



SOUTH AND WEST PLANS PANEL

**Meeting to be held in Civic Hall on
Thursday, 11th October, 2012
at 1.30 pm**

MEMBERSHIP

Councillors

J Akhtar	J Bentley	P Wadsworth	R Finnigan
M Coulson		R Wood	
C Gruen			
J Harper (Chair)			
C Towler			
P Truswell			
J Walker			

**Agenda compiled by:
Andrew Booth
Governance Services
Civic Hall
Tel: 0113 24 74360**

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p data-bbox="675 427 1406 495">APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p data-bbox="675 539 1358 680">To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Rules (in the event of an Appeal the press and public will be excluded)</p> <p data-bbox="675 725 1390 866">(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	

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2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</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>RESOLVED – 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>No exempt items or information have been identified on the agenda</p>	
3			<p>LATE ITEMS</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>	

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4			<p>DECLARATIONS OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19-20 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To not the minutes of the Plans Panel (West) held on 13 September 2013.</p>	3 - 8
7	Morley North		<p>VILLAGE GREEN APPLICATION - LAND AT PIT HILL, CHURWELL</p> <p>To receive and consider the attached report of The City Solicitor regarding an application to register land at Pit Hill, Churwell as a town or village green under the provision of Section 15(1) of the Commons Act 2006</p>	9 - 84
8	Morley North		<p>APPLICATIONS 11/04988/FU AND 12/04048/FU - LAND AT DAISY HILL, MORLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding applications for the demolition of outbuildings, laying out of access roads and erection of 92 houses with landscaping.</p>	85 - 108
9	Morley South		<p>APPLICATION 12/01332/OT -LAND AT BRUNTCLIFFE ROAD, MORLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an outline application to erect residential development</p>	109 - 140

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10	Ardsley and Robin Hood		<p>APPLICATION 12/02974/RM - REAR OF WATERWOOD CLOSE, WEST ARDSLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding a reserved matters application for 12 houses, laying out of access road and associated landscaping.</p>	141 - 150
11	Morley South		<p>APPLICATION - 12/02259/FU - 1214 DEWSBURY ROAD, TINGLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for the erection of one block of 3 houses.</p>	151 - 158
12	Bramley and Stanningley		<p>APPLICATION - 12/02434/FU - FORMER MANOR PARK SURGERY, BELLMOUNT CLOSE, BRAMLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for a part two storey, single storey front, side and rear extension including pharmacy and opticians and laying out of car park.</p>	159 - 170
13	Bramley and Stanningley		<p>APPLICATION 12/03260/FU - FORMER PRESTIGE CAR SALES CENTRE, 2 TOWN STREET, STANNINGLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for the change of use and alteration of former car sales showroom to retail unit (A1 use) and electrical wholesaler with trade counter (B8 use)</p>	171 - 178
14	Weetwood		<p>APPLICATION 12/03473/FU - 35 CLAREMONT DRIVE, LEEDS</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for the change of use of a former children's home to 7 bed House in Multiple Occupation (HMO)</p>	179 - 188

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15	Hyde Park and Woodhouse		<p>APPLICATION 12/02712/FU - LAND AT WOODHOUSE STREET, WOODHOUSE, LEEDS</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an application for a part three storey, part four storey block of 18 cluster flats (112 rooms), retail store at ground floor, associated parking and landscaping</p>	189 - 200
16			<p>PRE-APPLICATION PRESENTATION - PROPOSED REPLACEMENT PRIMARY SCHOOL - WIDE LANE, MORLEY</p> <p>To receive and consider the attached report of the Chief Planning Officer regarding an pre-application presentation for a proposed replacement primary school.</p> <p><i>This is a pre application presentation and no formal decision on the development will be taken, however it is an opportunity for Panel Members to ask questions, raise issues, seek clarification and comment on the proposals at this stage. A ward member or a nominated community representative has a maximum of 15 minutes to present their comments</i></p>	201 - 208
17			<p>DATE AND TIME OF NEXT MEETING</p> <p>Thursday, 8 November 2012 at 1.30 p.m.</p>	

Chief Executive's Department
Democratic Services
4th Floor West
Civic Hall
Leeds LS1 1UR

To:

Members of South and West Plans
Panel
Plus appropriate Ward Members and
Parish/Town Councils

Contact: Andy Booth
Tel: 0113 247 4325
Fax: 0113 395 1599
andy.booth@leeds.gov.uk
Your reference:
Our reference: swpp/sitevisit/
2012

Dear Councillor

SOUTH AND WEST PLANS PANEL – SITE VISITS – THURSDAY AT 1.30 pm

Prior to the next meeting of Plans Panel West there will be site visits in respect of the following;

- 1 9.35 a.m. Application 12/02434/FU – Manor Park Surgery, Bellmount Close, Bramley – leave at 9.50 a.m. (If travelling independently meet at entrance off Bellmount Close)
 - 2 10.10 a.m. Application 12/02259/FU – 1214 Dewsbury Road, Tingley – leave at 10.20 a.m. (If travelling independently meet on Syke Close)
 - 3 10.30 a.m. Application 12/01332/OT – Land at Bruntcliffe Road, Morley – leave at 11.00 a.m. (If travelling independently meet on Bruntcliffe Road, opposite St Andrews Avenue)
 - 4 11.10 a.m. Application 11/04988/FU – Land at Daisy Hill, Morley – leave at 11.40 a.m. (If travelling independently meet on Daisy Hill)
- Return to Civic Hall at 12.00 p.m. approximately

A minibus will leave the Civic Hall at 9.15 am prompt. Please contact Steve Butler Area Planning Manager (West) Tel: (0113) 2243421 if you are intending to come on the site visits and meet in the Civic Hall Ante Chamber at 9.10 am

Yours sincerely

Andy Booth
Governance Officer

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PLANS PANEL (WEST)

THURSDAY, 13TH SEPTEMBER, 2012

PRESENT: Councillor J Harper in the Chair

Councillors M Coulson, J Hardy, T Leadley,
P Wadsworth, C Gruen, C Towler,
J Bentley and R Wood

41 Declarations of Disclosable Pecuniary and Other Interests

There were no declarations of disclosable pecuniary or other interests.

42 Apologies for Absence

Apologies for absence were submitted on behalf of Councillors J Akhtar and J Walker.

43 Minutes - 16 August 2012

RESOLVED – That the minutes of the meeting held on 16 August 2012 be confirmed as a correct record.

44 Application 12/03264/FU - 3 Spring Road, Leeds, LS6 1AD

The report of the Chief Planning Officer introduced an application for the change of use of the former Crisis Centre at 3 Spring Road, Leeds to a 12 bed house in multiple occupation (HMO).

The application had been referred to Plans Panel following letter of objection from a local Ward Councillor, local MP and the Leeds HMO Lobby.

Members were shown photographs of the building and surrounding areas.

Further issues highlighted in relation to the application included the following:

- Objections to the application included highway safety, parking and the impact of increased activity to neighbours.
- The property did not have any off street parking. As the Crisis Centre had up to 17 members of staff present it was viewed that the proposals would not have a detrimental impact on parking in the area.
- It was recognised that there would be a significant number of residents but not that this would increase activity as the property in comparison the Crisis Centre.
- With regards to policy on HMOs, this application did not create a loss of family accommodation.

In response to Members comments and questions, the following issues were discussed:

- The Crisis Centre was open until 9.00 p.m. on an evening but was also open for 24 hour call outs.
- Some members felt that the property would be more suited to conversion into family apartments.
- It was not thought that the property was used as family accommodation prior to becoming used as a crisis centre.
- There were good local transport links nearby.
- Potential for using part of the grounds of the property for off street parking.
- The property was in the Headingley Conservation Area.

RESOLVED – That approval be deferred and delegated to the Chief Planning Officer subject to officers negotiating the provision of any car parking within the grounds and the addition of conditions to cover bin and cycle storage.

45 Application 12/03473/FU - 35 Claremont Drive, Headingley, LS6 4ED

The report of the Chief Planning Officer presented an application for the change of use of a former children's home to a 7 bed house in multiple occupation (HMO) at 35 Claremont Drive, Leeds.

The application had been referred to Plans Panel following letters of representation from a local Ward Councillor, the Leeds HMO Lobby and local residents. Objections to the proposal focussed on the grounds of the loss of a property suitable for family housing, highway safety, lack of off street parking, impact on balanced communities and the potential for an increase in anti-social behaviour.

Members were shown photographs of the property and surrounding area.

Further issues highlighted in relation to the application included the following:

- The children's home typically had 9 children and 3 staff resident.
- There had not been any objections received from highways.
- There was room for up to 4 cars to park on the property.
- As the property was not currently in family use, it did not conflict with policy to change the use to that of a HMO.

An objector to the application addressed the meeting. Reference was made to noise disturbance from the property and parties that had been held outdoors. It was felt that similar problems would continue should the property be used as a HMO. There had also been problems with refuse not being able to be collected from the property. It was felt that the property could be converted into family flats or apartments. The Panel was also informed of other HMO properties in the area.

The applicants representative addressed the meeting and raised the following issues:

- The change of use did not contravene policy

- The proposals would not reduce the quality or quantity of housing in the area
- The property was unsuitable for use as a single household
- The proposals would offer less intensive use of the property
- There was satisfactory off road parking
- The area was well connected to employment and education opportunities.
- Reference was made to previous applications for HMOs that had been refused and subsequently overturned on appeal.
- Should there be complaints about residents at the property, the management company responsible would investigate.

In response to Members' comments and questions, the following issues were discussed:

- The property was not currently used as a children's centre and did have some tenants.
- Some members felt the opportunity to create housing for families would be lost should this application be approved.
- The company that managed the children's centre would retain the property and oversee the letting, security and maintenance.

RESOLVED – That approval be deferred and delegated to the Chief Planning Officer subject to the conditions specified and subject to no further representations raising new material planning considerations being received prior to the expiry of the publicity period (14th September 2012)

46 Preapp/12/00192 - Rumpolecroft, Otley

The report of the Chief Planning Officer introduced a pre-application presentation for a housing site at Rumpolecroft, Otley. Some Members attended a site visit prior to the meeting.

The following issues from the report were highlighted:

- The site was a Phase 3 housing allocated site in the Unitary Development Plan (UDP).
- The site was located on a slope and this presented a number of challenges. There was also a challenge regarding access to the site.
- Members views were sought on how the scheme may be developed and how it dealt with changes in level on the site.

The applicant was invited to address the meeting and showed 3 different layouts that had been considered. The following issues were highlighted:

- Consultation had been held with local residents and was ongoing.
- A loop road around the development had been considered, but this was not possible due to gradients.
- Removal of existing vegetation.

- Access issues – how to get access to the site from St David's, it was felt that having access from St David's would not create a 'rat run'.

In response to Members comments and questions, the following issues were discussed:

- Members generally indicated a preference for the layout in the third diagram shown.
- Highways were willing to support a scheme that had access from St David's should necessary improvements be made.
- A preference for two access points to the site was made.
- There would be significant landscape planting and an ecological appraisal.
- It was felt that the majority of traffic would use the Meagill Rise entrance to the site.
- All properties developed on the site would have disabled access in line with building regulations.
- The need consider innovative design principles due to the challenge of the sloping site.

RESOLVED – That the report be noted.

47 Preapp/12/00835 - Tile Lane, Adel

The report of the Chief Planning Officer introduced a pre-application presentation for a proposed replacement secure unit at land off Tile Lane, Adel. Some Members had attended a site visit prior to the meeting.

Members were shown photographs of the site and Issues highlighted from the report included the following:

- The proposed unit would see a reduction to a 24 bed unit from a 36 bed unit.
- The replacement unit would be a single storey building.
- The new unit would be closer to residential properties but still more than 42 metres away from the nearest.
- Access for construction traffic
- Car parking.

Representatives of the applicant addressed the meeting. The following issues were raised:

- There had been good feedback from public consultation events with the vast majority of comments being supportive.
- The current unit had been deemed no longer fit for purpose and had been criticised following an Ofsted inspection – this had been due to bedrooms being too small, not having en suite facilities and living areas being on an upper floor. The classroom facilities were also no longer capable of meeting curriculum requirements.

- The proposed facility would have 6 blocks – 3 residential, administration, school and sports.
- There would be increased car parking available.
- Landscaping works and removal of trees.

The following issues were discussed in relation to the proposals:

- Potential noise disturbance.
- Landscaping should be enhanced to screen the unit from residential properties.
- Concern regarding the orientation of courtyards – it was explained that this would prevent visible access to occupants of the unit.

RESOLVED – That the report be noted.

48 Pre-application Presentation - Kirkstall District Centre, Commercial Road, Kirkstall

The report of the Chief Planning Officer introduced a pre-application presentation for a proposed retail supermarket at Kirkstall District Centre, Commercial Road, Kirkstall.

Members were reminded of previous proposals for the site and it was reported that this was a considerably different design and there had been significant changes to the size, scale and massing proposed.

The applicant's representatives addressed the meeting. The following issues were highlighted:

- Members were shown detailed plans of the proposals.
- Key challenges included the already congested road network and the slope of the site.
- The proposals would create 400 jobs.
- Consultation had taken place with the local community, planning officers and Ward Councillors.
- The proposals included some individual shop units and a community space.
- Local residents wanted to see the site regenerated.
- There had been significant changes to access and the building design.
- Improvements had been made to pedestrian access within the proposals.
- The site size had been reduced by 15% from the previously proposed scheme.
- Improved layout for service deliveries.
- Traffic and pedestrian proposals - Widening of Kirkstall Hill and improvements to Morris Lane junction; improvements to Beecroft Street, introduction of traffic light controlled junctions, pedestrian crossings and bus shelters.
- Re-siting of the Post Office Workers Club.
- Materials to be used in the proposed development.

- There would be further public exhibitions and it was hoped to submit an application in October 2012.

In response to Members comments and questions, the following issues were discussed:

- Comments from Members generally supported the scheme and it was felt the new proposals were far better and improved.
- It was confirmed that traffic signals would be linked up to maximise traffic flow.
- Some concern remained regarding pedestrian access but the improvements including the introduction of pedestrian crossings were welcomed.
- Improved location of the separate shop units.

RESOLVED – That the report be noted.

49 Date and Time of Next Meeting
Thursday, 11 October at 1.30 p.m.

Report of The City Solicitor

Report to Plans Panel (South and West)

Date: 11 October 2012

Subject: APPLICATION TO REGISTER LAND AT PIT HILL CHURWELL AS TOWN OR VILLAGE GREENS UNDER PROVISIONS OF SECTION 15(1) OF THE COMMONS ACT 2006

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Morley North	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Council as Commons Registration Authority considers village green applications and received an application to register land at Pit Hill Churwell as a town or village green on 14 December 2010, to which the landowners objected.
2. Following consideration of a Report submitted to Plans Panel (East) on 1 December 2011, Members determined that a Public Hearing be called and an inspector be appointed by the City Solicitor, with a view to undertaking an examination of the evidence submitted by the parties concerned and to prepare a report in relation to his/her findings for consideration at a future meeting of the Plans Panel.
3. Members are now asked to consider the Inspector's report attached hereto detailing her findings in respect of the Public Hearing that took place between 16 and 18 May 2012 and to determine if the report of the Inspector should be accepted and the application to register land at Pit Hill Churwell as a town or village green be rejected.

Recommendations

4. Members are recommended to accept the report of the Inspector and determine that the application to register land at Pit Hill Churwell as a town or village green be rejected.

1 Purpose of this report

- 1.1 To notify Members that a report has been received from the Inspector following the holding of a Public Hearing into the application for the purpose on examining of the evidence submitted by the parties concerned.
- 1.2 For Members to determine if the recommendation of the Inspector should be accepted and the application to register land at Pit Hill Churwell as a town or village green be rejected.

2 Background information

- 2.1 On 1 December 2011 Plans Panel East considered a report concerning the above application and determined that in view of all the circumstances outlined a public hearing should be held with a view to undertaking a further and more detailed examination of the issues raised and evidence submitted by the applicant and the objectors.
- 2.2 Ruth Stockley, a barrister with experience of village green registration matters, was appointed as Inspector in relation to the Public Hearing that was held between 16 and 18 May 2012.

3 Main issues

- 3.1 The Council is the Registration Authority for the registration for Town and Village Greens and has a statutory duty to decide whether an application should be accepted or rejected. Plans Panel (South and West) has delegated authority to accept or reject the application.
- 3.2 Whilst Panel is not bound to follow the recommendation contained in the Inspector's Report, it will need to give full consideration to the findings of the Inspector on the law and facts when reaching its decision. Also, it is important to note that in determining whether or not to register the Land as a town or village green it is not possible to take into account the merits of the Land being registered; the Panel's consideration is limited to whether or not the statutory criteria set out below have been established.
- 3.3 The Application was made pursuant to the Commons Act 2006. That Act requires each registration authority to maintain a register of town and village greens within its area. Section 15 provides for the registration of land as a town or village green where the relevant statutory criteria are established in relation to such land.
- 3.4 The Application seeks the registration of the Land by virtue of the operation of section 15(2) of the 2006 Act. Under that provision, land is to be registered as a town or village green where (1) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and (2) they continue to do so at the time of the application.

- 3.5 Therefore, for the Application to succeed, it must be established that:-
- 3.5.1 the Application Land comprises “land” within the meaning of the 2006 Act;
 - 3.5.2 the Land has been used for lawful sports and pastimes;
 - 3.5.3 such use has been for a period of not less than 20 years;
 - 3.5.4 such use has been by a significant number of the inhabitants of a locality or of a neighbourhood within a locality;
 - 3.5.5 such use has been as of right; and
 - 3.5.6 such use continued at the time of the Application.

4 The Inspector’s Report

- 4.1 In her report the Inspector makes clear that the burden of proving that the Land has become a village green by satisfying each element of the above statutory criteria rests with the Applicant and the standard of proof is the balance of probabilities. She goes on to confirm that it is not appropriate for her or the Registration Authority to consider the merits of the Land being registered.
- 4.2 The Inspector has set out her findings in respect of each element of the statutory criteria within her report. The full report is attached as an appendix to this report.
- 4.3 She is satisfied that the application meets certain elements of the criteria, in that Application Land comprises ‘land’ within the meaning of the Act, that use of the Land has taken place for a period of not less than 20 years and that such use continued up to the time of Application.
- 4.4 On the basis of the evidence before her, however, the Inspector has also found that the following elements have not been satisfied on the balance of probabilities to a sufficient extent to enable the Application to be accepted.

4.5 Use of the Application Land for Lawful Sports and Pastimes

- 4.5.1 Lawful sports and pastimes include present day sports and pastimes and the activities can be informal in nature. Hence, it includes recreational walking, with or without dogs, and children’s play. However, that element does not include walking of such a character as would give rise to a presumption of dedication as a public right of way.
- 4.5.2 The Inspector made the point that it is important to distinguish between use which would suggest to a reasonable landowner that the users believed they were exercising a public right of way – to walk, with or without dogs, around the perimeter of his fields – and use which would suggest to such a landowner that the users believed that they were exercising a right to indulge in lawful sports and pastimes across the whole of his fields.

- 4.5.3 It was contended by the Applicant that the Application Land has been used for various recreational activities during that period. References were made in evidence to recreational activities such as dog walking, general walking, nature watching, children's play, running, cycling, blackberry picking, picnicking, sledging and kite flying. There was no evidence of any formal or organised games having taken place on the Land, but informal activities are sufficient in principle to establish town or village green rights.
- 4.5.4 Whilst the Inspector accepted that the Application Land has been used for these purposes, the fundamental issue in relation to this element of the statutory criteria is whether those activities have taken place on the Land to a sufficient extent and degree throughout the relevant 20 year period to enable town or village green rights to be established over the Land.
- 4.5.5 The Land is crossed by two definitive public footpaths, Footpaths No. 40 and No. 30, running in a generally north to south and east to west direction respectively across the Land. Walking along those footpaths, whether with or without a dog, and for recreational purposes or otherwise, amounts to the exercise of a public right of way. Such use cannot itself be relied upon in support of the registration of a town or village green. The Applicant acknowledged that although much of the use had taken place elsewhere on the Land, the most intensive use had been on the footpaths.
- 4.5.6 Although it is accepted that walkers, particularly with dogs, also used other parts of the Land, the impression that the Inspector gained from the evidence was that there had nonetheless been a material use of the footpaths, which must be discounted from the qualifying use. A number of other uses of the Land were more akin to the exercise of a right of way than the exercise of recreational lawful sports and pastimes over a village green. In relation to walking, both with and without dogs, a number of witnesses in support of the Application referred to walking along specific routes rather than recreating over the Land generally. The material extent of use along defined routes is further supported by other worn tracks such as the one runs along the M621 motorway, which is acknowledged to be a very popular footpath.
- 4.5.7 Whilst the Inspector acknowledged that the Land was also used more generally, the evidence supports the finding that a material amount of the use of the Land for walking and dog walking was more akin to the exercise of a right of way than the exercise of recreational rights over a village green and such use must be discounted from the qualifying use.
- 4.5.8 The evidence of each of the witnesses that they have used the Land for recreational activities throughout the relevant 20 year period was accepted. The impression the Inspector gained from such evidence, however, was that the primary use of the Land was for dog walking. The evidence establishes that the qualifying use of the Land for dog walking was carried out more than sporadically throughout the 20 year period by the general community.

- 4.5.9 Each of the witnesses who gave oral evidence in support of the Application, including the third parties, used the rights of way, other informal paths and other specific routes on the Land, albeit in addition to also using other parts of the Land to a greater or lesser extent. Hence, the Inspector concluded that a material amount of the use those witnesses must be discounted. In addition, the Inspector found that the written statements do not provide any information as to the frequency of any of the uses carried out nor can the extent of the qualifying use be ascertained from them.
- 4.5.10 Other recreational uses were carried out less frequently. Picnicking, blackberry picking, and sledging are necessarily seasonal activities. Moreover, none of the witnesses who gave oral evidence referred to their regular and frequent use of the Land for any other activities. None of the objection witnesses had observed any use of the Land off the paths beyond individuals occasionally straying off them.
- 4.5.11 In addition, the Inspector observed that detailed evidence as to agricultural use of the northern part of the Land must be taken into account. Cogent documentary evidence was provided by the current tenant farmer as to how he had used that area of the Land since 1991 from which it is apparent that barley was grown there for much of the relevant 20 year period. Photographic evidence is also consistent with his evidence and it is concluded that the northern section had been regularly cropped.
- 4.5.12 Taking into account all the evidence, the Inspector concluded that the use of the Land for lawful sports and pastimes has been sporadic and occasional during the relevant 20 year period, and insufficient on the balance of probabilities to demonstrate to a reasonable landowner that recreational rights were being asserted over the Land. Consequently, the conclusion of the Inspector was that element of the statutory criteria has not been established.

4.6 Use as of Right

- 4.6.1 The Inspector made the point in her report that the requirement that the use be without force in order to be “as of right” does not merely require the use to be without physical force, such as by breaking down a fence. It must also not be contentious.
- 4.6.2 In 2005, four signs were erected in four locations on the Land stating “Private Property Keep Out Manor House Farm”, which remain on the Land to date. If a landowner displays his opposition to the use of his land by erecting a suitably worded sign which is visible to and is actually seen by the local inhabitants then their subsequent use of the land would not be as of right.
- 4.6.3 The Inspector pointed out that as three of the signs were erected at public footpaths and said “Keep Out”, they were somewhat misleading. A reference to a requirement to keep to the footpath and keep off the remainder of the Land would have been clearer. Nonetheless, a sign stating “Private Property Keep Out” does make it sufficiently clear that a landowner is not acquiescing in the use of his land by trespassers, provided the signs are visible and would have been seen by users.

- 4.6.4 Two of the notices were located at the northern end and two on the eastern side. None were erected at the southern end of the Land. The locations chosen were the Landowners' own main points of access onto the Land. Although some of the users would have seen a sign, not all the users would have done so.
- 4.6.5 The Inspector made the point that it is unknown whether those users who submitted written evidence in support of the application saw, or ought to have seen, the signs as it would have been largely dependent upon their point of access. It cannot be assumed on the balance of probabilities that none of the use was from the access points where the signs were located. Therefore, the Inspector concluded that the extent of the qualifying use is thereby further reduced in that some of it would not have been 'as of right' from 2005 onwards.
- 4.7 Use by a Significant number of Inhabitants of the Locality or Neighbourhood within a Locality**
- 4.7.1 The Applicant originally identified the electoral ward of Churwell as the Locality for the purpose of the Application. However this ward only came into existence in 2000 when Morley Town Council was established and consequently had not been in existence for the 20 years comprising the relevant period. Therefore, the Inspector concluded that the electoral ward of Churwell is not capable of being a relevant locality for the purposes of section 15(2) of the 2006 Act.
- 4.7.2 The Applicants subsequently confirmed at the Inquiry that the Application was instead being pursued on the basis of an alternative locality being relied upon, namely the ecclesiastical parish of St Peter's. A map of that parish boundary was provided by the Applicants to the Inquiry. An ecclesiastical parish is an established administrative area with fixed and identifiable boundaries. It is a recognised area known to the law, and, therefore, according to the Inspector, does amount to a qualifying locality within the meaning of the statutory criteria.
- 4.7.3 The Inspector made the point that in order to establish that element of the statutory criteria, there must be a reasonable spread of users across the locality rather than the users being confined to a particular part of the locality. It is not merely the number of users that are significant, but also their geographical distribution across the locality.
- 4.7.4 The Inspector concluded that the requisite geographical distribution of users across the locality has not been established. The evidence shows that the vast majority of users of the Land during the relevant 20 year period have been from the part of the locality that comprises the village of Churwell and not from the areas to the south and south west of Churwell that are included in the parish, such as Daisy Hill and New Brighton.
- 4.7.5 The absence of such evidence of use during the relevant period by inhabitants of the locality beyond Churwell means that a sufficient geographical spread of users across the locality to satisfy that element of the statutory criteria has not been established. Therefore, on that further basis, the Inspector concluded that the Applicant has failed to establish that the Land has been used by a significant number of the inhabitants of the identified locality.

4.8 The Inspector's Conclusions and Recommendation

4.8 The Inspector came to the following conclusions:-

4.8.6 The Applicant has failed to establish that the Application Land has been used for lawful sports and pastimes as of right to a sufficient extent and continuity throughout the relevant 20 year period to have created a town or village green; and

4.8.7 The Applicant has failed to establish that the use of the Application Land has been by a significant number of the inhabitants of any qualifying locality or neighbourhood within a locality throughout the relevant 20 year period.

4.8.8 In light of these conclusions, the Inspector's recommendation to the Council as Registration Authority is that the application should be rejected and that no part of the application Land be added to the Register of Town and Village Greens maintained by the Council.

5 Corporate Considerations

5.1 Consultation and Engagement

5.1.1 Following initial consideration the application was circulated to the land owners and the parties holding an interest and relevant Ward Members. A public notice concerning the application was advertised in the Yorkshire Post and posted on Land.

5.1.2 Members determined that a Public Hearing should be held to examine the evidence submitted, which was held at Morley Town Hall between 16 and 18 May 2012. All interested parties were informed of the hearing and a public notice giving details of the venue and date was in the Yorkshire Post and posted on Land prior to this date.

5.2 Equality and Diversity / Cohesion and Integration

5.2.1 The proposal in this report has no adverse implications for the Council's Policy on Equality and Diversity.

5.3 Council policies and City Priorities

As Commons Registration Authority, the Council is legally obliged to determine Town and Village Green applications impartially and with reference to the statutory provisions concerning Town and Village Green applications and relevant case law.

5.4 Resources and value for money

5.4.1 A fixed fee of £7500.00 was agreed with the Inspector in respect of her entire costs in relation to the hearing itself and all other pre and post hearing matters. No costs were incurred in respect of hiring a venue for the Hearing as it was held free of charge at Morley Town Hall. Costs of £1600.00 in total have been incurred in respect of three statutory newspaper notices.

5.5 Legal Implications, Access to Information and Call In

5.5.1 The determination of an application involves the taking of a quasi-judicial decision which may be the subject of legal challenge. It is therefore essential that the evidence relating to the application is properly tested prior to the taking of any decision. Having read the report of the Inspector and with particular reference to her conclusion and recommendation, Legal Officers consider that she has undertaken a thorough inquiry in relation to all the relevant aspects of both the village green application and the objections thereto. She has fully considered all the evidence and submissions that have been presented to her and in reaching her conclusions has taken into consideration all the appropriate legal provisions.

5.6 Risk Management

5.6.1 All decisions made by the Council are susceptible to legal challenge, decisions concerning village green applications appear more so in view of the imprecision of certain elements of the statutory test.

6 Conclusions

6.1 Following the testing of evidence at the Public Hearing the Inspector has concluded that the relevant statutory criteria have not been satisfied in relation to the application Land and that consequently no part of it should be registered as a town or village green.

7 Recommendations

7.1 Members are recommended to accept the report of the Inspector and to determine that the application to register land at Pit Hill Churwell as a town or village green be rejected and no part of the application Land be added to the Register of Town and Village Greens.

8 Background documents¹

8.1 The Application Land plan.

8.2 Footpath plan.

8.3 The Inspector's Report.

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND AT PIT
HILL, CHURWELL, LEEDS, WEST YORKSHIRE
AS A TOWN OR VILLAGE GREEN**

REPORT

of Miss Ruth Stockley

11 September 2012

Leeds City Council

Civic Hall

Leeds

LS1 1UR

Ref: A76/JL

Application No: VG 211

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND AT
PIT HILL, CHURWELL, LEEDS, WEST YORKSHIRE
AS A TOWN OR VILLAGE GREEN**

REPORT

1. INTRODUCTION

1.1 This Report relates to an Application (“the Application”) made under section 15(1) of the Commons Act 2006 (“the 2006 Act”) to register land at Pit Hill, Churwell, Leeds, West Yorkshire (“the Land”) as a town or village green. Under the 2006 Act, Leeds City Council, as the Registration Authority, is required to register land as a town or village green where the relevant statutory requirements have been met. The Registration Authority instructed me to hold a non-statutory public inquiry into the Application, to consider all the evidence and then to prepare a Report containing my findings and recommendations for consideration by the Authority.

1.2 I held such an Inquiry over 3 days, namely between 16 May 2012 and 18 May 2012 inclusive, and I also undertook an accompanied site visit on 18 May 2012.

1.3 Prior to the Inquiry, I held a Pre-Hearing Meeting on 13 March 2012 to discuss procedural matters. Subsequently, I issued directions as to the exchange of

evidence and of other documents. Those documents were duly provided to me by both Parties which significantly assisted my preparation for the Inquiry. The Applicants produced a bundle of documents containing their supporting witness statements and other documentary evidence in support of the Application and upon which they wished to rely, which I shall refer to in this Report as “AB”. The Objectors produced a bundle of documents containing their witness statements and other documentary evidence in support of their Objection and upon which they wished to rely, which I shall refer to as “OB”. I have read all the documents contained in the bundles and taken their contents into account in this Report.

1.4 I emphasise at the outset that this Report can only be a set of recommendations to the Registration Authority as I have no power to determine the Application nor any substantive matters relating thereto. Therefore, provided it acted lawfully, the Registration Authority would be free to accept or reject any of my recommendations contained in this Report.

2. THE APPLICATION

2.1 The Application was made by Save Pit Hill Churwell, C/o Churwell Action Group of 2 High Street, Morley, Leeds LS27 9AW (“the Applicants”) and is dated 9 December 2010.¹ It was received by the Registration Authority on 14 December 2010. Part 5 of the Application Form states that the Land sought to be registered is usually known as “*Pit Hill*”, and its location is described as “*Land to the east and west side of Hepworth Avenue, Churwell, Leeds, West Yorkshire*”. A map was submitted with the Application attached to the Statutory Declaration which showed the Land subject to

¹ The Application is contained in AB page 1.

the Application outlined in red.² In part 6 of the Application Form, the relevant “locality or neighbourhood within a locality” to which the claimed green relates is stated to be “*Churwell, Morley shown on the map at Appendix 2 marked as “Morley Town Council’s Churwell Ward” and showing the electoral boundary of Churwell.*”. I shall return to the relevant locality later in this Report.

2.2 The Application is made on the basis that section 15(2) of the 2006 Act applies, which provision contains the relevant qualifying criteria. The justification for the registration of the Land is set out in Part 7 of the Form. The Application is verified by a statutory declaration in support made on 9 December 2010. As to supporting documentation, a statement in support was submitted with the Application together with 120 witness statements and other documentary evidence in support.

2.3 The Application was advertised by the Registration Authority as a result of which an objection together with supporting documentation was received dated 14 July 2011 (“the Objection”)³ on behalf of Terence Wooding, Jean Wooding, Harry Gaythorpe and Margaret Gaythorpe (“the Objectors”) who are the joint owners of the Land. Objections were also received from Paul Blakeley, Persimmon Homes and Christopher Wilson.⁴ Mr Blakeley and Mr Wilson supported the Objectors’ case presented to the Inquiry. The Applicants duly responded to the objections made on 8 September 2011 and supported their response with additional photographs and a letter

² At AB pages 11 and 12.

³ The Statement of Objection is at OB pages 1-105.

⁴ Their objections are at OB pages 5, 11 and 12.

from West Yorkshire Police dated 4 August 2011.⁵ The Objectors replied to that response on 12 October 2011 with further documentary evidence in support.⁶

2.4 I have been provided with copies of all the above documents in support of and objecting to the Application which I have read and the contents of which I have taken into account in this Report.

2.5 Having received such representations, the Registration Authority determined to arrange a non-statutory inquiry prior to determining the Application which I duly held.

2.6 At the Inquiry, the Applicants were represented by Mrs Kathleen Hall, the Vice Chair of the Applicants, and the Objectors were represented by Counsel, Mr Alan Evans. Any third parties who were not being called as witnesses by the Applicants or the Objectors and wished to make any representations were invited to speak, and four additional persons did so.

3. THE APPLICATION LAND

3.1 The Application Land is identified on the map submitted with the Application on which it is outlined in red.⁷

3.2 It is an irregular shaped parcel of land measuring approximately 24.4 acres in area and is located within Churwell. It is an open, undeveloped site which generally comprises rough grassland, and slopes from east to west across its central areas and

⁵ At AB tab 11.

⁶ At OB tab 2.

⁷ At AB pages 11 and 12.

from south to north from its central area to its northern end. There is a steeply rising hill in its central area to the eastern side known as the Pit Hill. Its western boundary comprises a tree belt positioned at the foot of the M621 motorway embankment with the M621 beyond. To the south is a mix of open land and residential development, and to the east is a mix of scrubland, housing and an enclosed open area. There is a track along its northern boundary.

3.3 Two definitive footpaths cross the Land in a generally north to south and east to west direction respectively. The former, Morley Footpath No. 40, runs from Daffil Avenue, across Hepworth Avenue in a generally north western direction, and then to Farnley Wood Beck in a north western direction. The other, Morley Footpath No. 30, runs from Hepworth Avenue to the M621 motorway. A further right of way known as Smools Lane, Morley Footpath No. 27, runs along the southern boundary of the Land, but outside the Land, from Elland Road, across the end of Grange Park Drive and over the M621 motorway on a bridge.⁸ In addition, there are a number of other visible tracks crossing the Land. The Land is unfenced, and unrestricted access to it on foot is available from a number of points round the Land.

4. THE EVIDENCE

4.1 Turning to the evidence, I record at the outset that every witness from both Parties presented their evidence in an open, straightforward and helpful way. Further, I have no reason to doubt any of the evidence given by any witness save as indicated below, and I regard each and every witness as having given credible evidence to the best of their individual recollections.

⁸ The definitive and claimed rights of way on and in the vicinity of the Land are marked on the plan at OB page 164.

4.2 The evidence was not taken on oath.

4.3 The following is not an exhaustive summary of the evidence given by every witness to the Inquiry. However, it purports to set out the flavour and main points of each witness's oral evidence. I assume that copies of all the written evidence will be made available to those members of the Registration Authority determining the Application and so I shall not rehearse their contents herein. I shall consider the evidence in the general order in which each witness was called at the Inquiry for each Party.

CASE FOR THE APPLICANTS

Oral Evidence in Support of the Application

4.4 **Mrs Kathleen Hall**⁹ is the Vice Chair of the Applicants and she has lived in Churwell village since 1978. Between 1978 and 1992, she lived on Woodcross, and from 1992 onwards, she has lived at 40 Grange Park Drive. Her use of the Land has taken place over a 25 year period, particularly with her two daughters who were born in 1979 and 1981, and they all used the Land together from her children being 4 or 5 and until they went to university when they were 18. The frequency of her use of the Land over that period was approximately once a week or once a fortnight. As a family, they walked on the Land, and as her children grew older, she took them there to go nature watching, bird watching, cycling, walking, picnicking during the summer and sledging when it snowed. Bonfire night is celebrated on the Land. She has also used the Land regularly for dog walking and general exercise, using it around twice a

⁹ Her witness statements are at AB tab 12.

day with her dog over the last 10 years. She met many other dog walkers, cyclists, runners and walkers on the Land until it was recently ploughed. Dog walkers did not tend to keep to the tracks, but followed their dogs. The route she particularly took with her dog was to walk along the top of Pit Hill, go through a gap in the hedge, walk across the Land to the beck, and then follow a similar route back. It depended upon the weather, though, as the Land became very wet, particularly at the bottom end. She has seen the local junior rugby team doing fitness training around the Land during the summer periods over the last 3 or 4 years. They trained round the perimeter circuit of the entire Land. She has never been challenged when using the Land, has always had open access to it, and has never sought permission to use it.

4.5 She has never seen any agricultural use of the Land that would be inconsistent with its recreational use or which stopped recreational activities being carried out. The only time she has seen any such activity has been subsequent to the making of the Application. In the northern part of the Land, she had only previously seen long grass and gypsy ponies. She acknowledged that the Objectors' photographs showed a growing crop on that northern area.¹⁰ She further accepted that aerial photographs produced to the Inquiry by the Objectors from 1991 ("the Objectors' 1991 aerial photograph") and from 1992 ("the Objectors' 1991 aerial photograph") showed the northern area as having been ploughed. However, she had used that part of the Land regularly as she and her family used to go there to feed the gypsy ponies, but she had never seen it being ploughed or harvested. She accepted the evidence that it had been ploughed, but not to the extent that it stopped people using the Land. Nothing had interfered with her and her dogs using the northern part of the Land where she had not

¹⁰ At OB pages 284 and 285.

stuck to the footpath. She accepted that that part of the Land had not been as well used as the remainder. As a general pattern, evening use of the Land had tended to be mostly of the southern part of the Land, with the northern end being used more during the weekends when people had more time to get there. In relation to the northern part of the Land, she had not seen a crop of hay there in 1991. She would describe it as “*scraggy grass*” that grows there each year. She had never seen a baler nor a tractor there until post the making of the Application.

4.6 She confirmed that the address provided in the Application for the Applicants was the address for Churwell Action Group. However, she is not a member of that Group and has never attended any of its meetings. As to the Applicants themselves, an informal committee was established when they were set up comprising herself, Mr Hunter and Mrs Harrison, and they are the only members. The Applicants were not set up to prevent development at Pit Hill, but to prevent its loss as an area of open space. That was her objective and that of the 120 local residents who had completed the witness statements in support. Their intention was to “*save it*” as an area of open space for its future use as such by local residents rather than to react to a threat of its development. However, she acknowledged that the authors of the press release on the Applicants’ website regarded the Applicants as part of “*a campaign to stop future development*” on the Land.¹¹

4.7 In relation to the 120 witness statements submitted with the Application, she agreed that they were all in substantially the same format. She produced them, having researched various websites, including the open spaces society’s. They were designed

¹¹ At OB page 122.

to give people the maximum number of choices in indicating matters such as how they had used the Land. She did not take any advice in relation to their format, but they had discussed it themselves, namely herself, Mr Hunter and Mrs Harrison. As to the method of distribution of the witness statements, the target audience was those they met daily on the Land. They put notices up at various entrances to the Land and advertisements in the local press. The statements could be downloaded. There was no door to door distribution.

4.8 A plan of the Land referred to in the statements as “Pit Hill” was on the Applicants’ website. The first plan initially on the website was more limited than the Application Plan as she had understood that it was necessary to identify the area that was used most intensively and so that area was shown on the initial plan. However, within about a month, people informed her that the plan was incorrect because they had used a wider area, so it was amended to reflect the usage of the majority of users and a new plan was put onto the website. A plan was only attached to approximately 4 out of the 120 witness statements, but she was unaware which the 4 statements were as it was Mr Hunter who collated the forms. She identified that earlier plan.¹² It included an area of fenced grazing land to the west of houses on Hepworth Avenue that has subsequently been removed from the Application as the Applicants accepted that that area should not have been included as it was fenced. She agreed that insofar as individuals had signed a witness statement with reference to that erroneous plan, it could not be identified whether they were referring in their statements to having used that area that is no longer part of the Application. In addition, that plan did not include the northern part of the Application Land. At the time that plan was drawn up, she had

¹² At OB page 168.

only spoken to around ten people, but had formed the impression from those people that the northern part had not been used as intensively as the other parts of the Land and there had not been sufficient usage of it to justify its registration.

4.9 She confirmed that the extension of the area referred to in the blog reference for 12 November 2010 on the Applicants' website¹³ is a reference to the extension to include the northern part of the Application Land. It was written by Mr Hunter, and states "*After taking advice and further discussions with locals who use Pit Hill, and especially those from Churwell New Village, it has been decided to extend the proposed area north toward Churwell New Village*". Churwell New Village was built in 2005. The Applicants had received a bundle of petitions from New Village, but no one from that area had used the Land for more than 20 years and so those petitions were not regarded by the Applicants as particularly relevant to the Application. The extension to the area did not result from discussions with the residents of Churwell New Village as the blog suggested, and she agreed that the blog was misleading in that regard. She was unaware of the date when the plan was changed, but was of the view that it was much earlier than 12 November 2010 despite that being the date of the blog referring to the extension. However, she acknowledged that if the amendment to include the northern area only occurred in November 2010, that would have post-dated all the witness statements. Those who did not have a plan attached to their witness statement were reliant upon the website for the plan or upon being shown a plan if they requested to see one. She accepted that there was nothing on the face of the witness statements themselves indicating the area of land being referred to. It is

¹³ At OB page 128.

not possible to say whether any or which particular individuals looked at the plan on the website when filling in a witness statement or had the plan shown to them.

4.10 The Land is crossed by two definitive footpaths as marked in yellow on the aerial photograph provided.¹⁴ Footpath 40 runs north to south starting at Daffil Avenue, whilst Footpath 30 runs east to west towards the motorway. There is another definitive footpath to the south of the Land, but outside it. She referred to there also being a number of informal paths across the Land as marked in red on the aerial photograph. They had not all existed throughout the relevant 20 year period, but had varied over the years. She acknowledged that a number of the activities listed in paragraph 4 of the witness statements were capable of being carried out on footpaths, although in her view they were not. There was nothing in the witness statements to indicate whether those activities had been carried out on or off the paths, although activities such as picnicking, kicking a ball and organised games would not be carried out on the paths. Dog walking is not an activity listed on all the pro-forma witness statements which she could not explain. She agreed that the paths would be where the most intensive use had been. On the aerial photographs, it was difficult to discern any informal paths on those dated 2002 and 2003,¹⁵ whilst a more distinct pattern of markings was apparent on the one from 2006.¹⁶ The Land had been used for off-road motor cycling, and she had challenged some of the riders. The tracks shown on the 2006 aerial photograph were not caused by that activity as the motor cyclists did not follow any paths but rode all over the area. No applications have been made by the Action Group to add any footpaths to the Definitive Map, although consideration has

¹⁴ At AB page 167 and as also shown at OB page 164.

¹⁵ AB pages 187 and 188.

¹⁶ AB page 189.

been given to add the route along the motorway shown on the 2006 photograph,¹⁷ and reference is made to that proposed application on the Applicants' website which refers to "*the very popular footpath*" running parallel to the M621 with a photograph of a worn path with the land to the side of it overgrown.¹⁸ She was unaware whether any other footpath applications had been considered in relation to the Land.

4.11 The pro-forma witness statements do not refer to the frequency of activities carried out on the Land. It is therefore unknown whether the activities carried out have only been carried out once a year or daily or anything in-between. They also make no reference to whether the pattern of an individual's use has changed over the relevant 20 year period. The Application Land is approximately 25 acres in area. It includes three separate field parcels, the "Pit Hill" area itself, and a small area to the north of Daffil Woods. The access points onto the Land are identified on a plan prepared by the Applicants.¹⁹ There is an informal access to the Land via the gap between the houses to the rear of Hepworth Avenue, but she was unable to say whether or not that access was reasonably well used. There is a formal access onto the southern part of the Land. She accepted that the witness statements do not indicate which parts of the Land have been used by individuals.

4.12 The witness statements do not ask whether individuals have ever seen notices on the Land. The Applicants do not dispute that notices were erected on the Land around 2005, but they were not obvious to people entering onto the Land. The Applicants were aware that there were signs on the Land when the Application was made, one of which is shown on one of the Applicants' photographs at the informal

¹⁷ And on the plan at OB page 164.

¹⁸ AB page 125.

¹⁹ AB page 162.

access.²⁰ It is an obvious and clear sign, but it was generally assumed from the 11 or so people she had spoken to about it that the sign referred to the area where the garages had been that had been demolished 4 or 5 years ago as there had been asbestos in the garages. She agreed that it was also reasonable to regard the sign as requiring people to keep off the Land. However, the first time she saw what that notice said was around a week ago. She had not previously seen what the sign located near to Footpath 30 from Hepworth Avenue said as she did not use that means of access. There is also a sign at the point where Footpath 40 meets the northern point of access onto the Land.²¹ She was unaware what that sign stated as it was behind her when she had used that access. The pro-forma witness statements do not ask any questions about the signs on the Land.

4.13 The only photographs showing use of the Land are those on the front cover of the Application.²² The kite flyer is on Footpath 40; the cyclists, the dog walkers and the group of people are all or near to an informal path; and the sledging and the bonfire are on Pit Hill. She recalled there being a bonfire on the Land annually on the same part of the Land.

4.14 The pro-forma witness statements all refer in paragraph 2 to the author being “*an inhabitant of the locality of Churwell when using Pit Hill*”. There was no plan available to those witnesses on the website or elsewhere indicating the area of that locality, but she pointed out that anyone who lives in Churwell knows where that area is. She confirmed that the Application was not being advanced on the basis of the Land having been used by the inhabitants of a neighbourhood within a locality. She

²⁰ AB page 165 photograph 13.

²¹ The pole to which the sign is attached is shown on photograph 9 at AB page 165.

²² AB page 1.

was the author of the Application's supporting statement. In that statement, the locality relied upon was Churwell, as defined by the boundaries of the electoral ward.²³ The Application is now being pursued on the basis that the locality is the ecclesiastical parish of St Peter's. No reliance is placed upon the locality being the township. The parish boundaries have been taken from the website. It extends to the north of the M621 in contrast to the ward boundary. There is a broad correspondence between the two eastern boundaries. The southern boundary of the parish extends further to the south than the electoral boundary. It also extends significantly further to the west than the ward boundary.

4.15 **Mrs Janet Harrison**²⁴ has lived at 45 Daffil Grove since 1988, and has used the Land from that time onwards. She has walked on all the Land throughout that period, having entered from various open access points, and has never been challenged, asked to stick to the footpaths or been prevented from using the Land. She regarded it as common land. She never saw any agricultural activity on the Land. She entered the Land from one of the accesses at the southern end and did a circular walk along the M621. However, she also meandered over the Land generally. Her main interest on the Land was to survey the local flora and fauna, which is a particular interest of hers. She is a voluntary ranger for Leeds City Council and provides information to their rangers. As the Land had not been farmed for crops or ploughed, it was a haven for native plants and wildlife. She took her niece and nephew with her when they were younger. They picnicked there in the summer months, and sledged and made snowmen when it snowed. The south end of the Land has self seeded ash trees growing and is gradually returning to woodland, which indicates that the Land

²³ As marked on the aerial photograph at AB page 14.

²⁴ Her witness statements are at AB tab 13.

has not been ploughed or farmed for a considerable period. In 2009, she found wild orchids in three locations on the Land, namely two at the field edge of the area of self-seeded trees and one at the base of the slag heap on the east side, which were Southern Marsh Orchids.²⁵ They were on the periphery of the Land. She had never noticed any on the Land until 2009. Such orchids generally thrive in nutrient-poor conditions, which is a further indication that the Land has not been ploughed or fertilised for a long period. They could not have thrived if the Land had been ploughed as alleged by the Objectors. When the Land was ploughed in February 2011, the orchids were destroyed. She had not discovered any orchids on the northern part of the Land, although she had not done any botanical surveys in that area. She had merely regularly walked the path parallel to the M621 and looked from there.

4.16 In relation to the Objectors' photograph showing crops growing on the northern part of the Land,²⁶ the M621 was completed in this area in approximately 1973. It is reasonable to assume that the tree planting on its embankment occurred around 1973 to 1975. She estimated that the trees on that embankment as shown on the photograph had been growing for between 10 and 15 years. She therefore accepted that the Objectors' contention that the photograph was taken in 1991 was within the bounds of her estimated range. She further accepted that the photograph showed a crop growing in that northern area of the Land. However, she had never seen a tractor pulling machinery cutting the grass on that area nor had she ever seen evidence that the grass in that location had been cut. She had seen no cropping of the northern area. Nonetheless, she accepted that from the photographic evidence "*you can't deny some kind of cropping has taken place there and therefore it must have been when I wasn't*

²⁵ The locations of the wild orchids she found are identified at AB page 185.

²⁶ OB page 284.

walking that part of the Land that it took place". She did not use the northern part of the Land as much in the earlier part of the relevant 20 year period as she did not have as much time then, but she visited it more frequently in the later years and did not see any cropping then. She used it in those earlier years to do a circular walk round its perimeter, and she saw others doing that similar circuit walk, although people also walked over the Land as shown by the criss-cross paths that have been made. She agreed that the Objectors' 1991 aerial photograph showed that the northern part of the Land had been ploughed and would not suggest any other alternative explanation for its appearance on that photograph. She further agreed that the 1992 aerial photograph showed some activity over the entirety of the Land and that there was no other reasonable explanation than it was agricultural activity. She had no recollection of such activity during those years, though.

4.17 She had seen the notices that are currently on the Land and accepted that they were erected in 2005. The two notices at the northern end just say "keep out", and as one of them is by the footpath sign it is misleading. She understood the signs to mean "do not enter". However, as a footpath goes across the Land, the signs are unclear because they do not state "please keep to the footpath". She had not used the informal access to the Land where the demolished garages had been and where the other sign is located. She had not seen others use that access either, but acknowledged that there was a worn track there. It is not an easy means of access due to the nettles, but children use it with their bicycles. The access point she mainly uses is the formal one along Footpath 40 nearest to where she lives.

4.18 She has been a member of the Churwell Action Group since 2004. It came into existence in 2002. It has a formal structure. The Applicants do not have such a formal structure, but they command support in the local area. She has not been involved in the blog on the Applicants' website. Mr Hunter is its author. She had no independent memory as to when the amended plan showing the Application Land came to be put on the website.

4.19 **Mr Steven Hunter**²⁷ has lived at 45 Daffil Grove since 1988, and is part of the same household as Mrs Harrison. He has walked on the Land regularly from that time onwards and has also enjoyed wildlife watching on the Land. He has walked on the Land more frequently since obtaining a dog approximately four years ago, and has seen others using the Land walking with and without dogs and playing with their children. During the early 1990's, he used the southern part of the Land, which was nearer to where he lived, around two or three times per month, and the northern part around two or three times a year. His main dog walking route was the top of Pit Hill and the southern end of the Land. At the southern end, he usually entered via the public footpath at Hepworth Avenue or at Smools Lane. He then walked along the side of the motorway and on the footpath. He had seen the sign at the southern end, but he understood it to refer to that piece of land only. He had never seen the signs at the northern end despite being there approximately two or three times a year. He has never been challenged or restricted from walking on the Land. He has never seen Mr Blakeley on the Land. In 2008, he became a voluntary Tree Warden working with Leeds City Council's Parks and Forestry departments monitoring and managing the local woodland green spaces around Churwell with a group of local volunteers. From

²⁷ His witness statements are at AB tab 14.

around 2008, there was regular off-road biking on the Land and he frequently contacted the police over that. It was a real problem for a time. Fly tipping also occurred in Daffil Woods. The garages to the rear of Hepworth Avenue were demolished by the Landowners. It was thought that the Land was common land. It was not maintained by the Landowners, but the local residents have managed it.

4.20 He had never seen any agricultural activity on the Land, such as ploughing, harvesting, fertilising, cutting, hay crops, tractors or combine harvesters. However, he acknowledged that the Objectors' 1991 and 1992 aerial photographs showed agricultural activity on the Land and he could provide no other explanation for what was shown on those photographs. He had seen horses grazing on the Land. They were tethered at the southern end, and he had also seen them at the northern end virtually every time he walked to that part of the Land.

4.21 He is responsible for writing the blog on the Applicants' website and has made all the entries. As soon as he was aware that it was intended to extend the Application Land, he put the amended map on the blog. There was no methodology as to where the map was placed on the blog as he was able to put it anywhere. Nonetheless, he acknowledged that the text in the blog was all written in chronological order, and that entries were made to the blog on a chronological basis. The reference to the map showing the amended area is contained in the entry dated 12 November 2010,²⁸ although the date he entered something on the blog could be a while after it occurred. It was not necessarily the case that he would have placed the reference to the amended area on the blog as soon as the decision was made to extend that area. It was not done

²⁸ OB page 128.

immediately, but as soon as possible given his work commitments. It could have been entered on the blog two or three weeks after the decision was taken. He had no independent memory as to when the decision to extend the area of the Land was arrived at. However, he accepted that most of the witness statements would have already been completed at the time when the decision was taken to extend the area if the above time periods were correct given that the latest forms are dated 12 October 2010. He further accepted that until that decision had been taken, no one could have been aware of the amended area. Hence, if the amendment was not made until the end of October 2010, none of the witness statements would have had an amended plan attached. Indeed, his own witness statement was dated 17 September 2010 and so was one of the forms which related to the original plan. Nonetheless, he maintained that most people were aware of the extent of the Land. There was nothing on the face of the form referring to the map. He stapled the plan to the back of the witness statement forms that he posted; it was also attached to the e-mails he sent; and it was placed on the website so that it could be downloaded. As soon as the Applicants made the decision to amend the area, the amended plan was attached to witness statements that were subsequently sent out.

4.22 **Mrs Wenda Whitehead**²⁹ lives at 71 Elland Road, and has used the Land since 1960. It has always been regarded locally as common land, and she had never sought permission to use it. She was unaware who owned the Land. Her children played on the Land when they were young, which was prior to the relevant 20 year period, and her grandchildren used it until it was recently ploughed over. They live on Park Street in Churwell and she sees them daily. During the relevant 20 year period,

²⁹ Her witness statements are at AB tab 15.

she exercised her dogs on the Land, when she tried to keep to the footpaths, but her dogs did not and she had to chase them a couple of times. She tried to keep to the paths because it was easier to walk on them. The grass became overgrown in parts. She always saw other dog walkers using the Land. She had one dog for around two years and another one at a different time for approximately five or six years. She was aware that off-road motor cycling had taken place on the Land which would have made tracks on the Land. Until 1998, she assisted with the local Brownies Pack associated with Back Green Methodist Church in Churwell for over 20 years, and often took them onto the Land when the weather was good to look at the flora and fauna, to walk and to play games. A couple of years ago, her grandchildren and other children used the top of Pit Hill for kite flying. During periods of snow, the Land was used for sledging. She and her family also enjoyed the bonfires and firework displays organised on the Land annually on the south eastern part of the Land near to the houses to which anyone could come along. There were no other organised activities on the Land. A few years ago, she saw children camping on the Land during the summer holidays. She did not recall there being any crops on the Land and had seen no agricultural activities on the Land. However, she had never been onto the northern part of the Land. She had never seen Mr Blakeley until the Inquiry. She was aware of a sign being erected, but assumed it related to that particular area of land where the garages had been. There was a well worn path onto the Land there, but she rarely used it.

4.23 She was a founder member of the Action Group and remains a member. The Action Group has a history of campaigning to stop development, but that is not the

reason she is supporting this Application. She has also been a Morley Town Councillor since 2003. The New Village was completed around 2005.

4.24 **Mr John Bilbie**³⁰ has lived at 29 Hepworth Avenue for approximately 10 years. Prior to that, he lived in Cottingley for approximately one year, and before that, he lived at five different addresses in Churwell. He has lived in Churwell throughout the relevant 20 year period with the exception of the 12 months he was in Cottingley. He was born in 1941, and as a child, he played on the Land, including football and cricket. Children camped out on the Land during the summer, and families had picnics. On Sundays, half the village would be using the Land. Those matters all pre-date the relevant 20 year period, but support his belief that it was common land. Moreover, he has also used the Land as an adult and within the relevant 20 year period, and continues to do so on a regular basis, for activities such as dog walking, playing with his grandchildren and showing them the flora and fauna on the Land. He has used the northern part of the Land during that period to exercise his dog, but not frequently. He did not have a particular route that he followed. However, there were tethered horses all over the Land, not merely in the southern area, and he avoided them. They have been on the Land for many years, including during the relevant 20 year period. He was unaware to whom they belonged or whether they were gypsy horses. He tended to walk round the footpaths, but he would follow his dog if it went off the paths. Bonfires have been held on the Land for as long as he can recall. A communal “Hepworth Estate” bonfire has been held on the Land annually over the last 4 or 5 years. He also had his own family bonfire on the Land just over the fence of his garden. Nothing stopped people using the Land until its recent ploughing. There

³⁰ His witness statements are at AB tab 16.

were never any restrictions on using the Land, and no one ever sought to prevent anyone from using it. Access to the Land has always been open from quite a few points of entry, and only recently have warning notices been erected. His main access point onto the Land now is via the formal access from the footpath from Hepworth Avenue. He recalls a sign recently being erected there, but he understood it to refer to the small area by the garages and not to the Land itself which he regarded as common land to which there was open access and free use by all residents of Churwell. He has occasionally used the informal access through the garages, but not often because it smelt in that area and there were lots of nettles there. It was used mainly by the gypsy ponies. His use of the Land has never been challenged. He has never seen Mr Blakeley. He saw a person on a tractor on the Land, but only in 2011, and he never saw any agricultural activity on the Land during the relevant 20 year period. The field between the Pit Hill and the M621 motorway,³¹ which he called the rhubarb field, lay fallow for many years and only within the last year has it been ploughed over twice.

Written Evidence in Support of the Application

4.25 In addition to the evidence of the witnesses who appeared at the Inquiry, I have also considered and had regard to all the written evidence submitted in support of the Application in the form of additional pro-forma witness statements and other documents which are contained in the Applicants' Bundle.

4.26 However, whilst the Registration Authority must also take into account all such written evidence, I and the Authority must bear in mind that it has not been tested by cross examination. Hence, particularly where it is in conflict with oral

³¹ He identified those fields as the Part of the Land shown outlined in red on the map at OB page 325.

evidence given to the Inquiry, I have attributed such evidence less weight as it was not subject to such cross examination.

CASE FOR THE OBJECTORS

Oral Evidence Objecting to the Application

4.27 **Mr Terence Wooding**³² is a joint owner of the Land and one of the Objectors. He and his wife bought the Land jointly with Mr and Mrs Gaythorpe in 1983 as part of a wider area, which included an area of land on the other side of the M621 motorway that they sold in 2008.³³ The Land has only been used for agricultural activities since they acquired it. Moreover, Mr Gaythorpe had been the tenant farmer of the Land since 1959, and he farmed it until his retirement in 1991. The extent of the Application Land has changed during the course of the collation of evidence in support.³⁴ The initial plan included an area to the east at the top of the embankment known as the Pit Hill that is, and has been for many years, rented out by the Landowners as grazing land for horses.³⁵ That is no longer included as part of the Application. To the north of that is an area rented out and used as allotments which has never been part of the Application.³⁶ The current plan has also been extended to include a further area to the north which is currently farmed by Mr Blakeley and previously by Mr Gaythorpe.

4.28 The Land was farmed by Mr Harry Gaythorpe until his retirement in 1991. From the late 1980's until 1991, he cultivated seed hay on the southern part of the Land. That area where the seed had previously been sown is a darker greener colour

³² His witness statement is at OB tab 4.

³³ The area of land acquired is outlined in red on the plan at OB page 150.

³⁴ The original area is shown at OB page 168 in contrast to the revised area at OB page 166.

³⁵ That area is outlined in green on the plan at OB page 170.

³⁶ That area is outlined in blue on the plan at OB page 170.

on the aerial photograph dated 1 January 2002.³⁷ Once a year, Mr Wooding assisted with the harvesting of the seed hay when it was cut using an implement attached and pulled on the back of a tractor. The hay was turned over about a week after it had been cut, and was then baled once it had dried out using a tractor and a baler. The bales were then transported to Manor House Farm where they were stored. Whilst the seed hay was growing and particularly near to the time when it was harvested, the Land was unsuitable for recreational use as the crop grew to be extremely long and was an irritant. On the northern part of the Land, Mr Gaythorpe grew a variety of crops, namely rhubarb, potatoes and winter barley until 1992 when Mr Blakeley took over farming the Land. The presence of crops on that northern area would make it unsuitable for recreational use. The majority of the Land³⁸ has been rented to Mr Blakeley since Mr Gaythorpe's retirement in 1991/1992 who pays an annual rent of £350. He has farmed that area since that time, and until 2005 when all that land was put on set aside, he grew crops on the northern area. The Land is unsuitable for recreational use when there are crops growing. Mr Wooding gave permission to the owner of horses to keep them on the southern part of the Land.³⁹ They kept the grass down. He was unaware of the dates, but the horses were on the Land for in the region of 20 years.

4.29 Motorcycles apparently started trespassing on the Land around 2003, although he had never seen them. It is not possible to fence off the entire area of the Land because there are several public rights of way running across it. Further, the cost of doing so would be enormous. By 2005, Churwell New Village was being built and due to the increased number of residential properties in the area, he and the other

³⁷ At OB page 174.

³⁸ Namely the area outlined in red on the plan at OB page 170.

³⁹ Namely the area outlined in red on the plan at OB page 172.

Landowners took steps to reinforce the position that the Land was private and not for public use. It was not the Land's recreational use that was a concern but, rather, the increased fly tipping on the Land. There was already an old sign in situ stating "Keep Out Private Property Manor House Farm" near to the northern area that was present when they bought the Land in 1983.⁴⁰ There was also a wooden gate in that location next to a stile that was present in 1983, but it was damaged by vandals and the locks snapped over time. Its current condition is shown on a recent photograph taken after the end of the relevant 20 year period.⁴¹ In March 2005, he purchased four signs stating "Private Property KEEP OUT, Manor House Farm" with posts. He referred to a copy of the invoice dated 14 March 2005 made out to A.R.A. which was his business.⁴² He had the signs put up in four separate locations on the Land which were chosen because they were the main access points onto the Land that the Landowners used in order to make it clear to people that the Land was private property and not for public use. The four locations were at the northern end close to the broken gate, at the northern end on public Footpath No 40, on the eastern side on the track leading to the allotments on public Footpath No 30, and at the access near to the now demolished garages.⁴³ He had taken contemporaneous photographs of each of the signs.⁴⁴ They were metal plate signs mounted on metal posts which were secured in place with concrete and they remain in situ. The Council subsequently put up its own signs on those posts in relation to tipping on the Land. He acknowledged that the majority of users of the Land lived to the south of the Land,⁴⁵ and so the access points in those locations would be likely to be the most well used although there is no survey

⁴⁰ The position of that sign is marked with an X on the plan at OB page 189.

⁴¹ At OB page 178.

⁴² At OB page 180.

⁴³ The locations of the four signs are marked on the plan at OB page 182.

⁴⁴ At OB pages 404-410.

⁴⁵ As shown on the plan at AB page 169.

evidence relating to the access points used. He accepted that no signs were erected at any of such access points.

4.30 He was on the Land approximately once a month on average. The purpose was to check that no unauthorised persons were on the Land, such as gypsies, and to check the allotments. He merely saw the odd dog walker on the footpaths, and only saw dogs straying off them. The footpaths were not used much until Churwell New Village was built. They are now used as a short cut, such as to school. Children have also sledged down the steep Pit Hill slope during snowy conditions.

4.31 **Mr Paul Blakeley**⁴⁶ is the tenant farmer of the Land. He objected to the Application by letter dated 30 June 2011,⁴⁷ and he responded to the Applicants' response to his objection.⁴⁸ He has rented the Land since Mr Gaythorpe retired towards the end of 1991. His current rent is £350 per annum. He previously also farmed the land on the other side of the M621 motorway, but that was sold off by the Objectors to another farmer in 2008.⁴⁹ He has planted crops on the northern part of the Land.⁵⁰ He has not farmed the southern part of the Land⁵¹ because when he tried to plough that area in 1994, a grey ash came to the surface of the soil about 2 acres to the south of the northern area making that area unsuitable for planting. As a result, that southern area has not had crops grown on it for most of the time that he has rented the Land save that he planted the 2 acres with corn between around 1994 and 2000.

⁴⁶ His witness statement is at OB tab 8.

⁴⁷ His objection is at OB page 5.

⁴⁸ His response is at OB page 135.

⁴⁹ That land is hatched blue on the plan at OB page 305.

⁵⁰ That area is outlined in blue on the plan at OB page 307.

⁵¹ As outlined in green on the plan at OB page 307.

4.32 In 1992, he registered some of the Land⁵² in the Defra IACS Scheme which compensated farmers for the low price of corn.⁵³ He referred to his tenancy copies of the field data printouts relating to that area of the Land as submitted by him to Defra up to 2005, save that the printouts for 1992 and 2003 are missing.⁵⁴ The 2 acres of the southern area that he planted were not part of those documentary records because it would have been too complicated and not worthwhile. The IACS Scheme was a system of recording what agricultural land had been used for in order to enable a farmer to claim payment for it. He had completed the data sheets himself up until 2005, and thereafter he employed a land agent who completed the paperwork. There were financial penalties imposed if the paperwork was not accurate which were deducted from the payment received, and random checking took place so anyone could be checked at any time. It was therefore very important for the paperwork to be correct. The data sheets show that barley was being grown on both fields in the northern part of the Land as of 1993; that one of those fields was left for natural regeneration, or set-aside, in 1994, which is part of normal agricultural practice, and the other was used for the growing of winter barley; that both fields were used for the growing of winter barley in 1995; for the growing of barley in 1996; for the growing of barley and for set-aside in 1997; for the growing of barley in both fields in 1998 to 2001 inclusive; both fields were set-aside in 2002; and both were used for barley growing in 2004. Therefore, up until 2005, he mostly used that part of the Land to grow barley.⁵⁵ The entirety of that area was planted with a one metre strip being left all round the edge. If the crops had been walked on, that would be apparent. In May 2002, Defra physically inspected all the land registered in the Defra Scheme that he

⁵² Namely that area edged red on the plan at OB page 309.

⁵³ The IACS Scheme was changed to the Single Farm Payment Scheme in 2005.

⁵⁴ At OB pages 311-321.

⁵⁵ A table showing the crops grown on the Land compiled by Mr Blakeley from the field records is at OB page 371.

farmed. He referred to a copy of their report.⁵⁶ Such checks are carried out by Defra to check that farm land is being used as claimed by the farmer. They ascertain what has been over-claimed for and what has been under-claimed for in determining the appropriate payment. At the time of that inspection, the Land was being set-aside.

4.33 In 2005, he registered the Land into the Single Farm Payment Scheme. That also included an area further to the south.⁵⁷ It was a new scheme which superseded the previous one. He referred to copies of the field data printouts submitted to the Rural Payments Agency,⁵⁸ although the printouts for the years 2005, 2007 and 2008 are missing. His land agent prepared that paperwork. No crops were grown on the Land post 2005 as the Land has been in set-aside since then, but the use of the Land still had to be recorded for the purposes of the payment scheme. When the Land is on set-aside, he goes over it with a large machine resembling a lawnmower and tops it off in accordance with good farming practice. It would take approximately one day to top off the Land, and it would be evident that such had taken place. The soil in the southern part of the Land is improving, and in January 2011 he was able to plough all the Land that is registered in the Single Farm Payment Scheme to an 8 or 9 inch depth. He ploughed the Land again in 2012 and hopes to plant a crop of spring barley. However, he acknowledged that during the relevant 20 year period, he only cropped the northern area save for the additional 2 acres of the southern area.

4.34 As to the processes involved in growing barley, the Land is firstly ploughed in September which involves going over it with a tractor and ploughing to a depth of around 8 or 9 inches. The crop is then planted, he goes over the ploughed land with a

⁵⁶ At OB pages 374-382.

⁵⁷ The area registered is outlined in red at OB page 325.

⁵⁸ At OB pages 327-369.

roller and then drills the seed. He usually goes back to the Land once or twice before the spring to tend to it if weeds have started to grow which involves spraying the Land to kill the weeds using a large tractor. In spring, he returns to the Land in a tractor to put nitrogen fertiliser on the crop, and a further top dressing is added with a spreader a few weeks later. At the end of April or early May, he sprays the crop twice with fungicide, and the crop is subsequently harvested using a large combine harvester, a tractor and trailer which takes about one day. Shortly afterwards, he bales the straw which is then removed from the Land. The Objectors' 1991 aerial photograph dated August 1991 shows the northern area when the barley has been cut. The white lines on the photograph are the straw that has come out of the combine harvester. The Objectors' 1992 aerial photograph shows a crop of barley growing in that area. The tramlines where he sprays are apparent, and the marks in the crop are what would be expected for barley. The barley grew to varying heights between around 3 feet down to 1.5 feet.

4.35 Up until around 2 years ago, a man named John kept horses that grazed on the southern part of the Land. When there have not been horses there, he has topped off that area. When cropping the Land, he would visit it around 12 times a year; when it was on set-aside, he only visited once a year. He has only seen people on the Land straying from the public rights of way "*occasionally*". When he has done so, he has shouted from his tractor or approached them and informed them that the Land is private and pointed out the public rights of way, but that has only occurred infrequently when he has been working on the Land. The only people he has seen on the Land have been joy riders on motor bikes, and the occasional dog walkers who

mainly walk on the public rights of way but sometimes stray off them to retrieve their dogs.

4.36 **Mr Stephen Gaythorpe**⁵⁹ is the son of two of the joint Landowners. He has lived in Churwell since he was nine months old. During the relevant 20 year period, he lived at 53 Old Road from 1986 until 2003, and then Manor House Farm from 2003 onwards. His father farmed the Land from 1959 until his retirement in 1991. During that period, he visited the Land daily to assist his father and to exercise his dog. He subsequently used the Land a couple of times a week to exercise his dogs. His son was born in 1990 and he went on the Land to see his grandfather working in his tractor. He referred to a photograph taken around 1993 showing his son and father in a tractor with baled straw on the attached trailer that had been harvested on the Land.⁶⁰ The land on the other side of the M621 motorway was sold off by his parents and the other Landowners to another farmer in 2008.

4.37 Whilst farming the Land, his father grew various crops on virtually all of the Land, including winter barley, seed hay, rhubarb, cauliflowers, potatoes and other vegetables. He cropped the area where Mr Blakeley had found grey ash in the soil and had no problems with grey ash. He rotated the crops he grew, but from the late 1980s until his retirement, he mainly grew winter barley on the Land. The only part of the Land that has always remained unplanted is the steep Pit Hill slope itself. It was very important to his father to make the best use of all of the Land as he only had 75 acres and that was his livelihood. He referred to two photographs showing winter barley growing on the Land taken by his wife in 1991 at the northern part of the Land

⁵⁹ His witness statement is at OB tab 7.

⁶⁰ At OB page 276.

looking towards the M621.⁶¹ When his father planted winter barley on the Land, he used a tractor to plough the Land in September, and then returned with a tractor and roller in October to roll and then drill the barley seed. His father then checked the crop regularly. In November, he returned to the Land in a tractor to weed and spray it. Then in spring, fertiliser would be put on the Land twice using a tractor and sprayer, and in summer, he and his father harvested the crop using a combine harvester, baled the straw and took it away.

4.38 Up until around ten years ago, he only very occasionally saw people on the Land walking on the public rights of way. He went to the Land a couple of times a week after his father retired in 1991 until around 2002. Those numbers of people walking dogs on the public rights of way increased once Churwell New Village was built, but that use remains occasional. Most people he has seen walking dogs on the Land stick to the public rights of way whilst an odd one veers off. When he has seen that, he has challenged the individuals and shown them where the footpaths are located. Over the last couple of years, people seem to be deliberately walking off the footpaths and there has been a gradual increase in that. He has also seen children sledging down the steep Pit Hill slope on a handful of occasions.

4.39 **Mrs Margaret Gaythorpe**⁶² is a joint owner of the Land and one of the Objectors. She confirmed the evidence contained in her witness statement. From 2003 onwards, she was responsible for collecting the rent for the Land from Mr Blakeley. It had previously been collected by Mr Wooding. She referred to extracts from her rent

⁶¹ At OB pages 284-285.

⁶² Her witness statement is at OB tab 6.

book.⁶³ He paid in arrears by one year. Up until 2008, he paid £550 annual rent which included the rent for the farmland on the other side of the M621. When that was sold in 2008, his rent was reduced to £350 per annum.

4.40 **Mrs Jean Wooding**⁶⁴ is a joint owner of the Land and one of the Objectors. She confirmed the evidence contained in her witness statement.⁶⁵ She pointed out that she had been to Majorca for around 6 weeks and returned on 10 September 2010 at which time when she went onto the internet, the Applicants' website still referred to the unamended plan of the land that was subject to the Application. She went onto the Land about once a fortnight to exercise her father's dog from the early 1960's until around 2000. They always had a dog throughout that period. She never saw anyone using the Land other than on the footpaths. The footpath leading down to Churwell New Village was little used, but the footpath close to the Pit Hill was heavily used. She has not used the Land with any regularity since around 2000.

Written Evidence Objecting to the Application

4.41 In addition to the evidence of witnesses who appeared at the Inquiry, I have also considered and had regard to the written evidence submitted in support of the objection to the Application in the form of the additional witness statement of Mr Colin Barran.⁶⁶ However, in relation to such written evidence, I refer to and repeat my observations in paragraph 4.26 above that whilst such written evidence must be taken into account, I and the Registration Authority must bear in mind that it has not been tested by cross examination. Hence, particularly where it is in conflict with any

⁶³ At OB pages 230-256.

⁶⁴ Her witness statement is at OB tab 5.

⁶⁵ Subject to making an amendment to paragraph 27 relating to her visiting the Land once a fortnight until about 5 years ago which she corrected to about 10 years ago.

⁶⁶ His witness statement is at OB tab 9.

oral evidence given to the Inquiry, I have attributed such evidence less weight as it was not subject to cross examination.

THIRD PARTY EVIDENCE

4.42 During the Inquiry, I invited any other persons who wished to give evidence to do so. Four individuals did so, and their evidence was subject to cross examination.

4.43 **Mr Alfred Mann**⁶⁷ has lived at 36 Manor Farm Drive since 1962 which overlooks the fields comprising the Land at the rear. He always understood the northern part of the Land to be common land. He has walked over the Land for 50 years, and has been blackberry picking on the Land. His children have also used it, and he has taken his grandchildren onto the Land with motorbikes. He entered the Land via the garages, and has never seen any notice there. He has never seen any notices on the Land. The only agricultural activity he has seen on the northern part of the Land was ploughing for a short period when he first came to the area in the 1960's, but not in the later years. As to the southern part of the Land below Pit Hill, he recalled rhubarb and potatoes growing there during the early years when he used the paths in that area. He did not go the southern part of the Land frequently, but recalled some agricultural activity on that area, and had seen a tractor there but only rarely. He had never seen a combine harvester there. He acknowledged that he had "*possibly*" seen that area in the condition as shown on the Objectors' 1991 aerial photograph at that time, but it was not a regular occurrence. In relation to the Objectors' 1992 aerial photograph showing a crop growing in two fields at the southern end of the Land, he also acknowledged that there were "*probably*" crops

⁶⁷ His pro-forma witness statement is at AB page 114.

growing there but only very rarely. He never regarded the southern area as common land, but he did not use it often. He agreed that he would not regard any land that was being ploughed as common land, but he walked on a path on that southern area.

4.44 **Mr Michael Mills**⁶⁸ has lived at 1 Daffil Grange Way since November 1989 with his wife and two children who were aged 4 and 9 at that time. He acquired a labrador in 1990 which he had for 16 years and he took her for a walk around three times a day. He walked everywhere with his dog, including on the Land which was part of his regular route. His particular route changed, though, dependent upon the weather and his time constraints. He walked on the Land nearly every day where he let his dog off the lead. Some of the routes he took across the Land were clearly rights of way, but there were also numerous informal routes across it, and his dog would run on the Land and he sometimes followed her. He described taking linear south to north routes across the Land, and stated that he had also walked east to west across it. He did not go to the northern part of the Land as regularly due to time constraints, but went there around once or twice a week. The access to the Land he used most often was the one nearest his house, and he never accessed the Land at the garages. His daughter now has a dog which he looks after while she is at work. He also used the Land with his children, playing ball games there, riding bikes, and flying kites on the Land as it was a windy area given the M621, and he sledged there with his children in the winter. He takes his 5 year old grandson there now who stays with him two days a week. He has seen horses tethered on the Land, and there are blackberries along the footpath. He met one of his neighbours whilst taking his dog for a walk on the Land who handed him a questionnaire which is how he became interested in the

⁶⁸ His pro-forma witness statement is at AB page 155.

Application. He was surprised that it was not common land because he has never been stopped from using it.

4.45 He has only recently seen the Land ploughed. He had not seen any previous agricultural activity on the Land save for horses being there. He acknowledged that the northern part of the Land appears to be ploughed in the Objectors' 1991 aerial photograph, but he had never seen that. He also recognised the southern part of the Land on other photographs showing crops on that area,⁶⁹ but he had never seen such crops growing in that area. He had never seen a growing crop, a tractor or a combine harvester on the Land. If there had been crops there, he would not have walked on them. He was not aware of any notices being erected on the Land in 2005. He recalled the whole area being a mining area and a large pit being there. There has been a lack of maintenance of the Land and fly tipping has taken place there.

4.46 **Mr Christopher Wilson**⁷⁰ has lived in Churwell for 50 years, and at his current address at 45 Manor Farm Drive for the last 40 years. He is 63 years of age. He is the brother of Mrs Jean Wooding, one of the Objectors and joint Landowner. During the last 40 years, he has owned 7 dogs which he walked on the Land two or three times a day. He never saw anyone picnicking or camping on the Land, but had only seen people dog walking there. It was unsuitable for football, and children would use the park. He has five children and they only used the Land to sledge down the Pit Hill during snowy conditions. He had only ever used the footpaths and he had only seen people using the rights of way.

⁶⁹ At OB pages 284 and 285.

⁷⁰ His letter in support of the Objection is at OB page 11.

4.47 **Mrs Stephanie Gaythorpe** lives at Manor House Farm and has lived in Churwell since 1986. She has farmed the Land with her father-in-law on many occasions, driven tractors on it and brought the bales in, and she has also walked her dogs on the footpaths. She has not seen many people using the Land. She continues to walk her dogs on the Land. Since New Village was built, there are marginally more people using the Land, but she has only seen them on the footpaths walking dogs. She has never seen any children playing on the Land.

5. THE LEGAL FRAMEWORK

5.1 I shall set out below the relevant basic legal framework within which I have to form my conclusions and the Registration Authority has to reach its decision. I shall then proceed to apply the legal position to the facts I find based on the evidence that has been adduced as set out above.

Commons Act 2006

5.2 The Application was made pursuant to the Commons Act 2006. That Act requires each registration authority to maintain a register of town and village greens within its area. Section 15 provides for the registration of land as a town or village green where the relevant statutory criteria are established in relation to such land.

5.3 The Application seeks the registration of the Land by virtue of the operation of section 15(2) of the 2006 Act. Under that provision, land is to be registered as a town or village green where:-

- “(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
(b) they continue to do so at the time of the application.”

5.4 Therefore, for the Application to succeed, it must be established that:-

- (i) the Application Land comprises “land” within the meaning of the 2006 Act;
- (ii) the Land has been used for lawful sports and pastimes;
- (iii) such use has been for a period of not less than 20 years;
- (iv) such use has been by a significant number of the inhabitants of a locality or of a neighbourhood within a locality;
- (v) such use has been as of right; and
- (vi) such use continued at the time of the Application.

Burden and Standard of Proof

5.5 The burden of proving that the Land has become a village green rests with the Applicants. The standard of proof is the balance of probabilities. That is the approach I have used.

5.6 Further, when considering whether or not the Applicants have discharged the evidential burden of proving that the Land has become a town or village green, it is important to have regard to the guidance given by Lord Bingham in *R. v Sunderland City Council ex parte Beresford*⁷¹ where, at paragraph 2, he noted as follows:-

⁷¹ [2004] 1 AC 889.

“As Pill LJ. rightly pointed out in R v Suffolk County Council ex parte Steed (1996) 75 P&CR 102, 111 “it is no trivial matter for a landowner to have land, whether in public or private ownership, registered as a town green ...”. It is accordingly necessary that all ingredients of this definition should be met before land is registered, and decision makers must consider carefully whether the land in question has been used by inhabitants of a locality for indulgence in what are properly to be regarded as lawful sports and pastimes and whether the temporal limit of 20 years’ indulgence or more is met.”

Hence, all the elements required to establish that land has become a town or village green must be properly and strictly proved by an applicant on a balance of probabilities.

Statutory Criteria

5.7 Caselaw has provided helpful rulings and guidance on the various elements of the statutory criteria required to be established for land to be registered as a town or village green which I shall refer to below.

Land

5.8 Any land that is registered as a village green must be clearly defined so that it is clear what area of land is subject to the rights that flow from village green registration.

5.9 However, it was stated by way of *obiter dictum* by the majority of the House of Lords in *Oxfordshire County Council v. Oxford City Council*⁷² that there is no

⁷² [2006] 2 AC 674 per Lord Hoffmann at paragraphs 37 to 39.

requirement that a piece of land must have any particular characteristics consistent with the concept of a village green in order to be registered.

Lawful Sports and Pastimes

5.10 It was made clear in *R. v. Oxfordshire County Council ex parte Sunningwell Parish Council*⁷³ that “*lawful sports and pastimes*” is a composite expression and so it is sufficient for a use to be either a lawful sport or a lawful pastime. Moreover, it includes present day sports and pastimes and the activities can be informal in nature. Hence, it includes recreational walking, with or without dogs, and children’s play.

5.11 However, that element does not include walking of such a character as would give rise to a presumption of dedication as a public right of way. In *R. (Laing Homes Limited) v. Buckinghamshire County Council*⁷⁴, Sullivan J. (as he then was) noted at paragraph 102 that:-

“it is important to distinguish between use which would suggest to a reasonable landowner that the users believed they were exercising a public right of way – to walk, with or without dogs, around the perimeter of his fields – and use which would suggest to such a landowner that the users believed that they were exercising a right to indulge in lawful sports and pastimes across the whole of his fields.”

A similar point was emphasised at paragraph 108 in relation to footpath rights and recreational rights, namely:-

“from the landowner's point of view it may be very important to distinguish between the two rights. He may be content that local inhabitants should cross

⁷³ [2000] 1 AC 335 at 356F to 357E.

⁷⁴ [2003] EWHC 1578 (Admin).

his land along a defined route, around the edge of his fields, but would vigorously resist if it appeared to him that a right to roam across the whole of his fields was being asserted.”

5.12 More recently, Lightman J. stated at first instance in ***Oxfordshire County Council v. Oxford City Council***⁷⁵ at paragraph 102:-

“Recreational walking upon a defined track may or may not appear to the owner as referable to the exercise of a public right of way or a right to enjoy a lawful sport or pastime depending upon the context in which the exercise takes place, which includes the character of the land and the season of the year. Use of a track merely as an access to a potential green will ordinarily be referable only to exercise of a public right of way to the green. But walking a dog, jogging or pushing a pram on a defined track which is situated on or traverses the potential green may be recreational use of land as a green and part of the total such recreational use, if the use in all the circumstances is such as to suggest to a reasonable landowner the exercise of a right to indulge in lawful sports and pastimes across the whole of his land. If the position is ambiguous, the inference should generally be drawn of exercise of the less onerous right (the public right of way) rather than the more onerous (the right to use as a green).”

He went on area paragraph 103 to state:-

“The critical question must be how the matter would have appeared to a reasonable landowner observing the user made of his land, and in particular whether the user of tracks would have appeared to be referable to use as a

⁷⁵ [2004] Ch. 253.

public footpath, user for recreational activities or both. Where the track has two distinct access points and the track leads from one to the other and the users merely use the track to get from one of the points to the other or where there is a track to a cul-de-sac leading to, e g, an attractive view point, user confined to the track may readily be regarded as referable to user as a public highway alone. The situation is different if the users of the track, e g, fly kites or veer off the track and play, or meander leisurely over and enjoy the land on either side. Such user is more particularly referable to use as a green. In summary it is necessary to look at the user as a whole and decide adopting a common-sense approach to what (if any claim) it is referable and whether it is sufficiently substantial and long standing to give rise to such right or rights.”

The Court of Appeal and the House of Lords declined to rule on the issue since it was so much a matter of fact in applying the statutory test. However, neither the Court of Appeal nor the House of Lords expressed any disagreement with the above views advanced by Lightman J.

Continuity and Sufficiency of Use over 20 Year Period

5.13 The qualifying use for lawful sports and pastimes must be continuous throughout the relevant 20 year period: *Hollins v. Verney*.⁷⁶

5.14 Further, the use has to be of such a nature and frequency as to show the landowner that a right is being asserted and it must be more than sporadic intrusion onto the land. It must give the landowner the appearance that rights of a continuous nature are being asserted. The fundamental issue is to assess how the matters would

⁷⁶ (1884) 13 QBD 304.

have appeared to the landowner: *R. (on the application of Lewis) v. Redcar and Cleveland Borough Council*.⁷⁷

Locality or Neighbourhood within a Locality

5.15 A “locality” must be a division of the County known to the law, such as a borough, parish or manor: *MoD v Wiltshire CC*;⁷⁸ *R. (on the application of Cheltenham Builders Limited) v. South Gloucestershire DC*;⁷⁹ and *R. (Laing Homes Limited) v. Buckinghamshire CC*.⁸⁰ A locality cannot be created simply by drawing a line on a plan: *Cheltenham Builders* case.⁸¹

5.16 In contrast, a “neighbourhood” need not be a recognised administrative unit. Lord Hoffmann pointed out in *Oxfordshire County Council v. Oxford City Council*⁸² that the statutory criteria of “any neighbourhood within a locality” is “obviously drafted with a deliberate imprecision which contrasts with the insistence of the old law upon a locality defined by legally significant boundaries”. Hence, a housing estate can be a neighbourhood: *R. (McAlpine) v. Staffordshire County Council*.⁸³ Nonetheless, a neighbourhood cannot be any area drawn on a map. Instead, it must be an area which has a sufficient degree of cohesiveness: *Cheltenham Builders* case.⁸⁴

5.17 Further clarity was provided on that element recently by HHJ Waksman QC in *R. (Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust and*

⁷⁷ [2010] UKSC 11 at paragraph 36.

⁷⁸ [1995] 4 All ER 931 at page 937b-e.

⁷⁹ [2003] EWHC 2803 (Admin) at paragraphs 72 to 84.

⁸⁰ [2003] EWHC 1578 (Admin) at paragraph 133.

⁸¹ At paragraphs 41 to 48.

⁸² [2006] 2 AC 674 at paragraph 27.

⁸³ [2002] EWHC 76 (Admin).

⁸⁴ At paragraph 85.

*Oxford Radcliffe Hospitals NHS Trust) v. Oxfordshire County Council*⁸⁵ who stated:-

“While Lord Hoffmann said that the expression was drafted with “deliberate imprecision”, that was to be contrasted with the locality whose boundaries had to be “legally significant”. See paragraph 27 of his judgment in Oxfordshire (supra). He was not there saying that a neighbourhood need have no boundaries at all. The factors to be considered when determining whether a purported neighbourhood qualifies are undoubtedly looser and more varied than those relating to locality... but, as Sullivan J stated in R (Cheltenham Builders) Ltd v South Gloucestershire Council [2004] JPL 975 at paragraph 85, a neighbourhood must have a sufficient degree of (pre-existing) cohesiveness. To qualify therefore, it must be capable of meaningful description in some way. This is now emphasised by the fact that under the Commons Registration (England) Regulations 2008 the entry on the register of a new TVG will specify the locality or neighbourhood referred to in the application.”

Significant Number

5.18 *“Significant”* does not mean considerable or substantial. What matters is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers: **R. (McAlpine) v. Staffordshire County Council.**⁸⁶

⁸⁵ [2010] EWHC 530 (Admin) at paragraph 79.

⁸⁶ [2002] EWHC 76 (Admin) at paragraph 71.

As of Right

5.19 Use of land “*as of right*” is a use without force, without secrecy and without permission, namely *nec vi nec clam nec precario*. It was made clear in **R. v. Oxfordshire County Council ex parte Sunningwell Parish Council**⁸⁷ that the issue does not turn on the subjective intention, knowledge or belief of users of the land.

5.20 “Force” does not merely refer to physical force. User is *vi* and so not “*as of right*” if it involves climbing or breaking down fences or gates or if it is under protest from the landowner: **Newnham v. Willison**.⁸⁸ Further, Lord Rodger in **Lewis v. Redcar** stated that “*If the use continues despite the neighbour’s protests and attempts to interrupt it, it is treated as being vi...user is only peaceable (nec vi) if it is neither violent nor contentious*”.⁸⁹

5.21 “Permission” can be expressly given or be implied from the landowner’s conduct, but it cannot be implied from the mere inaction or acts of encouragement of the landowner: **R. v. Sunderland City Council ex parte Beresford**.⁹⁰

Part Registration

5.22 The House of Lords in **Oxfordshire** also addressed the issue of whether a registration authority can determine to register a smaller area of land than that referred to in an application. It was found that a registration authority could, without any amendment of the application, register only that part of the subject premises which the

⁸⁷ [2000] 1 AC 335.

⁸⁸ (1988) 56 P. & C.R. 8.

⁸⁹ At paragraphs 88-90.

⁹⁰ [2004] 1 AC 889.

applicant had proved to have been used for the necessary period, subject to it resulting in no prejudice to anyone.

6. APPLICATION OF THE LAW TO THE FACTS

Approach to the Evidence

6.1 The impression which I obtained of all the witnesses called at the Inquiry is that they were entirely honest and transparent witnesses, and I therefore accept for the most part the evidence of all the witnesses called for each of the Parties.

6.2 I have considered all the evidence put before the Inquiry, both orally and in writing. However, I emphasise that my findings and recommendations are based upon whether the Land should be registered as a town or village green by virtue of the relevant statutory criteria being satisfied. In determining that issue, it is inappropriate for me or the Registration Authority to take into account the merits of the Land being registered as a town or village green or of it not being so registered.

6.3 I shall now consider each of the elements of the relevant statutory criteria in turn as set out in paragraph 5.4 above, and determine whether they have been established on the basis of all the evidence, applying the facts to the legal framework set out above. The facts I refer to below are all based upon the evidence set out in detail above. In order for the Land to be registered as a town or village green, each of the relevant statutory criteria must be established by the Applicants on the evidence adduced on the balance of probabilities.

The Land

6.4 There is no difficulty in identifying the relevant land sought to be registered. The map submitted with the Application shows the Land outlined in red and is the definitive document on which the Land that is the subject of the Application is marked. The Land has clearly defined and fixed boundaries, and there was no dispute at the Inquiry nor in any of the evidence adduced that that area of land comprises “land” within the meaning of section 15(2) of the 2006 Act and is capable of registration as a town or village green in principle and I so find.

Relevant 20 Year Period

6.5 Turning next to the identification of the relevant 20 year period for the purposes of section 15(2) of the 2006 Act, the use must continue up until the date of the Application. Hence, the relevant 20 year period is the period of 20 years which ends at the date of the Application.

6.6 The Application Form and the accompanying statutory declaration are dated 9 December 2010, and the Application was received by the Registration Authority on 14 December 2010. It follows that the relevant 20 year period for the purposes of section 15(2) is December 1990 until December 2010.

Use of Land for Lawful Sports and Pastimes

6.7 Turning next to whether the Land has been used for lawful sports and pastimes in principle during the relevant 20 year period, it is contended by the Applicants that the Land has been used for various recreational activities during that period. References were made in both the oral and the written evidence to recreational activities such as dog walking, general walking, nature watching, children’s play,

running, cycling, blackberry picking, picnicking, sledging and kite flying. The witnesses who gave evidence in support of the Application referred to their own and/or their family's and/or other people's recreational uses of the Land at different times. Such evidence is supported by a large volume of written evidence. There was no evidence of any formal or organised games having taken place on the Land, but informal activities are sufficient in principle to establish town or village green rights. Although people's recollections may fade over time, particularly in relation to details, I accept the evidence of those witnesses that they did in fact use the Land for the stated purposes.

6.8 Further, such activities are, in my opinion, lawful recreational activities, and there was no suggestion to the contrary.

6.9 Instead, the fundamental issue in relation to this element of the statutory criteria is whether those activities have taken place on the Land to a sufficient extent and degree throughout the relevant 20 year period to enable town or village green rights to be established over the Land. As indicated above, the question for determination is whether the qualifying use of the Land for lawful sports and pastimes has been of such a nature and frequency throughout the relevant 20 year period to demonstrate to the Landowners that recreational rights were being asserted over the Land by the local community. The Land must have been used for qualifying lawful sports and pastimes to such an extent and with such a degree of frequency throughout the relevant 20 year period to show the Landowners that rights were being asserted for registration to take place. It is insufficient for the qualifying use to have been merely sporadic or occasional in nature.

6.10 In determining that issue, it is firstly necessary to identify the relevant qualifying use and, in doing so, to identify the elements of the use of the Land which must be discounted.

6.11 In that regard, walking on the Land which was of such a character as would be more akin to the exercise of a public right of way must be discounted. I have set out the detailed legal position on that issue in paragraphs 5.11 and 5.12 above. In my view, that principle is of some significance to the Application.

6.12 The Land is crossed by two definitive public footpaths, Footpaths No. 40 and No. 30, running in a generally north to south and east to west direction respectively across the Land. Walking along those footpaths, whether with or without a dog, and for recreational purposes or otherwise, amounts to the exercise of a public right of way. Such use cannot itself be relied upon in support of the registration of a town or village green.

6.13 From the evidence, I find that those footpaths were used to a material extent during the relevant 20 year period. In terms of the live evidence in support of the Application, I note in particular the following. Mrs Hall acknowledged that although much of the use had taken place elsewhere on the Land, the most intensive use of the Land had been on the footpaths. Mrs Whitehead stated that she had tried to keep to the footpaths whilst exercising her dogs on the Land as it was easier to walk on them. Mr Bilbie tended to walk round the footpaths, albeit followed his dog if it went off the path. In terms of third parties, Mr Mann referred to walking along a path whilst Mr

Mills sometimes walked along the rights of way and took other linear routes across the Land. The evidence of the Objectors and those in support of the Objection suggested a similar use of the footpaths having taken place. Mr Wooding had seen the odd dog walker on the footpaths, and stated that the use of the footpaths had increased from 2005 when Churwell New Village was built. Mr Blakeley had seen people using the footpaths, and had directed those he occasionally saw straying from them back to the paths. Mr Gaythorpe had seen people walking on the footpaths, which use increased post 2005. Both Mr Wilson and Mrs Stephanie Gaythorpe used the footpaths themselves and had seen others using them. Moreover, from my site visit, it was apparent that the definitive footpaths had been relatively well used. They were clearly defined on the ground as worn tracks. In my view, given their condition and the routes they took, they would be particularly attractive for walkers and dog walkers and I find it unsurprising that they have been so used.

6.14 Although I accept the Applicants' evidence that walkers, particularly with dogs, also used other parts of the Land, my impression from the evidence was that there had nonetheless been a material use of the footpaths, which must be discounted from the qualifying use. That is also of particular relevance in relation to the written evidence relied upon. The pro-forma witness statements do not indicate the extent to which the activities carried out took place on the footpaths. I acknowledge that activities such as children's play, ball games and picnicking would be unlikely to occur on the paths, but many of the other activities could well have done so, including walking with and without dogs, nature watching, running and cycling. Given the burden of proof on the Applicants, I am unable to assume that the references to such activities in the written evidence took place off the footpaths.

6.15 Furthermore, it seems to me that a number of other uses of the Land were more akin to the exercise of a right of way than the exercise of recreational lawful sports and pastimes over a village green. In relation to walking, both with and without dogs, a number of witnesses in support of the Application referred to walking along specific routes rather than recreating over the Land generally. Hence, by way of example, Mrs Hall identified a particular route she took; Mrs Harrison did a circular walk although she also meandered over the Land, she had seen others walking around the perimeter of the Land, and she regularly walked along the path parallel to the M621; and Mr Hunter described a particular walking route he often took. They referred to also walking on other parts of the Land, but I find that a material degree of the walking on the Land by the witnesses who gave live evidence in support of the Application was more akin to the exercise of a public right of way. Again, for the same reasons as referred to above, I cannot assume in relation to the written evidence in support that users were recreating over the Land generally in relation to their walking use rather than walking along specific routes. The material extent of the Land's use along defined routes is further supported by other worn tracks I noted during the site visit, such as along the M621 motorway, which route I note is described on the Applicants' website as a "*very popular footpath*" and in relation to which consideration has been given by the Action Group to make an application for a modification order to add that route to the Definitive Map.

6.16 It is my view that walking around the perimeter of the Land or across a specific route would amount to a use that was more akin to the exercise of a public right of way than a recreational right over a green. Indeed, that seems to me to be the

very use Sullivan J. (as he then was) was referring to in *Laing Homes* when he noted at paragraph 102 that:-

*“it is important to distinguish between use which would suggest to a reasonable landowner that the users believed they were exercising a public right of way – **to walk, with or without dogs, around the perimeter of his fields** – and use which would suggest to such a landowner that the users believed that they were exercising a right to indulge in lawful sports and pastimes across the whole of his fields.”*(my emphasis)

and at paragraph 108 that:-

*“from the landowner's point of view it may be very important to distinguish between the two rights. **He may be content that local inhabitants should cross his land along a defined route, around the edge of his fields,** but would vigorously resist if it appeared to him that a right to roam across the whole of his fields was being asserted.”* (my emphasis).

6.17 In addition, the use of the Land for exercising dogs where such use merely involved the owners walking on the footpaths or other specific routes whilst their dogs ran over the Land must similarly be discounted, in contrast to where owners themselves went onto the Land generally. Sullivan J. noted in *Laing Homes* at paragraph 103 in relation to dog walking that:-

“Once let off the lead a dog may well roam freely whilst its owner remains on the footpath. The dog is trespassing, but would it be reasonable to expect the landowner to object on the basis that the dog's owner was apparently asserting the existence of some broader public right, in addition to his right to walk on the footpath?”

In relation to a dog owner straying off a footpath to retrieve his dog, he stated at paragraph 104:-

“I do not consider that the dog’s wanderings or the owner’s attempts to retrieve his errant dog would suggest to the reasonable landowner that the dog walker believed he was exercising a public right to use the land beyond the footpath for informal recreation.”

He also indicated that *“the same would apply to walkers who casually or accidentally strayed from the footpaths without a deliberate intention to go on other parts of the fields”*. In that regard, although there was evidence of some dog owners going onto the Land to exercise their dogs, the evidence indicated that some merely let their dogs off the lead and allowed them to run on the Land while they stayed on the paths for the most part. Hence, Mrs Whitehead tried to keep to the footpaths but sometimes had to leave them to chase her dogs. Similarly, Mr Bilbie tended to walk round the footpaths, but followed his dog if it went off the paths.

6.18 Therefore, although I acknowledge that the Land was also used more generally, I find from the evidence I heard that a material amount of the use of the Land for walking and dog walking was more akin to the exercise of a right of way than the exercise of recreational rights over a village green and such use must be discounted from the qualifying use.

6.19 In addition, I discount from the qualifying use those uses which occurred outside the relevant 20 year period. A number of the witnesses, including those who provided written evidence, referred to their use of the Land both within and outside the relevant 20 year period, but only the former is part of the qualifying use.

6.20 Having discounted such uses, it is then necessary to assess the extent of the qualifying use. Starting with the oral evidence in support of the Application, I accept the evidence of each of the witnesses that they have used the Land for recreational activities throughout the relevant 20 year period. The impression I gained from such evidence was that the primary use of the Land was for dog walking. Each of the witnesses referred to that activity and it appears to be the use that was undertaken most regularly on the Land. Indeed, apart from Mrs Harrison whose main use of the Land was to survey the flora and fauna, the most regular use of all the other witnesses was for dog walking, which was also the evidence of Mr Mills, Mr Wilson and Mrs Stephanie Gaythorpe. That was also the particular activity the Objectors had noted taking place on the Land, albeit only occasionally. Moreover, from my site visit, it seems to me that the Land would be particularly suitable for that activity. As the pro-forma witness statements do not indicate the extent to which any of the described uses take place, I find nothing in those statements that is inconsistent with my finding that dog walking was the primary recreational use of the Land.

6.21 Yet, that is the very activity in relation to which much of the use must be discounted from the qualifying use. As noted above, each of the witnesses who gave oral evidence in support of the Application, including the third parties, used the rights of way, other informal paths and other specific routes on the Land, albeit in addition to also using other parts of the Land to a greater or lesser extent. Hence, a material amount of the use of each of the seven witnesses must be discounted. In addition, the written statements do not provide any information as to the frequency of any of the uses carried out nor can the extent of the qualifying use be ascertained from them. I

also take into account that the land subject to the Application changed after some of the evidence had been collated. As the specific date of that change was unknown by the Applicants, I cannot assume that any of the use referred to in the written evidence was undertaken by the particular individuals concerned on the Application Land itself. Consequently, from all the evidence in support, it is my opinion that it fails to establish that the *qualifying* use of the Land for dog walking was carried out more than sporadically throughout the 20 year period by the general community.

6.22 Other recreational uses were, in my view, carried out less frequently. Picnicking, blackberry picking, and sledging are necessarily seasonal activities. Moreover, none of the witnesses who gave oral evidence referred to their regular and frequent use of the Land for any other activities, and that finding cannot be made from the written evidence given the lack of information provided as to the frequency of the uses carried out.

6.23 Furthermore, I also take into account the evidence in support of the Objection. None of the witnesses had observed any use of the Land off the paths beyond individuals occasionally straying off them. In so noting, I take into account that those witnesses were not on the Land continuously but, rather, only from time to time. Hence, the Land could well have been used at other times when they were not present. Nonetheless, that evidence is consistent with the qualifying use of the Land being relatively infrequent.

6.24 In addition, I take into account the evidence in relation to the agricultural use of the Land during the relevant 20 year period. As to the northern part of the Land, Mr

Blakeley gave detailed evidence as to his farming of that area from 1991 onwards. I found him to be a particularly reliable witness and I accept his evidence in its entirety. He provided cogent documentary evidence as to how he had used that area of the Land since 1991 from which it is apparent that barley was grown there for much of the relevant 20 year period. I have also seen photographic evidence consistent with his evidence.

6.25 Moreover, the Applicants' evidence was not materially inconsistent in relation to that northern area. The photographic evidence was accepted as showing growing crops in that area and no other explanation for those photographs was proffered. It also seems to me from the evidence that the northern area was not used as frequently as the southern area in any event. Mrs Hall accepted that the northern area was not as well used as the remainder, and indeed it was not initially included as part of the Application Land for that very reason; Mrs Harrison did not use that area as much as the remainder during the earlier part of the relevant 20 year period; Mr Hunter only used that area two or three times a year in those earlier years; Mrs Whitehead had never used that northern area; Mr Bilbie had not used it frequently; and Mr Mills had not used it as regularly. It cannot be ascertained from the written statements where the particular activities were carried out on the Land and I am unable to assume that they were on the northern area given where the burden of proof lies.

6.26 From the evidence, I find that the northern area has been regularly cropped to the extent stated by Mr Blakeley. I further find that that area has not been used with any degree of frequency or to any material extent for lawful sports and pastimes throughout the relevant 20 year period. Had it been otherwise, it is my opinion that

such would not only have been apparent to Mr Blakeley from time to time, particularly at times when the barley had grown to an appreciable height, but it would have been harmful to the crops and thus to Mr Blakeley's livelihood. It is also of note that none of the witnesses suggested that they had walked over growing crops, which further suggests that that area was not being regularly used. Moreover, the infrequent use of that area would also explain the lack of sightings of any agricultural activity taking place there.

6.27 As to the southern area, I accept Mr Blakeley's evidence that he did not grow crops in that area having discovered grey ash in the soil save for growing corn in a small 2 acre area. Mr Gaythorpe nonetheless indicated that his father grew crops in that area up until he retired in 1991 and the grey ash had not prevented that. Such crop growing in that area generally was consistent with the photographic evidence and with the evidence of Mr Mann. However, in terms of the very specific time period in question, given the lack of detail of such agricultural use in that area during that very specific time period of December 1990 until Harry Gaythorpe's retirement in 1991, I am unable to find from the evidence that during that very particular time period the agricultural use of the southern area resulted in it being unsuitable for recreational use. Further, that area was not subsequently used for agricultural purposes that would render recreational uses unsuitable.

6.28 Nonetheless, although I also find that the southern area has been used more frequently than the northern area, it is my view for the reasons given above that it has not been established that such use was of a sufficient extent and frequency to

demonstrate to a landowner that recreational rights were being asserted over it by the local community.

6.29 Instead, taking into account all the evidence, I find that the use of the Land for lawful sports and pastimes has been sporadic and occasional during the relevant 20 year period, and insufficient on the balance of probabilities to demonstrate to a reasonable landowner that recreational rights were being asserted over the Land. Consequently, I find that that element of the statutory criteria has not been established.

Use as of Right

6.30 Turning to whether the qualifying use of the Land was “*as of right*”, there was no suggestion that any of the use relied upon in support of the Application was by stealth nor with the permission of one of the Landowners. However, it was contended on behalf of the Objectors that some of the use was with force, namely *vi*.

6.31 As noted in paragraph 5.20 above, the requirement that the use be without force in order to be “*as of right*” does not merely require the use to be without physical force, such as by breaking down a fence. It must also not be contentious. It was stated by Lord Walker in *Lewis*⁹¹:-

“it would be wrong to suppose that user is “vi” only where it is gained by employing some kind of physical force against the owner...It was enough if the person concerned had done something which he was not entitled to do after

⁹¹ At paragraph 88.

the owner had told him not to do it. In those circumstances what he did was done vi.”

Hence, use would be *vi* and not as of right if it was done in defiance of an erected sign or after challenges had been made by or on behalf of a landowner.

6.32 In that regard, the evidence was undisputed, and I so find, that in 2005, four signs were erected in four locations on the Land stating “Private Property Keep Out Manor House Farm”, which signs remain on the Land to date. The issue arising is whether the effect of such signs made use of the Land *vi* thereafter.

6.33 In terms of notices, Patten LJ noted in *Taylor v. Betterment Properties (Weymouth) Limited*:⁻⁹²

“If the landowner displays his opposition to the use of his land by erecting a suitably worded sign which is visible to and is actually seen by the local inhabitants then their subsequent use of the land will not be peaceable. It is not necessary for Betterment to show that they used force or committed acts of damage to gain entry to the land. In the face of the signs it will be obvious that their acts of trespass are not acquiesced in.”

6.34 Applying that to the evidence, I have some sympathy with the point made by Mrs Harrison that as three of the signs were erected at public footpaths and said “Keep Out”, they were somewhat misleading. I tend to agree that a reference to a requirement to keep to the footpath and keep off the remainder of the Land would have been clearer. Nonetheless, it seems to me that a sign stating “Private Property

⁹² [2012] EWCA Civ 250 at paragraph 38.

Keep Out” does make it sufficiently clear that a landowner is not acquiescing in the use of his land by trespassers, provided the signs are visible and would have been seen by users.

6.35 Two of the notices were located at the northern end and two on the eastern side. None were erected at the southern end of the Land. The locations chosen were the Landowners’ own main points of access onto the Land. It seems to me, taking into account the Applicants’ evidence relating to the different access points used and the fact that a number of the witnesses had not seen the signs until recently, that more steps could reasonably have been taken by the Landowners to make their position clear, namely by erecting signs at additional access points. Indeed, it appears from Mr Wooding’s evidence that the main objective of the signs was to prevent tipping on the Land rather than to prevent any other use. My view from the evidence is that although some of the users would, and did, see such a sign, not all the users would have done so. In those circumstances, it seems to me that some of the use of the Land post 2005 would have been *vi*, but some of it would have remained as of right.

6.36 The effect of that finding when applied to the written evidence in support of the Application is that it is unknown whether those users saw, or ought to have seen, the signs as it would have been largely dependent upon their point of access. Again, due to the burden of proof, I cannot assume that none of them used the access points where the signs were located. Instead, it seems to me that, as a result of my finding, although I am unable to quantify it on the basis of the available evidence, the extent of the qualifying use is thereby further reduced in that some of it would have been *vi* post 2005.

Locality or Neighbourhood within a Locality

6.37 I turn next to the identity of the relevant locality or neighbourhood within a locality for the purposes of section 15(2) of the 2006 Act. In the Application, reliance was placed upon the locality of the town council's electoral ward of Churwell for the purposes of section 15(2).

6.38 There are conflicting authorities over whether an electoral ward may constitute a qualifying locality. Sullivan J. (as he then was) in *Laing Homes*⁹³ suggested that they may not be so capable, whereas HHJ Waksman QC suggested otherwise in the *Oxfordshire and Buckinghamshire Mental Health* case.⁹⁴ However, it does not seem to me to be necessary to determine that issue in this instance as the electoral ward of Churwell only came into existence in 2000 when Morley Town Council was established.⁹⁵ It has therefore not been in existence for the 20 years comprising the relevant 20 period. In my view, in order to satisfy the statutory criteria requiring the use of the Land for lawful sports and pastimes to have taken place by a significant number of the inhabitants of a locality for the relevant 20 year period, that locality must itself have existed throughout that period. Indeed, that was so found by Sullivan LJ in *Adamson v. Paddico Limited*.⁹⁶ Therefore, I find that the electoral ward of Churwell is not capable of being a relevant locality for the purposes of section 15(2) of the 2006 Act.

⁹³ At paragraph 138.

⁹⁴ At paragraph 69.

⁹⁵ See OB page 411.

⁹⁶ [2012] EWCA Civ 262 at paragraph 30.

6.39 Nonetheless, the Applicants confirmed at the Inquiry through Mrs Hall that the Application was instead being pursued on the basis of an alternative locality being relied upon, namely the ecclesiastical parish of St Peter's. A map of that parish boundary was provided by the Applicants to the Inquiry.

6.40 An ecclesiastical parish is an established administrative area with fixed and identifiable boundaries. It is a recognised area known to the law, and I accept that the parish of St Peter's does amount to a qualifying locality within the meaning of the statutory criteria.

Use of the Land by a Significant Number of the Inhabitants of the Locality

6.41 Turning to whether the Land has been used by a significant number of the inhabitants of the locality of St Peter's, for the reasons given above, I find that it has not been so used for lawful sports and pastimes as of right throughout the relevant 20 year period.

6.42 However, in addition, in order to establish that element of the statutory criteria, I accept the Objectors' submission that there must be a reasonable spread of users across the locality rather than the users being confined to a particular part of the locality. The user must have been of such a nature to bring it to the attention of the reasonable landowner that a right of recreation was being claimed by the inhabitants of the particular identified locality, namely by that identified local community, and not merely by the inhabitants of some unidentified part of it. Thus, it seems to me that it is not merely the *number* of users that are significant, and I have addressed the extent of the use above, but also their *geographical distribution* across the locality.

The number of inhabitants whose use is proven must be distributed in such a way as to indicate to a landowner that the right is vested in the locality claimed and not in simply a part of it.

6.43 Applying that approach to the evidence, I find that the requisite geographical distribution of users across the locality has not been established. Instead, it seems to me from the evidence that the vast majority of users of the Land during the relevant 20 year period have been from the part of the locality that comprises the village of Churwell and not from the areas to the south and south west of Churwell that are included in the parish, such as Daisy Hill and New Brighton. Indeed, the Applicants' own assessment of the users from the supporting evidence is that 91.4% of users are from Churwell and only 8.6% from other areas.⁹⁷ However, the parish is considerably larger than Churwell and includes a much wider area. Yet, there is no evidence of any material use of the Land by users across the locality beyond Churwell, and such has not been demonstrated by the evidence.

6.44 In my view, the absence of such evidence of use during the relevant period by inhabitants of the locality beyond Churwell results in there not having been established a sufficient geographical spread of users across the locality to satisfy that element of the statutory criteria. Therefore, on that further basis, I find that the Applicants have failed to establish that the Land has been used by a significant number of the inhabitants of the identified locality.

Continuation of Use

⁹⁷ At AB page 169.

6.45 The final issue is whether the qualifying use continued up until the date of the Application. As the use of the Land remains ongoing to date and has not ceased, I find that, subject to all the above matters, that particular element of the statutory criteria has been satisfied.

7. CONCLUSIONS AND RECOMMENDATION

7.1 My overall conclusions are therefore as follows:-

7.1.1 That the Application Land comprises land that is capable of registration as a town or village green in principle;

7.1.2 That the relevant 20 year period is December 1990 until December 2010;

7.1.3 That the Application Land has not been used for lawful sports and pastimes throughout the relevant 20 year period to a sufficient extent and continuity to have created a town or village green;

7.1.4 That not all the use of the Application Land for lawful sports and pastimes has been as of right throughout the relevant 20 year period;

7.1.5 That the ecclesiastical parish of St Peter's is a qualifying locality;

7.1.6 That the use of the Application Land for lawful sports and pastimes has not been carried out by a significant number of the inhabitants of any qualifying locality or neighbourhood within a locality throughout the relevant 20 year period;

and

7.1.7 That the use of the Application Land for lawful sports and pastimes continued until the date of the Application.

7.2 In view of those conclusions, it is my recommendation that the Registration Authority should reject the Application and should not add the Application Land to its register of town and village greens on the specific grounds that:-

7.2.1 The Applicants have failed to establish that the Application Land has been used for lawful sports and pastimes as of right to a sufficient extent and continuity throughout the relevant 20 year period to have created a town or village green ; and

7.2.2 The Applicants have failed to establish that the use of the Application Land has been by a significant number of the inhabitants of any qualifying locality or neighbourhood within a locality throughout the relevant 20 year period.

8. ACKNOWLEDGEMENTS

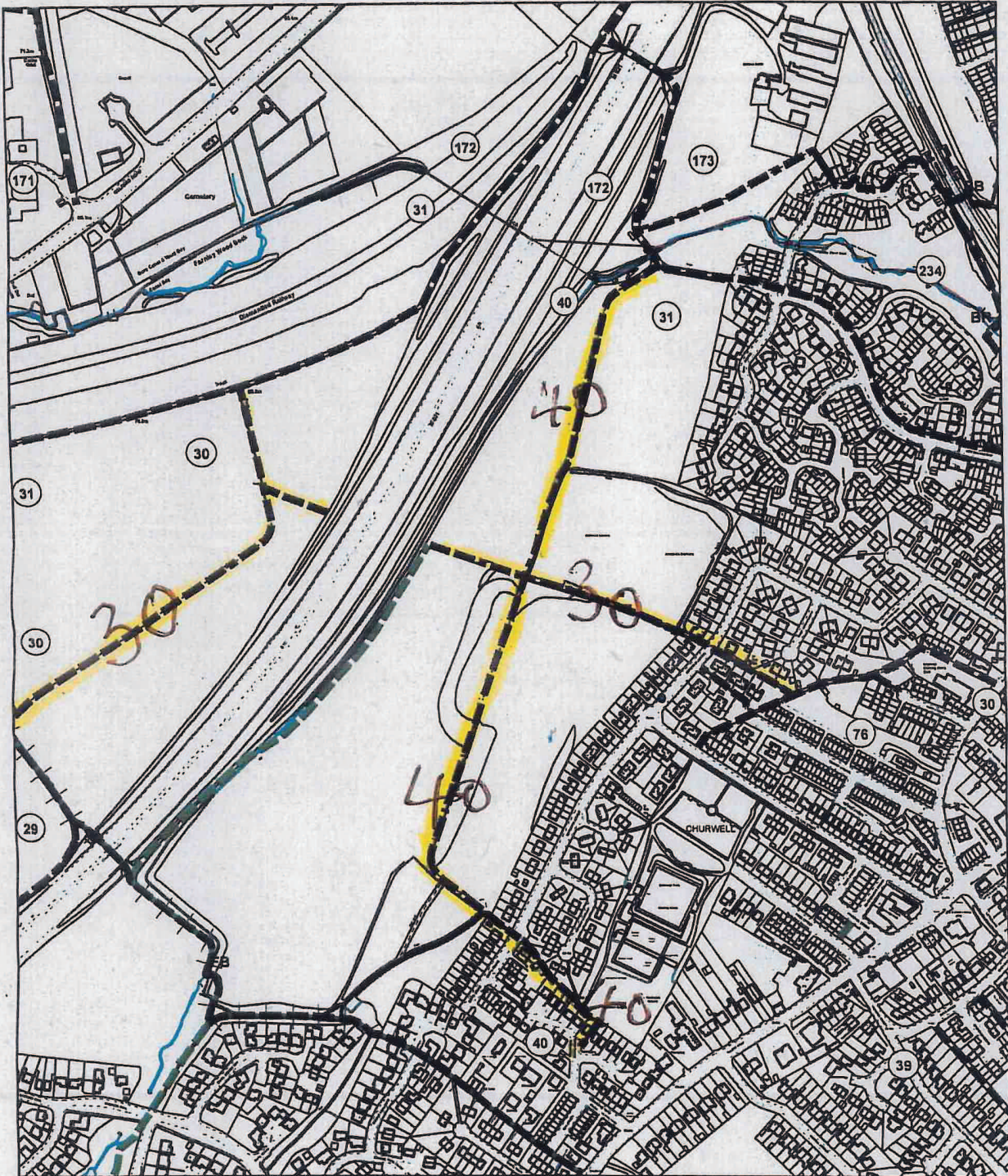
8.1 Finally, I would like to thank the Applicants and the Objectors for providing all the documentation to me in advance of the Inquiry and for the very helpful manner in which the respective cases were presented to the Inquiry. I would also like to thank all the witnesses who attended the Inquiry as they each gave their evidence in a clear, succinct and frank manner. I would further like to express my gratitude to the representatives from the Registration Authority for their significant administrative assistance prior to and during the Inquiry.

8.2 I am sure that the Registration Authority will ensure that all Parties are provided with a copy of this Report, and that it will then take time to consider all the contents of this Report prior to proceeding to reach its decision.

RUTH A. STOCKLEY

11 September 2012

Kings Chambers
36 Young Street Manchester M3 3FT
5 Park Square East Leeds LS1 2NE
and
Embassy House, 60 Church Street, Birmingham B3 2DJ



Title

0 20 40 60 80
Meters

Key	Definitive	Claim/Review	Permissive
Footpath			
Bridleway			
Restricted Byway			
Byway			

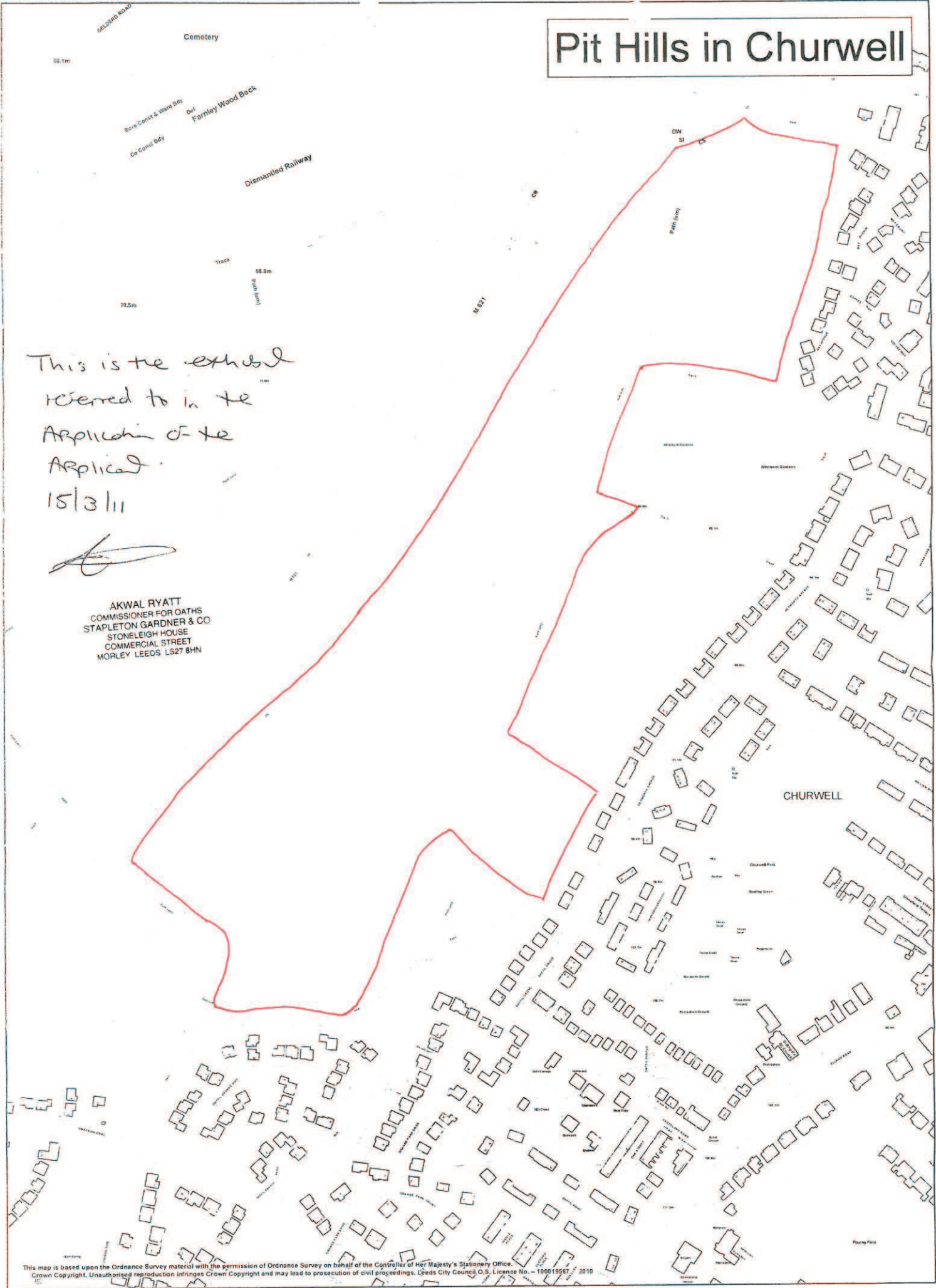
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MORLEY 40
 MORLEY 30

Pit Hills in Churwell



This is the exhibit referred to in the Application of the Applicant 15/3/11

AKWAL RYATT
COMMISSIONER FOR OATHS
STAPLETON GARDNER & CO
STONELEIGH HOUSE
COMMERCIAL STREET
MORLEY LEEDS LS27 8HN

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Originator:
Shameem Hussain
Tel: 0113 2478024

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 11th October 2012

Subject: APPLICATIONS 11/04988/FU and 12/04048/FU FOR THE DEMOLITION OF OUTBUILDINGS, LAYING OUT OF ACCESS ROADS AND ERECTION OF 92 HOUSES WITH LANDSCAPING – LAND AT DAISY HILL, MORLEY.

APPLICANT
Persimmon Homes (West
Yorkshire and Priestgate)
Morley Ltd

DATE VALID
5th December 2011

TARGET DATE
5th March 2012

Electoral Wards Affected:
Morley North

Yes Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Members note the report and resolve not to contest the planning appeal against the non-determination of planning application 11/04988/FU.

Members defer and delegate to the Chief Planning Officer for approval application 12/04048/FU as recommended in attached report (6th September 2012 – Appendix 1) and following completion of the S106 Agreement.

1.0 Introduction

1.1 This application is presented to Plans Panel South and West for members consideration as a result of the recent geographical boundary changes to the Plans Panels. According to the Terms of Reference for area panels their delegated authority relates only to their respective geographical areas, with no scope to depart from this. As this application site now resides in the South West geographical area rather than East and North, and the application is currently undetermined. East and North Panel cannot determine an application outside of its geographical boundary even if the application has previously been considered by the Panel members.

- 1.2 This application was presented to Plans Panel East on 6th September 2012 with a recommendation for approval. Members resolved that the Officers recommendation to grant planning permission not be accepted, and that the Chief Planning Officer be asked to submit a further report to the next meeting, setting out further information and possible reasons for refusal based upon the unsustainability of the site, with reference to the policies set out in the National Planning Policy Framework (NPPF).
- 1.3 East Plans Panel Members considered that the application site is unsustainable for residential development as there is insufficient infrastructure to accommodate the needs arising from this development. In particular members raised concerns around the following sustainability issues:-
- Access to public transport
 - Education provision
 - Healthcare provision
 - Access to greenspace
 - Effective use should be made of brownfield land
 - Inadequate provision made for the drainage of the site.

It should be noted that no overriding concerns were raised in respect of the design of the houses or the layout of the development.

- 1.4 Since the last Plans Panel meeting the applicant has lodged an appeal with The Planning Inspectorate against the non- determination of the application. As such, Members cannot determine this application. Members need to take the following factors into account in deciding whether to contest the appeal.

1. Principle of development

Section 38(6) of the Planning and Compensation Act 2004 requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The application is on a Phase 2 allocated Greenfield site within the settlement of Morley. In confirming the allocation of the site for residential development the UDP Inspector in 1999 stated that “although *it has a pleasant rural appearance with open land to its east, the site is otherwise enclosed by existing housing and industrial development beyond the railway land. It is a reasonably convenient walk from the railway station and could be made more so by the provision of a path across the steeply sloping land. It is also reasonably close to Morley Town centre. These factors now weigh more heavily in national advice aimed at reducing dependence on private motor vehicles than when the UDP was prepared and are benefits enjoyed by this site which are not shared by many other former GB sites*”. The submission of this application for housing development follows the decision of Executive Board to support the principle of releasing Phase 2 and 3 Housing allocations following consideration of the adverse outcome of a number of earlier planning appeal decisions.

In light of the fact that this site is allocated for residential development, and the Executive Board decision to release such sites for development the Council would not be able to sustain a reason for refusal that goes to the principle of development.

2. Access to Public Transport

Turning to the issue of the accessibility of the site the following advice was given to East Panel. The normal expectation for a development of this type and location would be for bus stops to high frequency services to be within a 400m walk of the site or a rail station to be within an 800m walk. Bus stops are within 400m walk but

the services available are not high frequency. However the site is a short walk to the rail station giving access to Leeds. Access to public transport is therefore acceptable. In addition high frequency bus services are available approximately a 700m walk from the site and the applicant is also funding reconstruction of the footpath between Daisy Hill to the rail station. This link would benefit the site and also existing residents. In terms of the number of traffic movements the scheme would generate, the transport assessment which has been submitted has been audited using the industry standard TRICS database and Officers are satisfied the development would not have a significant impact on the local road network including Churwell Hill.

In light of the above it is not considered that an argument could be sustained that the site is not sufficiently well served by public transport and is therefore located in an unsustainable location.

3. Education Provision

The Council's policy in respect of education provision is set out in SPG11: Section 106 Contributions for school provision (2001). The SPG sets out a formula that is used to calculate what is the appropriate financial contribution that is required to meet the educational needs generated by the development. In this instance it has been calculated at £414,451. The applicant set out that they are committed to paying that sum. This position was reached following lengthy negotiations with the applicant. This contribution will go towards creating capacity within both the local primary and secondary schools. In this respect the proposed development meets the requirements of the Council's policy.

4. Healthcare

There is currently no requirement to make extra provision for health services through the planning system. However, Members will note that a dialogue is being developed around making these links.

5. Access to greenspace

The Council's policy in respect of greenspace provision is set out in SPG4: Greenspace relating to New Housing Development (1998). The proposed development includes an area of open space of 3680 sq.m. and a contribution of £131,197.99 to the improvement of on site greenspace. This complies with the guidance set out in the SPG. The on site greenspace has been designed so that it is easily accessible to residents, that it forms a visual link with adjacent open land and that it is overlooked by some of the proposed houses. As such the design of the open space is consistent with the guidance set out in Neighbourhoods for Living.

Again the proposal is considered to comply with the Council's own adopted planning policy.

6. Effective use should be made of brownfield land

The NPPF requires Councils to identify sites sufficient to provide five years worth of housing plus 5%. In Leeds there is an absence of a 5 year housing supply and this shortfall is recognized in the emerging Core Strategy. The Council has relatively recently contested and lost a number of appeals against proposals for residential development on allocated Greenfield sites. Part of the Council's case was that the proposed developments would prejudice the redevelopment of brownfield sites. Following the appeal decisions through Executive Board, the Council resolved to release all phase 2 and 3 sites for development. This is a phase 2 site.

Whilst planning policy, and the NPPF encourages the effective use of brownfield sites this does not preclude the development of Greenfield sites allocated for that purpose.

7. Inadequate provision made for the drainage of the site

Drainage from the development is away from Daisy Hill and the Valley Road area. Towards the east, further down, towards the existing watercourse. With attenuation measures providing Greenfield run off rates. This ensures that the impact of the development does not worsen the current situation. It is important to note that the planning test is not whether the development will improve or resolve local flooding issues but that it will not exacerbate an existing problem. Such decisions should also be based on clear evidence having regard to advice from technical consultees. Flood Risk Management Officers are confident that the site can be drained such that surface water discharges are no greater than the current greenfield rates.

Conclusion on planning merits

In light of the above reasoning Members are advised it is difficult to justify sustainability as a grounds for refusal. Where the policy test has been met it is extremely difficult to justify a refusal.

- 1.5 Members need to bear in mind costs advice set out in Circular 03/2009, “Costs Awards in Appeals and other Planning Proceedings”. This is not a material planning consideration, however members need to be aware of the potential consequence that arises from this. The circular sets out the circumstances in which an award of costs maybe made against a local planning authority at appeal. It states that costs will be awarded where it can be shown that a party has acted unreasonably and this has caused a party to incur unnecessary and wasted expense. The following advice is set out:-

“B15. Planning authorities are at risk of an award of costs against them if they prevent or delay development which should clearly be permitted having regard to the development plan, national policy statements and any other material considerations. General guidance to authorities on propriety and the handling of planning applications is at paragraph 27 and 28 of *The Planning System: General Principles (ODPM, 2005)*.

“B16. Authorities will be expected to produce evidence to show clearly why the development cannot be permitted. The planning authority`s decision notice should be carefully framed and should set out in full the reasons for refusal...Planning authorities will be expected to produce evidence at appeal stage to substantiate each reason for refusal with reference to the development plan and all other material considerations including any relevant judicial authority. If they cannot do so , they risk a costs award against them for any unsubstantiated reason for refusalThe key test will be whether evidence is produced on appeal which provides a respectable basis for the authority`s stance , in the light of *R v SSE ex parte North Norfolk DC 1994 (2 PLR78)*”

- 1.6 Members attention is also drawn to the following recent Ministerial Statement (6th September 2012) by Eric Pickles MP Secretary of State for Communities and Local Government:-

“Given the importance of efficient and effective planning decisions for the economy. We need to ensure that where there are clear failures in performance, that applicants are able to access a better service. We propose to legislate to allow applications to be decided by the Planning Inspectorate, if the local authority has a track record of consistently poor performance in the speed or quality of its decisions. Planning is a quasi-judicial process: Justice delayed is justice denied. It is unfair to all parties for local planning authorities simply to fail to make timely decisions on a planning application – creating uncertainty both for applicants and local residents.”

“In support of this we will also require more transparent reporting of council performance, and will be working with the Local Government Association to increase the use of Planning Performance Agreements for major schemes- which commit both applicants and planning authorities to a clear timetable for determining proposals. In addition, *we intend to give Planning Inspectors more power to initiate an awards costs in planning appeal proceedings, where it is clear that an application has not been handled as it should have been with due process*”.

- 1.7 Against this background, the Council risks an award of costs by contesting the planning appeal on grounds which cannot be substantiated. In particular , in view of the fact that this site is allocated for residential development and the Executive Board has authorised the release of Phase 2 allocated sites , the Council would not be able to substantiate a reason for refusal that goes to the principle of development. Members are strongly recommended to indicate that they would have approved the application had they been in a position to do so. It is considered that this will serve to help the Council in defending against any claim that the Council has acted unreasonably. A Council can also reduce the risk of costs against them at appeal, or the extent of any award of costs, by notifying the Planning Inspectorate and appellant immediately that they will not be contesting the appeal.
- 1.8 The applicant has submitted on the 24th September 2012, a further planning application for the same form of development now at appeal. In light of this Members are strongly advised not to contest the appeal and that no evidence against the proposal is offered at the appeal. Approval of the submitted application to be deferred and delegated to the Chief Planning Officer subject to the specified conditions (in attached report 6th September East Plans Panel) and following completion of the S106 Agreement.
- 1.9 A copy of the previous report is attached for Members information as Appendix 1 and has been updated to include the verbal update reported to members at plans Panel East on the 6th September 2012.

2.0 **Background Papers**

Application files and history

Certificate of Ownership : Notice served on Priestgate Morley Limited and Earl of Dartmouth.



Report of the Chief Planning Officer

(APPENDIX 1)

PLANS PANEL EAST

Date: 6th September 2012

Subject: Application 11/04988/FU for the demolition of outbuildings, laying out of Access roads and erect 92 houses with landscaping on land at Daisy Hill Morley Leeds LS27 8ND

APPLICANT

Persimmon Homes (West Yorkshire and Priestgate Morley Ltd.

DATE VALID

5th December 2011

TARGET DATE

5th March 2012

**Electoral Wards Affected:
Morley North**

Yes Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION

DEFER AND DELEGATE to the Chief Planning Officer for approval , subject to the specified conditions and following completion of a Section 106 Agreement to cover the following matters:

- **Greenspace contribution £131,197.99**
- **Education contribution £414,451**
- **Travel plan management fee £2,500**
- **Residential Metrocard scheme £44,844.80 – or as otherwise agreed**
- **Provision of 15% Affordable housing**
- **Public Transport Infrastructure £50,000**
- **Contribution of £240,000 to upgrade of footpath link**
- **Off site highway works contribution of £10,000**
- **Local training and employment initiatives during the construction of development.**

In the circumstances where the Section 106 has not been completed within 3 months

of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer.

1. Time Limit on permission
2. Plans to be approved
3. Details of fences and walls to be provided.
4. Statement of construction practice.
5. Laying out of areas to be used by vehicles.
6. Retention of parking spaces.
7. Submission and implementation of landscaping details.
8. Landscape Management Plan.
9. Details of landscaping buffer and its implementation along eastern boundary
10. Submission of walling and roofing materials.
11. Submission of surfacing materials.
12. Submission of noise insulation scheme.
13. Flood risk management details to be submitted
14. Details of southern boundary treatment to be agreed.
15. Details of existing and proposed ground levels and finished floor levels to be agreed.
16. Development to be carried out in accordance with approved drainage details.
17. Reporting of unexpected contamination.
18. Removal of permitted development rights for extensions and roof alterations.
19. Removal of permitted development rights for additional windows in gable ends.
20. Reporting of unexpected contamination.
21. Submission of verification reports.
22. Maximum gradient to driveways.
23. Details of vehicular access gradients not to exceed specified gradients.
24. Details of sustainability in accordance with "Building for Tomorrow Today"
(Supplementary Planning Document)

Reasons for Approval: This application has been considered in accordance with the requirements of the RSS and UDPR 2006 and policy guidance within the NPPF and it is considered that the scheme provides for a good quality residential scheme. The application is allocated for residential purposes and therefore the principle of residential development is acceptable. The site is in a sustainable location and the proposals satisfactorily address highway and drainage issues and offer an acceptable level of amenity to future occupiers and will have no detrimental impact on the amenity of other nearby occupiers or to the visual amenity of the locality. The application is considered to comply with the policies as set out in the development plan and constitutes a sustainable form of development.

1.0 INTRODUCTION:

- 1.1 The application is for residential development on a Greenfield site allocated for housing in the Leeds Unitary Development Plan (UDP). Last year Executive Board agreed to release phase 2 and 3 housing sites and this is a Phase 2 site. Morley Town Council and Ward Members, Councillor Leadley and Councillor Gettings, have requested a site visit.
- 1.2 This application is brought to Plans Panel as it is a major proposal and is locally sensitive.
- 1.3 A Position Statement was presented to Plans Panel members on the 12th July 2012 Plans Panel. Members carried out a Panel Site Visit on the morning of the Panel meeting.

1.4 Plans Panel Members noted the Position Statement and provided the following comments:-

- Greater degree of openness to be provided/retained to street frontage.
- Details of the scheme to protect residents of properties on the southern boundary from the steep drop to be provided.
- Provide more information about the impact of the additional traffic on the junctions at Victoria Ave, New Bank Street and King George Ave.
- Implications that arise from the development for traffic flows on Churwell Hill.
- Further information on the frequency and routes of local bus services.
- Further information required on the implications of the development for local schools and how the children will be accommodated (i.e. how the contribution would be used).
- Further information on the development of the site for residential purposes and the consequences for nearby industrial uses.
- Concern about the amount of development proposed and the proximity of houses to the southern boundary.
- Further information required on drainage and the issues raised about localised flooding by residents.
- Officer from Flood Risk Management to attend the meeting the next time the planning application is reported to Panel.
- Design of houses needs to be amended to have regard to Morley context.

1.5 In light of the comments made by Panel the following revisions and information have been provided:

Greater degree of openness to be provided /retained to street frontage

1.6 The streetscene plans and landscaping scheme details the treatment to the frontage along Daisy Hill. The applicant has proposed to enhance the landscaping to soften the frontage. The illustrative drawings demonstrate the extent to which the proposed dwellings are set back off the frontage and the treatment to the frontage is similar to the existing positive examples on the opposite side to Daisy Hill.

1.7 The applicant did investigate changing the siting of those dwellings closest to Daisy Hill so that they were set further back from the road. However, this resulted in the vehicular access arrangements to these dwellings being changed and that access would have had to be gained directly from Daisy Hill as opposed to from the internal access road to the development. A consequence of this change was that the access drives would have cut through and resulted in a reduction in the amount of landscaping. On balance it was considered it was more beneficial to the character and visual amenities to maximise the amount of landscaping to the frontage.

Details of the scheme to protect residents on properties on the southern boundary from the steep drop to be provided.

1.8 The proposal has been revised to provide a double boarded 1800mm high close boarded fence for properties along the southern boundary, to address Members concerns around safety. Plots 20 to 23 (in the furthest south western corner) have also been site approximately 1 to 1.5 further away from the boundary to increase their rear garden lengths. The applicant has also provided cross sections through the development, including through rear gardens that are adjacent to the southern boundary and the public open space. These show that the rear gardens slopes gently

away from the house to the rear boundary. The open space also falls gently away towards the boundary.

Provide more information about the impact of the additional traffic on the junctions at Victoria Avenue, New Bank Street and King George Avenue.

Implications that arise from the development for traffic flows on Churwell Hill.

Further information on the frequency and routes of local bus services.

- 1.9 The following highways advice and comment was provided in respect of the development. It is considered that King George Avenue is of adequate width to accommodate development traffic, but does have very poor visibility to the right at the junction with Victoria Road due a narrow footway and garden wall. There is nothing that can be done to improve this visibility without having other, potentially detrimental, knock on effects on Victoria Road. There has been only one recorded personal injury accident at this junction in the last 10 years. The development is expected to add in the region of 28 movement at this junction in the AM peak (20 out and 8 in), and 29 in the PM peak (11 out and 18 in). These numbers are small and the site is a UDP allocated housing site. This together with the lack of an existing accident problem the vehicular access to the site make an objection on these grounds difficult to justify.
- 1.10 Since the comments from Members at the July Panel highway officers have reassessed the junction. It is considered that the comments above stand , but in order to maximise safety at this location (within the highway constraints), that Traffic Regulation Orders in the form of double yellow lines could be implemented around the junction to prevent parking at all times. It is envisaged that these would extend some 15m along King George Avenue and would allow several vehicles to wait to turn out, without restricting access for those turning in from Victoria Road. This would be an improvement on the existing situation and go some way in mitigating the small development impact at this junction.
- 1.11 The applicant has previously agreed to fund similar TROs at the junction of New Bank Street and Church Street. The works to these junctions would be secured by way of a contribution within the s106.
- 1.12 The level of traffic on Churwell Hill associated with the development would be minimal (less than 30 vehicles in each peak period), and would be significantly less than typical day to day variations.
- Further information on the frequency and routes of local bus services.
- 1.13 The 213 bus service linking Morley to Dewsbury passes along the site frontage with a stop within easy walking distance. This operates at a frequency of one bus per hour during the day (starting at 09:30), with no services in the evenings or Sundays. Bus stops on Victoria Road, 670m to 730m from the centre of the site (8 to 9 minutes walk) are served by 10 buses per hour to Leeds and Morley, including the high frequency 51 service. These high frequency services are outside of maximum walk distances, but do offer an alternative to the railway station.
- 1.14 Morley railway station is a 300m walk distance from the centre of the site. The developer has agreed to fund a full reconstruction of the full footpath (from Daisy Hill to the station), to a shared cycle / pedestrian route to adoptable standards. This path will be hard surfaced and lit. Initial estimates of this work are £240,000 which will be funded by the developer.
- 1.15 The following comments and advice have been received from METRO. It is noted that capacity is a problem on all rail lines at peak times during term time across West Yorkshire. This includes at Morley. The station being one of the last on the

approaches to Leeds suffers from notable crowding on trains at peak times. There are 3 major interventions happening that could help ease things at Morley:

1. Northern Hub
2. Trans-Pennine electrification
3. HLOS (**High Level Output Specification**) Additional Capacity for Leeds

The recent HLOS announcement includes making provision for future demand growth on all routes across Leeds. This includes the line through Morley through additional capacity at Morley likely to be delivered through longer trains. It is likely this will happen post electrification on the Trans Pennine line, planned by 2018, but could be earlier for the local services through Morley.

The franchise process may deliver some benefits by 2014, but the availability of rolling stock will be limited until other electrification schemes come on line circa 2018.

The station itself has limited car parking capacity, and suffers from poor access. METRO are developing plans to make improvements but are waiting the feedback from a meeting with local politicians. Funding is an issue and any scheme would have to demonstrate a favourable Cost Benefit Ratio so improvements cannot be guaranteed at this stage. The £50,000 secured as part of the application will go towards increasing car park capacity, resurfacing and improved lighting.

- 1.16 The site is within walking distance of local services and schools.

Further information required on the implications of the development for local schools and how the children will be accommodated (how the contribution would be used)

- 1.17 The applicant has agreed to contribute the full amount of £414,451 and this will go towards capacity within both the local primary school and secondary schools.

- 1.18 Children Services have set out that at this stage they cannot specifically say how the money will be spent, except that it will be used to expand existing schools in the Morley area, in order to cater for the extra children generated by the development. There is a process to follow in terms of identifying potential schools, for example carrying out options appraisals to identify which schools would be suitable for expansion, consultation with all affected parties, seeking approval from Executive Board, and of course, seeking planning permission for any expansion.

Further information on the development of the site for residential purposes and the consequences for nearby industrial uses.

- 1.19 As specified in paragraph 10.25 the oil depot is regulated by the Environment Agency and the animal by products plant is regulated by Environmental Health who on consultation state that the number of complaints over the years has declined. The implications for the industrial uses are that they are working within their required permits and therefore cannot do anymore than work within this permit.

- 1.20 The Environment Agency has further advised that if a business operates within the terms of their permit then they will not be closed down. The permit addresses such matters including odour and they are not aware of any breaches of the permit in this location.

Concern about the amount of development proposed and the proximity of houses to the southern boundary.

- 1.21 The applicant has undertaken a study of the urban grain of the area. This has included looking at the massing and spatial setting of existing development and how the proposed development fits in. It is noted that the surrounding area comprises a

mix of house types and ages. The proposed development reflects the mix of housing types (detached/semi's/terraces) and the spatial setting of the proposed houses reflects that of other similar housing types in the locality.

- 1.22 It should be noted that the amount of garden space provision and rear garden lengths the development complies with the guidelines set out in Neighbourhoods for Living.

Further information required on drainage and the issues raised about localised flooding by residents

- 1.23 Mains Drainage confirm that there is no record of complaints of flooding received locally to Daisy Hill. A more detailed comment on drainage issues is set out at 10.23 of this report. It should be noted that any decision on a technical matter such as drainage needs to be evidence based. To that extent significant weight should be attached to advice received from the relevant technical consultees and this advice should only be set aside if there exists clear and demonstrable evidence that their advice is incorrect.

Officer from Flood Risk Management to attend the meeting the next time the planning application is reported to Panel.

- 1.24 Flood Risk Management officer to be in attendance and will also be able to address the localised flooding raised by Members in the above section.

Design of houses needs to be amended to have regard to Morley context.

- 1.25 The applicant has carried out and submitted a character assessment of the local area. King George Croft and New Bank Street which are immediately adjacent to the site are two storey dwellings with upvc windows. There is no subtle transition between the modern brick to the traditional stone terraces on New Bank Street. The key characteristics of the stone terraces are dry verge gables small fascia with no soffitt and a standard pitch roof design. The assessment looks at dwellings and their features further afield on Albert Road and Sandringham Close. The conclusion reached is that there is no consistent character to Morley. A number of positive aspects of local character are reflected in the design of the proposed homes (including dry verge gables, roof pitch, recessed windows and stone heads and sills). Concluding that the site is of sufficient size for a scheme to create and sustain its own character.

2.0 PROPOSAL:

- 2.1 The application is a full application with layout details for 92 houses comprising of 2, 3, and 4 bedroom houses in the form of terraced, semi and detached dwellings. The proposed development consists of 3680sqm of on site public open space. Vehicular access into the site would be from three access points on Daisy Hill. Affordable housing is provided at 15% and the 14 units are pepper potted in 3 locations throughout the development.
- 2.2 The proposed houses are of a traditional form and design approach and are either two storeys or 2 storeys with accommodation in the roof. The houses are proposed to be of brick, with artificial stone heads and sills and tiled roofs. The design and layout of the scheme is described in more detail at paragraphs 10.9 to 10.13 below.

3.0 SITE AND SURROUNDINGS:

- 3.1 Site area of 2.9 hectares located at the north eastern edge of Morley positioned on rising land overlooking Morley Railway Station towards the east. The site slopes from the north to the south with a steep drop to the main railway line along the southern

boundary of the site. The site is bounded by existing housing towards the north and west. With established commercial and industrial development towards the south in close proximity to the railway station. Towards the east the area is designated as Green Belt. The site currently comprises of outbuildings contained within fields used for the keeping and grazing of horses. Adjacent to the western boundary of the site is a footpath which runs from Daisy Hill towards the railway station. To the other side of this footpath is a residential estate consisting of red brick dwellings built in a mixture of dwelling types, along this boundary the majority of dwellings are two storey detached. Along Daisy Hill on the opposite side facing the frontage of the application site are existing dwellings which are set back from the highway with front gardens. Opposite the footpath up to King George Avenue the dwellings are in the form of detached and semi detached bungalows. these are set back approximately 5m from the highway with low front walls with vegetation . Facing the frontage of the site going up Daisy Hill the dwellings are all set back approximately 6m and 8m with a mixture of two storey semis and detached. Towards the top end of Daisy Hill which culminates in a cul de sac the properties are detached and set further back with some having landscaped gardens. The majority of the dwellings are built in a red dark brick with buff pantile roofing.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 PREAPP/11/00656 Preapplication for Residential development
Received 12th July 2011

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant has been engaged in discussions with officers since July 2011. Detailed discussions have been taking place with officers on layout design and highways issues, landscaping and planning obligations.
- 5.2 Negotiations at pre-application stage reduced the number of units from 96 to 87. The majority of these dwellings were detached.
- 5.3 As a result of the discussions in regards to layout and design some terraced properties have been introduced to replace some detached. Consequently the number of units has increased from 87 to 92 units.
- 5.4 The changes to the layout have increased the spatial setting and contribute towards an improved landscaping scheme. The units facing the site frontage are set back off the highway introducing some landscaping to the frontage.
- 5.5 Negotiations and discussions around Highway issues have resulted in the following:-
- Amendments to driveway widths, changes to private drive numbers and dimensions of car parking spaces and size of garages have been carried out.
 - The internal road layout has been revised.
 - TRO works in the form of parking restrictions at New Bank Street /Church Street and at the junction of King George Avenue and Victoria Road have been agreed as part of the S106 Agreement.
 - Metro have requested that the footpath be upgraded and £50,000 towards refurbishment of the railway station car park. The applicant has agreed to this and will be part of the S106 package.
 - Residential metrocard scheme agreed as part of travel plan.
 - The applicant has agreed to contribute towards the upgrade of the footpath.

- Information in relation to the cross sections and levels of the site has been submitted.

5.6 The application has been readvertised to accommodate this revision.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was originally advertised by site notices posted on site on 16th December 2011. A total of 67 individual letters of objection and 320 copies of a standard letter of objection were submitted. These objections may be summarised as follows:

- Highways around New Bank Street and King George Avenue are already congested. Parking on New Bank Street often leaves the road almost unpassable. An additional 180 traffic movements from this site would be unsustainable.
- Local Primary and secondary schools are full and cannot accommodate the additional pupils generated from this site. Local health centres cannot accommodate the patients the site will generate. This makes the site unsustainable.
- The area has a long history of drainage and flooding problems. The drains system cannot take the additional demand this development will generate.
- The loss of this valuable Greenfield site will remove the green corridor between the estate and the railway line.
- The site will have a detrimental impact on employment on local businesses as a new housing development will lead to increased complaints which could reduce employment at Harder Brothers and other employees.
- The loss of this Greenfield site will remove a positive community asset which the local community use for leisure.
- The view of the only bit of countryside will be blocked by the properties opposite, and will lower the value of the property.
- The new development has the majority of public open space at the bottom of the development to the benefit of few and only those of the new development.
- Commuter trains to Leeds are excessively loaded at peak times.

Morley Town Council

6.2 Object to the application for the following reasons in summary:-

Policy background comments are:-

“This presents most difficulty , Leeds City Councils longstanding and successful housing land supply and release strategy collapsed last year at Grimes Dyke, the last of a run of about ten Greenfield housing planning appeal defeats. Unfortunate that none of the appeal test cases were in Morley, as it meant that we had no opportunity to fend off a policy shift affecting our own fate. But that does not mean that we have to accept the shift without protest.”

Local detail comments are: –

- At one time the site was market gardening land, but has been pony pasture with associated stables and sheds for some years.
- Affordable housing would be provided at a rate of 16% or 14 units, marginally above the local policy requirement of 15%. Developers happy to set aside theoretical need when facing the economic reality of setting affordable housing levels in a recession.
- Hourly bus service needs to be extended to be of use to scholars and commuters.
- Morley station close but down an unsurfaced track which only has a street lighting adoption .An improved surface would be helpful and the pedestrian exit

shown from the sites south western corner should be kept even if there are amendments to site layout.

- Sewer surcharging on Daisy Hill and in croft House .Flooding of King George Avenue and New Bank Street by surface water which suggests lack of drainage capacity. This needs to be looked into, to avoid outfall from the application site adding to problems upstream by overloading the lower parts of the system and causing effluent to back up.
- The southern part of the site is an outcrop of Thornhill Rock sandstone which ends in a steep slope .Likely the rock will be deeply weathered and unstable along its edge. Few houses close to brink and might be at risk of subsidence.
- Object to closeness of development to Harder Bros and OSS oil recycling refinery which are local employers and by bringing housing close to them could make them focus of complaints from residents and health enforcement action which could hinder their working or reduce their economic viability.
- Object to extra traffic on existing junctions, and there should be measures to ensure that heavy goods vehicles do not go onto unadopted part of daisy hill which is unmade this would erode it further.
- Heavier loads on services such as doctors, schools and dentists.
- Public open space hidden away and close to railway –should be secured and more accessible to all houses.
- The buffer planting along the north eastern boundary of the housing site should all be within the housing site as defined in the UDP housing allocation.

“Object to the application for policy background and site specific reasons stated above. As the proposal is contentious, it should be determined by Plans Panel East after its members have made a site visit”

Councillor Gettings

- 6.3 Objections to application. Concerns regarding the two access roads – the one into Morley are already a major problem with buses not being able to get through and all local schools are full. Request Panel site visit.

Councillor Leadley

- 6.4 Following comments and request set out in 2 letters:-
“In view of the amount of public interest, request Plans Panel members carry out site visit to assess impact of this first post –Grimes Dyke Greenfield housing proposal in Morley on the relationship between the town and its surrounding countryside. To see the closeness of some of the proposed houses to the southerly cliffe edge, and the overall closeness of the proposed development to the OSS oil refinery and Harder Brothers sausage skin factory”

The buffer planting is located within the green belt and takes up land currently used as paddocks. This planting should be located the land allocated for housing.

Morley Town Councillor Joyce Sanders

- 6.5 On behalf of local constituents voicing their concerns raise the following:-
- Infrastructure cannot take the extra housebuilding.
 - Schools are full, waiting lists for children 4 to 10 and some have to go to Beeston, totally unacceptable due to transport and distance problems.
 - Traffic issues, roads cannot take the additional traffic generated.
 - Area susceptible to flooding, horses often standing in flood water. Adjoining railway station platform and track are also regularly under water.
 - Bungalows on Croft House estate also suffer from this problem.
 - Drains on Daisy Hill have a sewerage overflow problem in heavy rain.

- At least six of the houses would be built on crumbling land.
- Oil Recovery business which has been established for over 100 years. Owners good employers and built this business away from residential homes due to the smell the process caused. They have done all they can to reduce this problem but would probably have an increase in complaints with houses on the doorstep.

- 6.6 The receipt of revised plans was advertised by site notices published on 10th August 2012 with the period for comment ending on 24th August. 5 further letters of objection were received and the additional points raised relate to:
- The proposal will increase flooding.
 - Local amenities and facilities are already stretched/inadequate.
 - Loss of residential amenity through car headlights shining into neighbouring residential properties.
 - No need for the development as there are many empty properties nearby.
 - Residents will suffer noise nuisance from local industries and the railway during the night.
 - Nuisance and disruption to local residents during the construction of the development.
 - Loss of house values.

7.0 CONSULTATIONS RESPONSES:

Yorkshire Water

- 7.1 No objections in principle to the proposed building stand off from public sewer centre line (of six metres) submitted on drawing. If permission to be granted recommend conditions for easement of sewer line and drainage conditions.

Environment Agency

- 7.2 Proposed development will only be acceptable providing a condition is attached requiring the drainage details to be submitted to the Local Planning Authority and a scheme agreed in writing. The scheme shall include the following details:-
- Greenfield run off rates to be adhered to.
 - Written confirmation that Leeds City Council s Flood Risk Management Department are satisfied with the location of the point of connection to the watercourse. This is particularly important given the documented flooding problems in the Valley Road area of Morley.
 - Details of the scheme shall be maintained and managed after completion.

Network Rail

- 7.3 No objections in principle to the development. However the following requirements must be met:-
- Applicant to investigate all the covenants and understand any restrictions.
 - Drainage away from Network Rail property and infrastructure
 - Fail safe use of crane and plant.
 - Excavation/earthworks should have no interference with rail network.
 - Security of mutual boundary
 - Fencing –to provide trespass proof fencing along mutual boundary.
 - Excavation, piling, buildings located within 10m of the railway boundary requires a method statement to be submitted for NR approval.
 - Any demolition close to network rail infrastructure will require method statement.
 - Any buildings should be located 2m away from network rail boundary to allow maintenance and access.

- Adequate soundproofing for residential dwellings. as could be trains running 24 hours a day.
- Landscaping proposed adjacent to railway details to be agreed with NR to ensure no impact on Network Rail infrastructure.
- Lighting close to railway must be eliminated to ensure no dazzling to driver and colour not be confused with signal lights.
- Access to railway should remain open at all times during development.
- Childrens play area /openspace /amenities close to railway lineshould be securely fenced.

NR recommend boundary fencing, method statements, sound proofing, lighting and landscaping should all be conditioned. Direction for all the others to contact NR.

Neighbourhoods for Housing (Affordable Housing)

- 7.4 Site located within outer suburbs requirement for 15% affordable housing, with 50%/50% social rent and submarket split. Affordable housing should represent prorata mix of total units to be built on siteand should be pepper potted across the site.

Contaminated Land team

- 7.5 Desk study element acceptable, recommend conditions and directions.

Public Rights of Way

- 7.6 Public footpath number 58 abuts the site on its western boundary, no objection as long as the footpath remains open and available for use at all times.

Environment policy team

- 7.7 The information provided follows the general guidelines of the Code for Sustainable Housing however there is insufficient detail provided to enable a proper evaluation with respect to Code 3. Additional information required in accordance with Supplementary Planning Document (SPD) –Building for Tommorrow Today. Recommend conditions that relate to sustainability in accordance with the SPD “Building For Tommorrow Today”.

Architectural Liaison Officer

- 7.8 Recommendations for doors, windows, glazing, vehicle parking, boundary treatment, defensible space, planting and natural surveillance. In accordance with secure by design scheme.

Travel Wise

- 7.9 The Travel Plan has been revised and is now acceptable

Public Transport

- 7.10 The proposed use will have a significant travel impact, which will need to be addressed; therefore a financial contribution proportionate to the travel impact of the scheme will be required towards the cost of providing the strategic transport enhancements (Detailed in the SPD).

Access Officer

- 7.11 Generally fine, any newly created crossing points and traffic calming area should have appropriate tactile paving laid at either end.

Environmental Protection Team

- 7.12 On far side of railway is an industrial area which includes an oil depot and an animal by products factory. Significant potential for the future occupants of development to be affected by noise and odour. Applicant has submitted a noise report with the application; recommend conditions for sound insulation scheme.
In reference to odours the industrial users are long established. The Council had previously received a substantial number of complaints, however the situation has improved for residents over recent years.

City Services streetscene

- 7.13 Refuse collection arrangements are considered acceptable.

West Yorkshire Archaeological service

- 7.14 No significant archaeological implications attached to the proposed development

Mains Drainage

- 7.15 Discussions and negotiations have resulted in an updated Flood and Drainage Assessment being submitted. This is now considered acceptable and the necessary drainage conditions are to be attached.

Highways

- 7.16 Discussions and negotiations have taken place, in regards to the layout and the upgrading of the footpath to the west to form a link and cycle path to the station. Further discussions are still taking place to resolve the cross sections and the upgrading of the footpath link which lies outside of the red line boundary. The applicant has agreed to contribute towards this upgrading as part of the section 106 package.

Education

- 7.17 The development would generate 21 primary aged pupils and 9 pupils at secondary level. The development resides within the Morley Planning area; there is a significant shortage of school places, both in primary and secondary. Using the formula for defining section 106 educational contributions an amount has been calculated.

Metro

- 7.18 Request £50,000 to improve Morley Station Car Park and support the upgrade of the footpath link.

Coal Authority

- 7.19 Based on the information submitted no objections raised and recommend relevant Informatives.

8.0 PLANNING POLICIES:

- 8.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development including housing. The site is not designated for any particular purpose in the UDPR. Land abutting to the east is designated Green Belt.

- 8.2 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following

consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy set sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.3 Regional Spatial Strategy (RSS) (adopted May 2008):

H1: annual average additions to housing stock and previously developed target.

H2: Sequential approach to allocation of land.

H3: managed release of housing land.

H4: affordable housing.

YH1: Spatial pattern of development and core approach.

YH2: Sustainable development.

YH4: focus development on regional cities.

YH5: Focus development on principal towns.

YH7: location of development.

LCR1: Leeds city region sub area policy.

LCR2: regionally significant investment priorities, Leeds city region.

8.4 Leeds Unitary Development Plan (UDP) Review:

GP5: General planning considerations.

GP7: Use of planning obligations.

GP11: Sustainable development.

N2/N4: Greenspace provision/contributions.

N10: Protection of existing public rights of way.

N12/N13: Urban design principles.

N23/N25: Landscape design and boundary treatment.

N24: Development proposals abutting the Green Belt.

N29: Archaeology.

N38 (a and b): Prevention of flooding and Flood Risk Assessments.

N39a: Sustainable drainage.

BD5: Design considerations for new build.

T2 (b, c, d): Accessibility issues.

T5: Consideration of pedestrian and cyclists needs.

T7/T7A: Cycle routes and parking.

T24: Parking guidelines.

H1: Provision for completion of the annual average housing requirement identified in the RSS.

H2: Monitoring of annual completions for dwellings.

H3: Delivery of housing on allocated sites.

H11/H12/H13: Affordable housing.

LD1: Landscape schemes.

8.5 Supplementary Planning Guidance / Documents:

Neighbourhoods for Living – A Guide for Residential Design in Leeds
Street Design Guide

8.6 National Planning Guidance:

National Planning Policy Framework (2011)

9.0 MAIN ISSUES

9.1 Principle of Development
Sustainability

Highway Issues
Urban Design
Affordable Housing
Impact on residential amenities
Landscaping and Greenspace
Education
Drainage
Environmental issues
Section 106 Package

10.0 APPRAISAL

Principle of Development

- 10.1 Section 38(6) of the Planning and Compensation Act 2004 requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The application is on a Phase 2 allocated Greenfield site, within the settlement of Morley.

Sustainability

- 10.2 The site lies at the edge of the Morley settlement. A large range of facilities are located within acceptable distances. The local 213 bus service passes by the site frontage at an hourly frequency. More frequent services are available on Victoria Road, some 600m from the site boundary. The site is also within 200m walking distance of Morley railway station.
- 10.3 The existing footpath links Daisy Hill to Morley railway station but is unmade and in poor condition with limited lighting. In order for this to provide a safe and effective link to the station the full length of the path must be improved to an adopted standard with a 3m hard surface and additional lighting. There is the potential for this to form a cycle link to the station with a wider path of 3m.
- 10.4 In light of these factors it is considered that the site is located in a sustainable location.

Highway Issues

- 10.5 The site is accessed at three points from Daisy Hill. The first serves a private drive of five dwellings and the other two form a loop through the development. Adequate visibility can be provided at all three access points.
- 10.6 The site is linked to the local highway network via either New Bank Street or King George Avenue. New Bank Street suffers from significant on street parking at its western end due to the terraced housing. The junction with Church Street would benefit from some TROs to restrict parking close to the junction.
- 10.7 King George Avenue is of adequate width to accommodate development traffic but does have poor visibility to the right at the junction with Victoria Road due to narrow footway and garden wall. There is nothing that can be done to improve this visibility without other detrimental knock on effects on Victoria Road. The development is expected to add in the region of 28 movements at this junction in the AM peak (20 out and 8 in) and 29 in the PM peak (11 out and 18 in) These numbers are small and the site is a UDP allocated housing site. Together with the lack of an existing accident problem the vehicular access to the site make an objection on these grounds difficult to justify.
- 10.8 Negotiations and discussions around highway issues are laid out in paragraph 5.5 above in section 5.0 History of Negotiations.

Urban Design

Layout scale and design

- 10.9 The site essentially provides 92 dwellings in the following forms:-
- Cherryburn, detached two storey – 4 bed (8 in total)
 - Clandon, detached two storey – 3 bed (3 in total)
 - Winstor, detached two storey – 4 bed (8 in total)
 - Crathorne, detached two storey – 4 bed (6 in total)
 - Roseberry, detached two storey – 4 bed (11 in total)
 - Moulton, semi/terrace two storey – 2 bed (16 in total)
 - Hatfield, detached two storey – 3 bed (6 in total)
 - Souter, detached two and half storey – 3 bed (7 in total)
 - Rufford, two storey detached – 3 bed (11 in total)
 - Swale, two and half storey detached – 3 bed (6 in total)
 - Hanbury, two storey semi/terrace – 3 bed (10 in total)
- 10.10 The dwellings are laid out in a semi circle either side of the internal access road. The dwellings siding onto and facing the site frontage (Daisy Hill) are set back, to varying degrees, with landscaping proposed to the frontage. The majority of the houses front onto the street and rear gardens are secured (rear gardens of properties adjoin each other). Dwellings along the southern boundary adjoining the railway line are set into the site away from this boundary and plots 20 to 23 have been re-sited approximately 1.5m further into the site in response to concerns raised by Members. Towards the west adjoining the footpath is a similar residential estate.
- 10.11 Towards the east of the site is the designated green belt the proposed landscape buffer provides an acceptable level of transition from urban to rural. This land is located outside of the housing allocation but on land within the applicant's control. Suggestion condition 9 will require the implementation and delivery of the landscaped buffer.
- 10.12 During negotiations with officers the scheme has moved away from a scheme of detached and semi-detached dwellings only to introducing 3 terraced rows located across the site. Whilst the types of dwellings are predominantly detached there are a mixture of semis and terraces.
- 10.13 The dwellings are proposed in brick, a mixture of red and buff brick, with red and brown roof tiles. The design of the houses follows a traditional form and reflects some characteristics of the local area (see 1.25 above).
- 10.14 The design of the houses, their scale and spatial setting has regard to local characteristics and accords with the guidance set out in Neighbourhoods for Living. Accordingly it is considered that the development has due regard to its context and that the design and layout of the development is acceptable.

Affordable Housing

- 10.15 A total of 14 affordable housing units are proposed which is just above the 15% requirement set out in the Council's Interim Affordable Housing Policy. The affordable housing units comprise a mixture of 2 and 3 bed properties and are located in the in the centre of the development, to the southern boundary and in the south west corner. As such the development meets the Council's policy and 'pepper pots' the units across the development.

Impact on residential amenities

- 10.15 The majority of dwellings along the southern boundary have rear garden lengths, and are consequently located a distance, of 13m, 11m and 10m from the boundary. The rear of these properties face towards the railway line. Landscaping and boundary treatment to this southern boundary are subject to a landscaping scheme still to be submitted. The majority of the dwellings have a distance of 2m and 3m between them. All of the dwellings are set back off the highway having front garden lengths varying in size from 6m, 7m, 8m, 9m 10m and 11m.
- 10.16 The dwellings along the eastern boundary have garden distances of 10m, 11m and 12m and will be facing a landscaped buffer of approximately 10m depth. The majority of these houses rear elevations face out towards open land. Plot 79, in the north eastern corner of the site, is sited parallel to the gable end of No.28 Daisy Hill. There is a gap of some 20m between these properties (10m of which comprises the landscape buffer).
- 10.17 The dwellings along the site frontage to the site are set back off Daisy Hill and have distances of 20 to 21m from the existing dwellings on the opposite side of Daisy Hill. The proposed dwellings along Daisy Hill are all two storeys in height.
- 10.18 The three proposed dwellings sited along the western boundary present their gable end to that boundary. They are separated from the existing dwellings of King George Croft by a public footpath that runs along that boundary.
- 10.19 The dwellings in the semi circle of the heart of the proposed development have rear garden areas at varying lengths of 10m, 11m and 13m. These garden areas adjoin gardens to the rear properties which have a similar length providing distances between dwellings varying between 20, 21, 22 and 23m.
- 10.20 In light of the above it is considered that the development meets the guidance set out in Neighbourhoods for Living, will not have an adverse impact on the amenities of nearby residents and will provide an adequate level of amenity (in terms of the layout of the development) for the prospective occupiers.

Landscaping and Greenspace

- 10.21 As part of the discussions on layout of the scheme with officers a landscaping scheme has been submitted. Varying options of the Public Open Space (POS) have been discussed resulting in an open space of 3680sqm being located in the South east corner of the site. The area of greenspace meets policy requirements, is accessible to the residents of the scheme and other local residents, is overlooked by properties affording a degree of security and provides something of a visual link to neighbouring open space. As such the size, design and location of the open space accords with guidance set out within Neighbourhoods for Living.

Education

- 10.22 The Leeds established formula for defining section 106 educational contributions has calculated an amount of £414,451. The applicant has agreed to pay the full amount and forms part of the Section 106 Agreement. Accordingly the proposal complies with the Council's supplementary planning guidance.

Drainage

- 10.23 The drainage scheme in liaison with officers in Flood Risk Management (FRM) has been revised and the updated. Flooding and drainage assessment is now supported by FRM. There are no recorded flooding problems on Daisy Hill. The recorded flooding problems are towards the south of the railway line along Valley Road area

where FRM are working with residents and owners to alleviate the problems. It is important to note that the planning test is not whether the development will improve or resolve local flooding issues but that it will not in itself exacerbate an existing problem. The drainage scheme has been revised and the site is to be drained away from Daisy Hill and the Valley Road area towards the east further down towards where the culvert opens up. Having consulted with the relevant drainage bodies, officers are confident that the site can be drained such that surface water discharges are no greater than the current greenfield rates.

Environmental issues

10.24 Noise and disturbance: The assessment submitted of noise levels from the adjacent railway station covered daytime movements only. A further request from Environmental Health has resulted in this information being submitted and is considered acceptable and a condition for a noise insulation scheme is recommended and attached.

10.25 Odours emanating from existing industrial uses nearby: Environmental Health has received complaints about odour from both the oil depot and the animal by products plant affecting existing nearby residents, however the situation has improved over recent years. There is a greater potential for a significant loss of amenity to the residents of the development as they will be closer to the industrial uses. Environmental Health state that it would be extremely difficult and probably impossible to eliminate all the industrial odours. The oil depot is regulated by the Environment Agency. The animal by products plant is regulated by Environmental Health. The existing control on their permit seems effective in preventing disturbance to existing residents. It is considered that the plant is operating in accordance with best practical means and the company could not be asked to take any further measures even if complaints are subsequently received.

10.26 In considering this aspect due weight needs to be applied to the fact that the site is allocated for residential use.

10.27 Section 106 Package: The section 106 package consists of the following:

- Affordable Housing: Provision of 15 units in accordance with the 15% as required as part of the interim policy.
- Public Open Space provision: The on site greenspace measures 0.328 hectares, is marginally smaller but consider the on site provision to be acceptable. In accordance with N2.2 and N2.3 there is not sufficient greenspace within the locality to satisfy either of these policies and further contributions are required. Breakdown of contribution is as follows:-

Laying out of greenspace	66,001.66
Maintenance of greenspace	2,721.47
Equipped childrens play	51,716.59
Fees	10,758.27
Total	£131,197.99
- Education: The Leeds established formula for defining S106 educational contributions has calculated an amount of £414,451.
- Travelplan: Management fee of £2500 for monitoring purposes.
- Public transport Infrastructure: £50,000 towards the upgrade of Morley railway station car park. Applicant has agreed to contribute the sum of £240,000 to upgrade the footpath link.

- Contribution of £10,000 for Off –site highway works to provide parking restrictions further up the road at New Bank Street / Church Street and to the King George Avenue and Victoria Road junction.
- Employment and training clause: A clause to ensure local employment and training takes place.

10.29 Section 106 requirements flow from policy. The areas of Education, footpath upgrade and off site highway works involved lengthy negotiations. These have now been resolved and the applicant has agreed to pay the full amounts. The heads of terms for the Section 106 Agreement complies with the Council's policies.

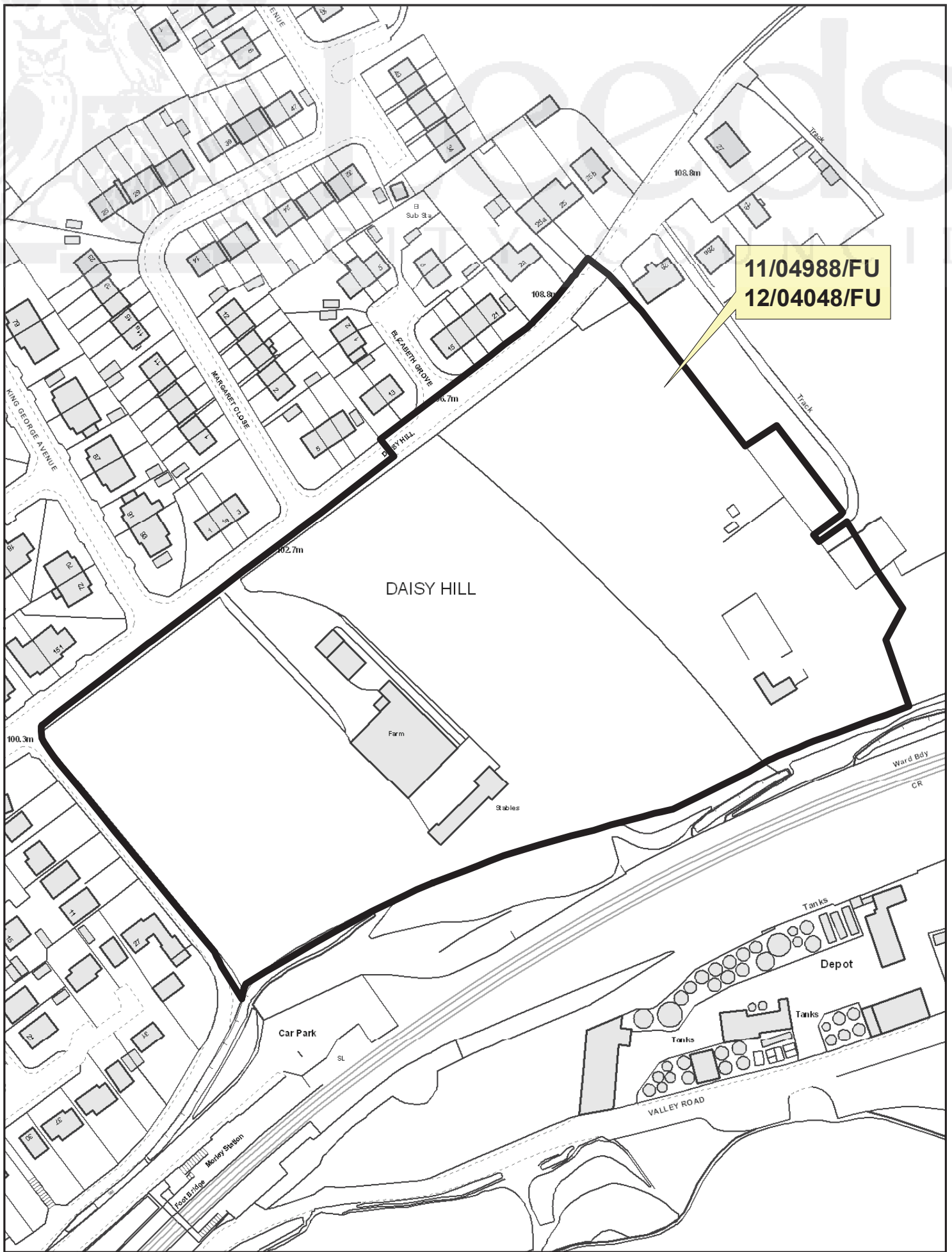
11.0 CONCLUSION

- 11.1 The planning act requires planning applications that comply with the terms of the development plan to be considered favourably. The principle of development accords with the Unitary Development Plan and the design and layout of the development is in line with the Council's residential design guide, Neighbourhoods for Living. These factors should be given significant weight in reaching a decision.
- 11.2 The proposed Sec.106 Agreement meets the requirements of the Council's planning policies. The development notably delivers affordable housing, an education contribution and improvements to the local highway network including the upgrading of the footpath link to the station. Again these factors should carry significant weight in the decision process.
- 11.3 It is acknowledged that the dwellings will be subject to exposure of noise from the railway line and noise and odours from some local businesses. The dwellings have been designed to protect the occupants from undue noise exposure. The nearby businesses are subject to environmental controls that are designed to protect the amenities of local people. In light of these factors, and that the site is allocated for residential development, it is considered that it would be very difficult to substantiate the refusal of planning permission on such grounds.
- 11.4 In light of the above, it is considered that the revised proposals are now acceptable and that a sustainable form of development is proposed. As such the key test as set out in the NPPF, a presumption in favour of sustainable development, is met.

Background Papers:

Application files and history

Certificate of ownership: Notice served on Priestgate Morley Limited and Earl of Dartmouth



11/04988/FU
12/04048/FU

SOUTH AND WEST PLANS PANEL



Originator: David Jones

Tel: 247 8000

Report of the Chief Planning Officer

PLANS PANEL (SOUTH & WEST)

Date: 11TH OCTOBER 2012

Subject: APPLICATION 12/01332/OT: OUTLINE APPLICATION TO ERECT RESIDENTIAL DEVELOPMENT ON LAND AT BRUNTCLIFFE ROAD, MORLEY

APPLICANT	DATE VALID	TARGET DATE
Barratt Homes Yorkshire West & Priestgate Morley Ltd.	12 March 2012	21 June 2012

Electoral Wards Affected:

Morley South

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION

DEFER AND DELEGATE to the Chief Planning Officer for approval , subject to the specified conditions and following completion of a Section 106 Agreement to cover the following matters:

- Provision of Metro Cards - £73,154.40.
- Bus stop improvements - £60, 000
- Green Travel Plan
- Contribution to off-site highway works
- Contribution to education enhancements - £800,321
- Public transport improvements - £1226 per unit
- Provision of 15% affordable housing (within 2 years)
- Provision of on-site greenspace - P.O.S measures 0.78ha , the buffer planting between the residential allocation and employment allocation measures 0.56 ha the open area located between the most southerly residential dwellings and the M62 measures 0.72ha.

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

1. Time Limit on Outline Permission
2. Submission of reserved matters
3. Plans to be approved
4. Details of existing and proposed ground levels and finished floor levels to be agreed.
5. Submission of a phasing plan
6. Submission of walling and roofing materials.
7. Sample walling to be provided.
8. Details of fences and walls to be provided.
9. Construction Management Plan
10. Specified off-site highway improvements (footway on Bruntcliffe Road, carriageway narrowing and lining, site access, pelican crossing, pedestrian refuges, MOVA control at Angel lights)
11. Laying out of areas to be used by vehicles.
12. Provision of cycle/motorcycle parking
13. Submission and implementation of landscaping details.
14. Trees/hedges to be protected.
15. Replacement planting as necessary
16. Submission of surfacing materials.
17. Noise levels for internal rooms and gardens.
18. Air quality monitoring.
19. Development to be carried out in accordance with approved drainage details.
20. Reporting of unexpected contamination.
21. Submission of verification reports.
22. Sustainable construction.

Reasons for Approval: This application has been considered in accordance with the requirements of the RSS and UDPR 2006 and policy guidance within the NPPF and it is considered that the scheme provides for a sustainable residential scheme. The application is mainly allocated for residential purposes and therefore the principle of residential development is acceptable. A smaller part of the site is unallocated, but is in a reasonably sustainable area, which doesn't contribute greatly to the character of the area. The proposals satisfactorily address highway and noise issues and offer an acceptable level of amenity to future occupiers. . The application is considered to comply with the policies as set out in the development plan and constitutes a sustainable form of development.

1.0 INTRODUCTION:

- 1.1 This application is brought to the Plans Panel because it relates to a substantial development proposal and is subject to a considerable number of objections from residents. The proposal is for the residential development of an allocated Phase 2 Greenfield site of 7.14 hectares in the Unitary Development Plan, but also includes an adjoining area of land which is not allocated.
- 1.2 The application was subject of a Position Statement at the Plans Panel (East) meeting on 9th August 2012, following a Panel site visit. The agreed minute is set out in paragraphs 1.3 – 1.12 below. Given the scale of development and the number of representations it has generated, a site visit by Plans Panel members who are determining the application is considered appropriate. (The previous site visit was carried out by Plans Panel East members).

- 1.3 Approved minute of meeting
As there were outstanding issues in relation to the proposals, Panel was asked to consider the key issues of highways safety; noise intrusion and compliance with the development plan:
- 1.4 Highways
 - *Members were informed that the Highways Agency had a holding direction on the site until 31st August 2012 - although this could be extended – to enable consideration of the impact of cumulative development on Junction 27 of the M62, with a mitigation scheme having been drawn up, with the proposed development for this site likely to be required to make a contribution towards the works*
 - *the traffic assessment submitted with the planning application was based on the provision of 200 homes although this number had now been revised to 168 homes. The proposed access to the allocated site would be from Bruntcliffe Road and pedestrian access would be improved through the provision of widened footways, a pelican crossing and two additional pedestrian refuges on Bruntcliffe Road*
 - *that the position of that part of the allocated housing site which was not coming forward at this stage (the Masonic Lodge land) would also need to be considered at this stage to ensure an acceptable access could be provided to the whole site.*
- 1.5 Noise intrusion
 - *To mitigate against the impact of noise from the adjacent M62, a revised layout had been provided which proposed less dwellings and the provision of a 40m strip of land adjacent to the motorway to act as a buffer. Officers within the Council's Environmental Protection Team were considering the revisions and the latest noise assessment submitted by the developer*
 - *Members were informed that the developer considered that the issues relating to noise could be dealt with at Reserved Matters stage. However, the Head of Planning Services did not share this view and stressed to the Panel the importance of ensuring at this stage an acceptable living environment both within the houses and the gardens. This may well require additional noise mitigation measures e.g. a bund; planting and an acoustic fence*
- 1.6 Compliance with the development plan
 - *Much of the site was a Phase 2 allocated greenfield site, and following the Executive Board decision after the Grimes Dyke appeal decision, acceptable in principle to release, part of the site included land which was unallocated in the UDP although this had been expected to form a buffer between the housing allocation and the adjacent employment land. In the region of 40 dwellings were proposed on this unallocated land. The test for development of unallocated sites was one of sustainability and given the close proximity of Morley Town Centre to the site and frequency of bus services past the site, it could be considered to be sustainable, although in terms of education provision, contributions would be required as part of a S106 Agreement*
 - *In respect of the adjacent land allocated for employment use, as this was in the ownership of the applicant, it was considered that the extent of the uses and activities could be controlled and the required buffer zone and extent of the open area would need to be controlled through the S106 agreement - further details on this were still required*
- 1.7 *The Panel was informed that Councillor Dawson's objection as set out in the submitted report was not complete and provided an update for Members' information*

- 1.8 *Members commented on the following matters:*
- *the lack of an overall framework, as recommended in the UDP policy*
 - *the width of the new proposed buffer zone between the proposed employment land and whether this was as wide as indicated in the UDP and whether this area would be landscaped*
 - *whether housing had been permanently deleted from the boundary to the motorway*
 - *the number of representations received in response to the proposals*
 - *the noise levels on site; the impact of this on the ability of the residents to enjoy their gardens and that only substantial mitigation measures could prevent noise nuisance*
 - *that the noise to the north of the site was also a concern and that ensuring 'quiet' employment uses, i.e. warehousing in this area was not acceptable and that the buffer needed to be enhanced rather than reduced*
 - *that the greenspace between the housing and employment land was being squeezed*
 - *that the site was hazardous at this point of Bruntcliffe Road, with particularly narrow footpaths and whether an Environmental Impact Assessment had been carried out*
 - *whether in view of the access points indicated to serve the adjacent housing site, the transport assessment was based on the assumption that this site would be brought forward for development*
 - *the highways accident record for the area and the concerns being raised by residents and Ward Members*
 - *that there were infrastructure deficits in the area which included education provision*
 - *the number of additional traffic movements arising from the development*
 - *that references in the report to approved developments at Waterwood Close and Shayfield Lane could not be regarded as being directly comparable*
- 1.9 *The following responses were provided:*
- *that a development framework for the area had not been drawn up*
 - *that the buffer between the employment allocation and the housing allocation was narrower and that there was significant encroachment into that area which the Inspector considered should be open and that it would be necessary to ensure the land between the employment land and the buffer zone was clear*
 - *that the buffer zone being proposed was less than that shown in the UDP*
 - *that the extent of development would need to be determined at outline stage to address the issue of noise*
 - *that Panel would be updated on the exact level of representations received on the application when it came to Panel for determination*
 - *that whilst noise mitigation measures could move noise away from the site, this could be dependent upon the effect of the wind and the local topography and that proposed noise mitigation measures would need to be modelled and their effectiveness demonstrated*
 - *that the proposals could not be determined until the Highways Agency was satisfied on the impact of this and other developments on Junction 27 of the M62*
 - *that the transport assessment was initially based on 200 and that this had been revised to 175 although the impact of the adjacent site coming forward for development would need to be considered as an additional entrance into that site from Bruntcliffe Road would not be welcomed*
 - *that in terms of traffic accidents, the road was not a length of concern, although it was accepted that the data collected related to reportable accidents rather than taking into account non-reported incidents or damage to property*

- that education contributions were being sought in line with the SPG but that further discussions with colleagues in Children's Services could take place in terms of education provision
- that using the well-established TRICS database, based on 200 units, the peak am hours would see 124 movements and the peak pm hours would see 138 movements

1.10 In addressing the specific questions in the report which the Panel was asked to consider, the following points were made:

- That Members did have concerns about the principle of the development on that part of the site which fell outside of the UDP housing allocation but that subject to a reasonable land swap retaining the size of the buffer, this might be more acceptable. That Members' comments on the buffer zones be noted as was the view that the buffer zone adjacent to the employment land was much smaller than proposed in the UDP and that this should be as a minimum the width envisaged by the Inspector and for there to be no development on this part of the site. In terms of planting on the industrial land at the southwest corner of the site, substantial planting could be considered together with additional planting between the site boundary and the M62, together with a bund and possibly an acoustic fence. In respect of this part of the site, the view was expressed that attempts to put additional housing in this area would be resisted
- That the character of the housing as shown in the indicative layout appeared to be acceptable but that neither the layout or number of houses formed part of the outline application
- Members were satisfied that the location of the proposed access was the most appropriate in the circumstances
- In terms of highway safety, numerous concerns remained
- That the indicative sum – approximately £133,000 – for public transport measures in the S106 Agreement would be discussed with Ward Members
- That Members were not satisfied that the proposed heads of terms of the S106 Agreement addressed all relevant matters and that the issue of land swaps and the necessary legal agreements around these together with public access to the buffer zone would need to be explored further

1.11 Having heard the discussions, the Chief Planning Officer suggested that all parties/landowners be contacted with a view to discussing the proposals to bring forward a development framework covering both the housing and employment allocations and buffer between them as envisaged in the UDP

1.12 It was resolved to note the report, the comments made and the Panel's responses to the questions raised in the report

1.13 This report, therefore, seeks to address the above issues. The previous report, considered by Plans Panel (East) is appended to this report.

2.0 HIGHWAYS CONSIDERATIONS

Junction 27

2.1 The Highways Agency (HA) has been considering the cumulative impact of this scheme and the employment schemes on the A650 Corridor (see paragraphs 4.2.1 and 4.2.2, as set out in the August Plans Panel report). The HA has been designing a scheme of improvements at Junction 27, and are seeking to apportion costs between the three developers. On 30th August 2012, the Highways Agency stated that the principle and proportion of contribution towards the proposed mitigation scheme has now been agreed with the developer. The HA is currently costing the exact amount, and hope to have the exact figure by the end of September/early

October. Once the exact amount has been calculated, the sum can be inserted into the Section 106 Agreement.

- 2.2 The HA has stated that the Holding Direction can be withdrawn upon completion of the Section 106 Agreement, and that no objections are raised to the application being considered by Plans Panel, given the agreement in principle to the principle and proportion of overall costs by the developer.

Bruntcliffe Road corridor

2.3 Highway Works

A series of off-site highway works have been agreed to mitigate the development impact on the local highway network:

1. New access to site with visibility splays in excess of 2.4m x 90m in both directions.
2. 2m wide footway (approx 100m) along the Bruntcliffe Road frontage to tie in with existing provision to east and west, thus forming a continuous footway link on the southern side of Bruntcliffe Road.
3. Narrowing of Bruntcliffe Road from a point approximately 125m to the east to the western site boundary
4. Provision of a Pelican Crossing across Bruntcliffe Road 25m to the east of the new access.
5. Two new pedestrian refuge islands on Bruntcliffe Road to the west of the site.
6. Remarketing of central reserve to allow for crossing points and road narrowing.
7. Introduction of MOVA (Microprocessor Optimised Vehicle Activation) control at the junction of Bruntcliffe Road / Howden Clough Road / Bruntcliffe Lane ('Angel' signals) increasing peak capacity by 5-15%
8. Contribution towards capacity improvements at Junction 27 of the M62 (Gildersome Interchange)

Items 1 to 7 will be secured by condition and implemented prior to first occupation of the development. Item 8 will be secured via the s106 agreement.

- 2.4 In addition to the above there is a bus stop improvement contribution of £20,000 and a public transport contribution of £906 per dwelling (£152,208 for 168 dwellings), both secured via the s106 agreement. Appendix 1 of the Public Transport SPD lists several schemes which may be appropriate for contribution. These include A643 Leeds – Morley bus corridor, M62 corridor Gildersome / Tingley bus park and ride, Morley public transport hub, and A62 Gelderd Road bus priority. The list of schemes is subject to annual review and therefore additional schemes may be added as required.
- 2.5 The impact of the highway works on Bruntcliffe Road is intended to provide safe pedestrian routes to and from the development to local facilities and to reduce vehicle speeds through the narrowing of carriageway widths. The introduction of MOVA at the Angel signals will mitigate against all development impact at this junction and go a significant way in mitigating against the cumulative impact of nearby pending applications (Rowntrees site and Gelderd Road employment allocation).
- 2.6 The Highways Agency have agreed to lift the Holding Direction subject to agreeing the contribution towards the J27 works (final costings still in preparation). These improvements works will mitigate against the cumulative impact of the three currently pending planning applications in the area (with proportional contributions from each).

2.7 As with all development, the proposals can only be expected to result in a 'nil detriment' position on the local highway network. It is not reasonable to expect new development to resolve existing highway issues.

Highway Safety

2.8 Using the agreed development trip rates, the 168 dwellings proposed would result in AM peak flows of 104 vehicle movements (in and out) and PM peak flows of 116. These flows are distributed with approximately 60% west along the A650, 30% east along the A650 and 10% north, via St Andrews Avenue, towards Morley.

2.9 In response to the previous Position Statement, Members raised concerns in regard to vehicle speeds and accident levels on Bruntcliffe Road.

2.10 Speed surveys undertaken for the Transport Assessment by an independent company in November 2011 at the site access point showed

	Westbound (mph)	Eastbound (mph)
Average	33	32
85 th percentile	37	35

2.11 Bruntcliffe Road has a 40mph speed limit at this location and the speeds are therefore not considered excessive. Older speed surveys on Bruntcliffe Road (further to the west) undertaken by the Council show 85th percentile speeds below 40mph. The proposed highway works should have the affect of further reducing speeds in the vicinity of the site.

2.12 The Transport Assessment includes an assessment of Personal Injury Accidents (PIAs) in the vicinity of the site for the five years up to the end of 2011. PIAs are those accidents reported to the police, which the Council keeps a record of. This is the only evidence base which is available to make an assessment of accidents as 'near misses' and minor collisions are not recorded / publicly available. A summary of these accidents is given below.

Location	Slight	Serious	Fatal	TOTAL
A650 (between Scotchman Land and Bruntcliffe Lane	12	0	0	12
A650 / Scotchman Lane / Fountain Lane junction	11	0	0	11
A650 / Howden Clough Road junction	14	1	1	16

2.13 The fatal accident occurred when an elderly person was knocked down crossing at the A650 / Howden Clough Road junction, and the serious accident at the same junction involved a right turning motorist failing to look properly.

2.14 Neither junction of the length of Bruntcliffe Road between, is included in the Council's 'Sites' or 'Lengths' for concerns documents which list those parts of the Leeds highway network suffering from accidents problems.

2.15 The conclusions of the Transport Assessment that the 'accident records do not reveal any trends or underlying road safety issues which would be exacerbated by the development' is accepted. In addition the off-site measures provide three additional safe locations to cross Bruntcliffe Road.

2.16 An independent Road Safety Audit of the access and off-site works was submitted as part of the application and did not raise any significant concerns.

Masonic Lodge site

2.17 In response to the previous Position Statement, Members asked whether the Transport Assessment had considered the impact of additional housing that could be accommodated on the Masonic Lodge site which forms part of the housing allocation. The indicative internal layout allows for two access points into the Masonic Lodge site from within, so no additional access points would be required onto Bruntcliffe Road. Access without any ransom strips is to be secured via the s106.

2.18 Since the Position Statement the applicant has undertaken an assessment of the Masonic Lodge site and concluded that 43 units could be accommodated on it. Applying the same trip rates agreed for the application site this results in a total of 27 vehicle movements in the AM peak and 30 in the PM peak. The modelling at the site access and junctions on the A650 have been revised to include these extra vehicles and the results show a negligible impact. The site access onto Bruntcliffe Road works within capacity, with minor increases in queues at the Angel signals which would be mitigated by the introduction of MOVA control.

2.19 Therefore even with the potential addition of the 43 units on the Masonic Lodge site, the development, with mitigation in place, is not expected to have a detrimental impact on the local highway network.

3.0 NOISE CONSIDERATIONS

3.1 A revised Noise Assessment has been considered by Neighbourhoods & Housing Officers. It is considered that it would be unacceptable to deal with noise as an issue at reserved matters (layout stage) as stated at the East Plans Panel meeting, and that parameters (conditions) should be agreed at the outline stage, and that this would assist in designing a layout which provides a reasonable level of amenity for future residents. As such, the following condition has been agreed, to ensure reasonable standards in living rooms during the day time and bedrooms at night time, and such that private garden areas can be enjoyed during the day without excessive noise intrusion. The condition is worded as follows:

3.2 “Prior to the commencement of development a scheme of noise attenuation for all dwellings shall be submitted to, and approved in writing by, the local planning authority. The scheme shall include measures to ensure noise levels shall not exceed 35dB (A) in living rooms during the day, 30dB (A) in bedrooms at night and 55dB (A) in gardens. The scheme shall include an assessment of which windows will need to remain closed and have alternative full house mechanical ventilation systems. The scheme shall be implemented as approved prior to occupation of each dwelling.”

3.3 This condition would effectively deal with noise intrusion concerns. PPS24 (Planning & Noise) has been replaced with NPPF, which in turn refers to the ‘Noise Policy Statement for England’ (March 2010). This document states that the test for the effective management of noise within the context of sustainable development is that it should “avoid significant adverse impacts on health and quality of life”. It is considered that the imposition of this condition will achieve this aim.

3.4 The layout as submitted is schematic only, but with this noise condition in place, the likely consequences are :

- (i) there are unlikely to be any dwellings in the area marked in the 40m buffer, marked as Public Open Space, due to the close proximity of the M62 motorway.
- (ii) the southernmost sited dwellings would face onto an access road, with the private gardens being to the north of the dwelling, shielded by the massing of the house.
- (iii) at different points along the boundary with the M62 there is likely to be a requirement for a 1m bund with a 2m noise reflective barrier, close to the top of the M62 embankment.

All these details will be subject to approval at reserved matters stage, but would deal with noise intrusion into the site.

4.0 COMPLIANCE WITH THE DEVELOPMENT PLAN

- 4.1 Members raised concerns that a Planning Framework, as required under UDP Policy, needed to be submitted, and there were concerns raised at the buffer between the housing and employment allocations was being squeezed.
- 4.2 The applicant has now submitted an up-dated Masterplan, which seeks to address these concerns. The proposal now retains the same area of buffer as required in the UDP (at 2.68 hectares). The housing area is at 6.86 hectares, as opposed to the 7.21 hectares in the UDP. There is a reduction in the size of the employment allocation (to accommodate the buffer extending westwards), from 5.86 hectares in the UDP, to 4.47 hectares.
- 4.3 The landscaped buffer now provides an extensive area, which connects the open area (identified by the UDP Inspector as an important area to keep open along the A650 Corridor) with a buffer between the employment and housing allocations, and a corridor of land abutting the M62. All the land is in the control of the applicant.
- 4.4 One issue which arises from the Masterplan is the impact on the employment allocation, as this would be reduced in size. UDP Policy E7 states that where there is a loss of allocated employment land, the applicant should demonstrate that there are sufficient alternative employment sites available, so as not to prejudice opportunities for local employment uses. As such, the applicant has submitted an Employment Land Review report.
- 4.5 The applicant has considered the availability of allocated employment sites within Leeds District. A significant number of vacant und undeveloped sites have been identified along the existing motorway corridors which surround the application site. It is estimated that there is an supply of between 53 and 76 years. Officers have assessed that locally identified land supply for employment purposes is more than adequate. Even allowing for the market conditions, which are exceptional, the supply of vacant property within the 15 minutes peak-travel contour (catchment area) is nevertheless plentiful, and the loss of part of the allocation for employment purposes is acceptable.
- 4.6 It is acknowledged that the proposal does not strictly comply with the allocations as set out in the UDP. The housing allocation extends onto land to the west, due to the non-availability of the Masonic Lodge site. The buffer then extends into the employment allocation land to the west. The buffer land would be delivered by a Section 106 Agreement, and would ensure there is a good standard of amenity for future residents.

5.0 UP-DATE ON REPRESENTATIONS

- 5.1 Section 6 of the report to 10th August Plans Panel set out the representations at that time. Further representations have been submitted, as follows:
- 5.2 392 individual letters were submitted, rather than 384 letters, as stated in paragraph 6.4 of the report. No new issues raised.
- 5.3 In response to the revised plans advertised by site notices on 22nd June 2012, seven letters from four local households have been received. Objections are still raised to the proposal.
- 5.4 Subsequent to the Plans Panel meeting on 10th August, Councillor Tom Leadley has made the following comments:
- (i) in it's current form, the application should be refused;
 - (ii) concern at the size and extent of the buffer shown. It should be as stated by the UDP Inspector;
 - (iii) the 40m buffer adjacent to the motorway is not a firm offer from the applicant;
 - (iv) the report should be up-dated to take into account submitted representations;
 - (v) traffic modelling needs to take into account any additional traffic on the Masonic lodge and within the 40m buffer strip;
 - (vi) consideration needs to be given of the effectiveness of the staggered crossroads where Scotchman Lane and Fountain Street meet the A650;
 - (vii) Waterwood Close is not a comparable site, as it was only excluded as a housing allocation due to its size;
 - (viii) a Planning Framework should be submitted. New greenspace is essential;
 - (ix) the scheme should be based on a theme of 5 hectares of housing (including the Masonic lodge), separated from 6.5 hectares of land by 9 hectares of greenspace.
- 5.5 Councillor Dawson continues to object to the proposal, on the three grounds set out in paragraph 6.2 of the August Plans Panel report.
- 5.6 Any further representations will be reported verbally to Plans Panel.

Report of the Chief Planning Officer

PLANS PANEL (EAST)

Date: 9th August 2012

Subject: POSITION STATEMENT : APPLICATION 12/01332/OT: Outline application to erect residential development on Land at Bruntcliffe Road, Morley

APPLICANT

Barratt Homes Yorkshire
West & Priestgate Morley
Ltd.

DATE VALID

12 March 2012

TARGET DATE

21 June 2012

<p>Electoral Wards Affected:</p> <p>Morley South</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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Members are requested to note the contents of this position statement, provide feedback on the questions asked and are invited to comment in relation to any other aspect of the proposals

1.0 INTRODUCTION:

1.3 This application is brought to the Plans Panel because it relates to a substantial development proposal and is subject to local concern by nearby residents. The proposal is for the residential development of an allocated Phase 2 Greenfield site of 7.14 hectares in the Unitary Development Plan, but also includes an adjoining area of land which is not allocated.

1.2 Although there are outstanding issues officers consider it is the right time to bring the application to Panel and to seek Members views on the key issues, such as highways safety , noise intrusion and compliance with the development plan.

2.0 PROPOSAL:

2.1 The proposal is an outline application for residential development, with access only being applied for. Layout, appearance, landscaping and scale are matters left for future determination. An indicative layout shows approximately 168 dwellings.

2.2 The total site area is 7.81 hectares. The revised illustrative layout shows the housing to be served from a single vehicular access from Bruntcliffe Road, to the west of the Street Farm buildings. A footpath/cycleway with provision for emergency vehicle

access is proposed onto Scotchman Lane. The bus stop on the frontage may need to be moved to accommodate the emergency access.

- 2.3 The access arrangements would involve building out the existing footway to provide a wider footway along the southern side of Bruntcliffe Road, to the east of the proposed access. A pelican crossing is proposed to facilitate pedestrian movements across Bruntcliffe Road
- 2.4 Two new pedestrian refuge islands are proposed on the A650 west of the proposed site access. In addition, new road markings in the form of additional hatching are proposed on the stretch of the A650 between Scotchman Lane junction of Scott Lane.
- 2.5 A buffer zone is proposed between the housing and the proposed employment land to the west, and an area of Public Open Space is proposed to the south west and south of the site, abutting the M62 to the southern boundary.
- 2.6 The applicant has indicated that the original farmhouse would be retained, with later additions and other farm buildings demolished. New development around the farm house would reflect the building form of the farm structures, to retain the local character.
- 2.7 The applicant envisages that the detailed scheme will be developed at varying densities and styles in order to create character areas.
- 2.8 The applicant has prepared a draft s106 agreement that covers the following:
- 15% affordable housing contribution provided that the development is commenced within 2 years of the date of the grant of planning permission. This would comprise 50% sub-market and 50% social rented affordable units:
- Or
- If the development is implemented later than 2 years from the date of the grant of planning permission the number of affordable units will accord with the affordable housing policy of the council at the time of the implementation of the development.
- Bus stop improvement contribution of £20K.
 - A primary education contribution based on the following: number of dwellings x £12,257 (cost multipliers) x 0.25 (yield per pupil) x 0.97 (location cost).
 - A secondary education contribution based on the following: number of dwellings x £18,469 (cost multipliers) x 0.10 (yield per pupil) x 0.97 (location cost). (see 10.65)
 - Public Transport Contribution: In the event of 168 dwelling being constructed a sum of £152,208 is provided. In any other event a sum of £906 per dwelling. (see 10.65)
 - Provision of on site greenspace.
 - Off site greenspace contribution of £244,117.53 in the event of 168 dwellings being constructed. In any other event the sum of £1,453.08 multiplied by the number of dwellings constructed.
 - MetroCard scheme for proposed residents (12 month card for use within zones 1 – 3).
 - Travel Plan.
 - Noise Control Area: In the event of land adjacent (as identified on a plan as the Blue Land) being developed for Class B1 (light industrial), B2 (general industrial) or B8 (warehousing) not to permit any development that would have a

detrimental and/or have adverse environmental impacts on the residents of the proposed development.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is located on the south western periphery of Morley, adjacent to the M62. The site covers an area of approximately 7.81ha. It is bounded to the north by Bruntcliffe Road, allotments and a field boundary, to the south by the M62, to the east by residential properties on Scotchman Lane and to the west by agricultural fields.
- 3.2 As set out above, a significant majority of the site is in use as agricultural land, with the exception of the northwest corner, which is occupied by Street Farm, 3 barns and a vegetable patch. The site comprises largely of a Phase 2 Housing Allocation (H3-2A.5) within the Leeds Unitary Development Plan (UDP) Reviewed and adopted in 2006. Under the provisions of UDP Policy E4:47 6.5 hectares of land to the west of the application site is allocated for employment uses.
- 3.3 Morley town centre is located approximately 1km to the north of the site and is easily accessed along the A6123 (Fountain Street). Howley Park Industrial Estate is located to the east of the application site and can be accessed from Britannia Road and Scotchman Lane.
- 3.4 Junctions 27 and 28 of the M62 are located approximately 1.6km and 2.7km to the west and east of the site respectively and allow for access to the wider road network.
- 3.5 Fountain Primary School and Morley High School are both located within 0.7km of the site and recreational facilities exist at Dartmouth Park approximately 0.11km from the sites proposed access point.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 There is no recent relevant planning history on this site.
- 4.2 Of relevance are two undetermined planning applications on the Bruntcliffe Road/A650 corridor, which contribute to traffic generation in the area:
- 4.2.1 Outline application to layout access road and erect light industry, general industry and warehouse development (Use Classes Class B1c, B2 and B8), a 115 bed hotel and pub/restaurant, with car parking, Wakefield Road, Gildersome. Currently subject to a Holding Direction by the Highways Agency (application 10/04597/OT).
- 4.2.2 Outline application for proposed employment development for use classes B1(b) and B1(c) (Research and Development/Light Industrial Uses), B2 (General Industrial Uses) and B8 (Storage and Distribution Uses) with new accesses, associated infrastructure and landscaping, land between Gelderd Road/ Asquith Avenue and Nepshaw Lane North, Gildersome. Submitted on 1st June 2012 (application 12/02470/OT).

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Concerns have been raised regarding noise from road traffic, poor air quality adjoining the M62 motorway, and on protecting and improving the hedgerows on the

western, southern and eastern boundaries with additional planting of native species of shrubs and trees to benefit wildlife. The revised layout, which deletes housing adjacent to the southern boundary assists in all these areas and removes housing from adjacent to the motorway giving a sizeable buffer and reducing the number of dwellings on the illustrative layout.

- 5.2 Negotiations are ongoing in respect of Section 106 contributions.
- 5.3 Street Farm house is now retained, and new development in the vicinity has been designed to give a courtyard appearance.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 This application was advertised as Proposed Major Development by Site Notices on 6th April 2012. In addition, the application was advertised in the Morley Advertiser on 18th April 2012. Objections have been received as follows:

6.2 Councillor Neil Dawson objects to the proposal, as follows:

1. Additional noise impact on local residents

The location of the development will lead to a site where there will be level of noise that is unacceptable, This would impinge on the outside experience and enjoyment in local gardens of the existing and proposed residents.

2. Additional unsustainable traffic levels on surrounding roads

I believe that proposal to build an addition 200 dwellings will bring additional traffic onto local roads and major roads such as the A650 and the B6123 (Scotchman Lane). These roads are already extremely busy, especially at peak hours when traffic from local roads has difficulty joining the main roads. The additional traffic is estimated at 262 traffic movements in the Traffic report at peak hours and this will bring extra congestion, noise, pollution and additional road safety issues for the proposed and existing residents. This increase in traffic is not acceptable on dangerous and overcrowded roads .

3. Inconsistency with the existing UDP plan

The indication in the Leeds UDP is that the area around the Masonic lodge should be developed alongside the bulk of this proposed development. However as the Masonic lodge land is not being developed as part of this application then the Plan now includes development further to the west of the Lodge in an area which is not allocated for housing in the UDP but is a neutral boundary between the UDP housing and employment areas . Therefore this is inconsistent with the agreed UDP.

6.3 Morley Town Council objects as follows:

(i) The proposal is not UDP compliant, as it does not include the Masonic Lodge land, and the vehicular access should be taken from this land, rather than through unallocated land.

(ii) The unallocated land should be used to provide a buffer between the housing and the employment land, rather than being developed for housing.

(iii) Street Farm is about to be included in an enlarged conservation area. Demolition of Street farm would, therefore, have to be justified.

- (iv) Housing abutting the M62, to the southern part of the site would be badly affected by road noise. Any tall acoustic fencing would deprive dwellings of sunlight.
- (v) The increase in traffic on the A650 corridor needs careful assessment.
- (vi) Assessment needs to be made in respect of bats in the vicinity of the Masonic Lodge.

The Town Council has since made further comments on the scheme as revised on 25th July:

- (i) The proposal does not comply with the development plan (see (i) above).
- (ii) The proposal is not plan led and does not empower local residents to shape their surroundings (there are substantial objections from local people)
- (iii) Recently published 2011 Census returns show that in March 2011 Leeds had a population of 751,000. This is significantly lower than claims favoured by major house builders. In 1974 Leeds had a population of 747,000 and the Leeds population does not stray from around 750,000. Demands to build 74,000 new houses across Leeds by 2028 are 'massively overstated'.
- (iv) Loss of agricultural land.

6.4 384 individual letters of objection have been received from residents. The objections are on the following grounds:

- (i) The proposal is not UDP compliant, as it does not include the Masonic Lodge land, and the vehicular access should be taken from this land, rather than through unallocated land.
- (ii) The unallocated land should be used to provide a buffer between the housing and the employment land, rather than being developed for housing.
- (iii) Street Farm is about to be included in an enlarged conservation area. Demolition of Street farm would, therefore, have to be justified.
- (iv) Housing abutting the M62, to the southern part of the site would be badly affected by road noise. Any tall acoustic fencing would deprive dwellings of sunlight.
- (v) The increase in traffic on the A650 corridor needs careful assessment.
- (vi) Assessment needs to be made in respect of bats in the vicinity of the Masonic Lodge.
- (vii) Brownfield sites should be developed before greenfield sites. There are sufficient brownfield sites.
- (viii) There is inadequate infrastructure to cope. Doctors, dentists, health centres and schools have no capacity.
- (ix) At peak times, Bruntcliffe Road suffers from major congestion. The proposal will add to congestion on A650 and surrounding streets. The road network cannot cope with additional traffic.
- (x) Loss of areas to walk.
- (xi) 200 houses will put a major strain on the sewerage system.
- (xii) Existing houses do not sell, so there is no point building further ones.
- (xiii) The proposed Pelican crossing would be ineffective.
- (xiv) Insufficient land is available to accommodate heavy rainfall. This could impact on the M62.
- (xv) The proposal is not sustainable as it will lead to increased car journeys.
- (xvi) The loss of agricultural land will increase the amount of 'food miles'.

6.5 Revised plans were also advertised by site notices on 22nd June 2012. To date, two letters of objection have been received from local households.

- (i) The indicative layout shows a house which would overlook an existing house on Scotchman Lane.

6.6 Any further representations will be reported to Plans Panel in due course.

7.0 CONSULTATIONS RESPONSES:

Statutory:

- 7.1 Highways Agency – Direct that the application cannot be approved until the end of August, pending resolution of impact of cumulative proposals on the A650 Bruntcliffe Road corridor.
- 7.2 Highways – no objections subject to conditions and Section 106 Agreement for necessary highway works, as set out in the report (and subject to Highways Agency being satisfied).
- 7.3 Environment Agency – no objections, subject to conditions.
- ### **Non-statutory:**
- 7.4 Flood Risk Management: No objections, subject to conditions.
- 7.5 Yorkshire Water – no objections, subject to conditions.
- 7.6 Metro – no objections subject to conditions and Section 106 Agreement, as set out in the report.
- 7.7 Public Rights of Way – Public Footpath No.90 Morley abuts the site. No objections are raised as long as the footpath remains open and available for use and is not encroached upon in any way.
- 7.8 West Yorkshire Archaeology – no objections subject to archaeological trial trenches to be excavated as a condition of planning permission.
- 7.9 Neighbourhoods & Housing – object to the original submission on the grounds on noise intrusion from traffic on the motorway. A revised layout, deleting dwellings adjacent to the M62 and a revised noise report are currently under consideration.

8.0 PLANNING POLICIES:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 remains and states:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise”.

Development Plan

- 8.2 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development including housing.

Leeds Unitary Development Plan (UDP), adopted 2001

- 8.3 Under Policy N11 of the Leeds Revised Draft UDP (1993) Bruntcliffe Road, Morley was promoted as a tract of open land which represented a major visual amenity. It stated that *“on the following tracts of land, only open uses will be permitted. Building*

will only be allowed if it can be shown that it is necessary for the operation of farming or recreational uses and if it would not adversely affect the open character of the area”

- 8.4 The UDP Inspector’s site specific comments regarding the allocation of land in the South Leeds area (Chapter 17) referred to Bruntcliffe Road, Morley under Topic 472 states at Paragraph 472.15 that *“the UDP be modified by deletion of this land from Policy N11 and its allocation under Policies E4 (6.5ha) and H4 (5.0ha) along the lines of the objectors’ Appendix RFH 7/2 and subject to the retention of substantial areas of open land and satisfactory highway arrangements”*. The Bruntcliffe Road site was therefore re-allocated for housing ‘New Proposals’.

UDP Review 2006

- 8.5 The Bruntcliffe Road site was re-allocated as a Phase 2 housing allocation in the UDP Review. The current allocation is referenced H3-2A.5 – Bruntcliffe Road, Morley. The UDP Review allocation describes the Bruntcliffe Road site as follows:

- 8.6 The following extract has been taken directly from the Morley Area text in Chapter 17 of the UDP Review where at paragraph 17.2.3 it states:

Bruntcliffe Road, Morley

Under Policy H3-2A.5, 5.0 ha of land are allocated for housing at Bruntcliffe Road, Morley, subject to:

- i. the provision of a satisfactory means of access;**
- ii. the whole of the area between the housing allocation H3-2A.5 and the employment allocation E4(47) to remain open for amenity purposes;**
- iii. retention and enhancement of existing public footpaths;**
- iv. a satisfactory means of drainage;**
- v. preparation of a planning framework to guide development of this site and adjoining employment allocation E4(47).**

- 8.7 The following list of policies is relevant to the consideration and determination of this application. A short remark is made against each of these policies which are primarily dealt with in the submission of other technical reports that accompany this application.

8.8 General Policies:

Policy GP5: Development proposals should resolve detailed planning considerations including access, drainage, contamination, design, landscape. Proposals should seek to avoid environmental intrusion, loss of amenity, pollution, danger to health.

Policy GP7: Where development would not otherwise be acceptable and a condition would not be effective, a planning obligation will be necessary.

Policy GP11: Where applicable, development must ensure that it meets sustainable design principles.

Policy GP12: A sustainability assessment will be encouraged to accompany the submission of all applications for major developments.

Environment Policies:

Policy N2 & N4: Provision of Green Space.

Policy N12: Principles of Urban Design.

Policy N13: High Standards of Design expected for all new buildings.

Policy N23: Incidental Open Space.

Policy N25: Boundaries of Sites.

Policy N49: Protection of natural habitat for wildlife

Policy N51: Design of new development should enhance existing wildlife habitat and provide new habitat.

Transport:

Policy SA2: Encourages development in sustainable locations.

Policy T2: Transportation and Highway Issues, and

Policy T2B: Submission of Transport Assessment, and

Policy T2C: Submission of Travel Plan

Policy T5: Provision of safe access in new developments for pedestrians and cyclists.

Policy T6: Adequate provision for access for people with disabilities within new development

Policy T7A: Provision of secure cycle parking, and

Policy T7B: Provision of secure motorcycle parking, and

Policy T24: Adequate provision of parking facilities.

Housing:

Policy H4: Housing proposals on unallocated sites.

Policy H9: Balanced provision of housing types.

Policy H11: Provision of affordable housing

Policy H12: Submission of appraisal of affordable housing needs and negotiations of that provision, and

Policy H13: Affordable housing provided in perpetuity.

Employment:

Policy E7: Loss of employment land.

Building Design, Conservation and Landscape Design:

Policy BD5: New buildings designed with consideration of their own and others amenities, and

Policy BD5A: Use of materials that conserve energy and water, and

Policy LD1: Landscaping requirements.

Policy LD2: Guidance for new roads.

Policy N29: Archaeology considerations.

Leeds Interim Affordable Housing Policy

- 8.9 The Leeds Draft Interim Affordable Housing Policy came into force on 1st June 2011. The affordable housing requirements that make up this new interim policy are set out below:-

Existing housing market zone as in SPG	SPG policy	Informal Policy July 2008	New Interim Policy 2011
Outer area/rural north	25%	30%	35%
Outer suburbs	25%	30%	15%
Inner suburbs	25%	30%	15%
Inner Areas	15%	15%	5%
City Centre	15%	15%	5%

The site is in the Outer suburbs category and so the interim policy seeks 15% affordable housing provision if delivered within 2 years.

National Guidance

- 8.10 The National Planning Policy Framework (2012). The NPPF seeks to achieve sustainable development and contains a presumption in favour of development that achieves this. Annex 1 makes it clear that a recently adopted local plan is capable of continuing to be the main development plan for one year from the date of publication of the NPPF even where it does not accord with the NPPF. This means that the UDP continues to be the main policy document for development, however the NPPF is a material consideration.
- 8.11 Paragraph 47 requires that local planning authorities should identify a supply of specific, deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5%. Where there has been a record of persistent under delivery of housing the buffer should be increased to 20%.
- 8.12 Paragraph 49 requires that housing applications be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
- 8.13 Paragraph 55 requires that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities.
- 8.14 The NPPF also makes good design a key factor in determining applications, along with the recognition that sustainable development should also bring about important benefits to community health and wellbeing, and to improved biodiversity.

8.15 Noise Policy Statement For England (March 2010)

9.0 MAIN ISSUES

9.1 The main issues are considered to be:

- Principle of development
- Conformity with development plan (housing on allocated/unallocated land/relationship to employment land)
- Impact on Street Farm and extended Conservation Area
- Highway Safety (transportation /traffic generation)
- Noise intrusion
- Air quality
- Impact on Landscape and Ecology
- Residential Amenity
- Flood Risk management
- Affordable Housing requirements
- Greenspace
- Education issues

10.0 APPRAISAL

Principle of development

10.1 Section 38(6) of the Planning and Compensation Act 2004 requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The application is largely on a Phase 2 allocated Greenfield site, within the settlement of Morley. The first issue is whether it is appropriate for this Greenfield site to be released.

10.2 The implications that flow from the Grimes Dyke appeal decision, which was reported to Plans Panel on 14th July 2011, have been the subject of reports to Executive Board on 22nd June and the Joint Plans Panel of 30th June 2011. In the light of the Inspectors and the Secretary of State's findings, Executive Board agreed in principle to release all phase 2 and 3 housing sites for development, and as this site is allocated for housing in Phase 2, no objections in principle are raised.

Conformity with development plan (housing on unallocated land/relationship to employment land/implications for land allocated for housing but not within application site)

10.3 The housing proposal does not strictly accord with the housing allocation. The allocation includes land to the north/central part of the site, which is the open land occupied by the Masonic Lodge and its grounds to the south of the building. The land is in third party ownership, and the applicant states that that owner does not wish the land to come forward for development at this time. The application site, however, includes land to the west of the allocation, on land which is unallocated in the UDP, but which was expected to form a landscaped buffer between the proposed housing allocation and the employment allocation, further to the west. On the indicative layout, this additional unallocated greenfield land would be accessed from the principal access into the site (where the access point onto Bruntcliffe Road is in the allocation), and approximately 40 dwellings. The non-conformity with the development plan raises various issues, which are considered in the following paragraphs.

Housing on unallocated Greenfield sites.

- 10.4 The NPPF which replaces PPS3 requires that local planning authorities should identify and update annually a supply of specific deliverable sites to provide five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Deliverable sites should be available now; be in a suitable location; and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. Sites with planning permission should be considered deliverable until permission expires subject to confidence that it will be delivered. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites (NPPF paragraphs 47 – 48).
- 10.5 The most recent Annual Monitoring Report (AMR), which monitors Leeds housing provision, was published in December 2011 and approved by Executive Board. This report stated that Leeds did not have a 5 year housing land supply. It is unlikely that the position the Council adopted in December 2011 has altered any. It will be recalled that no objections were raised to the principle of 14 houses at Waterwood Close in West Ardsley on 4th November 2011 and more recently at Shayfield Lane in Carlton (also for less than 15 dwellings).
- 10.6 Notwithstanding this the NPPF and the emerging Core Strategy do not preclude development on greenfield, unallocated sites provided that they meet the criteria for sustainable development. Policy H4 of the UDP also had a similar provision. The main question therefore revolves around whether the proposal on the unallocated part of the site represents sustainable development.

Sustainability issues

- 10.7 The site is a greenfield site which is located on the edge of Morley, but which abuts the Masonic Lodge, existing houses on Bruntcliffe Road and the proposed employment and housing allocations. Morley town centre is located approximately 1km to the north of the site and is easily accessed along the A6123 (Fountain Street). Howley Park Industrial Estate is located to the east of the application site and can be accessed from Britannia Road and Scotchman Lane. Fountain Primary School and Morley High School are both located within 0.7km of the site and recreational facilities exist at Dartmouth Park approximately 0.11km from the sites proposed access point.
- 10.8 In respect of bus services, the 221 service runs on Scotchman Lane with stops directly adjacent to the proposed pedestrian access to the site. Therefore the very large majority of the site is served by two buses per hour to Leeds from Scotchman Lane that fall within the 400m walk distance. An additional two buses per hour are available from Fountain Street which is approx 630m from the centre of the site which doesn't meet our SPD standards.
- 10.9 Members need to consider that the current public transport is not as good as stated in the submission documents and does not fully comply with the Council's SPD standards (or those set out in the draft Core Strategy). However, given the allocated nature of the majority of the site, draft status of the Core Strategy, agreement to pay the SPD public transport contribution and existing bus services (which only just fall short of the SPD standards) Highways Officers do not consider that an objection on sustainability grounds could be sustained.
- 10.10 There is a concern that local primary and secondary schools in the area are at or close to capacity. The education contribution is considered in a section below.

- 10.11 On balance, the site is therefore considered to be reasonably well located with acceptable levels of accessibility to local facilities and services and would be capable of enabling residents to use alternative modes of transport.

Conclusion on Principle

- 10.12 Given the current need for Leeds to provide housing sites, and the reasonably sustainable location on the edge of Morley, it is considered that the proposal on the unallocated part of the site represents sustainable development and that it would comply with the provisions of policies GP5, GP11 and H4 of the UDP, as well as the strategic aims of the RSS, and the guidance contained within the NPPF and the draft Core Strategy. No objection is therefore raised to the principle of residential development at this site.

Do Members have any concerns about the principle of the development of that part of the site that falls outside of the UDP housing allocation?

Character

- 10.13 The unallocated site itself currently visible from views from Bruntcliffe Road, being open agricultural land, which falls away towards the M62 motorway. However, the unallocated site does not have a frontage onto Bruntcliffe Road. The allocation includes Street Farm and open land towards the west, narrowing down towards the north western corner of the application site. If this area was developed, then this would restrict views from Bruntcliffe Road. The UDP Inspector stated that in respect of visual amenity, the covered reservoir to the west was worthy of retention, and found 'nothing of great visual attractiveness' about this land. The UDP Inspector concluded that safeguarding the flatter land to the frontage (covered reservoir) and maintaining a landscaped corridor for the public right of way, there would be no harm to local amenity.
- 10.14 The layout would be subject to details at the reserved matters stage. The developer has indicated that a mix of house types would provide visual interest and higher storey heights can help to create focal points and create a legible environment. The developer considers a mix of two storey and two storeys with rooms in the roof would be appropriate in this location, and that this would be in keeping with the area whilst allowing some variety. This approach is considered acceptable in principle.

Do Members consider that the indicative layout and scale of development has sufficient regard to the prevailing character of the area?

Relationship to employment land

- 10.16 The proposed housing intrudes onto the 'landscaped buffer' identified in the UDP, narrowing the gap between the proposed housing and the proposed employment land. The applicant however has stated that they own the adjoining proposed employment land and can control the extent and nature of the activities proposed within the employment allocation. Initially, they have identified an area within the employment allocation, abutting the proposed buffer zone, as a 'Noise Control Area' where uses which would otherwise impact on residential amenity would be restricted. This matter is covered in the draft s106. No further details have been submitted which would expand upon how this might work in practice, and is subject to further negotiation. It is clear this matter would need to be resolved and secured if a permission is to be considered.
- 10.17 Implications for land allocated for housing but not within application site
The land which includes the Masonic Lodge buildings and land to the south are allocated for housing in the UDP, but not included within the application, as stated

above. In order to prevent this land from being land-locked, and not coming forward for housing, adopted highways will need to be shown on the indicative layout abutting the boundaries of the site. Two such points are shown on the indicative layout, and should the application be supported, these access points will need to be subject of a planning condition.

Impact on Street Farm and extended Conservation Area

- 10.18 Morley Dartmouth Park Conservation Area currently lies to the north of Bruntcliffe Road, with part of the conservation area having a frontage onto Bruntcliffe Road, to the north west of the application site. The draft Morley Conservation Area extension (Area E) proposes to include back-to-back and through terrace development on Bruntcliffe Road, and also further villas towards Scotchman Lane and Street Farm. Street Farm is unlisted but dates back to the 18th Century. Street Farm is an important reminder of Morley's former agricultural character and is one of the earlier surviving elements of this part of town, shown on the 1st edition Ordnance Survey map of 1852.
- 10.19 The proposed extension to the conservation area has been subject to consultation, and an objection has been received from the developer. All consultation responses have been evaluated and the appraisal will be amended in light of comments received as appropriate. The final version of the appraisal and boundary modification will then be formally adopted and will become a material consideration when applications for development within the conservation area and its setting are considered by the Council. Only limited weight could be applied until the final version is adopted.
- 10.20 Also proposed to be included within the enlarged conservation area is the Masonic Lodge, formerly Thornfield, on Bruntcliffe Road and Rose Villa on America Moor Lane. These are impressive 19th century villas with surviving converted coach houses.
- 10.21 The proposed access into the allocated site will have to be taken at some point on Bruntcliffe Road, and will therefore have some impact on the proposed extended conservation area. The access point, adjacent to Street Farm, is within the allocation. The exact position of the access is such that there is not only adequate visibility onto Bruntcliffe Road and good junction spacing to St. Andrew's Avenue, but also is positioned so that Street Farm can be retained.
- 10.22 An indicative plan submitted by the applicant shows the retention of the original farm building, with later extensions to be removed. Other outbuildings would be demolished, but new buildings would reflect the courtyard setting. This approach is supported in principle.
- 10.23 If this access point was not supported, the only other access point into the housing allocation would be through the Masonic Lodge. This land is in third party ownership and in any case vehicular access would entail the demolition of a large section of attractive stone boundary wall and possibly impact on the setting of the Masonic Lodge. It is considered that the access as proposed therefore would be acceptable in terms of its impact on the extended conservation area. New housing within and adjacent to the extended conservation areas would need to respect the character and appearance of the conservation area, and this would be considered at reserved matters stage.

Are Members satisfied that the location of the proposed access is the most appropriate in the circumstances?

Highway Safety (transportation//traffic generation)

- 10.24 The Highways Agency is in the process of modeling the cumulative impact of this site, along with the Rowntrees and Gildersome employment sites (see Relevant Planning History Section above). The current Holding Direction expires at the end of August 2012.
- 10.25 Some mitigation works are likely to be necessary, the cost spread between the developers. The preferred approach from the Highways Agency and LCC Highways is that this developer pays a fixed contribution based on its percentage impact. Plans Panel will be up-dated on this when the application comes back for determination. Initially, it seems that this site would contribute 13.2% of the additional traffic, with Rowntrees contributing 14.7% and Gildersome site 77.9%.
- 10.26 The proposed works to Bruntcliffe Road will provide a continuous footway link on the southern side where none currently exists and will provide new crossing facilities in the form of two new islands and a pelican crossing.
- 10.27 The development is proposed to take access from a single new priority junction onto Bruntcliffe Road. Road Safety, Traffic Management and the Cycling Officer and have the following comments on the access:
All the red coloured surfacing should be removed at the crossing points. Red surfacing is used sparingly in Leeds at locations with demonstrable speed and / or safety issues to maintain its positive impact on motorists.
All the edge of carriageway hatching should be removed to the west of the access point. Such hatching is a maintenance liability and creates safety concerns for cyclists due to pinch points at the islands and an expectation from some motorists that cyclists should be riding within the hatching
Provide a symmetrical access bellmouth with 10m kerb radii
- 10.28 The provision of a Pelican crossing just to the east of the site access is considered acceptable and appropriate. Subject to the above amendments on a submitted plan the access and works to Bruntcliffe Road are considered acceptable. A stage 1 Road Safety Audit has been submitted and identified no safety issues.
- 10.29 It should be noted that the Council has recently secured the adoption of a small parcel of land immediately adjacent to the development as part of an approval for a children's nursery. If this adjacent development is implemented then the access solution may be further considered at the detailed design stage to ease the alignment further and minimize carriageway narrowing. The condition relating to the site access will have to accommodate this future redesign.
- 10.30 The application is an Outline with all matters reserved except access. However the following comments are provided on the indicative site layout (due to the lack of numbering units exact locations are not specified)
- Depending on the final access solution (to be determined at detailed design stage), there may be a requirement for a portion of the new Bruntcliffe Road footway to run on developer land. There is adequate space with the indicative layout for this to occur.
 - The two future links into land behind the Masonic Hall should extend right to the site boundary to provide an adopted highway link to this land without a ransom strip.
 - There are several sections of missing footway
 - The maximum number of houses off a private drive is five

- The maximum number of houses off a Type 3b street (shared surface with no footways) is 10
- Provision must be made for visitor parking across the development including the private drives and Type 3a & b streets (see the LCC Street Design Guide for further detail)
- Several units seem to lack any off street parking
- There are no garages at all shown on the plan which is unlikely to be the case at Reserved Matters – to count as parking spaces garage must have internal dimensions of 3m x 6m
- The pedestrian / cycle link and emergency access to Scotchman Lane must have a hard surfaced width of 3m with appropriate vehicular restraint measures
- Any row of terrace housing should have provision for bin and cycle storage

In light of the above do members have any concerns in respect of highway safety?

Travel Plan

- 10.31 A travel plan has been submitted and is with the Travelwise for comment. This will need finalizing and agreeing prior to any planning approval. The Travel Plan will be secured via the s106 with an appropriate Review fee.

Transport Assessment

- 10.32 The application is accompanied by a Transport Assessment. The trip rates and distributions had been agreed at the pre-application stage. The modelling of the signalized junctions of Bruntcliffe Road with Howden Clough Road and Scotchman Lane has been sent to UTC for checking and comment.
- 10.33 The TA submitted in support of this application shows an existing capacity issue at the Bruntcliffe Road / Howden Clough Road junction which is made worse with the addition of development traffic. The Council has an improvement scheme for the junction which involves the addition of MOVA control and the provision of a new left turn filter lane from Bruntcliffe Road to Howden Clough Road. Given the development impact on this junction in both peak periods this improvement scheme is required as mitigation and should be secured by condition.
- 10.34 The Highways Agency is considering the impact of cumulative development on the operation of M62 J27. A mitigation scheme has been drawn up and it is likely that this development will be required to pay a pro-rata contribution towards the works.
- 10.35 The applicant has submitted a Transport Assessment which demonstrates that the local junctions are close to or already over capacity at peak periods. The modelling work is being checked by UTC, but it has already been identified that mitigation work will be required at the Angel junction. A cumulative impact will also be required of this development with other pending applications in the locality with the HA considered J27 of the M62. However, it has to be noted that the site is allocated for residential use and that the developer can use spare capacity with the network and beyond that provide a nil detriment solution. Further comments will provided in due course on the Highways capacity impact.

Highway conditions/Section 106 Agreement

- 10.36 Conditions will be required in terms of the site access and off-site highway works on Bruntcliffe Road (to include the Angel junction).
- 10.37 A s106 will be required to secure:

- bus stop improvements as identified by Metro
- travel plan and review fee
- public transport contribution (a separate consultation response will follow on this)
- any Highways Agency requirement to provide contributions to works at M62 J27

Highways conclusion

10.38 There are no objections to the principle of residential development at this site subject to the appropriate mitigation works being secured.

Public Transport Improvements and developer contributions

10.39 The proposed development will generate a large number of trips, a proportion of which will have to be accommodated on the public transport network. Under the terms of the SPD guidance, a financial contribution proportionate to the travel impact of the scheme will be required towards the cost of providing the strategic enhancements needed to accommodate the trips. A contribution of £906 per unit has been calculated. This would need to be included in a Section 106 Agreement.

10.40 Public Transport

There are several bus services running next to the development serving various locations including; Morley, Batley, Dewsbury etc. There are also more services nearby. The frequent bus service between Morley and Leeds (First 51) starts/finishes at Morley Town Hall in the town centre 1500 metres (a mile away). A less frequent service to/from Leeds serves the Bruntcliffe Road/Britannia Road area. The 221 service runs on Scotchman Lane with stops directly adjacent to the proposed pedestrian access to the site. Therefore the very large majority of the site is served by two buses per hour to Leeds from Scotchman Lane that fall within the 400m walk distance. An additional two buses per hour are available from Fountain Street which is approx 630m from the centre of the site.

Metro advise that bus stop numbers 11462, 11463 and 11467 should have shelters installed at a cost to the developer of around £10,000 each This payment also includes maintenance of the shelter. These new shelters would benefit the residents of the new development. The shelters should include seating, lighting and bus information and should be provided by a contractor of Metro's choosing.

10.41 Future residents would benefit if one of Metro's new 'live' bus information displays were to be erected at each of the above named bus stops at a cost of approximately £10,000 each (including 10 years maintenance) to the developer. The displays are connected to the West Yorkshire 'real time' system and give accurate times of when the next bus is due, even if it is delayed.

10.42 Metro supports the provision of Residential MetroCards for this application. The scheme requires the applicant to provide discounted tickets to a number of units on the site on a first come first served basis. Our research suggests that in instances where the tickets are applied for, the use of public transport increases for both existing bus and car users. Metro requests that the developer should fund a Bus Only Travel Card for each resident. The current price to the developer is £73,154.40. This includes a 10% fee for the administration of the scheme. These contributions are under negotiation and Members will be up-dated on this when the application comes back for determination.

Do members consider that the public transport measures identified above should be included within the Section 106?

- 10.43 This outline application is for a residential development on land at Bruntcliffe Road in Morley. It is a mixed use area and is in close proximity to an industrial estate, the M62 and the A650. Of the four locations measured at the site, N1 was category (PPG24 Noise Exposure Category Descriptions) NEC D and N2, N3 and N4 were all NEC C at night time.
- 10.44 Internal noise levels can be achieved with the glazing specification stated but the windows would have to remain closed. Outside enjoyment of gardens would not be achieved as noise levels will not be acceptable despite the screening that the buildings may provide to rear gardens as all the measured locations exceeded the maximum WHO guidelines of 55 dB. The initial noise report does not specify the type of ventilation system the houses will require. Should this application be approved, each dwelling would have to be provided with a whole house ventilation system that also allowed for cooling without the need to open windows. This would be costly for not only the developer but also for the householder in terms of running costs especially in the summer months.
- 10.45 Originally, Neighbourhoods & Housing Officers stated they would support refusal as this site did not appear to be suitable for residential development. However, a revised indicative layout has been submitted which provisionally deletes dwellings on a 40m strip of land adjacent to the M62, and a revised Noise Assessment has also been submitted, and is under consideration by Neighbourhoods & Housing Officers. The note on the plan within this 40m strip states "Extent of development in this area to be determined at Reserved Matters stage through additional noise and air quality monitoring". Plans Panel will be up-dated on this issue when the application is brought back for determination.

Air quality

- 10.46 The issue of air quality is similar to the issue of noise above. The advice from Environmental Officers is that if the layout is amended to address the concerns at noise intrusion, this is also likely to address the issue. Plans Panel will be up-dated on this issue when the application is brought back for determination.

Impact on Landscape and Ecology

- 10.47 There are a limited number of hedgerows (some of which are gappy) on the site but these are important wildlife features and the detailed landscaping scheme should seek to retain and enhance these and their connectivity across the site. It is noted that at least one section of hedgerow will be removed – to offset this there should be more emphasis on protecting and improving the hedgerows on the western, southern and eastern boundaries with additional planting of native species of shrubs and trees to benefit wildlife. The housing to the south-east is too close to the motorway and instead should be set back to provide an additional area of land to be established as a buffer zone and to develop wildlife value i.e. the POS should be extended eastwards parallel to the boundary of the motorway – and managed to develop native scrub and areas of wildflower grassland as well as amenity grassland. The provision of a 40m wide buffer zone (to deal with noise and air quality issues) is therefore supported.
- 10.48 The bat report submitted by the applicant proposes that the demolition works to the farm buildings are carried out in line with "Appendix 1: Protocol For Working in Areas That Might Support Bats" and this is acceptable to Officers.
- 10.49 It is recognized that this is an outline application only and that therefore the submitted scheme is illustrative only. Nonetheless, the following comments are made as guidance for potential future development:

- 10.50 The northern boundary abuts the main highway corridor. Development adjoining this boundary needs to reflect local context. Stone boundary walling and vegetation, including trees are the local character.
Existing trees and other vegetation on the boundary. These are identified in large part as Category C in the submitted Tree Survey. Consideration should be given to retention and/or replacement to continue the 'green' boundary to Bruntcliffe Road typical of the local context.
Boundaries to the adjacent Masonic Lodge should allow for amenity screening in the form of additional vegetation to boundaries, restoring remaining hedgerow / planted boundary treatments (in association with walling / fencing).
- 10.51 Amenity of adjacent area of allotments to be protected and enhanced with new boundary planting to supplement and restore remaining thorn based hedgerow. Develop as locally-native species field boundaries, including tree species.
Eastern boundary needs to respect the amenity of existing residential properties. Again vegetated amenity screening required to soften and enhance any intended walling or fencing proposals.
Southern boundary to motorway corridor and open land beyond should reflect UDP Policy N24 in providing an enhanced landscape provision to assimilate new development. Planting design will need to work in conjunction with any noise attenuation requirements. Preference will be for substantial locally-native mixed species planting including trees, to maximize biodiversity benefits as well as providing visual screening.
Proposed western boundary 'buffer zone' needs to provide adequate separation and screening to potential future industrial development. Substantial screen planting of locally-native mixed species required, including trees to create woodland buffer. Biodiversity benefits to be maximized as well as screening for residents.
- 10.52 Existing trees and hedges largely restricted to boundaries. The submitted tree survey generally assesses these to be of variable quality. Trees are largely judged to be Category C, with only 2 no. category C. hedgerows have not been well managed and are gappy in consequence. Proposals should seek to retain where feasible and supplement to restore lost vegetation value.
Restored hedgerows can provide enhanced biodiversity habitats, as part of an overall well-considered and integrated landscape scheme for the site.
Long-term management of landscape provision outside of private curtilages will be required.
Boundary and buffer zone planting areas will be expected to be managed collectively by a suitable long-term management company, rather than being conveyed to individual property owners. This allows for a more effective and consistent level of long-term management
The existing north-south footpath link retained but might benefit from greater separation from the main estate road, rather than a shared residential footway. The same applies east-west, although the site development layout as proposed limits what can be achieved here.

Residential Amenity

- 10.53 Detailed considerations of privacy, dominance, overlooking, etc will be dealt with at reserved matter stage. However, it is considered that the site can be developed without causing harm to the amenities of nearby residents and whilst providing a suitable level of amenity for the prospective occupiers of the new development. Matters in relation to noise and air quality have been discussed above. Additional pedestrian movements will take place onto Scotchman Lane, as an emergency access is proposed between houses. It is considered that the existing gap on

Scotchman Lane is sufficient to allow this access without adversely impacting upon adjoining residents.

Flood Risk Management

- 10.54 A Flood Risk Assessment has been submitted, and the Council's Flood Risk Management Section, the Environment Agency and Yorkshire Water raise no objections subject to conditions. It appears that soakaway drainage will be satisfactory without water affecting lower lying land (including the M62 motorway).

Affordable Housing requirements

- 10.55 The application proposes 15% affordable housing provision on site in accordance with the adopted Interim Affordable Housing Policy. Affordable Housing The provision is in the form of a 50/50 mix of social rent and shared equity properties. This site has not been subject to any previous applications/decisions.
- 10.56 In relation to the application site the Interim Policy applies a requirement of 15% affordable housing (a reduction from the SPD figure of 30% applied to the application and from the 30% figure of the previous Interim Guidance adopted in July 2008). The requirement for a 50/50 mix of social rent and shared equity is unchanged.
- 10.57 The Policy indicates that permissions granted will normally be time limited to 2 years. The proposed Section 106 would have a clause which states that if not commenced within 2 years, the requirement will revert to the policy at the time that the site comes forward for development. On a site of this size it is expected that there would be a phasing plan against which the Affordable Housing requirement will be tied into.

Greenspace

- 10.58 The applicant is to enter into a Section 106 agreement to lay out an area of the site as Public Open Space. Any such greenspace will be a matter for detailed consideration at a later stage, and a Section 106 Agreement will be required in this respect.

Education contribution

- 10.59 Children's Services have advised as follows:
In Morley there remains up to a form of entry (30 places per year group) short in reception places up to 2015 (the youngest cohort for which there is data). We are currently consulting on a proposal which would take us up to 382 places between the schools in the area. Births for the cohorts due to enter reception in 2013 to 2015 are 411, 402, 398. There are a number of planning applications that will add demand on top of the birth data reported. The nearest primary school is Fountain Primary.
- 10.60 In the South wedge, including Morley Academy, Bruntcliffe, Woodkirk, Rodillian, Royds, Cockburn and South Leeds Academy, projections exceed the current year 7 admission limit of these schools (352, 240, 300, 210, 220, 210, 210, total 1642) by 2014. The projections are based on the current primary school cohorts, and for 2013 to 2017 are 1638, 1707, 1780, 1829, 1880. Admission of these known cohorts will mean that we have exceeded current capacity. The nearest school is The Morley Academy.
- 10.61 Childrens Services, therefore, have requested full contributions for both primary and secondary for this development. The calculation will follow the usual formula:

Primary: at 168 (no. family dwellings) X £12,257 (cost multipliers) X 0.25 (yield per pupil) X 0.97 (location cost) = £499,350.18
Secondary: at 168 (no. family dwellings) X £18,469 (cost multipliers) X 0.10 (yield per pupil) X 0.97 (location cost) =£300,970.82
Total: £800,321

10.62 The applicant has agreed to pay this contribution.

Employment clauses

10.63 It is expected that a site of this size will include local employment clauses / training initiatives during construction within the Section 106 agreement.

Are Members satisfied that the proposed heads of terms of the Section 106 addresses all relevant matters?

11.0 CONCLUSION

11.1 The proposed development generally accords with the housing allocation within the adopted UDP and will bring forward housing delivery on a greenfield site. There are recognised concerns about traffic generation, the development not being strictly in accordance with the plan and impact from traffic noise, amongst other issues. Planning conditions and obligations, contained within a draft Section 106 Agreement, are proposed to mitigate against some of these difficulties.

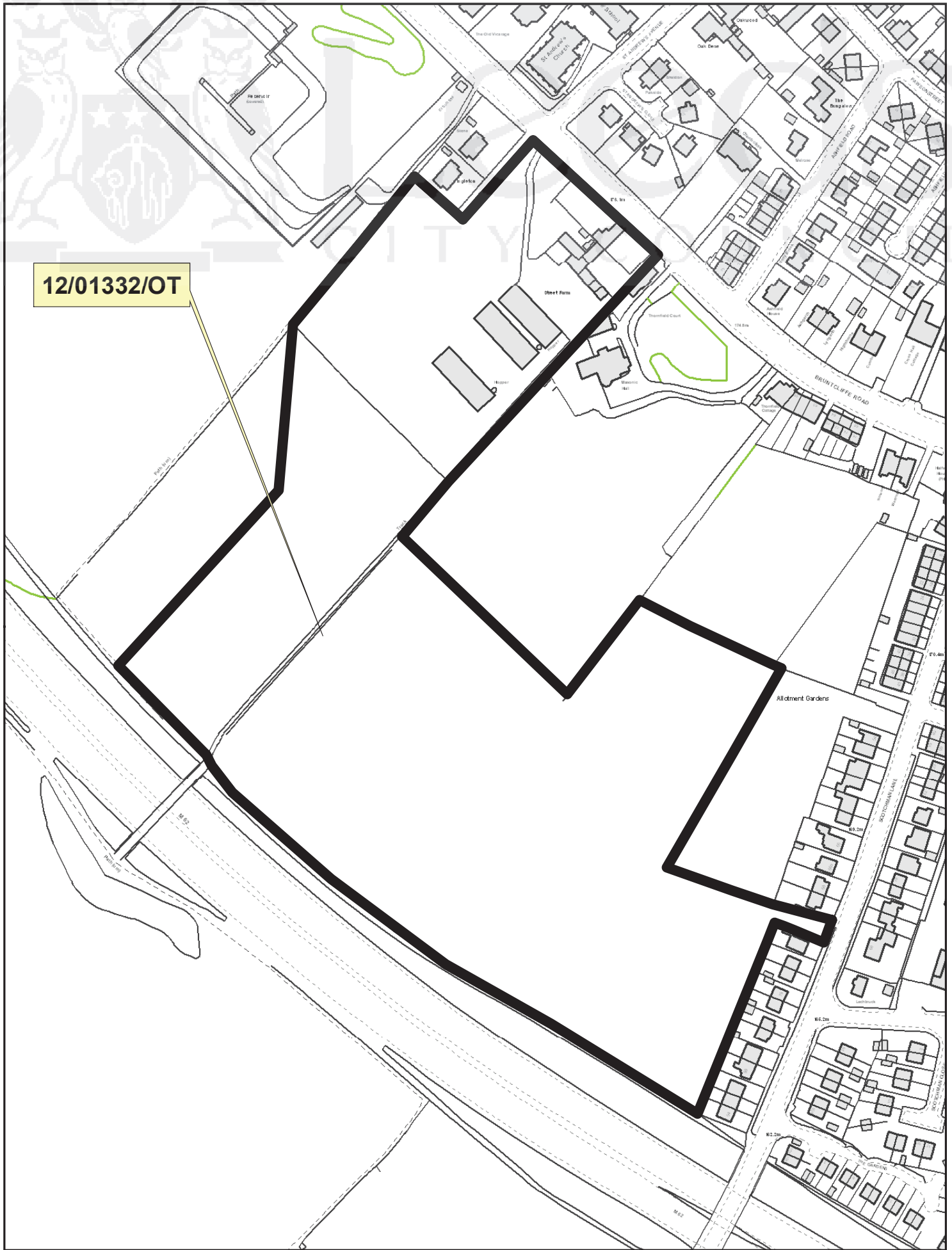
11.2 The application is made in outline to approve the principle of development with access only. At this stage of the application, Members' views are requested. Specifically:

- (1) Do Members have any concerns about the principle of the development of that part of the site that falls outside of the UDP housing allocation?
- (2) Do Members consider that the indicative layout and scale of development has sufficient regard to the prevailing character of the area?
- (3) Are Members satisfied that the location of the proposed access is the most appropriate in the circumstances?
- (4) In light of the above do members have any concerns in respect of highway safety?
- (5) Do members consider that the public transport measures identified above should be included within the Sec.106?
- (6) Are Members satisfied that the proposed heads of terms of the Sec.106 addresses all relevant matters?

Background Papers:

Application and history files

Certificate of Ownership:



12/01332/OT

EAST PLANS PANEL

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Originator:	David Jones
Tel:	0113 247 8000

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 11th October 2012

Subject: APPLICATION 12/02974/RM – RESERVED MATTERS APPLICATION FOR 12 HOUSES, LAYING OUT OF ACCESS ROAD AND ASSOCIATED LANDSCAPING, LAND TO REAR OF 7 WATERWOOD CLOSE, WEST ARDSLEY

APPLICANT	DATE VALID	TARGET DATE
Mr Michael Guymer	26 July 2012	25 October 2012

<p>Electoral Wards Affected:</p> <p>Ardsley & Robin Hood</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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RECOMMENDATION:

Grant approval (conditions attached to outline permission 11/04754/OT)

- 1. Construction Management Plan**
- 2. Full details of finished floor levels**
- 3. No openings in the west flank wall of Plot 12**

1. In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government guidance and policy as detailed in the National Planning Policy Framework, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), the Regional Spatial Strategy 2008 (RSS) and The Development Plan, the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, GP7, BD5, H3, LD1, N2, N4, N12, N13, N24, N25, N38B, T2, T5,T6, T24
Neighbourhoods for Living

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

1.0 INTRODUCTION:

- 1.1 This application is brought to Panel at the request of Panel member Councillor Finnigan who has stated that “this is a controversial site and there are concerns about the cumulative impact of other nearby proposed developments”.
- 1.2 The application site is unallocated for any purpose in the development plan, but has outline permission for housing. Therefore, there is no objection in principle to housing. The application is considered to comply with the relevant policies of the Unitary Development Plan and National Planning Guidance. The form of the houses, as two storey, constructed in natural stone and slate, is considered to be in keeping with the area, and would not adversely impact on the amenities of nearby residents.
- 1.3 As such, the reserved matters submission is recommended for approval. The application is considered to comply with policies GP5, GP7, BD5, H3, LD1, N2, N4, N12, N13, N24, N25, N38B, T2, T5, T6, T24 of the UDP (Review 2006), and relevant supplementary and national planning policy guidance. As such the application is recommended for approval.

2.0 PROPOSAL:

- 2.1 Outline permission has been granted for outline permission for residential development on the site. In addition to the principle of residential development, the means of access off Waterwood Close was also approved. The current proposal, therefore, seeks reserved matters approval for appearance, landscaping, layout and scale.
- 2.2 The detailed proposal is for 12 detached houses, accessed from a central access road. The two storey houses would be constructed in natural stone with slate roofs.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is within the village of West Ardsley, some 5 miles south of Leeds City Centre. The site comprises an approximately oblong area of grass land of approximately 0.7ha. The applicant describes the last use of the land as “part unused, part agricultural, part builder’s yard”. At the time of the officer’s site visit some agricultural machinery and other structures were being stored on the eastern part of the site.
- 3.2 The site is bounded to the north by the rear gardens of residential properties fronting Westerton Road and Waterwood Close. To the west, the site is bounded by houses fronting Haigh Moor Road. The southern and eastern boundaries are defined by a hedge line, and beyond this the land is in agricultural use, with the reservoir beyond.
- 3.3 The surrounding residential area is typified by 2 storey detached and semi-detached houses. There is also one terrace of houses close to the site. The houses are of a traditional design but their architectural treatment is quite varied. There is a mix of materials in the locality with houses finished in brick, stone and render. Garden sizes are also varied, but most houses have the appearance of being set comfortably within mature gardens. Where gardens share a boundary with the agricultural fields this is generally planting with a mature hedge although other boundaries treatments exist with walls and fences.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 An outline planning application to erect residential development on the site was refused in October 1999 on Green Belt grounds, as the site was designated as Green Belt in the revised draft Unitary Development Plan. The subsequent appeal was dismissed. (Leeds City Council ref no. 23/153/99/OT (Planning Inspectorate ref. no. T/APP/N4720/A/99/1028896/P2)).
- 4.2 In August 2001, the Unitary Development Plan (UDP) was adopted, and the site was excluded from the Green Belt, as the UDP Inspector considered that the land makes only a modest contribution to the purposes and objectives of the Green Belt. The site was below the threshold to allocate the site for housing.
- 4.3 23/439/02/OT - In October 2002, an outline application was submitted for residential development on this site. In December 2002, the application was refused for the following reasons:
1. "The Local Planning Authority considers that the proposal to develop this greenfield site for residential purposes is unacceptable in that it would prejudice the need to achieve sustainable housing development and maximize the reuse of previously developed land in order to promote regeneration and minimize the amount of greenfield land taken for development and would be contrary to Policy H1A of Leeds Unitary Development Plan and the advice given in PPG3 'Housing'."
- 4.4 The subsequent appeal was dismissed. The Inspector stated that the development would potentially compromise the local housing strategy and undermine national objectives for promoting sustainable development and urban regeneration. Planning Inspectorate ref. no. T/APP/N4720/A/03/1118910).
- 4.5 23/127/05/OT - In March 2005, a further outline application was submitted for residential development on this site. In April 2005, the application was refused for the following reasons:
1. "The Local Planning Authority considers that the proposal to develop this greenfield site for residential purposes is unacceptable in that it would prejudice the need to achieve sustainable housing development and maximize the reuse of previously developed land in order to promote regeneration and minimize the amount of greenfield land taken for development and would be contrary to Policy H1A of Leeds Unitary Development Plan and the advice given in PPG3 'Housing'."
- 4.6 The subsequent appeal was dismissed. The Inspector stated that the development would be contrary to national and local objectives in relation to the release of housing sites, with its emphasis on sustainable development and the reuse of previously developed land. Planning Inspectorate ref. no: T/APP/N4720/A/05/11184055).
- 4.7 An application for a Certificate of Lawful Use (10/00730/CLE) for the use of part of the site as a builder's yard was refused in April 2010. It was refused because the applicant had failed the statutory test for such applications in that they had not produced evidence to demonstrate that, on the balance of probabilities, the use had been ongoing for 10 years or more.
- 4.8 An Enforcement Notice was served on the use of the site as a builders yard. The Notice was upheld at appeal, and the owner is required to comply with the Enforcement Notice, to cease the use of the site as a builders yard by November 2012.

- 4.9 10/04762/OT - Outline permission is for residential development on this site. This was subject to an appeal against non-determination. At Plans Panel on 4th November 2011, it was resolved not to contest the appeal and that no evidence against the proposal be offered at the appeal, and furthermore that officers approach the applicant with a view to negotiating the submission of a further planning application to be determined under delegated powers.
- 4.10 11/04754/OT - The subsequent outline application was approved on 4 January 2012, in response to the Panel resolution of 4th November 2011.
A Section 106 Agreement was completed which makes provision for a commuted sum (£39,304.05p) for greenspace to be provided off site. Condition 4 of the approval restricts the maximum number of dwellings to 14. Condition 5 states that the dwellings should not exceed 2 storeys in height.
- 4.11 12/01686/RM - Reserved Matters application for 14 houses, laying out of access road and associated landscaping. Application withdrawn in July 2012.
- 4.12 12/03373/FU - Current undetermined application at the junction of Westerton Road and Waterwood Close to redevelop the redundant church site for 14 dwellings. This application appears is likely to be considered at the next Plans Panel meeting, in November.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The layout of the scheme has been revised to improve the layout. These changes are as follows:
- (i) Reduction from 14 units to 12.
 - (ii) Increase the space between the dwellings to be in keeping with the adjoining houses.
 - (iii) Increase the garden sizes
 - (iv) Houses to the northern boundary located further from the boundary, to achieve satisfactory relationship to adjoining existing houses.
 - (v) Design improvements in the form of added chimneys, plain verges to replace boards, simplified window detail.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was publicised by Site Notice on 6th August 2012.
- 6.2 Letters of representation have been received from three local householders, and from four residents living further afield. These are all objections to the proposal, on the grounds:
There are plenty of brownfield sites and empty properties which should be developed instead of greenfield sites.
Access via Waterwood Close will adversely affect the existing properties, increasing noise and pollution from traffic movement. The egress from Waterwood Close on to Westerton Road is already congested. The junction of Westerton Road and Haigh Moor Road causes problems. Vehicles are parked so drivers can use the shops at the end of Haigh Moor Road and residents on Westerton Road park vehicles on the road either for ease or because they have no other parking provision. Westerton Road is a bus route and also a very busy route for children walking to the primary school. Road safety in this location is of great concern and will be adversely affected by this development.

The additional development therefore will give rise to serious traffic problems in this short section of Westerton Road.

Occupiers will not park in garages, and will park on Waterwood Close, to the detriment of highway safety.

The local bus service is poor, and will encourage further car use.

The local primary schools already operate to capacity, the local upper school, now an academy is also at or near capacity. Medical and Dental practices in the area are at or near capacity.

Drainage is not sustainable but again there seem to be no central proposals to improve the situation. Though effects may not be felt directly in this development there is real potential for problems downstream.

In addition, there is currently a proposal to develop the former Church which is currently derelict and is in the same street.

The plans show incorrect boundary to adjoining property. The development would partly be on land not owned by the applicant, but by the adjoining land owner.

The nearest houses are less than the specified 10.5m to boundary, which will result in overlooking and loss of privacy.

The large houses are very close together and incongruous, and out of keeping with the area.

The proposed access to the south would possibly allow for further residential development to the south in the future.

Trees planted in front of windows will impact on outlook.

The existing house immediately adjacent to the access road does not have a sufficiently sized garden which will lead to loss of privacy for the occupiers, and will suffer harm from construction traffic.

- 6.3 Ed Balls M.P. has been contacted by one of the objectors, and he has asked that the representations of his constituent be taken into account. The main thrust of the objections is that both proposals (this proposal, and the one to the south, off Waterwood Close, would represent overdevelopment of the area, with increased traffic and on street parking, and detriment to the character of the area.

7.0 CONSULTATIONS RESPONSES:

STATUTORY

- 7.1 None

NON-STATUTORY

- 7.2 Highway Authority – No objections to the revised plans.
7.3 Flood Risk Management – No objection

8.0 PLANNING POLICIES:

- 8.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development including housing.

- 8.2 Regional Spatial Strategy (RSS) (adopted May 2008)

No regional policies are relevant to this proposal, which is reserved matters submission in respect of the scale, appearance and landscaping of the proposed development.

8.3 Unitary Development Plan Review (adopted July 2006)

- Policy GP5: refers to development proposals should seek to avoid loss of amenity.
- Policy GP7: Use of planning obligations.
- Policy GP11: Sustainable Design Principles.
- Policy BD2: Siting and Design of New Buildings.
- Policy BD5: new buildings design consideration should be given to own amenity and surroundings
- Policy H4: housing proposals on unallocated sites.
- Policy N12: all development proposals should respect fundamental priorities for urban design.
- Policy N13: design of new buildings should be of high quality and have regard to character and appearance of surroundings.
- Policy T2: development should be capable of being served by highway network and not adding to or creating problems of safety.
- Policy T5: ensure the safe and secure access and provision for pedestrians and cyclists within highway and new development schemes.
- Policy T6: satisfactory access and provision for people with mobility problems within highway and paving schemes and within new development should be provided.
- Policy T24: parking guidelines for new developments
- Policy N2: support given to establishment of a hierarchy of greenspaces
- Policy N4: provision of greenspace to ensure accessibility for residents of proposed development
- Policy N24: Development abutting the Green Belt or other open land should achieve assimilation into the landscape. (Land to the south of the application site is Green Belt).
- Policy N25: Site boundaries should be designed in a positive manner.
- Policies N49; N50 and N51: Nature conservation and enhancement.
- Policy LD1: landscape schemes should meet specific criteria of good design.

8.4 Supplementary Planning Guidance:

Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Unitary Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- SPG3: Affordable Housing;
- SPG4: Greenspace Relating to New Housing Development;
- SPG 11: Contributions For School Provision From Housing Developments;
- SPG13: Neighbourhoods for Living;
- SPG 25: Greening The Built Edge.

8.5 As well as the supplementary planning guidance documents that have been retained, new supplementary planning documents are relevant:

- Affordable Housing SPD (2009);
- Sustainable Design and Construction SPD (2011); and
- Street Design Guide.

- 8.6 National Planning Policy Framework
Delivering a wide choice of high quality homes
Requiring good design
Promoting healthy communities
Protecting Green Belt land
Conserving and enhancing the natural environment

NATIONAL PLANNING POLICY:

- 8.7 The National Planning Policy Framework was issued at the end of March 2012 and is now a material planning consideration. The NPPF provides up to date national policy guidance which is focused on helping achieve sustainable development. There is a presumption in favour of sustainable development. The basis for decision making remains that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Planning System should have a role in " supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being" (NPPF paragraph 7).

EMERGING CORE STRATEGY:

- 8.8 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy set sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

9.0 MAIN ISSUES

- 9.1 It is the considered view that the main issues are:
- Principle of development
 - Highway Safety
 - Scale, appearance and landscaping (visual amenity and character)
 - Impact on Landscape and Ecology
 - Residential Amenity
 - Representations

10.0 APPRAISAL

Principle of development

- 10.1 Although the application site is unallocated for housing, outline permission was granted in January 2012. Therefore, there is no objection in principle to housing. The outline permission grants permission for the principle of housing, and the means of access onto Waterwood Close. The matters under consideration, therefore are the approval for appearance, landscaping, layout and scale.

Highway safety

- 10.2 The issue of visibility and traffic speeds onto Westerton Road has been considered at outline planning permission stage, and the point of access is approved.

10.3 The internal layout of the estate conforms to the current highways guidance (Leeds Street Design Guide). The parking arrangements are acceptable, all houses have at least two off street parking spaces and double garages, and therefore parking on the proposed highway or the existing section of Waterwood Close is unlikely to be problematic.

Driveways are a minimum 3m in width, or 3.3m where pedestrian access is shared. The double garages have minimum internal dimensions under the specified 6m x 6m but have parking for one car and provide cycle parking. Two spaces are available to the front of the garage. On this basis, no highway safety concerns are raised.

Density, scale, appearance and landscaping (visual amenity and character)

10.4 The proposal has been amended from the 14 houses originally submitted, to provide 12 two storey detached dwellings. The reduction from 14 to 12 allows the detached dwellings to be spaced in a manner which reflects the local character, in particular the character of the recently constructed two storey stone dwellings off Waterwood Close, to the north west, and the existing houses off Westerton Road, to the north of the site. The layout provides adequate private amenity space for future occupiers of the dwellings

10.5 The dwellings proposed are to be two storeys, to be constructed in natural stone and natural slate. The design has been amended so that the houses incorporate chimneys, and plain verges replace the boards, which which were originally proposed. Simple artstone heads and cills are now proposed, which improves the appearance of the dwellings.

10.6 The layout and materials match the surrounding, and reinforce the local character.

Residential amenity

10.7 It is considered, in view of the size of the site and the distance from neighbouring properties, that appropriate separation distances (in line with the guidance set out in Neighbourhoods for Living) from existing dwellings could be achieved. In particular, the five houses adjacent to the northern site boundary have been replaced with four dwellings, allowing space to be provided between the dwellings, so that the development does not appear as a solid mass of stonework. The actual site boundary has been redrawn so it more accurately reflects the correct boundary. Plot 11 is now between 10.6m and 13.4m from the rear boundary. The main dining room window is 12m from the boundary wall. The revised proposal retains the boundary trees, and provides a satisfactory private garden, clear of the canopy of the trees. This complies with current guidance as set out in Neighbourhoods For Living.

10.8 The two storey blank gable to Plot 1 is proposed at 14m from the main rear aspect of No. 6 Waterwood Close, and is set down at a slightly lower ground level. This distance complies with the 12m minimum set out in guidance and is considered acceptable. In addition, the gable wall to Plot 12 is between 15 and 18m from the rear of No.8 Waterwood Close, in excess of the minimum 12m.

10.9 No.8 Waterwood Close has main rooms facing south onto the application site. No dwellings are proposed in this area, due to the narrow width of land between the access road and No.8. Concerns have been raised that trees planted in this area would result in a loss of light to the rooms. As such, it is proposed that low ground cover occupies this area. It is accepted that there is likely to be some disturbance to this residence during construction, and it is recommended that a Construction

Management Plan condition be imposed in the interests of amenity of residents living close to the site.

Assimilation into wider open area

- 10.10 Policy N24 requires that where development proposals about the green belt, green corridors or other open land, their assimilation into the landscape must be achieved as part of the scheme. In this case, it is proposed to retain and layer the existing substantial hedge to the southern boundary which will produce an acceptable green boundary to the development site. The retention and management of this hedge is subject to a planning condition attached to the outline permission.

Representations

- 10.11 Issues in relation to sustainability, the loss of a Greenfield site and traffic generation are addressed in the outline grant of planning permission, and are not subject of consideration in this reserved matters submission.

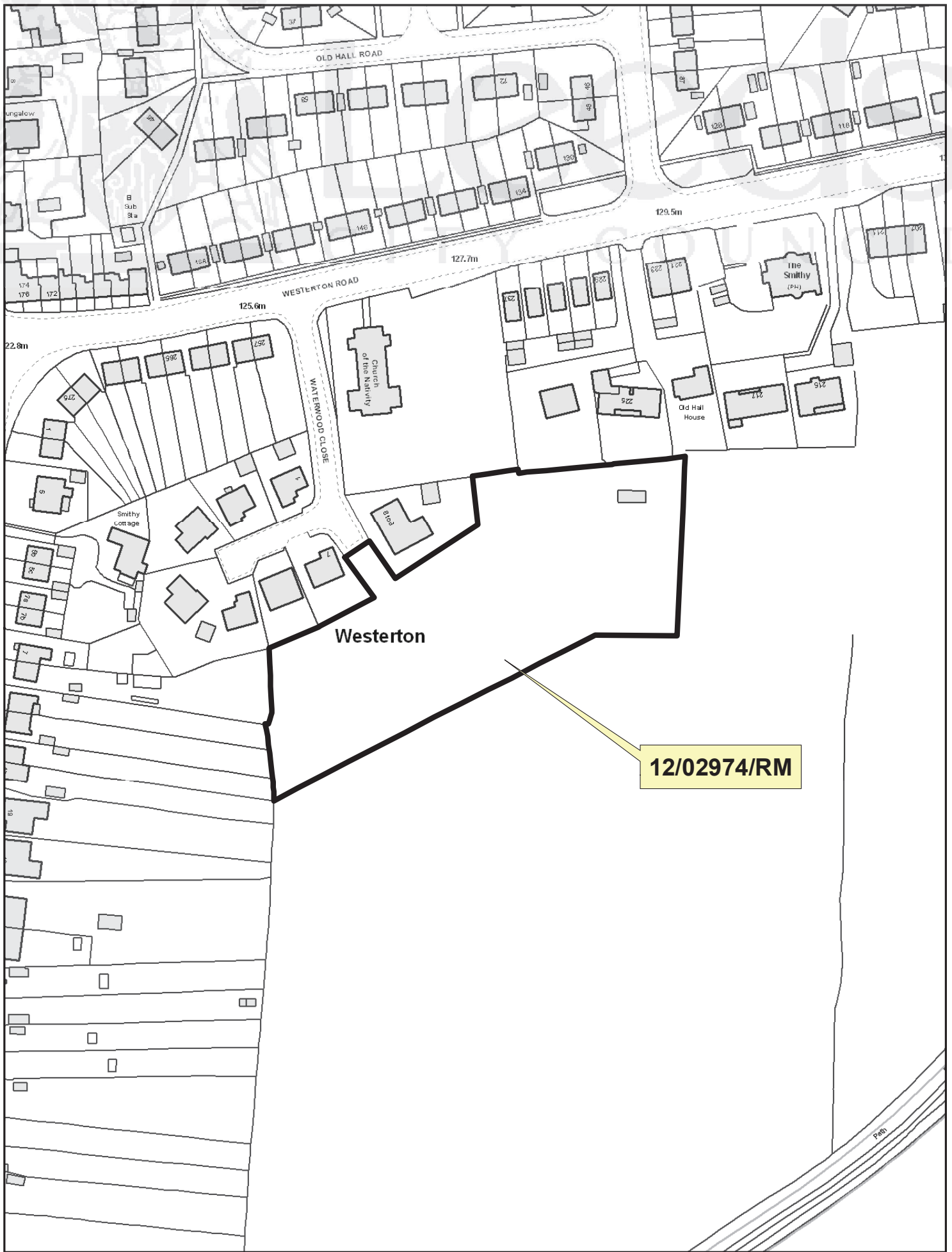
11.0 CONCLUSION

- 11.1 There is an extant planning permission for housing on the site. Therefore, there is no objection in principle to housing on the site.
- 11.2 The application is considered to comply with the relevant policies of the Unitary Development Plan and National Planning Guidance.
- 11.3 The form of the houses in the amended layout of 12 dwellings, as two storey, constructed in mainly natural stone, is considered to be in keeping with the area, and would not adversely impact on the amenities of nearby residents.
- 11.4 As such, the reserved matters submission is recommended for approval.

12.0 Background Papers:

Application file

Certificate of Ownership: As owner



Westerton

12/02974/RM

SOUTH AND WEST PLANS PANEL





Originator: Michael Howitt

Tel: 247 8000

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 11th October 2012

Subject: APPLICATION 12/02259/FU – ERECTION OF ONE BLOCK OF 3 HOUSES - 1214 DEWSBURY ROAD, TINGLEY.

APPLICANT
New Brighton
Construction

DATE VALID
13th June 2012

TARGET DATE
8th August 2012

Electoral Wards Affected: Morley South <input type="checkbox"/> Yes Ward Members consulted (referred to in report)	Specific Implications For: Equality and Diversity <input type="checkbox"/> Community Cohesion <input type="checkbox"/> Narrowing the Gap <input type="checkbox"/>
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RECOMMENDATION:
GRANT PERMISSION subject to the following conditions:

1. Standard full time limit.
2. Development in accordance with approved plans
3. External walling and roofing materials to be submitted.
4. Plan of proposed and existing levels to site to be submitted and approved
5. Site to be laid out, drained, surfaced and sealed.
6. Maximum driveway gradient
7. Cycle / motorcycle storage
8. Landscaping scheme to be submitted.
9. Landscaping implementation.

- 10.Replacement planting of frontage tree.
- 11.Contamination details to be submitted
- 12.Remediation statement
13. Bat and bird nesting provision.
- 14.Control of site clearance to protect breeding birds

Reason for approval: The principle of residential development is considered to be acceptable as the site is situated in a sustainable location. The layout and scale of the proposal is considered appropriate in regard to its surroundings, raises no issues of detrimental harm to visual or residential amenity and no issues harm to highways safety and as a consequence, complies with policies GP5, BD5, H4, N12, N13, LD1 and T2 of the UDP Review, as well as guidance contained within the National Planning Policy Framework, and having regard to all other material considerations, the applications are recommended for approval

1.0 INTRODUCTION:

- 1.1 This application is brought to Plans Panel (West and South) at the request of Councillor Judith Elliott due to concerns, stating that the proposal is not in keeping with the neighbouring properties and the proposal will give rise to highway safety issues in that it will increase congestion at the junction of Syke Lane and the A653 Dewsbury Road as well as creating access and parking issues. A Members site visit is requested.

2.0 PROPOSAL:

- 2.1 The application is for the erection of a block of 3 dwellinghouses located on a piece of vacant land adjacent to 1214 Dewsbury Road, Tingley.
- 2.2 The proposal is to build three properties in a single block with parking to the rear, with two spaces to each property. The properties will be two and a half storey, with a ground, first floor and a second floor within the roof space using dormers front and rear. The properties are proposed to be built using artstone with an artificial gabled slate roof. The properties will be raised above road level as there is a retaining wall to the front of the site.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is currently an overgrown vacant plot adjacent to No 1214 Dewsbury Road elevated from Dewsbury Road behind a retaining wall and the site is accessed via Syke Close.

3.2 The site is covered predominantly by overgrown self seeded planting although to the front there had been a prominent mature streetscene tree that has been removed prior to the submission of the application.

3.3 The site is surrounded by residential properties of a number of different styles, varying from traditional semi-detached properties to the either side of the site on Dewsbury Road, (a more modern detached property has been built immediately to the other side of the entrance onto Syke Close), to a row of stone terraced cottages known as Syke Terrace opposite. Further behind the site there is a cul-de-sac of bungalows and Syke Close itself consists of more modern terraced properties.

4.0 RELEVANT PLANNING HISTORY:

4.1 There have been no previous applications on the site

5.0 HISTORY OF NEGOTIATIONS:

5.1 The application was submitted without any pre application negotiations or discussions.

6.0 CONSULTATION RESPONSES:

Statutory Consultations:

6.1 None.

Non Statutory Consultations:

6.2 Sustainability (Nature) – No objection subject to conditions protecting nesting birds and bats.

Sustainability (Landscape) – No objection subject to replacement planting

Contaminated Land – No objections subject to conditions

Highways – No objections subject to conditions

Mains Drainage – No objections. Matters can be dealt with by building Inspector

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notice on 29 June 2012. 6 letters of objection (three from the same address including a petition with 33 signatures) as well as a letter of objection from Ward Councillor Judith Elliott have been received and the objections are on the following grounds.
Public Response:

- There will be increased traffic generation on a narrow cul-de-sac.
- There is a danger of increase on street parking.

- Access will be difficult whilst construction is under way
- Noise will be generated by the development.
- There will be difficulty for refuse collection.
- The proposal will be harmful to wildlife.
- There will be a loss of light to the neighbouring property at 1A Syke Close.

7.2 Councillor Elliott states:

- The proposal is not in keeping with surrounding development.
- The proposal will give rise to highway safety issues in that it will increase congestion at the junction of Syke Lane and the A653 Dewsbury Road.
- It will create access and parking issues.

8.0 PLANNING POLICIES:

8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. However, the RSS is a strategic planning document, used to inform more detailed policies at a local level. Accordingly, it is not considered that there are any particular policies which are relevant to the assessment of this proposal.

8.2 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.3 The following policies from the UDP are relevant:

- Policy GP5 seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
- Policy BD5 seeks to ensure that all new buildings should be designed with consideration to both their own amenity and that of their surroundings.
- Policy H4 provides guidelines for residential development on sites not identified for this purpose in the UDP.
- Policy N12 seeks to ensure that development should respect fundamental priorities for urban design.

- Policy N13 seeks to ensure that the design of new buildings should be of high quality and have regard to the character and appearance of their surroundings.
- Policy T2 ensures that development proposals should not create new, or exacerbate existing, highway problems.

Supplementary Guidance:

- Neighbourhoods for Living (SPG)
- Street Design Guide

National Policy/Guidance:

- National Planning Policy Framework (2012)

9.0 MAIN ISSUES:

1. The principle of development.
2. Design and the character of the area.
3. Landscaping.
4. Highways
5. Residential amenity.
6. Private amenity space.

10.0 APPRAISAL:

1. The principle of development.

- 10.1 The application site is an undeveloped vacant piece of land to the side of existing dwellings and as such the site would be classed as greenfield. However, the land is currently overgrown and rather unkempt and raised up above road level and as such, provides little in the way of amenity value to the surrounding area. The site would be considered to be in a sustainable location, given that it is located in an existing residential area, located close to public transport routes to both Leeds and Dewsbury and close to existing facilities. A residential use would be compatible with the immediate area, as there are existing houses abutting and opposite the site. In terms of housing land supply, three dwellings would be unlikely to have any significant impact on the re-use of previously developed land elsewhere within the authority and as a result, it is considered that the principle of residential use is acceptable in this location.

2. Design and the character of the area

- 10.2 The site is surrounded by residential properties of a number of different styles, varying from traditional semi-detached properties to the either side of the site on Dewsbury Road, (a more modern detached property has been built immediately to the other side of the entrance onto Syke Close),

to a row of stone terraced cottages known as Syke Terrace opposite. Further behind the site there is a cul-de-sac of bungalows and Syke Close itself consists of more modern terraced properties. The proposal seeks to introduce three, two storey gabled properties into the streetscene and whilst the properties to either side of the proposal have hipped roofs, the wider streetscene is of such mixed and varied styles of roof design and house type that it is considered that the design and character of the proposal will be acceptable.

3. Landscaping

- 10.3 At the time of the submission of the application, it was clear that a significant tree had been removed from the front of the site in that a large tree stump is visible where the tree stood. It is clear that from previous images of the site that this tree provided a significant value to the streetscene and that this should be recompensed in the way of frontage planting to the lost value to this main corridor. Additionally, it would be requested by way of condition that a landscaping scheme be submitted in order to retain and supplement the boundary planting where possible in order to maintain a 'green' appearance viewed from Syke Close and from Dewsbury Road reflecting the increasingly green character of the urban edge location.

4. Access and highway safety considerations

- 10.4 The Council has guidance regarding private roads for new developments serving more than 5 dwellings needing an adopted road (Street Design Guide). In this case 6 properties are already served from a private drive which is of a poor standard and unmade. Additionally these houses have a frontage onto Dewsbury Road for pedestrian access. Given that the track already exists and is in a poor state of repair, it is considered acceptable to serve the development via an improved access point, subject to details of its future maintenance being secured by condition. The existing properties would therefore benefit from the improvements to the existing access which could support an adopted layout and given that the proposal provides 2 spaces for each property, it is considered that, subject to conditions and a section 278 agreement for the new access it is acceptable in terms of highway safety.

5. Impact on Residential Amenity

- 10.5 The site is located adjacent to residential properties to the front rear and side. In terms of distances to boundaries with the neighbouring properties to the front the houses are some 30 metres across a dual carriageway, there are no windows to the side elevations and the distance to the garden of the property to the rear is rear is approximately 27 metres and therefore all distances are fully in accordance with guidance given in

Neighbourhoods For Living. As a result, it is considered that there will be no detrimental harm created from overlooking by the proposal and consequently there should be no significant harm to residential amenity from this proposal. These distances also mean that there are no issues raised from overdominance, coupled with the similar scale of the proposal to the neighbouring houses and overshadowing likewise given the Northern facing aspect of the properties and the location of the surrounding neighbours

6. Private amenity space

- 10.6 The area required for outside private amenity space for dwellings as suggested by guidance given in SPG 'Neighbourhoods For Living' is two thirds of the gross floor area of the dwelling excluding vehicular provision. The proposal provides rear gardens that accord with guidance and as such the proposal is considered acceptable in these terms.

11.0 CONCLUSION:

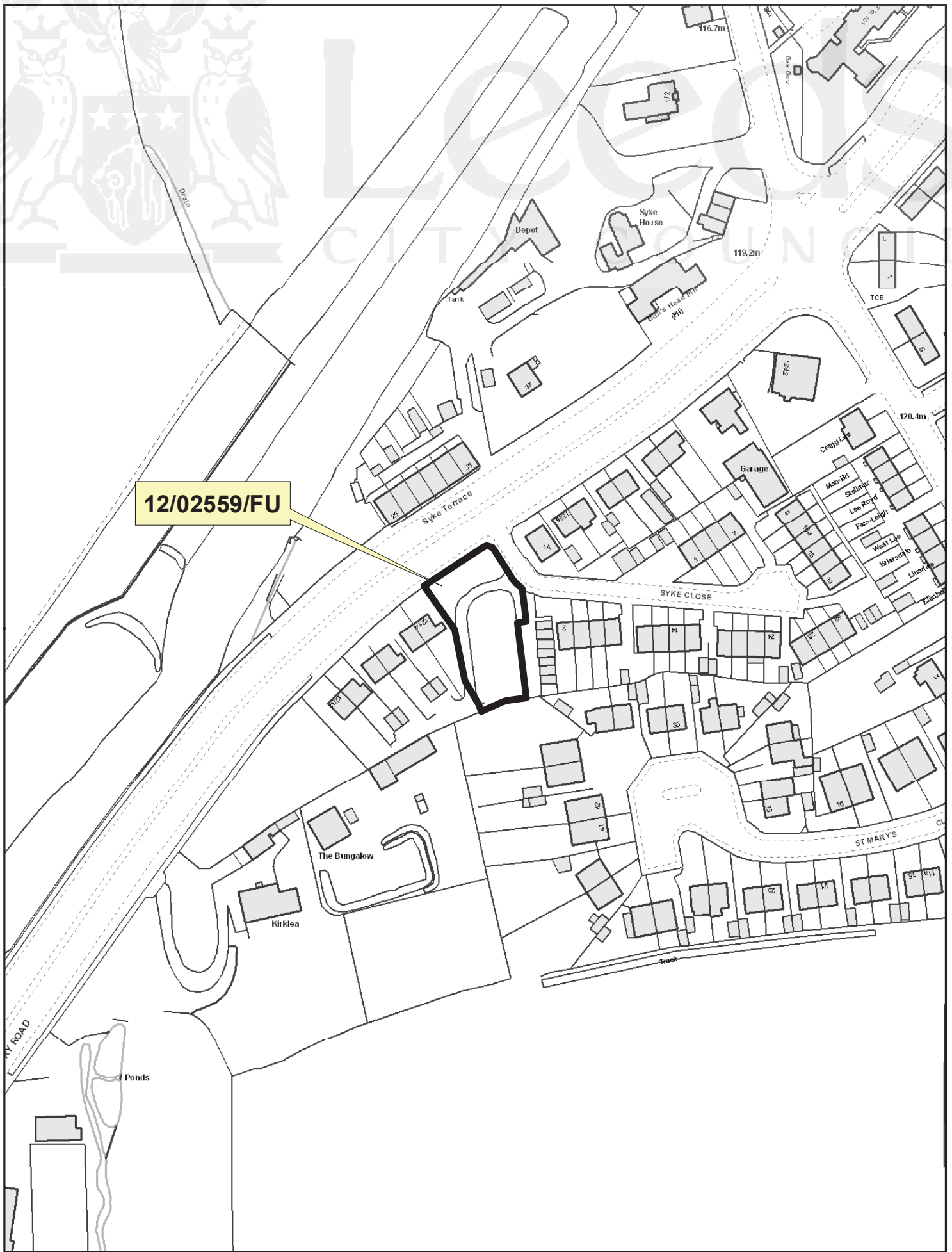
- 11.1 On balance, it is considered that subject to appropriate conditions as discussed above, the proposal is acceptable given that the principle of residential development is considered to be acceptable as the site is situated in a sustainable location. The layout and scale of the proposal is appropriate in regard to its surroundings, it raises no issues of detrimental harm to visual or residential amenity and no issues of harm to highways safety and as a consequence, it is therefore recommended that the application be approved.

Background Papers:

Application files 12/02259/FU

Certificate of ownership:

As applicant



12/02559/FU

SOUTH AND WEST PLANS PANEL





Originator:	Richard Edwards
Tel:	0113 39 52107

Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 11th October 2012

Subject: PLANNING APPLICATION 12/02434/FU – PART TWO STOREY PART SINGLE STOREY FRONT, SIDE AND REAR EXTENSION INCLUDING PHARMACY, OPTICIANS AND LAYING OUT OF CAR PARK.

At: MANOR PARK SURGERY, BELLMOUNT CLOSE, BRAMLEY

APPLICANT	DATE VALID	TARGET DATE
Manor Park Surgery	31 st May 2012	26 th July 2012

Electoral Wards Affected:

Bramley and Stanningley

Y	Ward Members consulted (Referred to in report)
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Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

APPROVE planning permission, subject to the following conditions

1. 3 year time limit
2. Development completed in accordance with approved plans
3. Surgery and pharmacy opening hours
4. Hours of construction works
5. Restriction of Change of use within A1 use class
6. Lighting details / time switch
7. Details of screening fencing
8. Provision of motor/cycle parking prior to use
9. Provision of bin store prior to use
10. Development in accordance with approved Travel Plan Statement
12. Samples of external materials for inspection / to match existing

13. In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the National Planning Policy Framework and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan consisting of The Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, BD6, T2, T24, A4, S9

SPD: 'Street Design Guide'

SPD: 'Travel Plans'

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

1.0 INTRODUCTION

- 1.1 This application seeks full permission for the extension of an existing doctor's surgery to provide additional consultation rooms, waiting areas, an ancillary optician and 100-hour pharmacy. It is brought before the West Plans Panel due to the high level of interest from local residents and members of the public. Following revisions to provide screening fencing and adjust the operating hours of the proposed pharmacy, the proposal is now considered appropriate in planning terms and is therefore recommended for approval subject to the above conditions.

2.0 PROPOSAL

- 2.1 Permission is sought for the significant extension and alteration of the existing Manor Park GP surgery in Bramley. The applicants explain that due to significant increases both in patient numbers and the complexity of their health problems there is now an identified need for expansion including additional waiting areas and consulting rooms, an additional pharmacy with extended opening hours and new on-site opticians, and facilities for specialist GP-led clinics not currently available in the locality including diabetes management and physiotherapy. The expansion is intended to accommodate an increase in the number of GPs based at the practice partly by becoming a PCT recognised centre for the postgraduate training of GPs, as well as through the provision of enhanced facilities
- 2.2 The main element of the proposal will be a part single-storey, part two-storey extension to wrap-around the eastern, southern and part of the western elevations of the building. This will be constructed from red brickwork with a pitched tiled roof to match the existing and UPVC fenestration. At ground floor level it will provide 10 new consulting rooms, an optician's, pharmacy with WC, kitchen and consultation room, with the loss of two existing rooms to facilitate provision of a corridor link and new waiting area. An existing area currently occupied by stairs and partitions will be opened out to provide this, linked to the car park via a new entrance hall with reception desk and an improved access ramp.
- 2.3 The existing stairs will be relocated into the new extension to the southern side, adjacent to the proposed new pharmacy. Along with a passenger lift they will give

access to the extended first floor area. This will provide four new treatment rooms, a staff room and meeting room to the new section, whilst the existing accommodation will be reconfigured to provide toilets, a waiting area and office. The existing meeting room and kitchen to this level will remain.

- 2.4 In addition to the extensions the existing ground floor will be reconfigured. The existing entrance hall will be partitioned from the existing waiting room and become part of the Lloyds pharmacy, which will remain otherwise unchanged. An existing nurse's office leading off this reception area will be subdivided into an interview room and toilets, and two existing interview rooms incorporated into an enlarged administration office. A consulting room to the eastern side of the building will be opened out to provide a new link through from the existing corridor to the proposed corridor serving the new consulting rooms at the rear of the building. Where existing rooms become internal, Velux rooflights will be installed to provide ventilation in addition to retention of existing windows to make use of 'borrowed light' from the proposed glazed corridor.
- 2.5 Externally the new sections of roof will generally be joined to the existing by way of valley gutters. The new roof to the two-storey section will be hipped to match the main roof, rather than pitched in the manner of those to the existing pharmacy and two-storey element and proposed new entrance hall. Although some low shrubs and bushes will be lost to hard surfacing, the large trees (which mainly lie outside the site or on the boundary) will be retained and augmented by two silver birches adjacent to the gates.
- 2.6 The proposed extensions will occupy the existing grassed areas to the south and east, bringing the building to within 1.8m and 1.0m of the boundaries respectively. The new entrance, ramp and a proposed ambulance bay will occupy most of the existing landscaped area to the front of the premises. In addition, the car park will be extended in several directions within the site in order to increase the overall number of spaces from the current 24 to 40, including four disabled spaces adjacent to the main entrance. A row of six spaces to the east of the gates will be moved back around 6m toward the boundary to accommodate two additional spaces north of the existing pharmacy.
- 2.7 An existing grassed area to the north-western side will be used to accommodate five additional spaces, whilst a further nine will be provided to another grassed area on the south-western side. The existing eleven spaces to the front and centre of the site will be removed and relocated 90 degrees to the front of the existing pharmacy, and a new protected pedestrian walkway provided from the main gate across the car park to the entrance. Existing lighting columns will be relocated, whilst the palisade boundary fence will be retained (with a 14m run adjacent to the rears of Nos. 2-14 Bellmount Grove to be relocated).
- 2.8 In total the proposals will add an additional 622m² of internal floorspace comprising 110m² of A1 retail pharmacy and 512m² of D1 non-residential institutional provision. This will almost double the current gross floor area of 777m². The number of employees will also increase, from 22 full-time and 8 part-time to 29 and 11 respectively, including 6 additional doctors. Operating hours for the surgery will be 08.00-19.00 Mon-Fri only, with the new pharmacy operating from 07.00-23.00 Mon-Fri, 09.00-21.00 Saturday and 12.00-20.00 on Sundays.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to the Manor Park doctors' surgery complex. This detached modern red brick building was approved in 1989 and constructed on land cleared as part of the comprehensive demolition of Bramley Town Centre in the 1970s. A projecting extension containing a retail pharmacy was added to the front in the late 1990s. In July 2006 the building was completely burned out by a major fire and subsequently extensively rebuilt to the original plans.
- 3.2 The building is mainly single-storey (dominated by a large expanse of hipped roof) with a small two-storey element to the southern side, originally built as a 2-bed flat but now used as ancillary office and other accommodation. It is constructed of red brickwork under smooth grey tiles with a regular pattern of UPVC fenestration and is elevated approximately 0.5m above the car park, accessed via a flight of stairs and a flagged ramp leading to an entrance hall.
- 3.3 Internally the building opens into a full-height reception and waiting area which in turn leads onto a warren of treatment rooms, administration offices and staff facilities and to a corridor leading to thirteen different consulting rooms. The pharmacy is separately accessed via the entrance hall whilst the first floor is not accessible to patients.
- 3.4 Externally the building is bounded by a grass strip to the north, east and south and protected by a 2.2m green palisade fence to the entire perimeter. It shares the southern boundary with an area of public open space, which permits medium-range views of the complex from Bell Lane. Beyond the northern and eastern boundaries there are houses; local authority terraces with short (6m) rear gardens to the former, and older semi-detached properties with 50m rear gardens to the latter. In each case there is a narrow ginnel separating the gardens from the surgery site.
- 3.5 The building is set within an area cleared of terraces in the 1970s and now dominated by local authority housing in dark brick, with some isolated earlier survivors (notably Bell Grove, a row of eight back-to-back stone and red-brick properties which lie to the north-west). It is accessed from Bellmount Grove across an informal parking and turning head which in turn opens onto a very well-used asphalt car park lit by pole-mounted globe-style fittings.
- 3.6 This car park contains 24 parking spaces arranged in three rows, with further provision adjacent to the northern boundary. It too is surrounded by grass verges with some incidental planting. There are houses to Bell Grove which abuts the north-western boundary; these face the parking area and are screened by a row of large mature sycamore trees.
- 3.7 The existing pharmacy is open from 08.30 to 18.30 Mondays to Fridays, with no operations on weekends and Bank Holidays. The main surgery is open from 08.00 to 19.00 on weekdays, with the last hour reserved for enquiries and collection of prescriptions. There are no surgeries on weekends or Bank Holidays.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The original application for the surgery (reference: H24/19/89/) included consultation / treatment / waiting and staff rooms, toilets and a 2-bedroom caretakers' flat. It was approved on 6th March 1989 and constructed shortly thereafter.
- 4.2 In 1997 an application (ref 24/208/97/FU) was received to add a front extension (the existing Lloyds Pharmacy) and extend the car parking area. This was approved on

16th September of that year. Two replacement signs were added to the pharmacy under application 06/00318/ADV, approved on 3rd March 2006.

- 4.3 However shortly thereafter the surgery was badly damaged by a major fire incident necessitating a substantial rebuild within the surviving walls. Whilst this was underway a temporary surgery was erected in the car park to allow continuity of services to the patient base.
- 4.4 This was granted temporary consent on 16th October 2006 under application reference 06/05122/FU and was removed from site on completion of the repairs to the main building, in accordance with the conditions of the approval.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 In response to the comments of the Highways officer revised plans have been provided showing cycle and motorcycle parking, shower facilities and locker rooms for staff. A Travel Plan Statement has also been submitted and agreed.
- 5.2 Following the public meeting the applicants have agreed to alter the pharmacy weekday opening hours from 7am-11pm to 6am-10pm in order to reflect resident concerns about the late opening and associated potential for noise and ASB. A condition has also been agreed to provide fencing to the north-eastern boundary to screen the rear elevations / gardens of houses on Bellmount Close from vehicle movements and headlight glare.

6.0 PUBLIC/ LOCAL RESPONSE:

- 6.1 A General site notice was posted on 15th June 2012. 15 objections have been submitted by local residents and by solicitors acting on behalf of the existing Lloyds' Pharmacy.
- 6.2 In addition to a letter of support from Rachel Reeves MP, a petition of support containing 1089 signatures (mainly of practice users) has also been submitted.
- 6.3 A survey of local residents has been carried out by the agent for the surgery, although several of those named have subsequently advised that their support for the scheme has been misrepresented.
- 6.4 In addition and due to the levels of interest in the proposals, a public meeting was called by the Ward Members which took place on August 29th at the nearby community centre. This was well attended by local residents and by representatives and the agent for Manor Park Surgery, employees / agent of the existing Lloyds outlet, the operators of the proposed pharmacy and the Ward Members.
- 6.5 A lively debate took place with widespread support for the improved facilities tempered by concern over the highways and parking implications, increased activity levels and potential for the loss of the existing pharmacy to competition along with the employment of its staff.
- 6.6 The level of interest displayed at this meeting informed the decision to determine the application at Panel and the issues raised have been covered in greater detail within the Appraisal of this report.

6.7 The main issues raised in response to the initial publicity and at the subsequent meeting can be summarised as follows:

Support:

- The proposals will secure the future of the surgery;
- Greater availability of appointments at times which are more convenient particularly for working people;
- Improved parking and pedestrian access will improve the situation on Bellmount Close.

Objection:

- The proposals will increase traffic levels and demand for parking;
- Needle exchange and methadone prescriptions will attract crime, ASB and discarded needles into a residential area (the applicant has subsequently confirmed that there will be no needle exchange or methadone prescriptions);
- The extended opening hours will result in additional noise-generating activities at unsociable hours;
- There are more suitable places for the pharmacy and needle exchange including the nearby Bramley District Centre which has a high vacancy rate;
- Land Use – under Policy S9 and the new NPPF, out-of-centre retail should be justified in sequential terms;
- The existing pharmacy operators have not been properly involved in the proposals and have been misrepresented within the Design and Access Statement.

7.0 CONSULTATION RESPONSES:

Highways: initial concerns regarding lack of cycle, motorcycle and bin facilities were subsequently overcome by minor revisions to the plans. A Travel Plan Statement has been provided and conditions recommended.

Public Rights of Way: the proposal does not affect the public right of way which crosses the adjacent open space and therefore there are no objections on this matter.

Local Plans (informal consultation): advised that whilst the provision of two adjacent pharmacies is unorthodox, there were no policy constraints to the development as the cumulative floorspace was below the 200m² threshold above which a Sequential Test is required for out-of-centre A1 development.

Neighbourhoods and Housing: recommended restricting hours of work during the construction phase in order to preserve the amenity of surrounding residents.

8.0 PLANNING POLICIES:

Local Planning Policies:

8.2 Locally Leeds City Council has begun work on its Local Development Framework (“LDF”) with the Local Development Scheme most recently approved in July 2007. This provides a timetable for the publication and adoption of the Local Development Documents.

8.3 In the interim period a number of the policies contained in the Leeds Unitary Development Plan (“UDP”) have been ‘saved’. The Leeds UDP Review was adopted in 2006. The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below: -

- UDP policy GP5 seeks to ensure all detailed planning considerations are resolved as part of the application process including the protection of local residents amenities.
- UDP policy BD6 seeks to ensure that all extensions and alterations to existing buildings respect the materials and design of the existing building and its context.
- UDP policy N13 seeks to ensure that the design of all new buildings should be of a high quality and have regard to the character and appearance of their surroundings.
- UDP policy N25 seeks to ensure that boundaries of sites should be designed in a positive manner and be appropriate to the character of the area.
- UDP policy T2 seeks to ensure that new development should be served adequately by existing or programmed highways and by public transport, make adequate provision for cycle use and parking, and be within walking distance of local facilities.
- UDP Policy T24 seeks to ensure parking provision reflects the guidelines set out in UDP Appendix 9.

Relevant Supplementary Guidance:

8.4 Supplementary Planning Documents provides a more detailed explanation of how strategic policies of the Unitary Development Plan and Core Strategy can be practically implemented. The following SPDs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- Leeds Street Design Guide
- Travel Plans SPD

Government Planning Policy Guidance/Statements:

In addition to the Development Plan documents, the Coalition Government’s National Planning Policy Framework replaced more than 40 Planning Policy Statements and Guidance Notes in March 2012. Relevant sections include chapters 2 (town centres), 7 (design) and 8 (healthy communities).

9 MAIN ISSUES:

9.1 Having considered this application and representations, the main issues for consideration are thus:

1. Principle of development
2. Design and visual appearance
3. Amenity of surrounding residents
4. Highways, access and parking
5. Other Matters

10.0 APPRAISAL

Principle of Development

- 10.1 The D1 doctors' surgery use is existing and subject to other relevant policies concerning design, parking and access and residential amenity being met, an expansion of this within the capacity of the site is considered acceptable in principle. Likewise the proposed opticians will only be accessible from within the surgery during opening hours. It is not accessible independently and is therefore accepted as an ancillary A1 use.
- 10.2 Concerns were initially raised regarding the proposed additional pharmacy unit, since this would be in addition to an established pharmacy operated by Lloyds and due to its extended operating hours and separate entrance, is regarded as an independent A1 unit in an out-of-centre location. Additional information was therefore sought from the surgery regarding the need for a second pharmacy on the site.
- 10.3 The applicant responded explaining that the extended operating hours and additional services (ie consultations and advice) were requirements of the Primary Care Trust. In addition the expansion of the surgery would in part be funded by leasing the pharmacy to an outside operator. The existing Lloyds Pharmacy had been approached with a view to fulfilling this role, occupying the proposed new pharmacy and providing these enhanced services / extended opening hours, but were apparently unwilling to relocate and do so. The provision of a '100-hour' pharmacy within the locality would benefit working patients and those reliant on public transport, whilst the need for integration between the GP surgery and pharmacy rendered alternative in-centre options impracticable.
- 10.4 Whilst UDP Policy S9 recommends that all new out-of centre retail development be justified using a sequential test, emerging Core Strategy policy P8 states that this is not necessary for developments under 200m² and since the cumulative floorspace of the existing and proposed pharmacies falls below this threshold, it is considered that the proposal is acceptable in principle.

Design/ Appearance

- 10.5 The design of the proposed extension generally reflects that of the existing building and on this basis is considered acceptable. The surgery as it stands is dominated by a large expanse of roof with a small two-storey element. It is functional rather than attractive but does correspond in terms of its overall design ethos with the 'cleared' areas of modern social housing to the north and east (if less so with the Victorian proportions of the terraced housing to the west). It is also set back within its own site and well-screened by trees and surrounding housing.
- 10.6 The two storey element will be located to the southern part of the building and will correspond with the existing first floor former flat on this side. This section will be visible across the area of public open space to this side but is not considered detrimental in terms of its design, scale, form or massing. External materials are proposed to be brick and interlocking concrete tiles to match the existing.

- 10.7 On balance it is considered that subject to the use of materials which respect those of surrounding dwellings, the proposal is appropriate to its context and complies with policies GP5 and BD6 of the Adopted UDP.

Amenity Considerations

- 10.8 Similarly it is considered on balance that the proposed extension and expansion is acceptable in terms of the likely impact on the amenity of surrounding residents. The extension has been designed in a way that most of the development will take place on existing grassed areas to the east, where the houses are separated from the site by generous rear gardens, and the south, which overlooks open space. The eastern section will be single storey, located between 1m and 2m from the site boundary behind a palisade fence and separated from adjacent gardens by a 2m-3m ginnel and screening hedging. The main impact of the two-storey section will be onto the public open space and thus it will not result in overdominance, overshadowing or overlooking of any residential properties. Similarly the angled pharmacy / entrance hall extension to the front is located some 50m from the nearest houses on Bell Grove and again will not result in direct harm to the amenity of these residents.
- 10.9 The reconfiguration of the car park involves the creation of five new spaces to an existing grassed verge to the north-western corner and the relocation of six spaces to the north-eastern corner approximately 7m closer to the rear boundaries of Nos. 2 & 4 Bellmount Close. The former is not considered to be of concern due to the retention of the existing palisade fencing and screening shrubbery and trees which will serve to screen Nos. 2 and 4 Bell Grove to the north-west. However due to a change in levels between the car park and the rear gardens of Nos. 2 & 4 Bellmount Close, the open boundary treatment, and the limited garden depths to these houses, potential exists for disturbance arising from vehicle movements and headlight glare, particularly given the proposed extension of the pharmacy opening hours, and a condition has been agreed to provide details of a suitable screening fence to the north of these spaces. In addition, glare from car park security lighting has been mentioned as a concern by residents, and it has therefore again been agreed with the applicant that a condition to prevent any external fixture being angled at surrounding properties and to restrict the hours of operation by way of time switches will be recommended.
- 10.10 The majority of the concerns raised by local residents relate to the pharmacy element, which will be independent of the main surgery and close at 10pm on weekdays, 9pm on Saturdays and 8pm on Sundays, as opposed to the surgery which will open on weekdays only and close at 7pm. Whilst this represents a considerable extension of the current period during which the site is active it is accepted that levels of after-hours custom will be relatively light, not least because with the surgery closed there will be fewer opportunities for 'linked trips', and predominantly drawn from within the local area. It is considered on balance that subject to the aforementioned conditions to minimise the effects of vehicle movements and lighting that the impact on residential amenity will be within acceptable limits. The Environmental Health officer has not objected to the proposed operating hours, instead recommending conditions to limit the potential from noise during the construction stage.

Parking / Highways

- 10.11 The existing gated access from Bellmount Close is existing and will not change. However the car park will be extended and reconfigured to provide an additional 16 spaces including 4 disabled spaces and an ambulance bay. The Highways Officer is satisfied that this level of provision is sufficient to accommodate the additional patient and staff numbers generated by the proposed extensions and has no objections to the revised layout, which through the provision of clearly marked and segregated

pedestrian routes offers a considerable improvement in terms of accessibility over the current situation where pedestrians and drivers regularly conflict. A number of amendments were recommended including provision of cycle / motorcycle parking, bin storage, facilities for cyclists including lockers and showers and a Travel Plan Statement to encourage the use of sustainable modes of travel, and following the inclusion of these it is considered that the proposal is acceptable in terms of its impact on access, parking and highway safety, and complies with relevant policies including GP5, T2, T24 and the LCC Street Design Guide.

Other Issues

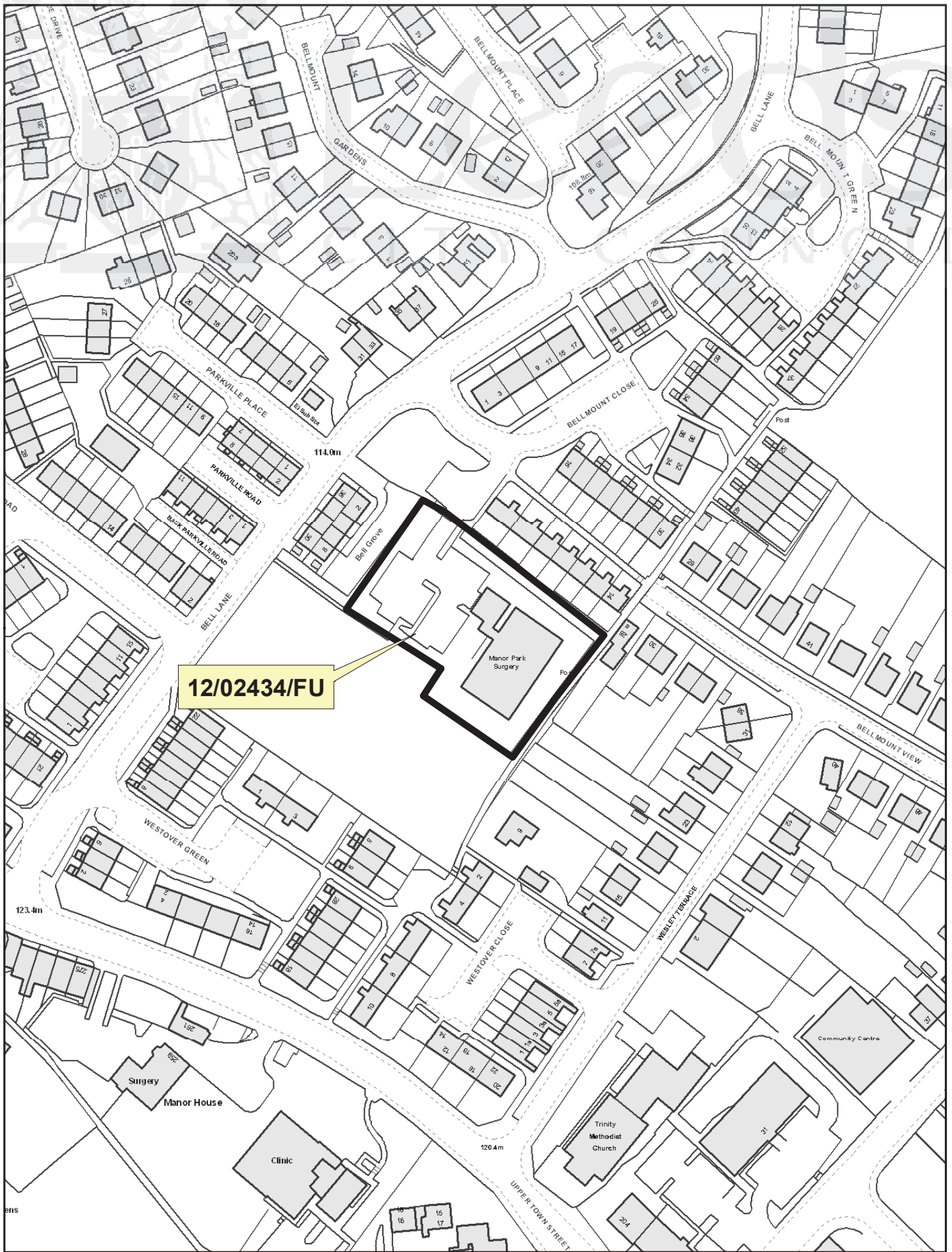
- 10.12 Many of the local objections related to concerns that the surgery would incorporate a needle exchange service and dispense methadone prescriptions to intravenous drug users, which in turn would attract this group of people and related social problems (including crime, vagrancy and irresponsible needle disposal) into a predominantly residential area with a high proportion of family housing. The applicant has clarified that whilst the surgery will offer substance addiction counselling there will be no dispensing of sharps or heroin substitutes from the pharmacy. The existing Lloyds pharmacy has a license from the PCT to provide this 'enhanced service' (although it is unclear whether this currently occurs) and in addition there is a second Lloyds outlet on nearby Town Street which also offers these facilities.

11.0 CONCLUSION

- 11.1 To conclude, the application has generated considerable public interest and concerns regarding the potential for increased parking / traffic movements and late night activity within the site. However these are considered to have been satisfactorily addressed through a combination of amendments to the proposal and conditions restricting operating hours and requiring the provision of facilities to encourage alternative means of transport. On balance the proposal will offer benefits to the surgery's patients (including many local residents) by way of enhanced services and improved capacity. For these reasons the proposal is considered acceptable in planning terms and is recommended for approval subject to conditions.

Background Papers

Application File 12/02434/FU



12/02434/FU

SOUTH AND WEST PLANS PANEL



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Leeds
CITY COUNCIL

Originator: Ian Cyhanko
Tel: (0113) 24 74461

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 11th October 2012

Subject: FORMER PRESTIGE CAR SALES CENTRE, 2 TOWN STREET, STANNINGLEY, LEEDS, LS28 6LQ

12/03260/FU CHANGE OF USE AND ALTERATIONS OF FORMER CAR SALES SHOWROOM TO RETAIL UNIT (A1 USE) AND ELECTRICAL WHOLESALE WITH TRADE COUNTER (B8 USE)

APPLICANT	DATE VALID	TARGET DATE
Albion Electrical Stores Limited	12/03260/FU – 26 TH July 20	20 th September 2012

Electoral Wards Affected:
Bramley and Stanningley

Yes Ward Members consulted (referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

- RECOMMENDATION: Approve subject to the following conditions:**
- 1. 3 year time limit;**
 - 2. In accordance with the approved plans;**
 - 3. Details of Cycle and Motorcycle facilities, notwithstanding the approved plans**
 - 4. Vehicle Spaces to be laid out**

5. **Approved visibility Splays/ Sightlines**
6. **Duty to comply with Service Management Plan**
7. **No vehicle over 10.5m in length shall deliver or service to the A1 part of the proposal**
8. **Details of Lighting Scheme**
9. **Openings hours to restricted to 07:30 – 23.00 hours for the A1 use and 07:30 – 18:00 for the B8 use.**
10. **Deliveries between the hours of 08:00 and 18:00 hours**
11. **Details of all Boundaries**

In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the Planning Policy Guidance Notes and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), the Leeds Unitary Development Plan 2001 (UDP) and the Leeds Unitary Development Plan Review 2006 (UDPR).

Policies GP5, BD6, BD7, N12, N13,

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

1.0 INTRODUCTION:

- 1.1 This application is brought before Plans Panel due to the number of objections which were received late in the application process, in the interests of democracy and transparency.
- 1.2 The application is a re-submission of a recently refused application. The application includes revisions to overcome the previous highway reason for refusal.

2.0 PROPOSAL:

- 2.1 The proposal is for the change of use and alterations of former car sales showroom (sui generis) to retail unit (A1 use) and electrical wholesaler with trade counter (B8 use). The proposal would form two separate planning units.
- 2.2 The proposal seeks to sub-divide the premises, having the retail unit located at the front of the premises and electrical wholesaler to the rear of the premises.

- 2.3 The proposed retail (A1) extends to 372 sq m of floor space, and the proposed electrical wholesaler with trade counter is 500 sq m, over part of the ground floor and basement levels.
- 2.4 The proposed also includes a 2m high enclosure to the eastern side of the building to create a service yard for the proposed A1 use.

3.0 SITE AND SURROUNDINGS

- 3.1 The application site consists of a detached building, which was last in use as a car showroom and associated grounds and parking area. The building is part single storey and part 2 storey's with a roof top parking area which is accessed by a ramp. The building appears to have been constructed in the 1960's and is of a functional, utilitarian appearance. The building has facing materials of render, metal cladding and concrete. The site has a rear parking area which is accessed from Half Mile Lane, which runs along the eastern boundary of the site. This rear parking area is enclosed by palisade fencing which is topped in parts by barb wire.
- 3.2 The site has a frontage onto Town Street/ Stanningley Road, and large forecourt onto this road, which was previously used to display motor cars. This frontage is enclosed by black railings. The locality is mixed in character with residential and commercial/ light industrial properties fronting Stanningley Town Street. A stone built Public House lie adjacent to the site, to the west, and a modern housing development lies to the rear of the site to the north. Stone built back-to-back properties lie to the east of the site, across Half Mile Lane.

4.0 Relevant Planning History:

- 4.1 This application is a re-submission of a previous applications (12/02084/FU) for the same use.
- 4.2 The planning application (12/02084/FU) was refused on 6th July 2012 on the following grounds.

It has not been satisfactorily demonstrated that the servicing of the proposed A1 use can be safely carried out within the front curtilage area, without displacing customer parking, due to the manoeuvring requirements of HGV's. This would result in conflict between vehicles and customers, whilst reducing the level of customer parking, and displacing parking onto the adjacent adopted highway which is located adjacent to a road junction. The application is also not supported by a Servicing Strategy and therefore it is considered that the proposals would be detrimental to safe and free flow of traffic, pedestrian convenience and highway safety. The application is therefore considered to be contrary to policies GP5 and T2 of the adopted Leeds Unitary Development Plan (Review 2006).

- 4.3 A previous advert application (12/02085/ADV) was also refused planning consent on 5th July 2012 on the following grounds.

The Local Planning Authority considers that the proposed illuminated totem sign due to its size, height, and siting at a road junction and opposite residential properties is unacceptable, as it would appear increasingly dominant and detract from visual amenity of this locality, particularly to the detriment of occupiers of residential properties opposite. The use of illumination will further exacerbate these concerns. The proposal is therefore contrary to policies GP5 and BD8 of the Leeds UDP Review (2006).

- 4.4 Following this refusal, a revised Advert application (12/03261/ADV) was submitted along with this application. This application was granted advert consent under delegated powers on XX September 2012.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 There were no negotiations with the applicant prior to the submission of the application. The previous reasons for refusal offered clear guidance to the applicant with the regard to the outstanding issues which needed to be resolved.

6.0 PUBLIC/LOCAL RESPONSE

- 6.1 The application was publicised by 3 site notices which were posted around the site on 10th August 2012. To date 8 individual objections have been received to the application, and a petition with approximately 130 signatures.

- 6.2 The points raised in the individual letters of objections are;
- There are too many convenience stores already in the locality
 - Goodlife Stores on Half Mile Lane would be forced to close, leaving people unemployed
 - If a crossing is to be installed, on street parking places which are used by patrons of others local shops, would be lost
 - The installation of a crossing would threaten highway safety
 - Impact on residential amenity in terms of HGV's, deliveries, frequency of customers, noise etc

- 6.3 The submitted petition objects to the application on the following grounds.
- Loss of independent stores
 - Road Safety Issues
 - Noise Nuisance

7.0 CONSULTATION RESPONSES

Statutory:

7.1 Highways

No objections subject to conditions.

Non-statutory:

7.2 Local Plans

No objection.

8 PLANNING POLICIES

8.1 National Planning Framework

8.2 Development Plan Leeds Unitary Development Plan Review 2006

- GP5 General Planning Considerations
- T2 Highway Safety
- S8 Maintenance and Enhancement of Neighbourhood Shopping
- E5 Development of employment uses on unallocated sites
- BD6 Extensions and Alterations
- BD7 New Shop Fronts

9.0 MAIN ISSUES

- Principle of Development
- Amenity Considerations
- Alterations / Visual Impact
- Highways/ Parking

10.0 APPRAISAL

Principle

- 10.1 There are no policies within the adopted Leeds UDP which are concerned with the retention of car sales premises, and to change this use to other uses. The site lies unallocated within the Leeds UDP. The proposal seeks planning consent for both an A1 and B8 use. Local Plans have raised no objections to the proposal. The retail unit has an area of 372 sq m. When assessing the application against the emerging Core Strategy, Policy P8 requires a sequential test to consider centres or neighbourhood parades within 500m walking distance. The Core Strategy is not yet adopted but it does carry limited weight, in any event there are no local centres within a 500m distance and on this basis it is considered the proposed unit satisfies policy P8. Policy S8 of the adopted Leeds UDP supports small retail convenience retailing which would serve a local need. The site lies in an established residential

area and it is considered the proposal does follow the policy guidance of policy S8.

- 10.2 Policy E5 supports employment uses (which include B8 uses) on unallocated sites when the use is compatible with the size, character, location and setting of that area, served by existing infrastructure and is not allocated for housing purposes. It is considered the proposal follows this guidance, given the previous use and the physical form of the building. It is therefore considered that the proposal is acceptable in principle subject to an assessment against all other normal development control considerations.
- 10.3 Most of the objections received seemed to be directed at the fact that that the A1 use is to be occupied by a national food retailer, and this would have an adverse impact on other existing nearby independent convenience stores. Competition between business's is not a material planning consideration and the application can not be refused on these grounds. No details have been provided of the occupiers of the A1 use, and theoretically the A1 use subject of this application could be occupied by a shop, hairdresser, undertakers, travel agents, post office, pet shop, sandwich bar and dry cleaners.

Amenity Considerations

- 10.4 The A1 unit seeks consent to open between the hours of 06:00 and 23:00 and the B8 use seeks consent to open 08:00 to 18:00 hours. The Proposed A1 unit is located to the front of the site facing onto Stanningley Road. This unit lies adjacent to the Public House to the west, the highway of Stanningley Road to the south and the highway of Half Mile Lane to the east. Stanningley Road is a busy main vehicular road which is characterised by a mix of differing commercial uses. Residential properties lie to the rear, north of the site, adjacent to the parking area of the proposed B8 use and across Half Mile Lane to the east of the site.
- 10.5 Although it is considered the proposal would be increasingly intensive when compared to the previous use of the site, it is not considered the proposal would have a significant adverse impact on the living conditions of nearby residential properties. The site lies adjacent to a Public House which is also open until 11pm. The retail element of the proposal does not lie adjacent to any residential properties, and is located at the front of the site adjacent to Stanningley Road. A block of flats 40- 45 Half Mile Close do lie to the rear of the site however only the side elevation, which contains one obscured glazed window faces onto this site. The parking area of the proposed B8 use lies adjacent to this block of flats, which will only be in use until 18:00 hours.
- 10.6 The hours of deliveries to the premises will be conditioned between the hours of 08:00 and 19:00 for both proposed uses, should the application be considered to be acceptable in all other respects. These hours are considered to be appropriate even though the A1 use is open until 23:00 hours, as deliveries can be fairly noise intrusive, with HGV reversing etc, when compared to the noise generated by customers visiting the premises. The delivery area is also located nearer to the residential properties located

on Half Mile Lane, when compared to the customer entrance to the A1 unit. This will be secured through planning conditions.

Alterations/ Visual Impact

- 10.7 The southern elevation which is the main frontage onto Stanningley Road comprises of a series of glazed window displays fronts, which are separated by concrete columns. Consent is sought to in-fill the end right hand window display with a render exterior. There is no objection to this as the building does not have a symmetrical appearance and is of a functional design. The left hand side of the building has a solid section at ground floor level which this element of the proposal will match. It is considered the proposal follows the policy guidance of BD6 and BD7.
- 10.8 The proposal includes an external enclosure to the east of the building. No elevations of this enclosure have been provided. In principle there is no concern to an enclosure in this location subject to a suitable design. A condition could be placed on the approval of this application for details of all walls and fencing. The existing railings to the front of the site are to be retained, along with the palisade fencing which encloses the rear parking area.

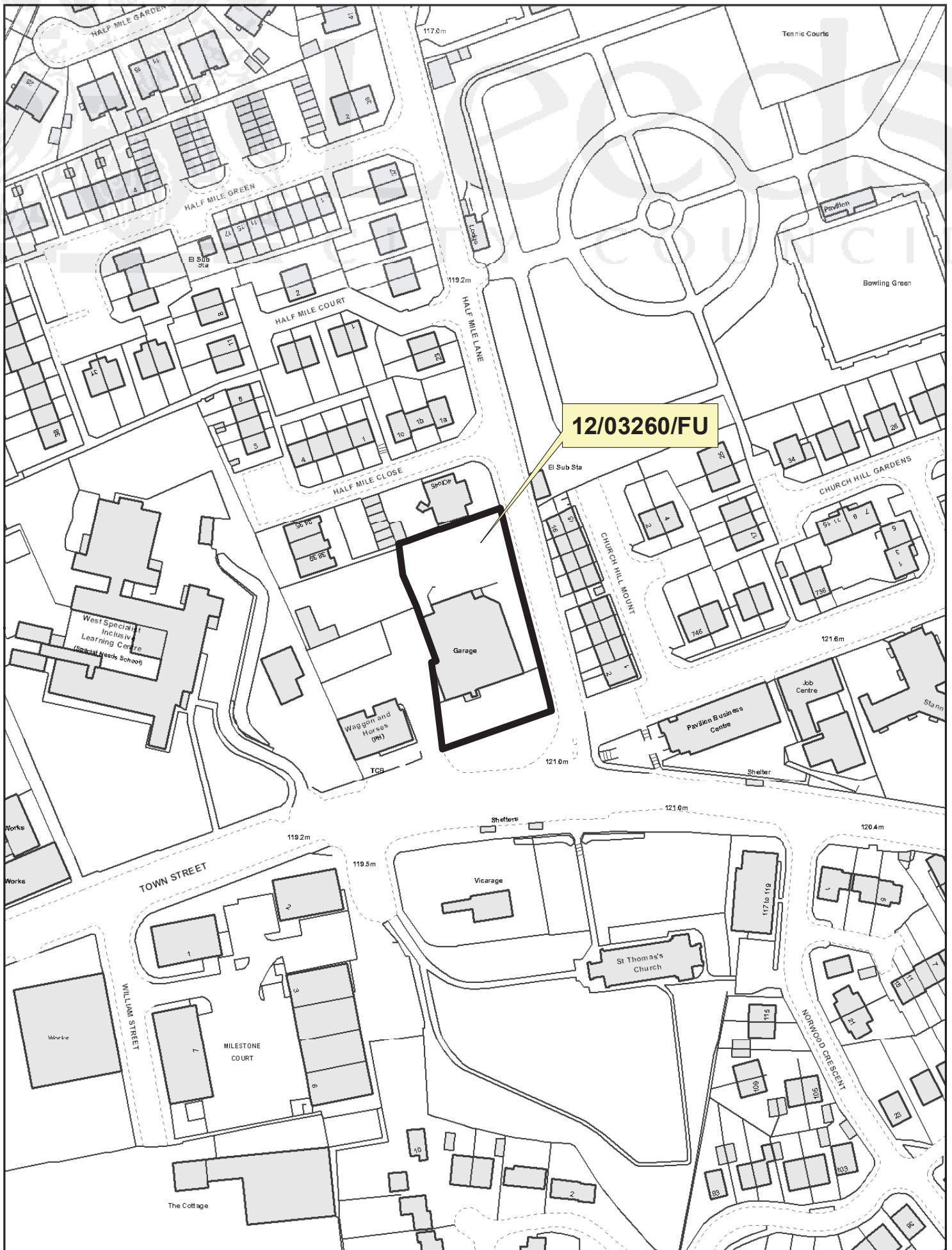
Highways/ Parking

- 10.9 The layout of the site has been revised several times at the request of Highway Officers who have concerns regarding the ability of HGV's to manoeuvre within the site, when making deliveries to the proposed A1 use. The application is now supported by a Service Management Plan and Highways have confirmed they are happy with this plan (subject to conditions) and the level of parking proposed. The proposed A1 use has 9 dedicated parking spaces, and the B8 use also has 9 dedicated parking spaces. There are a further 9 overspill spaces located on the roof of the building.
- 10.10 It is considered the proposal overcomes the previous highway reasons for refusal, and the proposal would not result in any threat to highway safety. Highway Officers did originally consider that the applicant should provide a zebra crossing adjacent to the site, but following further information from the applicant does not consider this is now necessary. Some of the objections are directed at the initial request for the zebra crossing, which is no longer being sought. It is considered the proposal follows policy T2 of the adopted Leeds UDP.

11.0 **CONCLUSION**

- 11.1 This application will bring into use a vacant building, which is located in an established urban area. The proposal is considered to follow the policy guidance of the Leeds UDP and is recommended for approval, subject to conditions.

12.0 **Background Papers:** Application file



12/03260/FU

Garage

SOUTH AND WEST PLANS PANEL





Originator: Terry Moran
Tel: 0113 3952110

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 11th October 2012

Subject: APPLICATION 12/03473/FU – CHANGE OF USE OF FORMER CHILDREN'S HOME TO 7 BED HMO AT 35 CLAREMONT DRIVE, LEEDS, LS6 4ED

APPLICANT	DATE VALID	TARGET DATE
Mr Jonathan Hall	10 August 2012	05 October 2012

Electoral Wards Affected:

Weetwood

Yes Ward Members consulted (referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:
Grant permission subject to the conditions specified on the appended earlier report and subject to the additional condition below:

- **There shall be a maximum of 7 lettable bedrooms.**

1. This application was discussed by Members of the West Plans Panel in September 2012 (the report considered at that meeting is appended). The Panel resolved to defer the application to the Chief Planning Officer for approval subject to the expiration of the statutory time limit and no new matters subsequently arising.
2. The application has been brought back to Panel because at the time of consideration of the application at the previous panel Officers were not aware that the permission for the use of the property as a children's home is subject to a personal condition as follows:

This permission shall enure only for the benefit of National Children's Homes for so long as the National Children's Homes are the owner and/or occupier of the whole site edged red on the approved plan.

3. This would mean that should the National Children's Home (NCH) cease to own or occupy the premises that the lawful planning use of the property would revert to Class C3 Dwelling House. The view of officers is that since the NCH are still the owners

that the property retains its lawful C2 use and as such similar considerations apply. Officers also remain of the view that the size of the property would limit its attractiveness to single family occupiers. It is considered however, that this is a matter which should properly be brought before the Panel,

4. Councillor Sue Bentley has also brought to the attention of officers that the property is now being advertised as a 9-Bed HMO as compared with the 7-bed HMO applied for. The agent has been asked to clarify this matter and the Panel will be advised of the response at the meeting.
5. The recommendation of Officers to the Panel is that although, the above matters are material considerations, they are of insufficient weight to justify a different decision being made and the Panel is recommended to grant permission as previously.



Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 13th September 2012

Subject: APPLICATION 12/03473/FU – CHANGE OF USE OF FORMER CHILDREN’S HOME TO 7 BED HMO AT 35 CLAREMONT DRIVE, LEEDS, LS6 4ED

APPLICANT

Mr Jonathan Hall

DATE VALID

10 August 2012

TARGET DATE

05 October 2012

Electoral Wards Affected:

Weetwood

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 conditions specified and subject to no further representations raising new material planning considerations being received prior to the expiry of the publicity period (14th September 2012)

1. Development to be commenced within 3 years
2. Development to be carried out in accordance with the approved plans.
3. In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government guidance and policy as detailed in the National Planning Policy Framework, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), the Regional Spatial Strategy 2008 (RSS) and The Development Plan, the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, T2, H15, N19
Neighbourhoods for Living

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

1.0 INTRODUCTION:

- 1.1 This application is brought to Panel at the request of Ward Councillor Sue Bentley who has objected to the application on the grounds that it would have an unacceptable impact on local amenity and result in an unacceptable loss of a property suitable for family occupation.

2.0 PROPOSAL:

- 2.1 The application is to change the use of a former Children's Home to a 7 bed House in Multiple Occupation. No external alterations are proposed.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site comprises a three storey building of red brick construction which is set in a substantial plot with lush vegetation on three sides. The site has two entrances, with a rear car park accessed from Claremont Road. The site is within the Headingley Conservation Area and is of a similar scale to other properties in the locality but differs significantly in terms of materials where the dominant form is of stone and slate. The site has a car park with room for approximately four vehicles off-street.
- 3.2 Properties within the immediate locality are typically larger residential houses, and appear to be predominantly single family houses with relatively spacious gardens.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 There have been no recent planning applications at this site.
- 4.2 A 2009 refusal at 88 Victoria Road in Headingley for change of use of a former Care Home to 12 bedroom HMO was allowed at Appeal, with the Inspector stating that the size and existing nature of the property was such as to not reasonably lend itself to occupancy as a single family dwelling. The inspector also noted the length of time the property had been on the market without selling. Application 09/02308/FU refers.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 There have been no pre-application discussions with regard to this site.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was publicised by Site Notice on 24th August 2012.
- 6.2 Six letters of representation including a letter from Ward Councillor Sue Bentley and the Leeds HMO Lobby have been received. These are all objections to the proposal, on the grounds of the loss of a property suitable for family housing, highway safety, lack of off-street parking, impact on balanced communities and potential increase in anti-social behaviour.

7.0 CONSULTATIONS RESPONSES:

STATUTORY

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

NON-STATUTORY

7.2 Highway Authority – Comments will be provided to the Plans Panel at the meeting.

7.3 Neighbourhoods and Housing – No objection

8.0 PLANNING POLICIES:

DEVELOPMENT PLAN

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this application to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

8.2 The Development Plan for Leeds currently comprises the Regional Spatial Strategy For Yorkshire and The Humber (published in May 2008), and the Leeds Unitary Development Plan Review (July 2006), policies as saved by direction of the Secretary of State, dated September 2007. The most relevant policies in the adopted Leeds Unitary Development Plan are listed below:

UDPR POLICIES:

8.3 Policy GP5 – seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

8.4 Policy T2 – this aims to avoid any undue impact on highway safety.

8.5 Policy N19 – this seeks to ensure that new development should preserve and enhance areas designated as Conservation Areas

8.6 Policy H15 – this refers to the Area of Housing Mix and sets out a range of criteria aimed at promoting mixed communities

REGIONAL PLANNING POLICIES:

8.7 It is not considered that the RSS has any policies of direct relevance to this application.

RELEVANT SUPPLEMENTARY GUIDANCE:

8.8 Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Unitary Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes:

- Neighbourhoods for Living

NATIONAL PLANNING POLICY:

8.9 The National Planning Policy Framework was issued at the end of March 2012 and is now a material planning consideration. The NPPF provides up to date national

policy guidance which is focused on helping achieve sustainable development. There is a presumption in favour of sustainable development. The basis for decision making remains that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Planning System should have a role in " supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being" (NPPF paragraph 7).

EMERGING CORE STRATEGY:

- 8.10** The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy set sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.
- 8.11** Paragraph 5.2.22b of this document states that the factors to consider when appraising the suitability of a building for HMO use are that account should be had to the size of the dwelling, the amount of garden and private amenity space available, the location of the property and any prolonged period of vacancy.
- 8.12** Draft Core Strategy Policy H6 refers to development proposals for the creation of new HMO's it refers to 5 criteria that should be considered when assessing planning applications;
- i) To ensure that a sufficient supply of HMOs is maintained in Leeds ,
 - ii) To ensure that HMOs are distributed in areas well connected to employment and educational destinations associated with HMO occupants,
 - iii) To avoid detrimental impacts through high concentrations of HMOs, which would undermine the balance and health of communities.
 - iv) To ensure that proposals for new HMOs address relevant amenity and parking concerns.
 - v) To avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs.

9.0 MAIN ISSUES:

- It is the considered view that the main issues are:
- Principle of use
- Impact on neighbouring residential amenity
- Amenity and living conditions for future residents
- Parking provision
- Area of Housing Mix

10.0 APPRAISAL:

PRINCIPLE OF USE

- 10.1** The application site is within walking distance of both of the Universities and is considered to offer a sustainable use of a vacant building which is in need of re-use. The site lies within an existing residential settlement which is already served by existing infrastructure capable of serving a development of the scale proposed. The proposal is not considered to result in the loss of a building suitable for occupation by a family due mainly to its large size.

IMPACT ON RESIDENTIAL AMENITY

- 10.2** The site has previously been used as a Children's Care Home which falls within the C2 Use Class. Such a use is likely to have generated significant comings and goings to the property with the potential for 24-hour callouts by staff on a frequent basis. The proposed conversion to a 7 bed HMO is considered to result in similar levels of activity to and from the site during the day but less so at anti-social hours as the use of the property will be purely residential rather than offering counselling or support. As such, it is considered that overall levels of activity will be on a par with, if not in fact less than previously and thus offer no undue increase impact on residential amenity.

AMENITY AND LIVING CONDITIONS FOR FUTURE RESIDENTS

- 10.3** The proposed conversion provides accommodation for up to 7 residents. Each room is relatively well-lit, affording acceptable levels of privacy. As such, the accommodation is likely to be on a par with that available in the locality and therefore acceptable on balance. No new windows or external alterations are proposed as such it is not envisaged the proposal will result in any changes to the outlook, privacy and amenity of neighbouring residents.

PARKING PROVISION

- 10.4** The site has space for four vehicles to be parked off-street. The Highways Officer has not yet commented on the proposal however, but Officers consider that the site is in a highly sustainable location with easy access to frequent bus services and that there are no current waiting restrictions for on-street parking. As such, the proposal is considered acceptable with regard to parking provision.

AREA OF HOUSING MIX

- 10.5** This policy states that within the area of housing mix planning permission will be granted for housing intended for occupation by students, or for the alteration, extension or redevelopment of accommodation currently so occupied where:
- The stock of housing accommodation, including that available for family occupation, should not be unacceptably reduced in terms of quantity and variety;
 - There would be no unacceptable effects on neighbours' living conditions including through increased activity, or noise and disturbance, either from the proposal itself or combined with existing housing similar accommodation;
 - The scale and character of the proposal should be compatible with the surrounding area;
 - Satisfactory provision should be made for car parking
 - The proposal should improve the quality or variety of the stock of student housing;

In response to the above points:

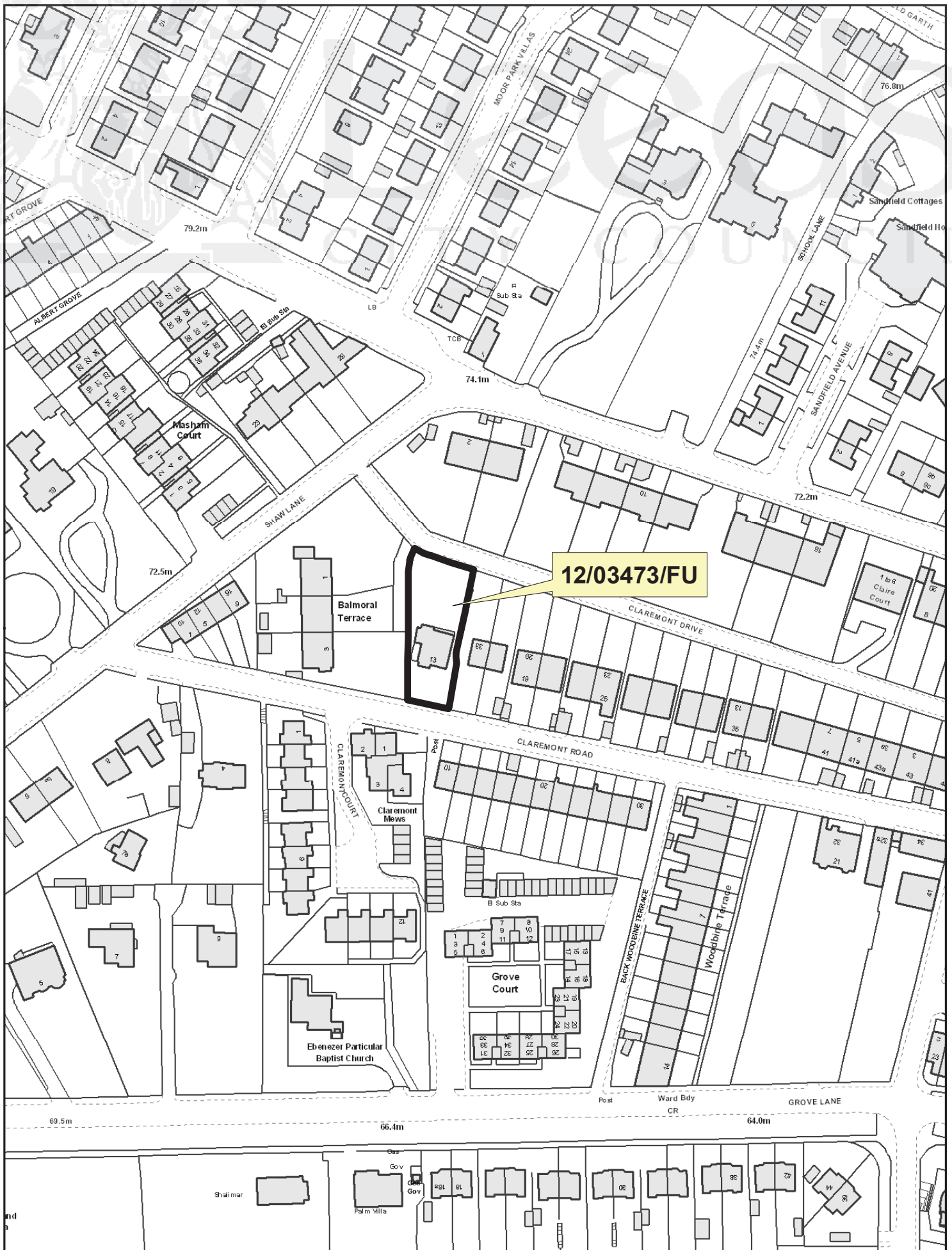
- The site was previously used as a Children's Home (C Use Class). Although such a use may appear on face value to be a residential use, the definition of C2 is very different from a C3 use, being defined as a use for the provision of residential accommodation and care to people in need. As such, there will be no loss of existing family housing accommodation;
- It is considered that the levels of activity produced by 7 residents will be on a par with that previously generated by the use of the building as a Children's Home where it is acknowledged that there would have been occasional call-outs and impromptu visits to and from the site by staff and callers.
- There are no external additions or extensions to the property. As such, the proposal has no impact on the existing scale or character.
- The site has 4 dedicated off-street parking spaces, with the site considered to be in a highly sustainable location with no current waiting or parking restrictions in place. As such, the proposal is considered acceptable on balance with regard to parking provision.
- The proposed bedrooms within the HMO and the associated living space would have adequate levels of light and are of a reasonable size. The scheme is thus considered to comply with this element of the policy.

11.0 CONCLUSION:

- 11.1** On balance, the proposed change of use of this property to a 7 bed HMO is considered acceptable. The site is located in an area with a low number of HMO's and as such will contribute to a mix of accommodation which can help create balanced communities. It is therefore considered that the proposal will prove beneficial through the bringing back into use of a vacant property in the Conservation Area, and that the scale of shared housing within the scheme is such as to not result in any undue harm. Members are therefore recommended to approve the scheme subject to the conditions set out at the head of this report.

Background Papers:

Application and history files.
Certificate of Ownership.



WEST PLANS PANEL

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Originator: Mathias Franklin

Tel: 011322 77019

Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 11TH OCTOBER 2012

Subject: APPLICATION 12/02712/FU - Part three storey part four storey block of 18 cluster flats (112 rooms), retail store at ground floor, associated parking and landscaping at Land at Woodhouse street, Woodhouse, Leeds,

APPLICANT	DATE VALID	TARGET DATE
Mr Kissun Parmar	03.07.2012	08.11.2012 PPA

Electoral Wards Affected:

Hyde Park & Woodhouse

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 completion of a Section 106 agreement and the conditions listed below. The Section 106 agreement shall include:

- 1. Off site greenspace contribution of £40,660.27**
- 2. Upgrading of one existing bus stops to provide a shelter and real time display.**
Total contribution £20,000.00

List of planning conditions:

1. Commencement of development within 3 years.
2. Approval of plans
3. Samples of all external walling, roofing and surfacing materials to be approved prior to commencement of development
4. Submission of landscape scheme and implementation schedule
5. Tree protection measures for existing trees
6. Replacement tree planting if landscaping fails within 5 years of planting.
7. The development shall not be occupied until a scheme for Woodhouse Street,

Holborn Approach and surrounding streets to restrict/prevent parking has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and retained in accordance with the approved timescales.

8. Means of access shall only be as shown on the approved plans
9. Development shall not commence until details of the proposed method of closing off and making good all existing redundant accesses to the development site have been submitted to and approved in writing by the local planning authority.
10. Notwithstanding the details shown on approved plan no development shall take place until a plan showing sightlines of 2.4m x 70m at the junction of the retail store with Woodhouse Street and 2.4m x 43m at the junction of the residential development with Holborn Approach has been submitted to and approved in writing by the Local Planning Authority. There must be no intrusion within the sightlines greater than 1m in height above the adjacent carriageway level and this must be maintained and retained as such for the lifetime of the development.
11. Prior to commencement details of refuse, cycle and motorcycle facilities to be submitted and approved by the LPA.
12. Development shall not be occupied until a Car Park and Servicing Management Plan (inc. timescales) has been submitted to and approved in writing by the Local Planning Authority.
13. Development shall not commence until details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles (including workforce parking) have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided for the duration of construction works.
14. No construction operation shall take place before 07.30 hours on weekdays and 08.00 hours on Saturdays or after 19.00 hours on weekdays and 13.00 hours on Saturdays with no operation on Sundays or Bank Holidays
15. Contaminated land conditions.
16. Surface water drainage strategy to be submitted prior to the commencement and implanted in accordance with approved details.
17. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
18. Prior to the commencement of development a scheme for crime reduction opportunities from the detailed design and material of the building shall be submitted and approved in writing by the LPA.
19. The development shall submit a pre-commencement report outlining its BREEAM rating then the development shall be constructed in accordance with this assessment. The development shall aim to be rated 'excellent' on completion.
20. The combined noise from fixed plant shall not exceed a rating level as defined by BS4142 by more than 5dB(A) below the lowest background (L90) during which the plant will operate. Details of said plant shall be submitted to the Local Planning Authority and approved in writing prior to occupation.
21. Delivery hours of the retail unit including refuse collection shall be restricted to after 0800 hours and before 1900 hours Monday to Saturday with no deliveries on Sundays or Bank Holidays.
22. The hours of operation of the retail units shall be restricted to 0700 hours to 2300 hours.
23. The residential development shall only be occupied by students in full time education.

In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the National Planning Policy Framework and (as specified below) the content and policies within Supplementary Planning

Guidance (SPG) and The Development Plan consisting of The Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, BD5, N2, N12, N13, T2, T24, S2, S9, LD1, H15
Neighbourhoods for Living SPG

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

1.0 INTRODUCTION:

1.1 This application is presented to Plans Panel due to the large number of representations received and the community significance of the development.

2.0 PROPOSAL:

2.1 The proposal is for a mixed use development comprising a retail unit (289sq.m gross floor area of which 195sqm will be used for sales area) and 112 bedroom student accommodation arranged in cluster flats.

2.2 The proposal is for a new building on the site. The building would be part three and part four storeys. The retail element would front Woodhouse Street and would have its own car parking and vehicular access from Woodhouse Street. Above the retail unit would be two floors of residential accommodation. The building would project from Woodhouse Street through the site towards Holborn Approach. This central section of the building would be four storeys in height when viewed from the courtyard elevation facing Midgley Gardens. The Holborn Approach elevation would be four storeys in height. The building would be partially sunken into the site to reduce its overall height in the street scene. The building would appear as three storeys in height when viewed from Holborn approach and Welsey Court. The roof form is pitched with small dormers.

2.3 The building would be constructed out of brick and render to match the local area. The roof would be slate coloured tiles. The shop frontage would have a contemporary appearance utilising glazing in the main ground floor elevations.

2.4 20 Car parking spaces would be provided for the retail element and delivery vehicles would enter the site and exit the site form Woodhouse Street only. The student accommodation would have its own 16 space car park contained within its own courtyard which would be accessed via Holborn Approach through a port-culis drive.

3.0 SITE AND SURROUNDINGS:

3.1 The site is located in a predominantly residential area however there are a parade of shops, a church and public house and a community centre located close by on Woodhouse Street. Opposite the site on Woodhouse Street are rows of red brick Victorian terraces, many with large dormers. Adjoining the site is a terrace row which has been 'sawn in half' and presents a blank gable to the site, except for one bath

room window. A church bounds the site separated by Welsey Court. Opposite the site on Holborn Approach is post-war two storey housing.

- 3.2 The site currently is vacant and has largely overgrown with self seeding trees and vegetation. There are no TPO trees on site but there are TPO trees located on Midgley Gardens adjoining the site. The site was once the home of the Ace of Clubs nightclub but the building was demolished over 10 years ago. The site is not allocated within the UDP but is located within the defined Area of Housing Mix. The site is roughly 400metres from the nearest defined centre, Hyde Park Corner.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 12/02931/FU - Retail unit with storage area office and car parking. Pending consideration

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The application has been the subject of pre-application discussions before submission. The applicant also held a community consultation event (06.03.12 & 07.03.12) in Woodhouse Street community centre. They advertised this event by placing notices on 4 lamposts and sending 50 residents who live directly around the site letters. A total of 28 residents attended over the two days. The applicants state that the overwhelming response to the proposals were positive.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been publicised by means of site notices;. There have been a total of 39 representations received of which 32 are in support and 7 are objecting. There have also been petition with 148 signatures of support and 157 generic letters of support individually signed. The Friends of Woodhouse Moor have produced two petitions with 51 and 25 objections respectively.

- 6.2 The following issues have been raised:

- 1 The stated history regards the use of this land.
- 2 History of the applicant
- 3 Insufficient parking
- 4 Volume of traffic in a residential area
- 5 Rights of way x 3
- 6 Noise pollution
- 7 Environmental health
- 8 Increase of motor related crime and theft.
- 9 Change to community social structure
- 10 We are supportive of the present local community shops and do not see a need for another similar or larger store.
11. Out of scale with the local area,
12. Overbearing on neighbours
13. The site should be turned into a public garden,
14. Landscaping plan is poor
15. Increase in crime

- 6.3 North Hyde Park Neighbourhood association object to the application on the following grounds.
1. Increase in student numbers will harm community.
 2. No need for a retail store
 3. Family houses are needed, not student flats
 4. Too dense a development

- 6.4 The letters of support make the following comments:
1. The scheme is a great idea
 2. Re-use of the derelict site is good
 3. Upgrading Leslie Terrace footpath and adding lighting is welcome
 4. Re-using the site and improving the surrounding streets will reduce crime
 5. The area will benefit from a convenience store
 6. Benefit to the community
 7. Will create jobs for the local community
 8. Good location for students so close to the city centre and the Universities
 9. Good design to the building

7.0 CONSULTATION RESPONSES:

- 7.1 Highways – no objections subject to conditions.
- 7.2 Mains Drainage – no objections subject to conditions for surface water drainage.
- 7.3 Environmental Health - If planning permission is to be granted this Department would recommend conditions are imposed in order to protect the amenity of the existing residential area regarding noise, delivery hours and construction.
- 7.4 Rights of way - there are claimed footpaths crossing the site. The developer has applied to extinguish this route. There are two other footpaths running parallel to the development site. The Wesley Court footpath will be upgraded and lit which will be funded via a Section 278 Agreement by the developer.
- 7.5 Yorkshire Water – N objection subject to conditions and a diversion order for the existing underground sewer that crosses the site.
- 7.6 Metro – Request a contribution to upgrade a bus stop on Woodhouse Street to provide Real Time Display and a shelter.

8.0 PLANNING POLICIES:

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan consists of the Regional Spatial Strategy for Yorkshire and the Humber adopted in May 2008 and the Leeds Unitary Development Plan Review (2006).
- 8.2 The most relevant Policies in the adopted Leeds Unitary Development Plan are outlined below.

Policy GP5 refers to detailed planning considerations and states that development proposals should seek to avoid loss of amenity.

Policy BD5 refers to new building design

Policy N2 refers to the provision of greenspace

Policies N12 and N13 refer to the good urban design considerations and placing making

Policy H15 refers to proposals for student accommodation.

Policy S2 refers to the protection of the vitality and viability of town centres.

Policy S9 refers to out of centre small scale retail development.

Policies T2 and T24 seek to maintain adequate vehicle access and levels of vehicle parking provision with no undue detriment to other highway users.

Neighbourhoods for Living SPG.

8.3 National Planning Policy Guidance:

The National Planning Policy Framework came into effect on 27th March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development:

“At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.” (para 14).

8.4 The Government’s pursuit of sustainable development involves seeking a wide variety of positive improvements including:

1. making it easier for jobs to be created in cities, towns and villages
2. replacing poor design with better design
3. improving the conditions in which people live, work, travel and take leisure

8.5 Paragraph 24 of the NPPF states:

“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale”.

Emerging Core Strategy

The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.6 Nearby Hyde Park Corner is designated as a 'Lower Order Local Centre' in the centres hierarchy set out in Policy P1 of the Draft Publication version of the Core Strategy.

- 8.7 Draft Policy P4 sets out development guidelines for shopping parades and small scale standalone food stores serving local neighbourhoods and communities.
- 8.8 Emerging Core Strategy Policy P8 sets out the thresholds above which a sequential assessment and impact assessment are required for retail proposals. The amount of retail floorspace proposed falls below this. Policy P8 indicates that all centres within 500 metres walking distance of the application site should be used for the sequential assessment
- 8.9 Draft Core Strategy Policy H6 refers to proposals for student developments. In particular it states:

B) Development proposals for purpose built student accommodation will be controlled:

- i) To help extend the supply of student accommodation taking pressure off the need for private housing to be used,*
- ii) To avoid the loss of existing housing suitable for family occupation,*
- iii) To avoid excessive concentrations of student accommodation (in a single development or in combination with existing accommodation) which would undermine the balance and wellbeing of communities,*
- iv) To avoid locations which are not easily accessible to the Universities by foot or public transport or which would generate excessive footfall through quiet residential areas.*

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- Principle of the development
- Design, scale, siting and appearance
- Neighbours amenity
- Amenity of future occupiers.
- Highway considerations
- Landscaping
- Section 106

10.0 APPRAISAL:

10.1 The site comprises previously developed land. Planning policy supports the re-use of brownfield sites in sustainable locations. The proposed retail element of the scheme is assessed against the emerging policies of the Core Strategy which deal with out of centre retail locations. The NPPF recognizes that out of centre food retail can have a positive effect in providing amenities to local communities. The scheme has been assessed against the requirements of UDP policy S9 for small scale out of centre retail development. This UDP policy will be replaced by the emerging core strategy which is in line with the NPPF. It is not envisaged that the proposal would harm the vitality and viability of the Hyde Park Corner local centre in accordance with policy S9 of the adopted UDP. The applicant has satisfactorily addressed the requirements of UDP policy S9 and draft core strategy Policies P4 and P8 in terms of the sequential assessment by demonstrating that there is no sequentially preferable site within a town centre or edge of centre location within 500m walking distance of the site. Whilst being an out of centre location, the site lies within a

relatively accessible location and relates well to other existing retail/town centre uses situated nearby albeit undesignated in terms of NPPF. The convenience store is also well located to serve the nearby residential area.

- 10.2 The principle of student housing is considered acceptable in this location close to the Universities. This would be an infill site and it's redevelopment would be an opportunity for investment and regeneration of the area. The proposal is considered to comply with the relevant provisions of policy H15 and draft Core strategy policy H6. The proposal would make a positive contribution to the stock of housing available for students. The proposal is not in a location where a concentration of purpose built student accommodation already exists. It does not result in the loss of any existing housing suitable for occupation by a family. As will be discussed below the parking provision is acceptable for the level of accommodation being proposed and given its proximity to the universities the site is considered very sustainable. The proposal is not envisaged to harm the living conditions of neighbouring residents by reason of increased comings and goings. The proposed building does have a large footprint but has been designed to fit within the site and respond to local character in terms of detailing and materials and is not considered to be out of keeping with the local area. The design and appearance of the scheme is considered to break up the overall scale and massing of the building. The regeneration benefits to the area and the site in particular are positive.
- 10.2 The site is located in a predominantly residential area and sits between two clear building styles namely, the Victorian terrace rows facing the site on Woodhouse Street and the post war housing across Holborn Approach. The proposal has had regard to this local context in forming its design. The use of pitched roof and dormers which are characteristic of the area are appropriate in this context. The scale of the building at 3 and 4 storeys would be an increase in relation to neighbouring properties but as the scheme is partially sunken into the site there should only be limited views of the four storey element of the building. It is also noted that there are examples in the local area of new build four storey apartments so the development should not appear out of character. In addition the use of brick and render is an appropriate palette of materials given the sites context of red brick terraces and rendered post war housing.
- 10.3 The proposal is considered to provide a good street frontage to Woodhouse Lane. The use of a gable roof design will help the building fit into the street scheme. The pitched roof for the main body of the proposal and for the roof form fronting Holborn approach is considered in keeping with the diminishing scale of the post war housing. The proposed elevation fronting Holborn Approach will appear as a three storey building as the lower ground floor level is sunken and the existing road level of Holborn Approach is higher than the site. This coupled with the proposed boundary treatment should provide screening when viewed from the highway. This proposed elevation is considered in keeping with the street and should provide an attractive new street frontage. The applicant has stated that the development is aiming to deliver a BREEAM 'Excellent' rating. A planning condition to ensure that the development achieves this BREEAM rating has been attached.
- 10.4 The proposed bedrooms above the retail unit fronting Woodhouse Street maintains 15 metres separation distance to the existing windows located on the gable elevation of the end of the terrace rows. This distance is considered sufficient to preserve privacy given the existing windows already look out directly onto the street. The proposal maintains 12 metres separation distance from the proposed bedroom windows to the side boundary of the garden of the flats within 62 Holborn

Approach. Again this distance is considered sufficient to ensure that the rear of No.62 Holborn Approach and the garden area of this unit is not over looked. There is approximately 21 metres between the proposed front elevation of the student block and the existing elevation of the post war housing on Holborn Approach. The existing properties on Holborn Approach only have one window on the elevation facing the proposal, this is located at first floor level. As such no serious over looking or loss of privacy from the proposal is envisaged upon the existing neighbours. There is 29 metres from the proposed courtyard elevation to the boundary with Midgley Gardens. Taking account of the size and siting of the proposed development the proposal is not envisaged to result in any serious over looking or loss of privacy to neighbouring residential properties or gardens.

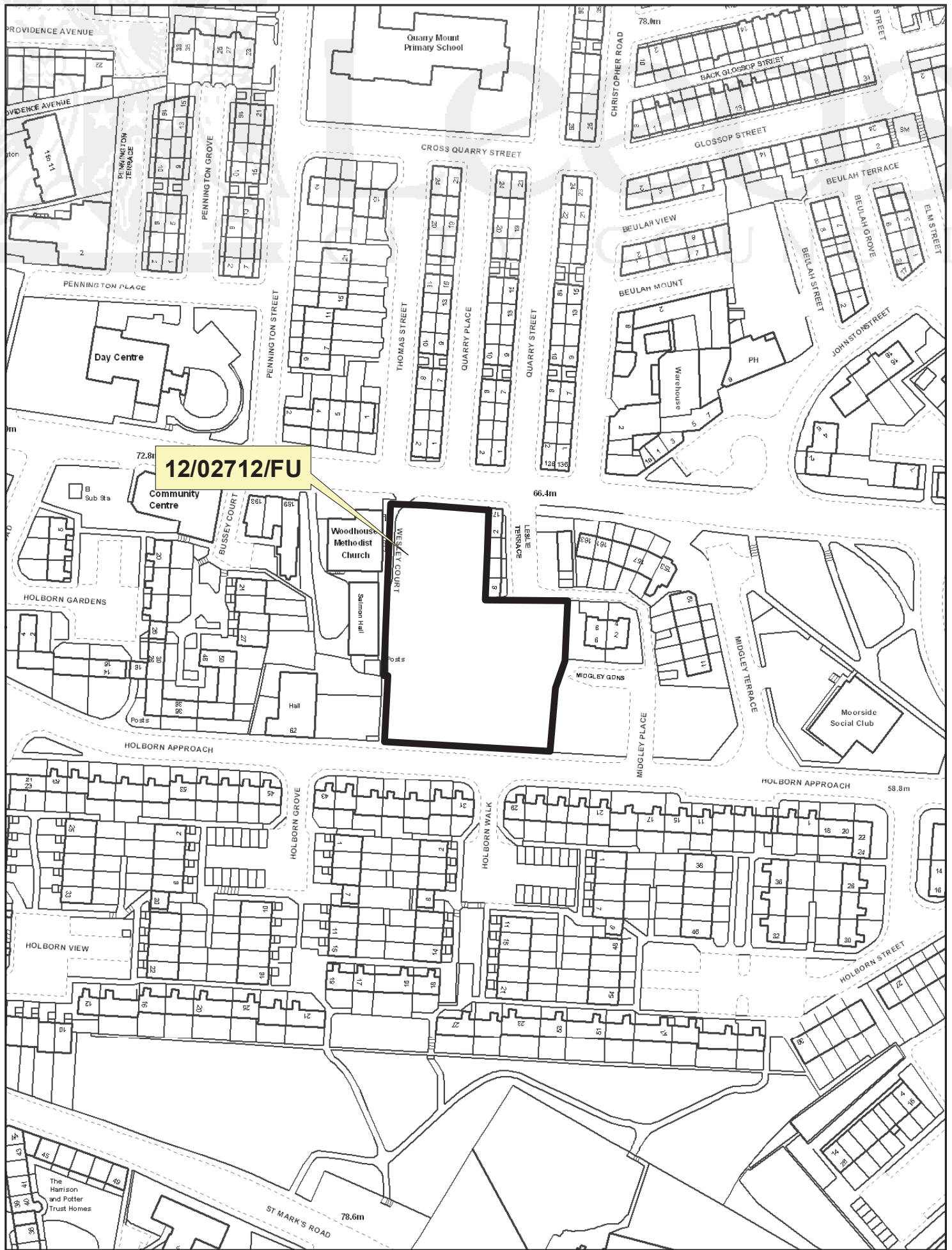
- 10.5 The introduction of 112 students into the area is not considered likely to have any significant impacts on the local community. The site is self contained and the development would be a managed facility. The future occupiers would likely walk to and from the Universities and potentially into the city centre which may take them through residential streets. These routes however are well defined and given the scale of the development the likely impacts upon the community are not envisaged to be substantial from the comings and goings of the future occupiers. It is noted that some objectors are concerned with a potential increase in crime as a result of the development. The scheme has been designed to ensure that the site is secure. The layout of the scheme provides for new windows overlooking public footpaths and public spaces. Natural surveillance provides a good deterrent to opportunities to crime and in addition the upgrading and lighting of the main footpath link between Woodhouse Street and Holborn Approach is considered positive in reducing the opportunities for crime. A condition has been attached requiring the developer to submit a crime reduction plan prior to the commencement of development. This should ensure that the details of the buildings design and material should take the opportunities to reduce crime.
- 10.6 The proposal is considered to afford future occupiers of the student cluster flats with a good level of accommodation. The bedroom windows have been increased in size and all have a good level of natural light and outlook. The cluster flat arrangements means that future occupiers will have large kitchen/dining rooms to share in addition to en suite bedrooms. The scheme is designed to provide a reasonable amount of communal outdoor amenity space along with secure car parking, cycle and motor cycle facilities. The site is located close to local amenities, good public transport links and is in easy walking distance of the Universities, Woodhouse Moor and the City Centre.
- 10.7 In relation to the retail element the access has been designed to accommodate the customer and service/delivery vehicles that would visit the development. The servicing arrangements are satisfactory subject to restrictions being placed on the size and times of refuse collection and delivery vehicles. This has been covered by a condition requiring a Service Management Plan to be submitted and agreed prior to the store first coming into use. The level of car parking proposed is in line with UDP guidelines at 20 parking spaces for the retail element. In addition secure short stay cycle parking spaces have been provided for customers. Waiting restrictions will be necessary on the Woodhouse Street frontage to restrict parking and thereby ensure safe operation of the access. This has been secured via a condition requiring such works to be completed prior to the store first coming into use. The works themselves will be delivered via a Section 278 Agreement. Autotracking has been used to demonstrate that refuse/delivery vehicles can safely manoeuvre within the site such that they can enter the highway in a forward gear.

- 10.8 In relation to the residential element the access and internal manoeuvring area have been autotracked to clearly demonstrate the refuse and delivery vehicles can safely turn within the site such that they can enter the highway in a forward gear. The site is considered to be in a sustainable location and the level of car parking proposed (16 spaces) is in line with similar developments located in close proximity to the University. In addition the proposals would provide 25 secure cycle parking spaces and 8 motorcycle parking spaces. Existing waiting restrictions are in place on Holborn Approach and surrounding streets which restrict/prevent parking. These will need to be reviewed and amended to accommodate the proposed access and to prevent overspill parking from the site taking place on the highway. The works themselves will be delivered via a Section 278 Agreement. There is a pedestrian link between Holborn Approach and Woodhouse Street (known as Wesley Court). This route is in a poor state of repair and is unlit. Residents of the proposed dwellings would use this route to access local facilities (including the proposed retail unit) and bus services on Woodhouse Street. As part of the development proposals the applicants has agreed to upgrade and light this route this work would be done under a S278 Agreement.
- 10.9 Two claimed footpaths cross the site. The applicant has applied to extinguish the footpaths which run through the site. There is another footpath route which around the site and provide access from Woodhouse street to Holborn Approach. The Wesley Court route will be upgraded and lit as part of this planning application.
- 10.10 The proposal has been amended to ensure that the TPO trees located adjacent to the site on Midgley Gardens will not be harmed by the development. The building has been stepped away at this location to ensure the root protection areas of these trees are not affected. The proposed landscaping scheme has also been enhanced by the provision of dwarf brick boundary walls to the Holborn Approach and Woodhouse Street frontages. Tree planting is proposed on site between the development and Holborn Approach and within the amenity area facing Wesley Court. Overall the proposal is considered to provide a good landscaping scheme which will add to the character of the area.
- 10.11 The proposed development generates a requirement to provide public open space. This requirement has been met via an off site contribution to enhance public open space in the locality. This will be secured via a Section 106 agreement. In addition to the public open space contribution this development will also contribute £20,000.00 towards the upgrading of an existing bus stop on Woodhouse Street. This upgrade will provide a shelter and a real time display. Both these contributions have been considered in light of the CIL regulations and are considered to meet the tests laid out.
- 11.0 CONCLUSION:**
- 11.1 After careful consideration of all relevant planning matters it is considered that the proposed development is acceptable subject to the imposition of suitable conditions and the completion of a Section 106 Agreement. The proposal is therefore recommended for approval.

Background Papers:

Application file;

Certificate of Ownership.



SOUTH AND WEST PLANS PANEL

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Originator: Nigel Wren

Tel: 0113 3951817

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 11th OCTOBER 2012

Subject: PRE-APPLICATION PRESENTATION FOR A PROPOSED REPLACEMENT PRIMARY SCHOOL, WIDE LANE, MORLEY. (PREAPP/12/00881)

APPLICANT	DATE VALID	TARGET DATE
Public Private Partnership Unit - LCC		

Electoral Wards Affected:

Morley

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

For Members to note the content of the report and presentation and to provide any comments on the proposals.

1.0 INTRODUCTION:

- 1.1 Children's Services have concluded a statutory process which aims to deliver additional primary school provision on the site of the existing Morley Newlands Primary School. This proposal was approved by Executive Board at their meeting of 16th May 2012. The demand for additional primary school places is set out in a supporting statement prepared by Children's Services which indicates that within this catchment a three form entry to accommodate an additional 210 children is required plus a nursery provision of 39 places. The existing school roll is currently 420 the proposed new school will therefore increase the size to 630 plus 39 nursery school places.

2.0 PROPOSAL:

- 2.1 The project is to build a new three form entry primary school with a 39 place nursery on the site of the existing Morley Newlands Primary School together with parking, new safe route to school, new playing pitch and multi use games area. The existing school will remain operational during the proposed construction period of May 2013 to July 2014.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to Newlands Primary School which is situated off Wide Lane to the south and fronted by Albert Road to the west. To the north and east lie residential units. The main school building is two storey and part single storey in height. The main school building is constructed of brick, and part single and two storey in height. There are several existing prefabricated units located in the site with the remainder of the site used as a playing field and parking areas. Land levels across the site vary due to various undulations but generally the incline is towards the southern aspect of the site. The school site is bordered by palisade fencing. The surrounding area is largely residential in character.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 09/00042/FU – Detached block of 3 prefabricated classrooms – Approved 29/4/09
23/60/04/FU – Renewal of permission for temporary prefabricated classroom units – Approved 30/3/04
23/328/03/FU - Detached prefabricated classroom to school – Approved 29/7/03
23/261/00/FU - Detached prefabricated classroom to school – Approved 19/9/00
23/194/99/FU – Detached prefabricated classroom to school – Approved 10/8/99
23/379/96/FU - Detached prefabricated community centre to school – Approved 20/12/96
23/120/84/ - Detached prefabricated classroom to school - Withdrawn
23/163/83/ - Detached prefabricated classroom to school – Approved 4/7/83
23/618/78 - Detached prefabricated classroom to school – Approved 18/9/78
23/145/75/ - Detached prefabricated classroom to school – Approved 5/5/75

In addition there are various consents for extensions and alterations to the main school building.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant has been engaged in pre-application discussions with the applicant since mid 2011.
- 5.2 A public consultation event was held on the 19th September and attended by members of the local community, councillors, local community groups, parents. Governors, teachers, pupils and members of the design team. Positive feedback was received in the whole praising the form of the building the design of the interior / exterior spaces and the improvements to vehicular / pedestrian access. An issue was raised about the new pedestrian entrance from Stanley road and the impact this will have on traffic and noise.

5.3 Children Services have met with Local Councillors on the 5th September to discuss the scope of the scheme. The feed back was generally positive.

6.0 PLANNING POLICIES:

6.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage.

6.2 The existing school buildings and hard play areas are unallocated in the Adopted Leeds UDP (Review, 2006). The playing fields are allocated as a Protected Playing Pitches. The proposed plans shows the development to be constructed on allocated Protected Playing Pitches, Policy N6.

There are a number of relevant policies in the adopted Leeds UDP Review (2006) as follows:

BD5: New buildings should be designed with consideration of their own amenity and surroundings.

LD1: Landscape schemes to provide visual interest.

GP5: Development proposals should resolve detailed planning considerations.

N12: Urban design: Spaces between buildings of importance, new buildings should be good neighbours and respect character and scale of surroundings.

N13: Building design should be high quality and have regard to character and appearance of surroundings.

T2: Development should not create problems of highway safety.

T24: Parking standards should be met.

6.3 Supplementary Planning Guidance / Documents:

SPG Neighbourhoods for Living.

6.4 National Planning Guidance:

National Planning Policy Framework

6.5 General comments

6.6 Section 38(6) of the Planning & Compulsory Purchase Act 2004, indicates that in considering planning applications the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

6.7 The site forms part of, or constitutes a playing field as defined in Article 10(2) the Town and Country Planning (General Development Procedure) Order 1995 (as amended by SI 1996/1817 and SI 2009/453), in that it is on land that has been used as a playing field within the last five years, and the field encompasses at least one playing pitch of 0.2 ha or more, or that it is on land that allocated for the use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement. In this context it will be necessary to consult Sport England as a statutory consultee.

- 6.8 Although Sport England would prefer the existing playing fields to be left intact, as was noted in their consultation response above, they would have no objection in principle provided that the playing fields which would be lost as a result of the proposed development are replaced by a playing field or fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements.
- 6.9 Design and layout
- 6.10 The proposed new school involves a combination of single storey and two storey elements which are angled to reflect the geometry of the site. The positioning of the school at the junction of Wide Lane and Albert Road provides the opportunity to make an architectural statement to the road frontage. At this juncture the school is at a two storey scale and with steep mono pitched styled roof. The design uses the building to make a frontage to the roads and act as a buffer to the play spaces. Classrooms face as far as practicable away from the roads to allow a passive ventilation system to be used, with service spaces facing onto the road. The site's incline is dealt with at the 'knuckle' point to make a step up the site whilst keeping level changes to a single point within the building. At this point the scale and massing of the building is also reduced down to a single storey level.
- 6.11 Located behind the main frontage is both single and two storey elements which provide office space, circulation corridor and hall. Essentially these are flat roofed and designed to create a court yard enclosure to the rear of the site to provide informal play space.
- 6.12 The main school entrance is taken off Albert Road where a new square or Plaza offers a meeting point outside the school entrance away from the road for parents / carer's and their children. Community facilities are located off the main entrance plaza and are sectioned off from the main school to allow for anytime use and the safe guarding of the pupils.
- 6.13 The materials palette proposed includes brick / render/ timber and standing seam metal for the pitched roofs and single ply membrane for the flat roof areas. It is proposed that the large hall would have composite cladding and wall light panels to provide clerestory lighting.
- 6.14 General Highway comments
- 6.15 A transport assessment will be required to support the development together with relevant surveys, details of any proposed highway and public transport infrastructure improvements. A travel plan will also be required.
- 6.16 Highway colleagues have however raised specific issues and additional information details have been sought. This relates to:-
- 6.17 Morley Newlands is an existing primary school that has established vehicular and pedestrian links onto the adopted highway Albert Road. However, the existing vehicle access to the staff car park is narrow, therefore it would be beneficial as part of any redevelopment to increase the width of the entrance to allow two cars to pass. it would also be advantageous for the access to be reconstructed as a footpath crossing, to make it more pedestrian friendly. There is what appears to be a part time service entrance further along Albert Road that is similarly laid out as a formal junction

bellmouth. There would also be benefit, in terms of the pedestrian environment, in reconstructing this entrance as a dropped footway crossing.

- 6.18 There is a pedestrian entrance into the school just next to the service junction that is cramped due to presence of a guard rail in conjunction with a relatively narrow footway width, presence of school boundary/palisade fencing and merging of internal school footpaths where they join Albert Road. This area should be widened out significantly to ease the dispersal of parents with children when vacating the site. Consideration should also be given to the introduction of traffic management measures within the Albert Road carriageway in the vicinity of the footpath entrance, to highlight a crossing point over the carriageway for people arriving/leaving the site on foot. The traffic management measures would also include a review of the extent of the School Keep Clear markings, which would involve the introduction of a Traffic Regulation Order to enhance their status and future enforcement.
- 6.19 The site has a secondary frontage onto Wide Lane (to the south). Although there is no access to the site from Wide Lane, there is a fairly major set of traffic signals that would potentially benefit from the introduction of a dedicated crossing facility on the eastern side of the junction. This would provide a safe crossing point for anybody approaching the school along the southern side of Wide Lane.
- 6.20 There is an existing footpath linking Newlands Drive to Wide Lane that partially abuts the western boundary of the school. There would be merit in providing an entrance into the school grounds directly from the footpath as this would potentially be attractive to anybody arriving at the school from the adjacent Newlands Estate. This would probably require advisory signs (highlighting the use of the footpath as a route into the school) to be erected where the footpath joins Newlands Drive/Wide Lane.
- 6.21 In addition the applicant will need to consider the potential impact of parent parking on all streets in the vicinity of the school, which may lead to a requirement for traffic management measures/TROs on these streets to protect sensitive locations. A revised Travel Plan will also be required.
- 6.22 In terms of car parking numbers. Surveys will be required to provide realistic levels of parking for staff / visitors and potentially parents. Highway colleagues do not want to see overspill on the access road or surrounding residential streets.

7.0 MAIN ISSUES

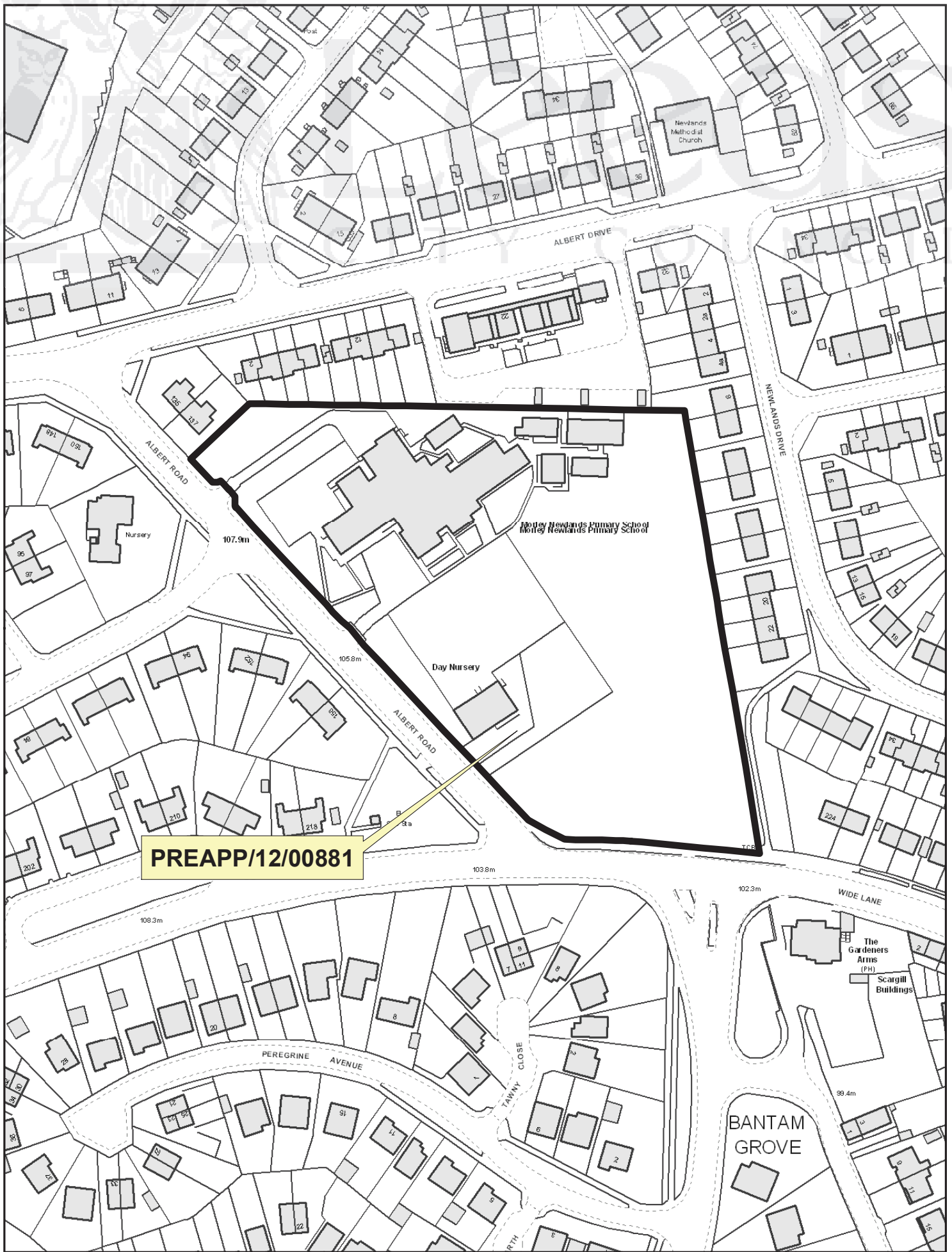
1. Principle of development
2. Policy Issues
3. Urban Design issues
4. Landscape / tree issues
5. Highway issues / mitigation measures

8.0 CONCLUSION

- 8.1 Members are asked to note the contents of the report and the presentation, and are invited to provide feedback on the issues outlined below:

- **What are Members thoughts on the principle of development?**
- **Based on the presentation, what are Members thoughts on the proposed design of the building?**

- **What are Members views on the proposed highway / construction access / parking and highway mitigation arrangements?**
- **Based on the presentation, what are Members views on the site landscape proposals?**



PREAPP/12/00881

SOUTH AND WEST PLANS PANEL



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