



Leeds
CITY COUNCIL

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Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 13th December 2018

Subject: 18/05379/FU- Variation of condition 23 (opening hours) of planning application (12/00466/FU) to allow opening hours of 08.00 hours to 22.00 Monday to Thursday; 08:00 and 23:00 hours Friday to Saturday and 09:00 to 22:00 hours on Sundays and Bank Holidays at Meanwood Park Café, Three Cottages, Green Road, Meanwood, Leeds, LS6 4LD

APPLICANT

Mr Scott Westlake

DATE VALID

21 August 2018

TARGET DATE

16th October 2018

Electoral Wards Affected:

Moortown

Yes

Ward Members consulted.
Referred to in report

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to following conditions:

1. Plans to be approved.
2. Restriction on hours of use as proposed
3. The details with regards to the timber eaves, rain water goods, rooflights, windows, café frontages and door openings, and glazing shall be implemented and retained as agreed under application ref: 18/04596/COND.
4. All car parking spaces shown on the plans approved under application 12/00466/FU shall be made available for café staff and use by the tenants of the flat and shall remain unallocated for the lifetime of the development.

5. The cycle storage unit shall be provided in accordance with the details approved under application 18/04596/COND.
6. Litter bins shall be provided in accordance the details approved under application 18/04596/COND.
7. The scheme detailing the method of storage and disposal of litter and waste materials shall be implemented in accordance with the details approved under application 18/04596/COND.
8. The refurbishment of the existing 2.4m high metal boundary fence shall be carried out in accordance with the details approved under application 18/04596/COND
9. The levels of the site shall be maintained in accordance with the details approved under application 18/04596/COND.
10. The details of the hard and soft landscape works approved under application 18/04596/COND shall be implemented and managed in accordance with the approved details.
11. Extract ventilation system or plant to be effectively positioned and silenced so as not to cause nuisance by way of noise or odour to nearby occupiers/residents.
12. Soundproofing of the upper floor flat in accordance with the details agreed under application 14/05374/COND.
13. The hours of delivery restricted to 08.00 hours to 18.00 hours Monday to Saturday with no deliveries on Sundays and Bank Holidays.
14. The external flue shall be retained as matt black in colour.
15. The ground floor shall be used as an A3 café / restaurant and for no other use.

1.0 INTRODUCTION:

- 1.1 This application is brought to North and East Plans Panel at the request of the Local Ward Members namely Cllr's Shahzad and Cllr Charlwood. The Councillors express concerns that the application is proposing to open at unsociable hours on school nights, which will lead to and increase in noise for local residents.
- 1.2 The Ward Councillors of the nearby Ward of Weetwood have also requested the application be presented to Plans Panel. Cllr's Bentley and Gipson have raised the following concerns;
 - The hours of opening were imposed on the original application because of the potential harmful impact any extension to the opening hours would have upon neighbouring residential amenity.
 - Extended opening hours until midnight gives the impression that Meanwood Park Café is a pub rather than a restaurant / café. This will appeal to a different customer base.
 - Most restaurants and Cafés do not have opening hours until 00.00.
 - Having extended opening hours until midnight can lead to excessive drinking in an establishment.
 - Excessive drinking can lead to anti-social issues such as vandalism and noise nuisance which would threaten the character of this important public amenity and the surrounding area.

- 1.3 Cllr Walshaw, the Chair of the North and East Plans Panel, has taken into consideration the significant local interest in the application and the sensitivity of the proposal and has also requested that this application be presented to Plans Panel.
- 1.4 As this application effectively amends the original decision notice the on-going conditions that were attached to the original permission needs to be re-attached to this permission with some alterations being made to the wording of the conditions.

2.0 PROPOSAL:

- 2.1 This application seeks to vary Condition 23 of 12/00466/FU which was granted planning permission for a change of use of depot to cafe (A3 use class) with a flat over.
- 2.2 Condition 23 states:

The opening hours of the premises shall be restricted to 0800 hours to 18.00 hours Monday to Friday, 08.00 to 20.00 hours Saturday and 10.00 hours to 18.00 hours on Sundays and Bank Holidays.

In the interests of residential amenity.

- 2.3 Under this application the above condition is proposed to be varied to allow opening hours of 08.00 hours to 22.00 Monday to Thursday, 08:00 to 23:00 hours Friday to Saturday and 09:00 to 22:00 hours on Sundays and Bank Holidays.
- 2.4 The table below compares the existing and proposed days and hours of opening:

Days:		Hours:	
Existing	Proposed	Existing	Proposed
Monday to Friday		08:00 to 18:00	
	Monday to Thursday		08:00 to 22:00
Saturday		08:00 to 20:00	
	Friday to Saturday		08:00 to 23:00
Sundays and Bank Holidays	Sundays and Bank Holidays	10:00 to 18:00	09:00 to 22:00

3.0 SITE AND SURROUNDINGS

- 3.1 Meanwood Park Café comprises a stone building with a pitched roof of natural slate and an area of associated land to the west and north of the building. The accommodation is set out over two floors with the ground floor in use as a café

and the first floor has permission to be used as a flat. The site has been operating as a café for a number of years. It is located towards the southern end of Meanwood Park which is extensive and lies immediately adjacent the site. Adjacent to the café is a relatively small car park that serves the park. The Meanwood Church of England Primary School, a Listed Building, is located to the south east on the other side of Green Road. The cafe is identified as a 'positive building' in the conservation area appraisal plan. The site lies within the Green Belt, Meanwood Conservation Area and the Urban Green Corridor.

4.0 RELEVANT PLANNING HISTORY

4.1 12/00466/FU- Change of use of depot to cafe (A3 use class) with flat over. Approved

4.2 A licencing application PREM/04213/001 has been granted with the opening hours of 09:00 to 24:00hrs (midnight) and for the sale of alcohol up to 23:00hrs. Although this is not a planning matter Members attention is drawn to the licencing application. The following are some of the conditions that were attached to the decision;

- The PLH/DPS will ensure patrons use beer gardens, external areas and play areas in a manner which does not cause disturbance to nearby residents and business in the vicinity.
- The designated premises supervisor and any door supervisors will monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
- The premises shall be and remain predominantly food led.
- Noise from a licensable activity at the premises will be inaudible at the nearest noise sensitive premises.
- The PLH/DPS will adopt a 'cooling down' period where music volume is reduced towards the closing time of the premises.

5.0 HISTORY OF NEGOTIATIONS

5.1 During discussions with the applicant with regards opening hours, the applicant provided the following information;

- It is likely that the premises would close to customers earlier than that was originally proposed
- The midnight opening hours were only suggested to allow the premises to be cleaned by staff once the premises had closed for business.

5.2 It was explained to the applicant that the opening hours condition relates to the actual hours the premises opens to the public and that the cleaning of the premises could take place lawfully after the restricted opening hours. Following

these discussions the applicant reduced the proposed hours of opening to those outlined within the Proposal section of the report.

- 5.3 Discussions were held with the applicant with regards to the potential for a temporary eighteen month consent being granted for the extended opening hours. This would have allowed the site to be monitored for a period before the proposed hours were permanently accepted. However, the applicant could not agree to the temporary consent for the reason that such a permission would cause uncertainty and would mean that the investments that are planned for the site would have to be held back for eighteen months.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was advertised by site notice dated 17 September 2018 and was advertised in the Yorkshire Evening Post 03 October 2018. The application has generated 106 objection letters and 121 support comments have been received. A number of Local Ward Members and Ward Members of the nearby Ward of Weetwood have also objected to the scheme.

- 6.2 The Ward Members from both Moortown and the nearby Weetwood have raised the following concerns;

- The proposal will encourage excessive drinking which could stretch local services like policing and would cause noise and disturbance.
- The proposal will result in the premises operating as a pub.
- The noise from the premises would harm neighbouring residential amenity
- The proposed opening hours should be similar to other such businesses in the area.

- 6.3 106 objections have been received raising the following concerns;

- The late night opening of this premises is not compatible with this quiet residential location
- The proposal will increase noise from comings and goings and from music being played.
- The park is characterised by its quiet and calm environment, this will be disrupted
- The proposal will result in the building operating as a pub.
- The proposal will create highway safety issues.
- The roads leading up to the site are narrow and not suitable for emergency vehicles.
- The proposal will lead to unsociable behaviour and crime
- The proposal will be detrimental to local wildlife
- Light pollution
- The proposal will be detrimental to the local shopping area.

- Conflict with NPPF and Core Strategy
- Harm to the character of the Conservation Area
- Create on street parking issue
- Damage to local roads and public car park
- Number conditions on the approved plans have not been implemented
- Impact upon public health
- The applicant does not own the site
- Harm to school children
- Noise travels far through the park
- Outdoor seating and events will cause noise nuisances throughout the day

6.4 121 Support letters have been received and the following comments have been made;

- This proposal will benefit the community
- The proposal will create jobs
- The café will become an asset to the park and provide additional facility for people using the park in the late evening
- Longer opening hours will improve security in the area, help prevent vandalism and will ensure that the park is safe to use on a night.
- This plan is better than leaving units empty free to be vandalised.
- The applicant future vision for the café is very existing and will improve the sense of community in the area.
- The cafe is isolated enough not to impact directly upon the neighbours.
- The park is vastly and underused and this will attract more people to use the park.
- The applicant has the welfare of the local area at heart.
- The majority of users are likely to be local and would walk to the site
- Parking will not be an issue as the car park is normally empty at that time
- This will form a lovely place to have a drink in the evening

7.0 CONSULTATION RESPONSES:

7.1 Highways: No objection

8.0 PLANNING POLICIES

8.1 Section 38(6) 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.

Local Policy

8.2 The Development Plan for Leeds currently comprises:

- (i) The Leeds Core Strategy (Adopted November 2014)..
- (ii) Saved UDP Policies (2006) – Appendix 1 of the Core Strategy.
- (iii) The Natural Resources and Waste Local Plan (2013).
- (iv) Any made neighbourhood plan.

8.3 The below Core Strategy and saved UDP (2006) policies, supplementary planning documents/guidance (SPDs/SPGs) and national guidance are considered to be relevant to this application.

Core Strategy:

- General Policy – Sets out the presumption in favour of sustainable development
- Policy SP1 - Seeks to concentrate the majority of new development within the main urban areas and ensure that development is appropriate to its context.
- Policy P3 (Edge of town Centre Uses): seeks to ensure that proposals that involves evening opening, account will be taken of the proposal in relation to the proximity of the premises (and associated parking requirements), to nearby residential accommodation, the nature and character of the neighbourhood parade and existing noise levels,
- SP10 Green Belt
- Policy T2- Accessibility requirements and new development
- Policy P11- Relates to development in Conservation Areas and heritage matters.
- Policy G6- Establishes protections upon areas of Green Space from development.
- Policy G1- ensure that the Green Infrastructure within Leeds are enhanced and protected.

Saved UDP (2006):

- Policy GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
- N19- Development within the Conservation Area
- N33- Development in the Green Belt.
- N8- Requires existing Green Corridor functions of the site to be retained.

Supplementary guidance:

8.4 Meanwood Conservation Area Appraisal - the building has been identified within the appraisal as a positive structure.

8.5 Parking SPD – January 2016. This sets out parking requirements for new development.

National Planning Policy Framework (2018)

8.6 This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and strongly promotes good design and sustainable development.

8.7 The following sections are of particular relevance:

- 8 – Promoting Healthy and Safe Communities
- 12 – Achieving well-deigned places
- 13- Protecting the Green Belt
- 16- Conserving Enhancing Natural Environment

8.8 Paragraph 196 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

8.9 Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires development, as a whole, to preserve the appearance and character of Conservation Areas. Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies to all decisions concerning listed buildings and requires that when making a decision on a planning application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Preservation in this context means not harming the interest in the building, as opposed to keeping it utterly unchanged.

9.0 MAIN ISSUES

- Impact on Amenity.
- Highways.
- Public Representation

10.0 APPRAISAL

Impact on Amenity

10.1 The application relates to a site which was granted permission to be used as a restaurant and café (A3). The proposal is to vary the opening hour's condition which was imposed to protect residential amenity on the site. The hours of opening on the premises was restricted to 0800 hours to 18.00 hours Monday to

Friday, 08.00 to 20.00 hours Saturday and 10.00 hours to 18.00 hours on Sundays and Bank Holidays.

- 10.2 Under this application the opening hours are proposed to be extended, to 22:00 hours on Monday to Thursday and on Sundays/ Bank Holidays. From Friday to Saturday the opening hours will be extended to 23.00. A full summary of the hours is provided at 2.4 above.
- 10.3 A large number of the public comments have been received that raise concern with regards to the noise implication of the proposed extended opening hours. The application property is located 45m away from the nearest residential property to the south. This dwelling is separated from the site by the public car park and a belt of trees. The rest of the dwellings on street enjoying a much greater separation. Furthermore, there is a condition on the original permission (12/00466/FU, condition 22) that restricts the use of the site to a café/ restaurant. The stated reason for the imposition of the condition was 'in the interests of highway safety'. The effect of this condition is that the primary use of the premises should remain as a café/restaurant and that planning permission would be required to change to another use such as a bar. Given the planning restriction on the use of the site and the separation distance that exists between the site and the nearest residential dwellings, it is not considered that the levels of noise from the activities within the site are likely to cause undue harm the amenity of the neighbouring residents.
- 10.4 There is also a flat above the café/ restaurant which was, via condition, required to be sound proofed. The applicant has confirmed that it has been sound proofed in accordance with Building Regulations. With appropriate soundproofing in place it is considered that the proposal extended opening hours will not significantly harm the occupants of the above floor flat by way of noise (subject to the other conditions set out at the head of this report).
- 10.5 It is noted that there will be comings and goings from the site that will last for longer periods of the day, with the traffic likely to pass through the nearby residential street. Given the scale of the business and its use as a café/restaurant and that there is no objection from highways, it is considered that extending the opening hours is unlikely to generate a level of traffic flow that will harm the amenity of the neighbours by way of noise or disturbance.
- 10.6 This site has recently been granted licensing application which proposed late-night drinking within the establishment and for music to be played within the site. Members of the public are concerned that the approval of the licensing would result in the site being used as a drinking establishment, which will create more noise and disturbance to neighbours. These fears can be eased somewhat by the fact that the use of the site has been restricted to a café and restaurant, and therefore the sale of alcohol cannot become the predominant business model for the site. Furthermore, a drinking establishment such as a

pub falls within use class A4 which is a separate use class to the permitted use of the site. Therefore, should the applicant intend to change the business model and convert the site into a drinking establishment, it will need to be the subject of a full planning application.

- 10.7 Whilst not a specific planning matter members should be aware that a licensing application has been granted which included a number of conditions. It is considered that these conditions would ease the concerns in relation to noise. The following are some of the conditions that were attached to the licensing application;
- The PLH/DPS will ensure patrons use beer gardens, external areas and play areas in a manner which does not cause disturbance to nearby residents and business in the vicinity.
 - The designated premises supervisor and any door supervisors will monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
 - The premises shall be and remain predominantly food led.
 - Noise from a licensable activity at the premises will be inaudible at the nearest noise sensitive premises.
 - The PLH/DPS will adopt a 'cooling down' period where music volume is reduced towards the closing time of the premises.
- 10.8 It should also be noted that the original application was approved with a condition that required the extract ventilation system or plant to be positioned and silenced so as not to cause nuisance by way of noise or odour to nearby occupiers/ residents. Therefore, it is considered that the proposal extension to the opening hours will not harm the amenity of the neighbours by way of noise nor will the plant and ventilation systems that are operated on site for an extended period cause nuisances by way of noise.

Impact upon the Character of the Conservation Area/ Setting of Listed building/ Green Belt/ Urban Green Corridor

- 10.9 The application does not seek external alterations to the property, therefore the proposal does not pose any physical harm to the character of the Conservation Area or to the setting of the adjacent listed building. In addition it is not considered that the proposal would cause harm to the openness of the Green Belt or to the character of the Urban Green Corridor.
- 10.10 The extended opening hours will however result in additional comings and goings to a form the site for a longer period and the site will be lit for a longer period of the night. As this is largely an urban area which is well lit, it is considered the comings and goings to and from this café/restaurant and the artificial lighting will not cause harm to the character or the appearance of the Conservation or the setting of the listed building. The ongoing use of this

positive building in the Conservation Area is considered in its self to be a positive benefit. It is not considered that the likely modest levels in activity and lighting would harm the openness of the Green Belt.

Highway Issues

- 10.11 The Highways Officer has considered that parking and traffic implications of the extended opening hours and do not raise significant objections to the proposal. It is not considered that the parking needs or traffic to and from the site would be substantially different during proposed opening hours when compared to the existing hours of opening. Therefore, it is difficult to argue that the proposal would significantly increase on-street parking demands or traffic issues.
- 10.12 There has been a number of objections raised in relation to the highway safety concerns during school time. It is considered that the business can currently operate during school hours and as such this is not an issue.

Public Representations

- 10.13 Large numbers of objection letters have been received regarding the extended opening hours, including from Local Ward Members. The concerns raised in relation to noise and highways implications of the development have been addressed within the report as have the issues relating to lighting, impacts on the character of the area and the potential for the site to be used as a drinking establishment.
- 10.14 The comments made that the proposal will encourage excessive drinking which could in turn stretch local services like policing, are noted. As has been mentioned in the report, the permission will not result in the site being used as a Pub/bar and it is unlikely that the proposal would encourage excessive drinking.
- 10.15 The comments made that the proposed opening hours shall be similar to other such business in the area, is noted. However, the property is fairly isolated from other restaurants and bars in the area and therefore it need not follow the timings of the nearby business. Furthermore, it is considered that the opening hours proposed are entirely reasonable for this location.
- 10.16 In respect of the comments made that the roads leading up to the site are narrow and not suitable for emergency vehicles. As the business on the site has been established for a number of years and this permission seeks merely to extend the opening hours, it is considered that the proposal cannot be refused on this issue.
- 10.17 The concern raised that the proposal will lead to unsociable behaviour and crime, cannot be substantiated. It is not considered that it can be evidenced that

the extension of the opening hours to an existing restaurant/ café would directly lead to unsocial behaviour or crime.

- 10.18 Comments have been received asserting that the proposal will be detrimental to local wildlife. It is not envisaged that local wildlife will be adversely affected by the extended opening hours.
- 10.19 Comments have been made that the proposal will be detrimental to the local shopping area and conflict with NPPF and Core Strategy. This is an established use and therefore the principle of the proposal is not the subject of the debate.
- 10.20 Concerns have been raised that the proposal will cause damage to local roads and public car park. It is not considered that the proposal would lead to levels of traffic that would cause damage to local roads or to the adjacent car park.
- 10.21 Comments have been made that a number conditions on the approved application have not been discharged. A discharge for condition application has recently been approved and the applicant has expressed an intention to comply with all the conditions. Any breeches of the conditions can be enforced by the council.
- 10.22 Concerns have been raised that the proposal would have an impact upon public health. It is unclear how the proposal would affect public health.
- 10.23 The issue of ownership has been discussed with the applicant and been clarified. The applicant has confirmed they hold a leasehold interest on the property and therefore is entitled to sign Certificate A.
- 10.24 A large number of comments in support of the application have been received highlighting the benefits to the scheme on the character of the area, to the local community and the local economy.

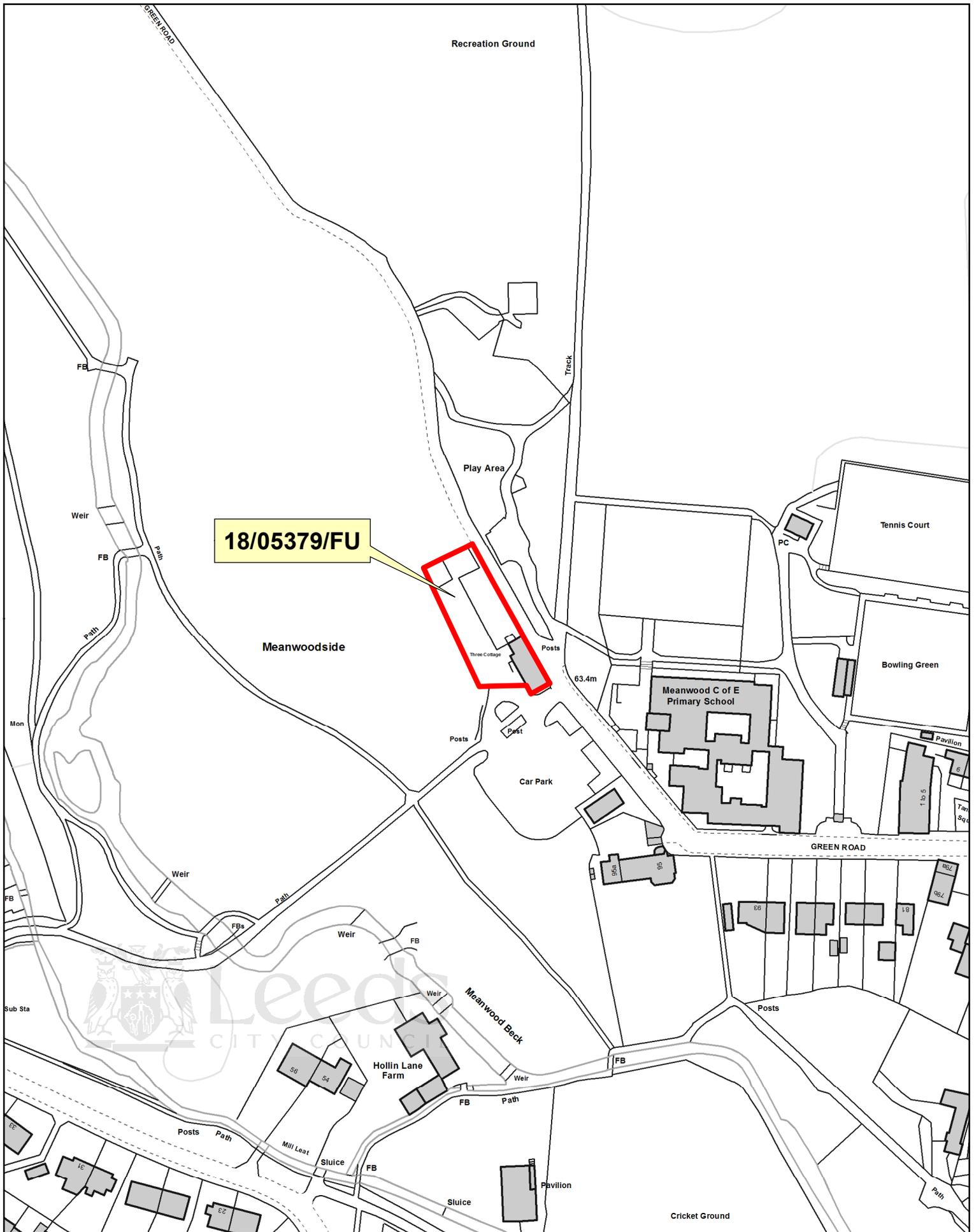
11.0 CONCLUSION

- 11.1 It is not considered the proposed extended hours of opening would have an unduly adverse impact on residential amenity, parking requirements, highway safety or the character and appearance of the immediate or wider area (including the Meanwood Conservation Area). In light of the above and all other material planning considerations it is Officers view that the proposal is compliant with the relevant policies and guidance set out in this report and subsequently it is recommended that the proposal to extend the hours be granted planning permission subject to the conditions set out at the head of this report.

Background Papers:

Application file: 18/05379/FU

Previous Planning Approval 12/00466/FU-
Discharge of conditions application: 18/04596/COND
Certificate of ownership: Certificate A- signed by Agent on behalf of the applicant



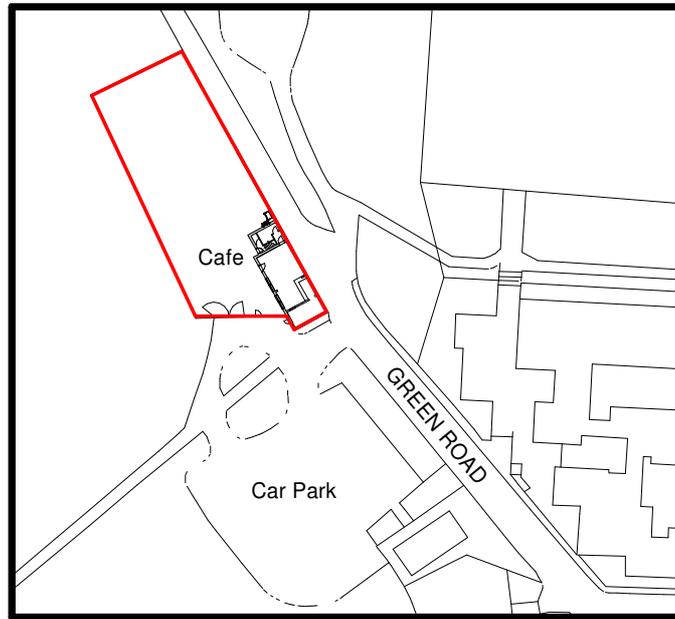
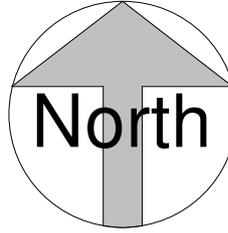
NORTH AND EAST PLANS PANEL

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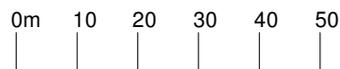
SCALE : 1/1500





Location Plan (A4)

Scale: 1 : 1250



Scale 1:1250

RJ DESIGN
Architectural Services
08456 120 334
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Project: Green Road, Meanwood, LS6				
Sheet Title: Location Plan				
Scale: As Shown	Size: A4	Project No: 18/	Drwg No: A102	Rev: