



## Report of the Chief Planning Officer

### **SOUTH AND WEST PANEL**

Date: 15<sup>th</sup> January 2015

**Subject: Application number 14/05508/FU – Full application for change of use of a private members club to restaurant (A3) with manager flat to first floor and external flue to rear at 207 to 209 New Road Side Horsforth**

#### **APPLICANT**

Agora restaurant

#### **DATE VALID**

19<sup>th</sup> September 2014

#### **TARGET DATE**

14 November 2014

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

Horsforth

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. Time limit on full permission
2. Development in line with approved plans
3. The restaurant shall be ground floor only and limited to 60 covers
4. Car park to the rear to be laid out prior to occupation
5. Opening hours limited to 1200 to 2200 each day
6. Details of proposed bin store to be submitted
7. Details of odour and fumes from food uses to be submitted
8. Conifer hedge on boundary shall remain at no less than 2m in height

#### **1.0 INTRODUCTION**

- 1.1 This application was deferred from Panel on the 4<sup>th</sup> December 2014 so that a site visit could be undertaken.

- 1.2 A full planning application for a change of use from a private club to a restaurant with a flat on the first floor and external flue to the rear was submitted to the Council on 19<sup>th</sup> September 2014. The 8 week expiry date was 14 November 2014 but an extension of time has been agreed to the 5<sup>th</sup> December 2014.
- 1.3 Members are asked to note the content of this report and accept the officer's recommendation of approval with the conditions listed above.
- 1.4 The application relates to a building which is unallocated within the Unitary Development Plan and the Core Strategy and is just outside the Town Centre.
- 1.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the need to determine applications in accordance with the development plan unless material considerations indicate otherwise.
- 1.6 The proposal is considered to accord with the current development plan and to be acceptable in regard to highways, residential amenity and other material considerations.
- 1.7 The National Planning Policy Framework is a material consideration and Annex 1 sets out that whilst relevant policies adopted since 2004 may be given full weight depending on their degree of consistency with the NPPF, decision takers may also give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the NPPF.

## **2.0 PROPOSAL:**

- 2.1 The application is a change of use of an existing club to a restaurant with managers flat. The initial application was for both floors with a maximum number of covers of 88. It was considered that there was not enough parking for this number so the application has been changed to ground floor only and a maximum number of covers for 60.
- 2.2 The upper floor will now be used for a managers flat with storage. There will be a new external staircase to the rear to give emergency access to the flat. There will also be a flue on the rear elevation which will be 1 metre higher than the existing eaves and is located on the property closest to number 211 and 213. There is a car park to the rear which will accommodate 16 car parking spaces.
- 2.3 The original opening hours were from 1200 to 2330 but this has now changed to 1200 to 2200 hours each day

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site is an existing club which is now empty. This was a private members club which was not open to the general public but had no restriction in opening hours and had private functions. It is a two storey stone building which is onto the pavement at the front. To the rear is an existing car park with the access off New Road Side. This is a shared access with 5 other properties on New Road Side and 4 residential properties to the rear on Victoria Mews.
- 3.2 The club is surrounded by residential properties with the only a small gap between

the premises and the houses either side of New Road Side. There is a line of high conifer trees on the boundary of the car park and the houses on Victoria Mews. The site is just outside of the Town Centre.

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

- 4.1 14/05806/FU – change of use to health centre awaiting determination.  
13/05747/FU – change of use to four flats with two storey rear extensions approved 14/2/2014  
13/03563/FU – change of use to form four houses withdrawn 23/9/2013

#### **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 Discussions have been ongoing with the applicant's agent and officers since submission of the planning application.

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

- 6.1 The application was advertised by site notice posted on site on the 4<sup>th</sup> April 2014 and an advert was placed in the Yorkshire Evening Post 8 May 2014. Publicity expiry date was the 25 April 2014. The revised scheme was advertised via a site notice on 18<sup>th</sup> July 2014 and expired 5 September 2014.

- 6.2 Councillor Cleasby and Councillor Townsley have requested that the application be brought to Plans Panel for determination and both have objected to the application concerned with the following matters:

- 16 parking spaces are totally inadequate for 60 covers plus staff and deliveries.
- There are sufficient "eateries" in this neighbourhood all making demands on, on-street parking.
- As it is a residential area I have concerns over the smells and odours that may make life for residents unacceptable.
- entrance to the car park is hidden and a little way down the street that diners will probably not use it anyway.

- 6.3 Horsforth Civic Society – concerned about the provision of parking on site when the restaurant is busy and could result with overflowing out onto New Road Side.

- 6.4 Four objection letters concerned with the following:

- Lack of parking for the number of covers and no provision for staff
- Residential amenity adversely affected by increase in vehicle movements and increase in noise
- Concern regarding adequacy of kitchen ventilation
- Concerned regarding location of food waste bins on boundary with houses
- Can refuse lorries access the car park
- Existing parking can restrict road to single access road and significant issues when entering and exiting Victoria Mews
- No mention on conifer trees on boundary
- Previously conifers where to remain to protect privacy
- Flue located close to residential properties
- Clarification that new car park surfacing will not increase run off

- 6.5 One letter of objection from 8 properties on New Road Side concerned with
- Market already saturated and a further restaurant would only serve to dilute an already saturated market
  - Current preference by council is to reduce number of licenced premises and consider a residential use or health centre would serve this purpose and better serve the local community
  - Parking provision insufficient for restaurant use
  - New flue will impact on number 211
  - New bathroom window will overlook 211
  - New external stair and landing will overlook 211
  - Impact on residential amenity in terms of noise and disturbance
  - Large concentration of restaurants in the area
- 6.6 One letter of support stating it will complement the area providing limited opening hours and ensure enough parking. An eating establishment is better than a pub or purely drinking establishment.

## 7.0 CONSULTATION RESPONSES

### Highways

Objected to the original proposal due to lack of car parking. If proposal is reduced to one floor and 60 covers then it would be difficult to justify a refusal due to previous use and car parking requirements for that level of development.

## 8.0 PLANNING POLICIES:

### The Development Plan

- 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 currently comprises the adopted Local Development Framework Core Strategy (2014), those policies saved from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Local Plan. Relevant supplementary planning guidance and documents and any guidance contained in the emerging Local Development Framework (LDF) represent material considerations.

- 8.2 The Local Development Framework **Core Strategy** was adopted by the Council on 12<sup>th</sup> November 2014. The following policies contained within the Core Strategy are considered to be of relevance to this development proposal:

**P2** – Acceptable uses on the edge of town centres

**P10** – Design

**T2** – Accessibility Requirements and New Development

The most relevant saved policies from the **Leeds Unitary Development Plan** are outlined below.

**GP5** - Development control considerations including impact on amenity

**T24** - Parking provision in development proposals

## Supplementary Planning Guidance / Documents:

- 8.3 Supplementary Planning Document: "Street Design Guide".  
Supplementary Planning Document: Public Transport Improvements and Developer Contributions.  
Supplementary Planning Document: Travel Plans.  
Supplementary Planning Document – Sustainable Design and Construction "Building for Tomorrow, Today"

### **National Guidance - National Planning Policy Framework**

- 8.4 The National Planning Policy Framework (NPPF) came into force on 27th March 2012. The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

### **9.0 MAIN ISSUES**

- Compliance with the Development Plan
- Highway safety
- Residential amenity
- Representations

### **10.0 APPRAISAL**

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy framework indicates that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The starting point for any consideration of the development must therefore be the provisions of the core strategy, the saved policies within the LUDPR (2004), in order to assess whether the development is in accordance with the development plan. Other material considerations include the NPPF, highways, amenity, and other matters.

#### **Compliance with the Development Plan**

- 10.2 The site is not allocated for any use within the Core Strategy or UDP. It is located just outside of the Town Centre so policy P2 of the Core Strategy is relevant. This encourages uses that assist the town centre and restaurants is one of those uses that is considered acceptable on the edge of Town Centres so in principle the change of use is considered acceptable.

#### **Highways**

- 10.3 There is a car park to the rear of the premises which on amended plans that have been submitted can accommodate 16 car parking spaces. The original plans where for accommodation on both floors and covers of 88. The number of car parking spaces is calculated on the floorspace and this original scheme would have required 25 car parking spaces so there was a shortfall of 9 spaces and this would have led to parking on the highway. The scheme could therefore not be supported on highway

grounds. The proposal has now been reduced to ground floor only and covers of 60. The parking spaces required for this are 16 which are provided on the car park to the rear. There is also an area to the front of the property which would allow for 3 cars to be parked on the highway. For all these reasons it is considered that the parking provided is adequate for the size of the restaurant especially as the previous use was a club.

- 10.4 There have been objections to the fact that the car park entrance is not clear and other vehicles block the entrance to the car park making it single track for most of the way so patrons will not know about or use the car park. This same situation existed for users of the existing club and there were no issues with parking on the highway when the club was in operation. The applicant will be encouraged to advertise the car park on any leaflets or websites that they produce.
- 10.5 There have also been concerns about the refuse lorry and whether this will be able to access the site down this existing access. The refuse lorry currently gains access down this road to collect the bins from the residential properties that gain access of this road plus the refuse lorry has previously collected bins from the existing club.
- 10.6 For all these reasons it is considered that subject to conditions to limit the use to the ground floor only and no more than 60 covers there should not be a detrimental impact on the safe and free flow of traffic.

### **Residential amenity**

- 10.7 There are three issues that need to be considered in relation to the proposal and any impact on residential amenity. The existing building does have residential properties on either side at close proximity and there are 4 detached houses to the rear.
- 10.8 These three issues are the noise and disturbance from the use and the comings and goings from the use, the impact of the proposed flue and the impact of the proposed bin store in terms of odour.
- i) Noise and disturbance
- 10.9 There could be two sources of noise and disturbance being the restaurant itself and the comings and goings of customers. As the scheme is a restaurant and the previous use was a club which did have functions with music the level of noise created from the restaurant use itself will be less than the club use and will not have a detrimental impact on residential amenity. In terms of the comings and goings and use of the car park to the rear the original application opening hours were 12pm to 1130pm 7 days a week. The disturbance could become an issue later on in the evening when background levels are lower. It is considered that the quiet times for residents should be between 11pm and 7am and at the moment these opening hours would be within this quiet zone in the evening. The applicant has stated that in evening opening hours till 10pm would be acceptable. This would ensure that between the hours of 11pm and 7am there should not be any noise that will impact on the residential amenity of adjacent residents. Another consideration is that the existing building is a club which could reopen tomorrow without requiring planning permission and there is no restriction on its opening hours. It is appreciated that the comings and goings to the restaurant will be more than the comings and goings from the previous club use but the restaurant opening hours can be restricted to 10pm whilst the club use has no restriction on opening hours so on balance the restaurant use if considered acceptable.

## ii) Location of Flue

- 10.10 The flue is located on the rear elevation which in terms of visual amenity on the street scene this location is acceptable. However, the flue is located at one end of the property and it close to the boundary with an existing residential property. The applicant has been asked to look at moving the position of kitchen and flue but this presents a number of other issues. Firstly my moving the flue to the other end of the building it moves the flue next to another residential property. Secondly, by moving the kitchen to the front would result in the flue on the front elevation which would be unacceptable in visual amenity terms. Finally moving the kitchen to the centre of the building would result in a restaurant layout which would be disjointed. For all these reasons the location of the kitchen and the flue is not altered and its location close to the boundary of a residential property needs to be considered. Whilst the flue has the potential for smells and odour the flue is now 1.6 metre above the height of the eaves in line with guidance from Defra and should not have a detrimental impact on residential amenity in terms of odour.

## iii) Location of the Bin Store

- 10.11 The bin store is located to the rear of the property and will be screened by a wooden fence. Residents have concerns regarding the potential for smells from the bin store. It has been suggested to the applicant that a structure is erected which has walls and a roof which will not only shield the bins from views but prevent smells impacting on neighbours Amended plans have been submitted which show timber walls and timber roof which will help to reduce the impact on smells from the bins.
- 10.12 Overall it is considered that on balance the change of use to a restaurant is considered acceptable and will not have a detrimental impact on residential amenity being in mind the previous use and the fact that this has unrestricted hours and the proposed use opening hours can be controlled by conditions.

## Letters of representations

- 10.13 The majority of the issues raised in the letters of representation have been considered above with those issues not addressed referenced below.
- 10.14 Residents are concerned that an existing conifer hedge on the boundary with the car park will be removed so that their privacy will be affected. A previous consent for conversion to residential properties had a condition for this conifer hedge to be retained at a min height of 2 metres and the applicant has no objection to a similar condition.

## 11.0 CONCLUSION

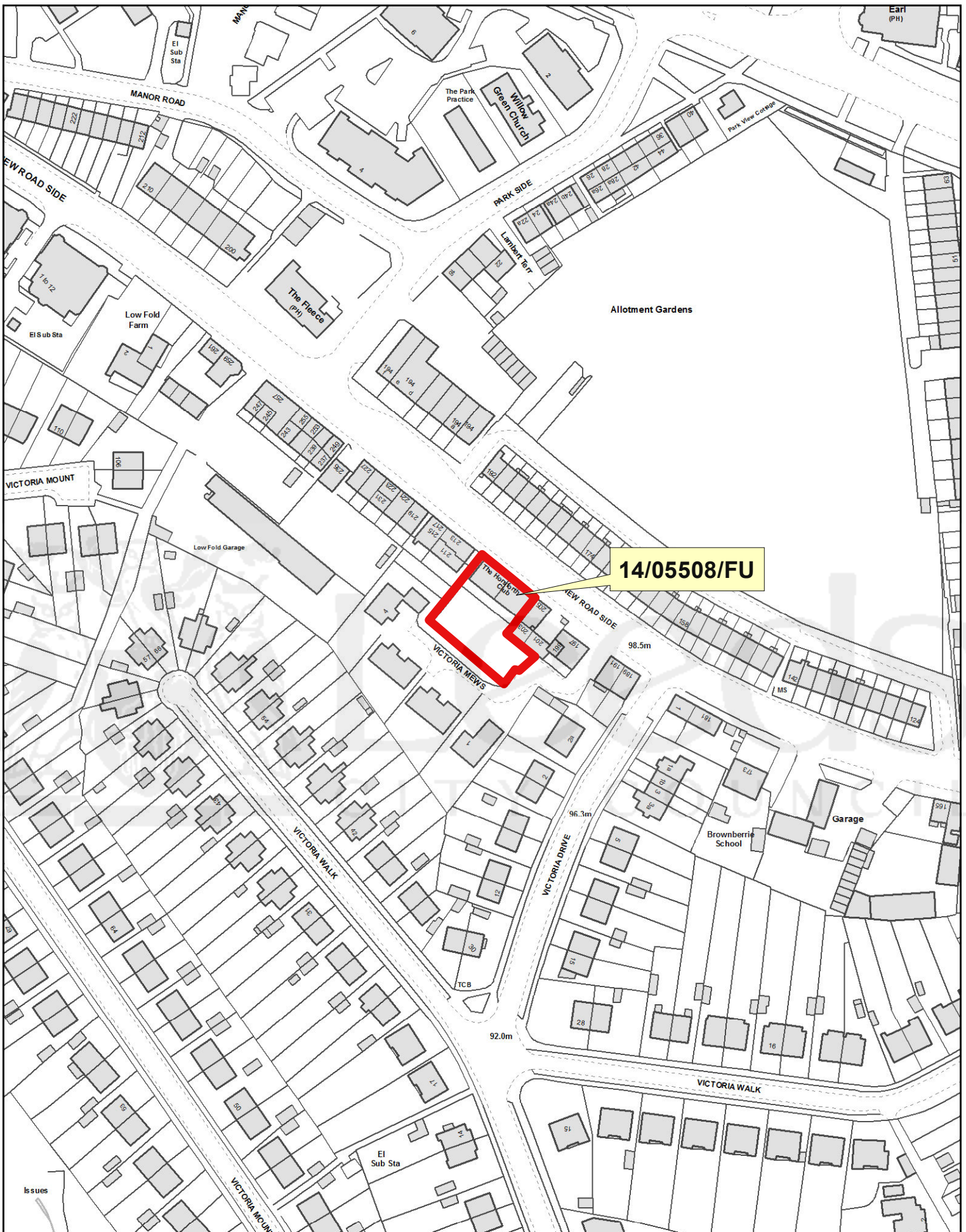
- 11.1 The application is for a change of use from a club to a restaurant. As the building is not allocated for any use and is close to the Town Centre the proposed use is considered acceptable. There is adequate car parking for the level of development and conditions need to be attached limiting the floorspace and number of covers. It is also considered that the noise generated from the use will have less impact on residential amenity than the existing use subject to opening hours condition. With adequate mitigation the proposed flue and bin store should also not have a detrimental impact on residential amenity. Matters raised within the representations have been considered but on balance officers are looking to support the use.

**Background Papers:**

Certificate of ownership: signed by applicant.

Planning application file





# SOUTH AND WEST PLANS PANEL

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