



Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 6th March 2014

Subject: APPLICATION 13/05581/FU- Variation of conditions 10 and 18 of planning permission 13/03169/FU (Change of use of part of ground floor and extension to side of part of medical centre to form restaurant) to allow increase in servicing vehicles to 10 metres from 7.5 metres and increase the number of covers for the site to 88 seats inside and 20 outside from 60 inside and 26 outside at St Michaels Court, Shire Oak Street, Headingley LS6 2AF

APPLICANT	DATE VALID	TARGET DATE
Nando's Chickenland Limited	16.12.2013	10.03.2014

Electoral Wards Affected:

Headingley

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 referred to in the report below:

Additional conditions

1. Commencement of development within 3 years.
2. Approval of plans
3. External materials to match the existing
4. 1:10 section details of windows to be submitted to ensure slim profile of window frames
5. Landscape scheme
6. Landscaping implementation
7. Hours of opening 11am to 11pm Monday To Saturday and 11am to 10.30pm Sunday and Bank Holidays
8. Hours of use of external seating area restricted to 11am to 10.30pm Monday to Saturday and 11am to 10pm on Sunday and Bank Holidays
9. Servicing deliveries restricted to between 7am-8am and between 7pm-9pm only

10. Delivery vehicles size limited to 10 metre.
11. Adherence to the Service Management Plan
12. No take away deliveries.
13. No music to be audible outside of the restaurant building or audible from upper floors of the building
14. No drinking outside without meals
15. 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.
16. Bin store to be erected and made available prior to first use
17. The external flue and chimney shall be erected and colour treated and made available prior to first use.
18. Maximum number of covers limited to 88 internally and 20 externally.
19. Details of the boundary treatment to the bin store and outdoor seating area to be approved.
20. A scheme for local employment and training shall be approved.

1.0 SUMMARY

- 1.1 Members will recall that this application was considered at the Plans Panel South and West meeting of 12 September 2013 where the Panel resolved to grant planning permission. A further report was presented to Panel on the 10th October 2013 as further information about the car parking availability in the Arndale Centre had been provided. Members confirmed at the meeting of the 10th October 2013 that they continued to resolve to grant planning permission. The decision notice was issued on the 22nd October 2013.
- 1.2 This planning application seeks to vary 2 planning conditions. Condition 10 relating to the size of the delivery vehicle used to service the restaurant and condition 18 which relates to the number of covers externally and internally. All other matters are unchanged from the original permission.
- 1.3 This application is brought to Panel following objections received from ward Councillor Janette Walker who objects to the changes to the conditions as the original planning permission was only recently granted and the conditions attached should be observed. Councillor Walshaw has also written to say he will be commenting upon the application.

2.0 PROPOSAL:

- 2.1 The proposal involves the changes to the following two conditions:

Condition 10 currently reads

Notwithstanding the information stated in the Service section of the Transport Statement produced by HY Consulting delivery vehicles size shall be limited to a maximum of 7.5metre in length.

Condition 18 currently reads

The maximum number of covers for the site shall be limited to 60 internally and 26 externally.

2.2 The applicants propose that the revised wording of the conditions read:

Condition 10 - Notwithstanding the information stated in the Service section of the Transport Statement produced by HY Consulting delivery vehicle size shall be limited to a maximum of 10 metre in length.

Condition 18 - The maximum number of covers for the site shall be limited to 88 internally and 20 externally.

3.0 SITE AND SURROUNDINGS:

3.1 The site is located within the defined Headingley Town Centre which is characterised by a wide mix of uses, typical of an urban district centre. The existing building is 4 storeys in height and has a mixed-use comprising two doctors surgeries on the upper floors and an Opticians and pharmacy on the ground floor. There is a car park in front of the site which is used by visitors of the existing health centre and retail unit. Vehicular access to the site will be through this car park which is accessed from Shire Oak Street and exited from Wood Lane.

3.2 The site is bounded by Shire Oak Street to the south and Wood Lane to the north. There is a terraced row between the site and Otley Road which has ground floor retail and commercial premises and some flats located in the upper floor. Across Wood Lane is the Arndale Centre which is a large 1960s shopping centre. To the rear of the site is land protected for the NGT route. Beyond this are located residential properties on Shire Oak Street. The site is within the Headingley Conservation Area.

4.0 RELEVANT PLANNING HISTORY:

4.1 11/03511/FU - Change of use of part ground floor and single storey extension and alterations to side of proposed medical centre (D1 use) to form restaurant (A3 use) with car parking to rear. Withdrawn.

4.2 09/03233/FU - Change of use, including alterations and extension to form lobby and stair tower, of offices (B1) to primary care surgery (D1) and pharmacy (A1) with car parking. Approved 2009

4.3 11/03998/FU - Change of use of part ground floor of medical centre (use class D1) to opticians (use class A1) and installation of new entrance door. Approved 2011

4.4 12/00086/FU - Change of use of part ground floor medical centre to 2 retail units (A1 use class) from medical centre (D1 use class) and alterations to the front elevation to provide entrance doors to each unit. Approved 2012.

4.5 13/03169/FU - Change of use of part ground floor and extension to side of part of medical centre to form restaurant. Approved 2013.

5.0 HISTORY OF NEGOTIATIONS:

5.1 The applicant had pre-application correspondence with officers to discuss the proposed changes to the two conditions. Ward Members were briefed on the applicants intentions to vary the two conditions.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been publicised by means of site notices. There have been 7 objections Raising the following main issues have been received.

- Harm from noise and litter and the use of the outdoor seating area
- Harm to residential amenity and to the users of the medical centre
- Headingley has far too many restaurants, cafes, takeaways etc but more importantly the proposed fast food type outlet is totally unsuitable in the building that houses a medical centre.
- Increased number of cars parking in the existing small car park, and an increase in traffic generally around that area, adding to noise and congestion at the end of Wood Lane
- There is an objection to the increased traffic from the servicing of the site
- There is a lack of car parking for the restaurant and the interaction of
- The proposal is contrary to policies in the development plan which seek to protect green areas.

6.2 Councillors Illingworth and Atha have objected to the application on the following grounds: "Large servicing vehicles are a danger to pedestrians and cyclists, and degrade the urban environment. These problems affect the approach roads as well as the immediate area. Planning consent for larger vehicles should be refused because of the adverse effects on Public Health".

6.3 The Far Headingley Village Society has objected on the following grounds: The premises is not suitable for a restaurant and the restaurant will harm the users of the medical centre. The restaurant does not promote healthy eating and if issued an alcohol license would be contrary to the Cumulative Impact Policy.

7.0 CONSULTATION RESPONSES:

7.1 Highways – no objections.

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.

8.2 The most relevant Policies in the adopted Leeds Unitary Development Plan are outlined below.

- GP5 development control considerations
- T2, T24 – access and parking requirements
- S2 Town Centres

Neighbourhoods for Living SPG.

Street Design Guide SPD

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 Emerging Core Strategy

The Draft Core Strategy has been through an Examination in Public and the Inspector has provide the Council with a series of modifications required in order to allow the Core Strategy to meet the test of Soundness required before it can be adopted. Accordingly some weight can be applied to the Emerging Core Strategy.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- (1) Whether the changes proposed to the two conditions would harm matters of highway safety and amenity

10.0 APPRAISAL:

10.1 Section 73 of the Town and Country Planning Act allows for applicants to apply to the Council to vary or remove planning conditions. Applicants and developers often use this route to revise and ‘tweak’ their schemes, often because they do not know the exact details of the operational side of their schemes when they initially apply for planning permission. Section 73 application are publicised and site notices are posted allowing residents an opportunity to comment on the merits of the application. In effect this part of the Planning Act allows for flexibility whilst ensuring local residents have an opportunity to comment on changes proposed.

10.2 Since the original grant of permission it has transpired that the maximum size of vehicle required to deliver to the site is 10m not 7.5m. The operators

of the restaurant Nandos have confirmed they do not use a 7.5metrre delivery vehicle and require a 10metre vehicle to service the site. The applicants have therefore reviewed the servicing arrangements and have demonstrated by use of Autotrack that a 10m delivery vehicle can safely enter and leave the site. The servicing location and times are unchanged from the original planning permission. Accordingly there are no highway safety reasons to resist the revised size of the servicing vehicle.

10.3 The site is located in the Headingley S2 Centre, a sustainable location in terms of access to public transport. On balance it is considered that the overall increase in covers by 22 would not be detrimental to highway safety.

10.4 A review of the planning history of the proposed restaurant has been conducted. There was a previous application in 2011 that was withdrawn for a larger restaurant (147 covers) with more covers than the one which Panel approved. The 2013 application which Panel approved sought to respond to the concerns that residents, councillors and officers had expressed about the 2011 application. In particular an important previous concern related to the size of the restaurant and in particular the size of the proposed extension and outdoor area. Although Nandos are now seeking to add some additional seating it is still significantly less than the 2011 withdrawn scheme (39 less covers). As the extra seats will be inside the building it would be difficult for officers to be able to demonstrate any harm arising for the activity associated with the extra internal seats. It is also noted that there will be a slight reduction in the external covers available at the restaurant (6 less).

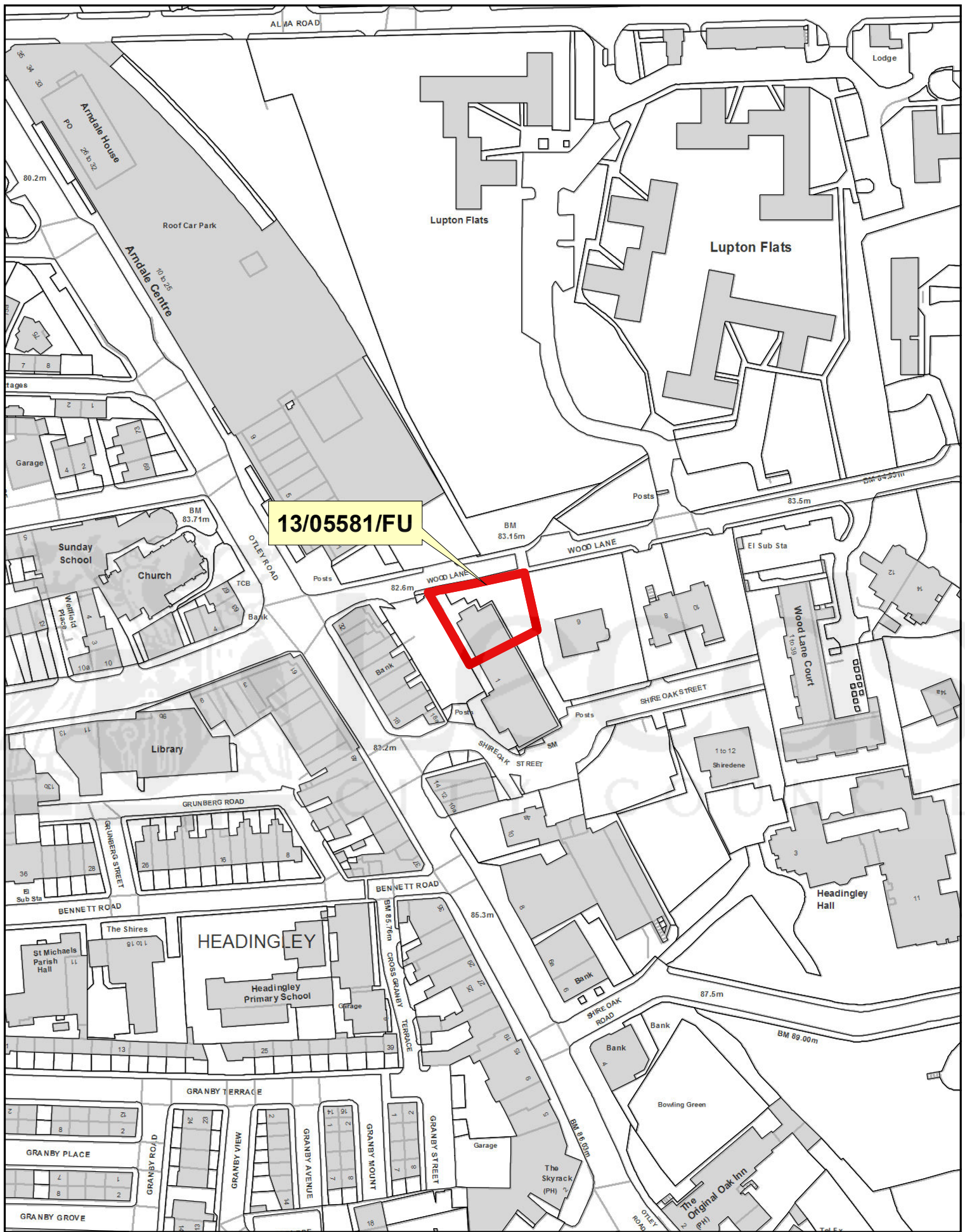
Conclusion

10.5 There are no serious concerns arising from the impact of the use on neighbouring residents or the existing users of the medical centre or retail units within the site. The changes to the two planning conditions are fairly minor in nature. The changes proposed do not demonstrably alter the position reached in October 2013. The proposal complies with the relevant provisions of the Development Plan. There are no other material considerations that outweigh this finding.

Background Papers:

Application file;

Certificate of Ownership



13/05581/FU

SOUTH AND WEST PLANS PANEL

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