



Report of the Chief Planning Officer

SOUTH AND WEST PLANS PANEL

Date: 16th June 2017

Subject: Application 17/01509/FU - Variation of condition 2 (opening hours) of previous approval 08/01626/FU to allow opening hours of restaurant from 0700 hours to 2300 hours Monday to Sunday, 92 New Road Side, Horsforth

APPLICANT

Mr Chris Aitchison

DATE VALID

8 March 2017

TARGET DATE

3 May 2017

Electoral Wards Affected:

Horsforth

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 specified conditions:

1. Hours of opening to be restricted to 07:00-23:00 hours Monday to Sunday
2. Prior to the installation of any additional ventilation flues, extraction systems, air-conditioning condensers or similar, full details shall be submitted to and approved in writing by the Local Planning Authority and then installed and retained in accordance with the approved details.

1. INTRODUCTION:

- 1.1 This application is brought to the Plans Panel at the request of Horsforth Ward members Councillor Chris Townsley and Councillor Brian Cleasby who consider that permission should be refused as the premises are close to houses whose residents would be adversely affected by the increased opening hours, and also fall within the Licensing Cumulative Impact Policy Area.
- 1.2 The application relates to an existing restaurant which was granted planning permission in 2008 and currently operates as Pooky and Grumps. The permitted hours under Condition 2 of this permission are 0800 to 1800 Mondays to Fridays

and 0830 to 1700 on Saturdays with no opening on Sundays. This application seeks to amend that condition to permit opening to 23.00 and on Sundays.

2.0 SITE AND SURROUNDINGS:

2.1 The application property is relatively small commercial unit operating as a restaurant in a commercial parade within the Horsforth New Road Side District Shopping Centre as defined by the Unitary Development Plan, within which the parade in which No 92 sits is defined as a Secondary Shopping Frontage. The remaining premises in this parade comprise a printer cartridge retailer, a baby goods shop, beauty salon, a hairdressers and a chemists. The parade continues around into Sunnybank Avenue where there is a hot food takeaway and a hairdressers. The premises above the application property are commercial offices.

2.2 Nearby within the wider Horsforth New Road side commercial centre are a variety of other commercial premises including food and drink uses, the following are examples:

1 Sunny Bank Avenue – Hot food takeaway (Pizza King and Corriander) opens until 01.00– 00.30 AM on Sundays

106 – 108 New Road Side – Restaurant (Banyan) – opens until 22.30, 23.30 on Thursdays, 00.30 on Friday and Saturday

165 New Road Side - Hot food takeaway (Hartleys Fish and Chip Shop) – opens until 21.30 at latest

145 New Road Side - Bar and Restaurant (The Forge) – opens until 23.00, midnight on Fridays and Saturdays

143 New Road Side – Bar and restaurant (Ishys) – opens to midnight

133 New Road Side – Hot food takeaway (Cathay) – opens to midnight, 00.30 on Friday and Saturday

117 New Road Side – Café (Oakwood Café) - Daytime opening to 16.00

99 New Road Side – Hot food takeaway (Yorkshire Charcoal) - opens to Midnight

85 New Road Side – Café (Costa) – daytime opening to 17.00

73 New Road Side - Sandwich shop (Subway) – opens to 21.00

71a New Road Side – Hot food takeaway (Pizza Hut) - Opens to 22.00, 23.00 on Fridays and Saturdays

2.3 The nearest houses to the premises are on the streets running off New Road Side to either side of this commercial parade which are Featherbank Avenue and Sunnybank Avenue. The nearest house on Sunnybank Avenue is 45m away from the application premises. Featherbank Avenue is no-entry from New Road side and Sunnybank Avenue is also one way but in the direction leading from New Road side. There is unrestricted car parking available on street on Sunnybank Avenue and in an echelon parking area adjacent to the street which is well used by drivers using the New Road Side commercial centre. The area immediately on the New Road Side

frontage in front of the premises is subject to no parking restrictions of 08.00 to 20.00 Monday to Saturday. The premises lie outside the Horsforth Conservation Area.

3.0 RELEVANT PLANNING HISTORY:

- 3.1 08/01626/FU - Change of use of delicatessen with cafe area to rear to delicatessen with enlarged cafe area to front – approved 16 May 2008. The permission is subject to conditions including:

The hours of opening of the café shall be limited to 0800 to 1800 hours Mondays to Fridays and 0830 to 1700 hours on Saturdays unless otherwise agreed in writing by the Local Planning Authority.

For the avoidance of doubt and in the interests of amenity.

- 3.2 The officer's report on that application stated that:

- Retrospective permission is sought to reconfigure the existing internal layout of the premises, enlarging the ancillary café area from 12 covers to 18 and relocating it to the front.
- The retail delicatessen function will be retained but relocated to the rear of the shop in the area currently occupied by the café seating.
- The application is therefore for the change of use of the A1 delicatessen to A3 (restaurants and cafes) with the retail function becoming ancillary.

4.0 PUBLIC/LOCAL RESPONSE:

- 4.1 The application was advertised by a site notice which was erected on 31 March 2017.

- 4.2 The following objections have been received:

- 4.3 Councillor Brian Cleasby – As Ward Members worked hard to stabilize this area working with Licensing Officers it would be foolish to allow this application. I oppose it.

- 4.4 Councillor Townsley - I object to this application on the grounds that the extended hours of trading are very close to residential properties and that the premises fall within the Horsforth cumulative impact policy area. Although I appreciate that this is a licensing policy the same thing applies as far as it being another alcohol led business with extended trading times in a sensitive area. Planning should follow the C.I.P. as laid down by the Licensing Dept. and refuse this application.

- 4.5 Horsforth Civic Society – I am writing on behalf of Horsforth Civic Society with regard to the C.I.P in force in this area of Horsforth. The committee has asked me to voice our objections to extending the opening hours and therefore the ability to sell alcohol into the evening, at this site, as we feel it 'flies in the face' of the C.I.P and all it is designed to protect. There is already an over abundance of restaurants and bars in New Road Side.

- 4.6 Horsforth Town Council – The area is already well provided with licensed premises and extending the hours would be contrary to the Horsforth Cumulative Impact Policy.

- 4.7 There have been 32 letters of support to the application. Reasons given include:

- The existing restaurant is a quality individual business which provides a high quality alternative to the nearby chain restaurants on New Road side
- Extended opening hours would improve access to the restaurant for many people into the evening and on Sundays where it would be a welcome alternative to local pubs and bars

5.0 HISTORY OF NEGOTIATIONS

5.1 None

6.0 CONSULTATION RESPONSES:

6.1 LCC Licensing – Further to the above planning application, the Licensing Authority have no issues with the planning application but would note that these premises currently benefit from a premises licence which allows the sale by retail of alcohol between the following days and hours:

Monday to Friday 08:30 to 17:30
Saturday & Sunday 09:00 to 16:00

Therefore if the extension of hours receives planning an application for a new or varied premises licence will be required.

The premises fall within the Horsforth Cumulative Impact area which states:-

It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 5 (Horsforth) for the following premises:

- Alcohol led premises such as bars, pubs and clubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants

It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

6.2 Highway Authority – no objections

7.0 PLANNING POLICIES:

7.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds comprises the Adopted Core Strategy (November 2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013) and made Neighbourhood Development Plans.

7.2 The application site has no specific allocations or proposals.

Adopted Core Strategy

7.3 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are considered most relevant

Policy P1 – Town centre designations
Policy P2 – Acceptable uses in town centres
Policy P10: Design
Policy T2: Accessibility requirements and new development

Saved Policies - Leeds UDP (2006)

- 7.4 The following saved policies within the UDP are considered most relevant to the determination of this application:

GP5: Development Proposals should resolve detailed planning considerations.
SF8 – secondary shopping frontages

National Planning Policy Framework (NPPF)

- 7.5 The National Planning Policy Framework (NPPF), published on 27th March 2012, and the National Planning Practice Guidance (NPPG), published March 2014, replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.
- 7.6 The NPPF constitutes guidance for Local Planning Authorities and its introduction 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.
- 7.7 The NPPF confirms that at its heart is a presumption in favour of sustainable development. For decision taking, this means approving proposals that accord with the development plan without delay and where the development plan is silent, absent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 7.8 The NPPF establishes at Paragraph 7 that there are three dimensions to sustainable development: economic, social and environmental of which the provision of a strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations is identified as a key aspect of the social role. Within the economic role, it is also acknowledged that a strong and competitive economy can be achieved by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation.
- 7.9 Paragraph 17 sets out twelve core planning principles, including to proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs, ensuring high quality design but also encouraging the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.
- 7.10 Paragraphs 23 to 27 sets out advice in relation to town centres to ensure their long term vitality encouraging a range of uses that support one another.

8.0 MAIN ISSUES

1. Residential amenity

9.0 APPRAISAL

Residential amenity

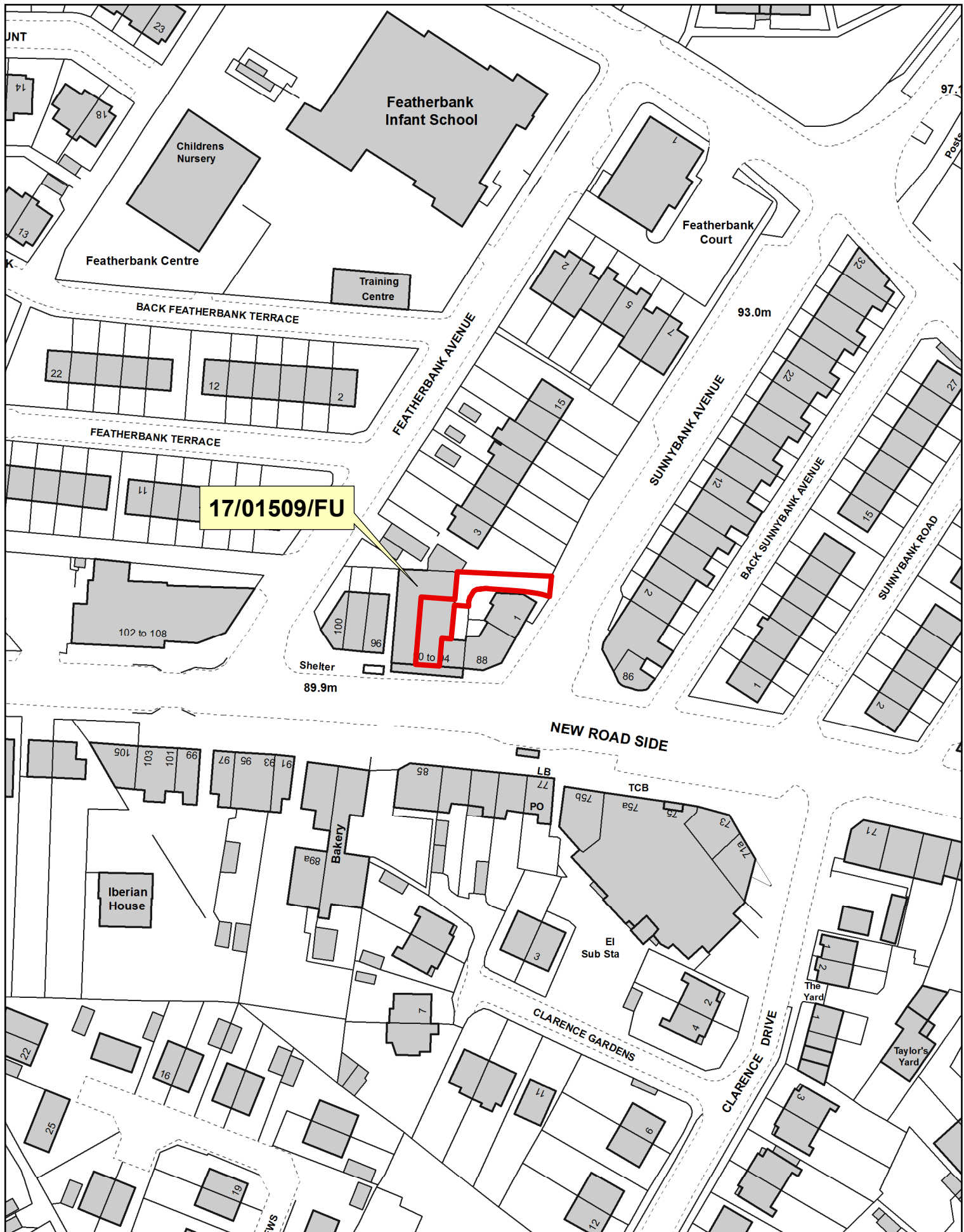
- 9.1 It is considered that the main issue with regard to the proposed extended opening hours of this restaurant into the evening and on Sundays is whether this would result in a loss of amenity to nearby residents to the extent that refusal of permission would be justified.
- 9.2 From the description of the site and surroundings set out above it is noted that the application premises is in a commercial parade in a commercial centre and moreover sits alongside the A65 which is one of the busiest arterial routes in and out of Leeds. Horsforth, New Road Side is designated as a 'Higher Order Local Centre' by Policy P1 of the Core Strategy. Policy directs such uses to these locations.
- 9.3 It is however noted that there are houses relatively nearby on residential streets running off the A65. The application premises is not close enough to any of these houses to cause any direct disturbance, and any impact on residents would therefore arise from the comings and goings of patrons on foot and by car, particularly late in the evening. In this respect it has to be acknowledged that drivers and pedestrians arriving at and leaving the premises may use nearby Featherbank Avenue and Sunnybank Avenue.
- 9.4 It should firstly be noted however that the premises are relatively small (the applicant advises a floor area of 75m² and 22 covers). There are in addition a significant number not only of other food and drink establishments as summarized above but also other nearby businesses opening into the evening (some as late as 01.00am). The side streets will also attract through-traffic using the busy A65.
- 9.5 It is considered in this context that any additional impact in the evening from this relatively small restaurant in a busy commercial location would be negligible and that there would be no reasonable grounds to refuse permission for opening to 23.00 and on Sundays in this particular case. In terms of the need for the condition on the original planning permission for restaurant use of the premises, this would seem to stem from the hours that the applicant applied for at that time rather than a compelling planning reason to restrict opening beyond 18.00.
- 9.6 The Ward Councillors and others have made reference to the Cumulative Impact Policy with regard to licensed premises, but this is a separate licensing matter. This application must be considered on its merits in the light of the Development Plan policies referred to above and not in respect of separate legislative regimes including Licensing.

10.0 CONCLUSION

- 10.1 Taking all material considerations into account, including representations received, It is concluded that neighbouring amenity would not be harmed by this proposal and approval for the amended condition is recommended.

Background Papers:

Certificate of ownership: signed by applicant.
Planning application file.



SOUTH AND WEST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1000





OS Location Plan
1:1250

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Site Plan
1:200

OS Location Plan
Site Plan

GENERAL NOTES:
 STRUCTURAL ALTERATIONS SUBJECT TO STRUCTURAL ENGINEERS COMMENTS AND DESIGN. CALCULATIONS SHALL BE OBTAINED BY THE APPOINTED BUILDING CONTRACTOR AND SUBMITTED FOR APPROVAL BEFORE WORKS COMMENCE ON SITE.
 ALL WORKS TO BE CARRIED OUT TO THE LATEST BUILDING REGULATIONS, BRITISH STANDARDS AND APPROVED CODES OF PRACTICE
 WHERE FURTHER CLARIFICATIONS, AMENDMENTS OR ADDITIONAL WORKS ARE REQUIRED CONTRACTORS SHALL REFER TO THE CLIENTS FOR FURTHER DETAILS AND INSTRUCTIONS.
 ALL MATERIALS AND DETAILS TO BE PROVIDED BY THE CONTRACTOR FOR CLIENT APPROVAL.

Contractor must verify all dimensions on site before commencing any work or shop drawings.
 If this drawing exceeds the quantities taken in any way the Architects are to be informed before the work is initiated.
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Client Chris Aitchison		Project Name Variation of Planning Condition 2	
Site address 92 New Road Side Horsforth		Title OS Location Plan Site Plan	
Our Drawing Reference 1708 (PL) 001	Revision -	Size A3	Scale 1:1250 1:200
Date Sept 2016		By CJA	