. The

rooflights will be a modest addition which will be discreet with their positioning and size. The internal alterations will result in some harm through dividing up of the original layout but will still maintain the important historic features of the building. Members of the public will be able to appreciate the historic features of the listed building through the applicant's creation of a heritage hub and cafe which will be open on specific days of the week.

32. NPPF paragraph 206 states *any harm to or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*

*a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*

The proposed works to the grade II listed building in terms of causing harm, occurs from dividing the internal layout of the church by introducing a mezzanine floor. However, as noted previously the Conservation Officer has stated that the harm can be mitigated through the design and detailing of the alterations. Similarly, all repairs and refurbishments works need to be fully agreed in advance. This can be controlled through conditions which require detailed methods for each facet of the works to the internal and external fabric of the building. Furthermore, the dividing up of the space is justified through the applicant's proposal to repair and refurbish parts of the listed building which have come into disrepair during the building's period of vacancy. Fundamentally, the proposal will bring the at risk building back into a meaningful use which is the best way of preventing further deterioration.

33. The Conservation officer notes also that the proposal delivers a use that retains the heritage significance better than many alternative uses for the building such as residential use. Thus, this proposed change of use can be favourably considered.
34. The change of use of the building is considered for determination under application 22/00158/FU. The change of use of the Grade II Listed Church from a place of worship F1(f) to an online shop with an ancillary appointment based retail E(a) and ancillary café E(b) use is considered to be acceptable in its location. The predominant use E(a) is considered appropriate in an out of centre setting as this will be restricted by a condition which limits in person custom by appointment only. In addition to this the ancillary Café E(b) corresponds to the existing uses within the area. The site is adjacent to a parade of commercial units, such as cafés, hot food takeaways and hairdressers and is within a row of community businesses such as the nursery and community centre. In consideration of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA considers that the alterations, repairs and refurbishments of the listed building will result in less than substantial harm. The repairs will improve the condition of the building which mitigates the less than substantial harm generated by the sub-division of the internal layout, insertion of mezzanine and rooflights.

#### Design and Character of the Listed Building

35. Policy P10 of the Leeds Core Strategy deals with design and states that alterations to existing development should be based on a thorough contextual analysis and provide good design that is appropriate to its location, scale and function. Developments

should respect and enhance, streets, spaces and buildings according to the particular local distinctiveness and wider setting of the place with the intention of contributing positively to place making, quality of life and wellbeing.

36. The proposal to change the use results in alterations to the internal aspects and some external alterations are proposed. As already acknowledged, the proposal will introduce some degree of harm but this can largely be mitigated through the detailed design which can be secured by conditions.
37. The physical works proposed are considered under both applications. The alterations will introduce two rooflights, one per side, new guttering, a hoist for bins, external vents and the addition of a poster on the external walls, albeit this requires separate advertisement consent so is not the subject of consideration now. The insertion of two rooflights and external vents would be a modest additions and do not cause significant harm to its special nature. The proposal will also include various repairs to the building such as repairs to the masonry, roof and windows. These repairs and refurbish works are clearly welcomed. Overall, the external works proposed are modest and are supported.
38. Internally the Nave will remain a full height space, safeguarding the special character of the space, with no intermediate floors and maintaining the open aspect through to the raised Chancel. The Chancel will retain all its present liturgical furniture and fittings. At the West end, the Narthex which is raised above the main floor level and into which the main entrance opens will also remain the same. The Font with its ornate carved oak canopy will be retained.
39. A small café space will be created in the South-West corner for use by those visiting the building, when open. This will allow the building to retain an aspect of community access and use, and will be allowed on specific days as detailed above within the proposal. In the North and South Aisles behind the arcades, a mezzanine floor will be inserted at column capital level and the arcades glazed to create offices. Below these floors will be stock rooms looking onto the current worship space. In the North Aisle the office space will extend into the base of the Tower to provide staff accommodation and an office.
40. The proposals generally seek to minimise subdivision and where that is required for privacy or security, it is kept to the minimum amount and glass used where possible to maintain views and natural light patterns. Studwork partitions will be built up off existing floors within minimal impact on the historic fabric. The new mezzanine floors are designed such that new steel supporting columns will be located behind the arcade columns and supporting a steel frame which will be hidden behind a fascia which corresponds with the height and depth of the column capitals.
41. The floors will respect existing openings. These columns will require footings and so there will be a requirement for very localised excavation and casting of new concrete footings, which will be designed by a Specialist Structural Engineer.
42. Existing finishes and furnishings are proposed to be retained and, where needed repaired. New lighting and heating will be installed, along with fire detection and escape provisions. All the lifts will require some degree of "pit" and or slab, but these are shallow, and any tiles taken up to accommodate these, will be used elsewhere for repairs or stored in the basement.
43. The internal alterations proposed by the applicant will alter the internal layout of the listed building, which will result in some harm. However, the proposal also seeks to

retain the special nature of the listed building through refurbishing and repairing elements of the structure and retaining any materials which can be used elsewhere. In addition to this, special features of the internal building will remain untouched such as the Nave and Font. The internal proposals will result in some harm, as stated, to the structure and layout of the listed building however, it is not considered to be significantly harmful when taken into consideration with the repairs and refurbishments proposed and helping to bring the building back into an active use.

44. The details listed above relating to both internal and external works will be developed in more detail for approval by the Conservation Officer through the use of conditions. The conditions will require detailed plans and method statements to be submitted prior to the commencement of development but overall, the Conservation officer is content with the design principles that have been set out.

#### Highway and parking matters

45. Policy T2 of the Core Strategy and GP5 of the UDP require highway safety to be protected, which includes the provision of safe access and adequate off-street parking in accordance with current guidelines. Notwithstanding NPPF paragraph 115 states *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.
46. The applicant has provided updated travel information in response to the comments from third parties that have been raised and which sets out the likely impact on the residential area and how the applicant intends to tailor the opening hours and delivery times to help mitigate the impact. For context, the application involves the relocation of an existing business and current staff levels are modest at only 2 staff members. The applicant notes this may increase as the business grows upto a possible 8 or 10 staff. This level of employment is relatively low from a traffic generating perspective bearing in mind the size of the building. The likelihood of all staff driving to the site alone is also small and this is supported by the Council’s own evidence gathered as part of the Travel to work Survey. It is also hoped that these newly created jobs will be filled by local people, again further reducing the demand for parking. In addition, the applicants are proposing the building to be closed for any customers/ visitors on Fridays 12:45pm – 2:45pm which will ensure almost zero impact on the local traffic which can be exceptionally heavy during those hours due to the neighbouring mosque. This is welcomed but will not be restricted by the LPA through a condition, as this would not meet all requirements of the relevant NPPF conditions tests.
47. There will be few deliveries on average 5-10 boxes per fortnight. These will be delivered in standard size delivery vans and not in large HGVs. A condition is recommended to restrict the use of HGV’s.
48. The café and heritage hub will only open 4 days a week, the timings are proposed to have minimal impact upon local traffic. The heritage hub and café are unlikely to result in an increase in parking at the site due to the size of the café space within the building. This will make up less than 50m<sup>2</sup> of the internal floor space.
49. In terms of the highway assessment more generally, the previous use of a church would have been expected to have had similar levels of parking to the proposed use. Deliveries are proposed to take place from Stratford Street which has a carriageway width of 7.3m. This is acknowledged as being tight in terms of accommodating vans

parked for deliveries and still allowing two-way passing. However, residential properties surrounding the site will likely themselves already have deliveries undertaken in a similar manner due to the growth in on-line shopping and the associated deliveries that taken place.

50. Notwithstanding the compact arrangement of the local highway network, the Traffic team has been consulted regarding opportunities for contributing towards traffic schemes in the area aimed at management of on-street parking and loading immediately around the application site. The Traffic team have advised that there are no suitable schemes in the area at present, which a contribution could be used for. However, given the scale of the proposal and that the Highways Team have noted the comparable parking levels between the existing and proposed use, it is not considered that a contribution should be sought even were a scheme to exist.
51. Highway officers acknowledge that there are parking pressures in the area given the lack of off-street parking for residential properties and the adjacent nursery, mosque and the Hamara healthy living centre. It is understood that the introduction of any further parking and servicing/delivery demands could raise concerns. However, in the past the church would have generated the requirement for some on street parking and as highway comments indicate, parking levels for the proposed use are expected to be like that of the existing use as a church.
52. A loading bay was put to the Highways Team as a suggestion of how to control the impact of delivery vehicles to the site. However, having a dedicated loading bay is likely to remove capacity for on-street parking further exacerbating the parking issue. The additional information provided by the applicant indicates a form of management plan cognisant of the traffic flow during periods due to neighbouring properties and in addition sets out the deliveries to site and the frequency, which it is considered can be accommodated within the highway network without causing detrimental impact to highway safety.

#### Accessibility

53. Local Planning Policy seeks to ensure developments proposals are accessible to all. This proposal is predominantly for a change of use with limited alterations to the external fabric of the building due to its listed status. The proposal has step free access through the main entrance on Stratford Street and lifts are proposed internally to allow access where levels change. An accessible toilet facility will be provided on the main ground floor level.

#### Other Matters

54. The applicant has submitted a detailed plan for the voids of the Church on Lodge Lane to prevent fly tipping, litter and anti-social behaviour which has been raised as an issue by local Ward Members and local residents. It should also be noted that bringing the building back into use will also help to prevent some of these issues. The plan is as follows;
55. A thorough clean-up of all the voids around the perimeter of the church.
56. Installation of a tensile netting to the Stafford Street (shallower) voids, to ensure no rubbish goes into the voids. This will be installed on stainless steel eyelets in the back of the boundary wall (just below the copings), sloping up slightly and into the most appropriate bed joint in the North wall of the building. For access/escape reasons this cannot be implemented in the voids outside the fire escape or main entrance.

57. To the Lodge Lane voids, which are deeper and have historically been subject to more significant fly tipping, we suggest that a rigid grating be installed (like a gantry), such that it does not affect ventilation of the building, but can take the loading of larger objects thrown in. Both inaccessible voids would be subject to this, with the grating to the most Northerly void being set just below coping level, as elsewhere, but the central void being set at street level to allow a new gateway to be installed in the boundary wall to create a bin store on the grating. This also provides improved access for maintenance of that area.
58. Both grated voids would be fitted with access hatches for maintenance.
59. The void with the fire escape in cannot be covered over or infilled due to the need to maintain an unincumbered escape route, but the access via the cellar door does mean it can easily be maintenance and kept clear.
60. Installation of CCTV cameras around the perimeter of the building with clear notices to the public NOT to be involved in fly tipping. The applicants are willing to work with Leeds City Council on plan around issuing penalties to anyone found guilty of fly tipping, if required.
61. The plan to prevent fly tipping and anti-social behaviour within the voids of the church will be subject to full detailed approval by the Conservation Team, where it requires alterations, extensions or fixtures to the internal and external fabric of the listed building.

#### Representations

62. Eleven letters of representation were received in relation to the applications with the material considerations addressed in the report above.

#### **CONCLUSION:**

63. The proposal under application 22/00158/FU to change of use of the Grade II Listed Church F1(f) to an online shop with an ancillary appointment-based retail use E(a) and ancillary café E(b) is acceptable as the use is supportable in its location due to the surrounding commercial and community uses. It is acknowledged that there will be some increase in parking at the site, but this is because the church is not in use and parking levels will generally be no greater than that which the existing use would create. Thus, the proposal cannot be justified to be refused on highways safety and parking impacts. The proposed alterations externally comprising of two rooflights and other minor alterations are acceptable and will result in no significant harm to the character of the area and will not be harmful to the listed building.
64. The proposal under application 22/00159/LI is considered to be very desirable to bring an at risk listed building back into use and although it will result in a degree of harm through the partition of the internal layout and construction of a mezzanine, it is accepted that the harm is less than substantial and can be mitigated through detailed design which will be conditioned. The application would meet the requirements set out within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as the LPA considers that the alterations, repairs and refurbishments of the listed building will result in less than substantial harm and will preserve the special architectural features of the building. The repairs and refurbishments will improve the condition of the building and retain its heritage which mitigates the less than substantial harm generated by the sub-division of the internal layout, insertion of



mezzanine and rooflights. The proposal is therefore justified and acceptable as it delivers a use that retains heritage significance better than likely alternative possible uses. In addition to this, the proposal will provide repairs and refurbishments to the listed building which will improve its current condition.

65. Considering the above in this case, it is determined that the proposed development is in accordance with the development plan for the reasons set out in the report above and there are no overriding material considerations to indicate otherwise. The applications are therefore recommended for approval.

#### **BACKGROUND PAPERS:**

Application file references: 22/00158/FU & 22/00159/LI

Certificate of ownership: Certificate B

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