



Report of the Chief Planning Officer

SOUTH AND WEST PLANS PANEL

Date: 7th November 2019

Subject: 19/04884/FU - Change of use and alterations from D1 education facility to A4 public house (renewal of permission 15/02489/FU) - Former Elinor Lupton Centre, Richmond Road, Headingley, Leeds

APPLICANT

JD Wetherspoon PLC

DATE VALID

05.08.2019

TARGET DATE

04.11.2019

Electoral Wards Affected:

Headingley and Hyde Park

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

RECOMMENDATION:

DEFER AND DELEGATE for approval of planning application 19/04884/FU to the Chief Planning officer subject to the conditions below and subject to the signing of a Section 106 agreement within 3 months of the date of resolution unless otherwise agreed in writing by the Chief Planning Officer to include a contribution of £100,000 to provide a pedestrian crossing on Headingley Lane as off site highway works or as a contribution to a wider scheme to be agreed and the Public House Management Plan designed to prevent serious harm to neighbouring amenity from occurring. A Local skills and training clause is also proposed.

1. Time limit condition
2. Plans to be approved;
3. Preservation of retained trees/hedges/bushes
4. Provision for replacement trees/hedges/bushes
5. Specified operating hours (construction) of 08.00-18.00 weekdays, 09.00-14.00 Saturdays; no Sunday / Bank Holiday operations;
6. Hours of opening of the Public House shall be restricted to Sunday to Thursday 8am – 11.00pm and Friday & Saturday 8:00am – 11.30am including public holidays. Last orders shall be 30 minutes before closing time specified in this condition.

7. The outside area to the front of the building shall not be used for the consumption of food or drink before 9am or after 10pm any night. Notwithstanding the information shown on the approved plans there shall be no tables and chairs sited located outside of the defined front beer garden area.
8. There shall be no food or drinks consumed outside of the building except in the defined areas.
9. The rear glass doors onto the ramp shall be closed no later than 10pm each night.
10. Bottles shall not be placed in any outside receptacles after 8pm or before 9am.
11. There shall be no amplified music or televisions audible outside of the premises at any time.
12. There shall be no deliveries to the site before 8am or after 6pm Monday to Saturday and not before 9am or after 1pm on Sundays and public holidays.
13. Deliveries shall be carried out in accordance with the approved delivery management plan
14. Plant and mechanical equipment shall not be audible above 5ba at the nearest noise sensitive point.
15. Restriction of permitted development change of use.
16. Details of TRO to be agreed.

1.0 INTRODUCTION

- 1.1 This application is brought to Panel at the request of Councillor Walshaw as it is considered to have more than an immediate neighbour impact. There is a level of interest in the proposals from local residents who have raised concerns with the impact the development will have on residential amenity locally. Members are asked to consider this application on its own merits and having regard to the policies of the Development Plan to determine the application unless other material considerations indicate otherwise.
- 1.2 The application before Members seeks permission for the change of use and alterations from D1 education facility, the Elinor Lupton Centre, to A4 public house. The application is in effect a renewal of planning permission 15/02489/FU granted previously for the change of use of educational facility (D1 use) to A4 public house, external alterations and creation of outdoor areas to the front of the building and car parking to the rear. Members may recall the application was presented to Plans Panel on 22nd October 2015. Officers recommended that planning permission and listed building consent be granted for the scheme that was considered very finely balanced on its planning merits. It was acknowledged that, despite measures to mitigate the impact of a large A4 public house, some impact on residential amenity would arise from the development but the significant weight that attached to the redevelopment of a listed building at risk together with the wider economic benefits that would result from the development, on balance, outweighed the adverse impacts of the development. Members did not accept this recommendation and resolved to refuse planning permission on the grounds of the impact on the amenity of nearby residents. As such, the Local Planning Authority refused planning permission on 23rd October 2015 for the following reason:

“The proposed development would by reason of its out of centre location, sited midway between Headingley Town Centre and Hyde Park Corner on a popular and well known route used by students and others for drinking and entertainment result in a serious loss of residential amenity to nearby residents. The harm would arise from the comings and goings associated with a large capacity public house venue, including late night noise and disturbance caused by people on foot and in their cars and taxis arriving and departing in a predominantly residential area. This harm to residential amenity outweighs the considerable weight afforded to the re-use and restoration of the listed

building and the economic benefits of the proposed use. As such the proposal is contrary to Saved Unitary Development Plan (Review 2006) policy GP5 and guidance in the National Planning Policy Framework paragraph 17 detailing Core Principles which includes always seeking a good standard of amenity for all existing and future occupants of land and buildings.”

Members resolved to approve the accompanying listed building application 15/02490/LI. A further renewal of the listed building consent was granted permission under delegated powers on 23rd March 2019.

- 1.3 Following the refusal of planning permission the applicant appealed the decision to the Planning Inspectorate. The appeal was allowed with the Inspector concluding that:

“...with the imposition of the suggested conditions, the proposal would not be likely to result in such levels of noise and general disturbance that the living conditions of nearby residential occupiers would be unacceptably harmed. What impact there would be is in my view outweighed by the benefits of the proposal in securing the reuse and refurbishment of an important designated heritage asset. I consider there would be no conflict with the development plan, taken as a whole, or with the thrust of guidance within the Framework, which presumes in favour of sustainable development.”

The full Inspector’s decision is appended to the report.

- 1.4 Following the granting of permission at appeal the applicant applied for a premises license. However, in considering the application the Council licensing were not persuaded that the objectives in respect of public nuisance and crime and disorder could be addressed in an area which already had cause to be subject to a Cumulative Impact Policy. The Sub Committee had regard to the Cumulative Impact Policy and in reaching a decision were sympathetic to the concerns of the local residents about such a large premises obtaining a license and the impact it would have on this residential area.
- 1.5 In their view, there was an absence of measures that it considered specifically addressed the Headingley and Hyde Park CIP or demonstrated that there would be no additional impact. It was on this basis it was decided to refuse the licence application.
- 1.6 Since the original permission was granted at appeal and subsequent to the refusal to grant the licence the Council has undertaken the five yearly review of the Cumulative Impact Policy, and based on ASB/crime data the cumulative impact area for Headingley has been reduced and split into two areas. The Eleanor Lupton Centre now falls sits outside of the cumulative impact area. Members are advised of this is largely for information as the Cumulative Impact Policy does not form part of the development plan and therefore, whilst some regard can be given to this change in circumstances, only limited weight should be given to the Cumulative Impact Policy in assessing this application. Given the site has recently been removed from the Cumulative Impact Zone the applicant has advised that it is their intention to pursue their original proposals and re-apply for the necessary premises license should planning permission be granted.
- 1.7 Other material changes since the granting of the original permission and which need to be given weight in assessing the application include the decision to not proceed with the NGT scheme along Headingley Lane and amendments to the development

plan. This issue is discussed further within the report, however previously the NGT scheme potentially created access issues to the site whereby customer and delivery vehicle accessing the site would have been required to use adjacent residential streets. As NGT is no longer going ahead a simpler access arrangement can be achieved whereby the site can be accessed more directly from Headingley Lane.

- 1.8 Changes to the Development Plan since the original permission include the Core Strategy Selective Review (2019), the adoption of the Site Allocation Plan and changes to the National Planning Policy Framework published in 2019. However, changes do not impact or remove the need for conditions relevant to the consideration of the scheme and therefore are not considered material changes which would dictate a different decision being made to that granted at appeal in 2016.

2.0 PROPOSAL:

- 2.1 The proposal is for alterations and refurbishment and the change of use of the Elinor Lupton Centre from educational facility (D1 use) to an A4 public house together with minor external alterations.
- 2.2 External changes to the building are to be limited to rear of the building. An insertion is to be made into the south wall in order to link internal and external spaces. Symmetry of the building is to be retained with structural glass windows.
- 2.3 All existing entrances onto the site are to be made use of without the creation of any new ones. The existing vehicular access point onto Richmond Road will be widened to allow for deliveries. The rear outside area which was last used as car parking will be reused as a car park (17 spaces), bin store and delivery area. Directly outside the front elevation behind the retained existing hedge is proposed to be used as an outside eating and drinking space.
- 2.4 As the building to which the application relates is a listed building, an additional listed building consent application was submitted to the Council, which determined this separately and was renewed earlier in the year. Consequently, the proposal subject to the planning application, relates to the change of use from an educational facility (D1 use) to an A4 (public house) together with the minor external alterations.
- 2.5 For information, the extent of alterations required to create an A4 premises and which were approved as part of the listed building consent are fairly minimal in relation to subdivision or significant changes to the existing internal spatial qualities of the building. The main auditorium space will be kept open and largely unaltered. The raked floor will be leveled up to create a surface that is fit for purpose and the internal spatial quality of the theatre will remain largely intact.

3.0 SITE AND SURROUNDINGS

- 3.1 The site relates to a Grade II listed building (No 465421) within the Headingley Hill, Hyde Park and Woodhouse Moor Conservation Area. It is partly 2 storeys with a basement, all dressed in Portland Stone. It is both different in style and materials from the predominant Victorian stone villas on Headingley Hill but a landmark building in its

own right. Buckingham House which adjoins the site is a grade II listed building and has been converted into apartments.

- 3.2 The site is located in a predominantly residential area and the building fronts onto Headingley Lane, there is an existing historic vehicular access located between the building and the neighbouring site of Buckingham House (also grade II listed). The main vehicular access and car parking area is accessed from Richmond Road. Headingley Lane is a main arterial route into the City centre, whilst Richmond Road represents a solely residential environment. The site sits mid-way between the defined town centre of Headingley and the local centre of Hyde Park Corner.
- 3.3 The building has been vacant since 2010 and is now boarded up. The building has been subject to some graffiti and vandalism with its external appearance and the condition of the internal fabric deteriorating during this period.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 15/02489/FU - Change of use of educational facility (D1 – Refused and granted at appeal

15/02490/LI - Listed Building application for alterations to educational facility (D1 use) to form A4 public house and creation of outdoor areas to the front of the building and car parking to the rear – Approved

16/07184/COND - Consent, agreement or approval required by conditions 3, 6, 8, 9, 10, 11, 12, 13, 14, 22 and 23 of Planning Application 15/02489/FU – Split decision

18/06878/FU - Change of use from educational facility (D1) to 52 bedroom hotel (C1 use) and ancillary hotel bar including rear extension incorporating undercroft parking, second floor extension to existing building and external alterations – Withdrawn

18/06879/LI - Listed Building application for rear extension, second floor extension to existing building together with internal and external alterations - Withdrawn

19/00253/LI - Listed Building application for alterations to educational facility (D1 use) to form A4 public house and creation of outdoor areas to the front of the building and car parking to the rear - Approved

5.0 HISTORY OF NEGOTIATIONS

- 5.1 The details of the application are as negotiated during the original application and considered by Members at Plans Panel and the Inspector in considering the subsequent appeal.
- 5.2 The original application was not required to provide a specific pedestrian crossing on Headingley Lane as this was to be provided as part of the wider NGT scheme. As this is no longer being delivered the applicant is required to provide a pedestrian crossing. The applicant has committed to funding this as a condition of any approval.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 70 letters of representation were received from local residents. Concerns and comments raised are summarised as follows

- The development will harm the character of the community
- The listed building is out of character with the wider area and limited weight should be given to the importance of its retention.
- Create noise and disturbance from customer and vehicular movements
- Anti-social behaviour problems related to alcohol consumption will result from the development
- Weight should be given to the court judgment which raised amenity issues as the reason to withhold a license.
- The development will result in excessive traffic and cars, including taxis within adjacent residential streets
- Since the original approval there has been a demographic shift within the immediate neighbourhood with more families locating to the area. The development would have a greater impact on these families.
- Families will be forced to leave the area
- The development will exacerbate parking congestion in surrounding streets.
- In the event of permission being granted robust conditions should be imposed to ensure the careful management of the premises.

A petition of 44 signatures from the residents of the Buckingham Estate has been received.

The Local Ward Councillors have submitted a joint response advising that:

As the local Councillors representing the area we maintain the position we always have, that the Elinor Lupton Centre is not the ideal location for a pub. As the building is in a residential area, the coming and goings of servicing of the pub and its patrons will inevitably disturb the residents in the immediate vicinity.

However, should the committee be minded to grant the application we would ask that the following be considered as a minimum for both planning and licencing conditions.

- 1) A reduction in capacity from original plan. As the Elinor Lupton Centre is in a residential area it would be inappropriate for this to be a venue the size of the original plans submitted. Wetherspoons have spoken of a desire that this be a food-led establishment and a smaller capacity would reflect this.
- 2) The floor plan to be geared towards seated, with standing only really available at the bar. This again would fit with Wetherspoons own plans for the establishment to be food led.
- 3) No fancy dress or large groups. One of the larger issues around anti-social behaviour in Headingley is the Otley Run, which objections to this plan have referenced. Other licensed premises in Headingley have also banned fancy dress or large groups and it would be helpful to see this reflected here.
- 4) No music to be played at any time (recorded or live). Given the proximity to residential properties and sheltered housing this would be a welcome move for those residents.
- 5) Only a car park around the back – not a smoking area or outside bar. Again related to noise, having a smoking area or outside bar around the rear of the property would be of detriment to those residents living in the immediate vicinity.

- 6) We would ask that conditions be placed on what time deliveries can be made so as not to disturb local residents.
- 7) Equally we would ask that conditions be placed on what time rubbish, especially glass, is thrown away outside as this too can create a huge noise for residents in a close proximity.
- 8) Should this venue become a licensed venue, there will be a need for a Pelican Crossing or similar for the safety of any patrons. If people are moving between pubs, the pubs they will be travelling to and from are the Original Oak and the Hyde Park Pub, both on the opposite side of the road. This will likely mean a significant increase in people crossing the road opposite from the Elinor Lupton Centre. While the A660 can be congested at times, there are also times when the road is relatively clear and cars build up quite a speed just as there is a bend in the road. Given this increase in footfall, it would be appropriate for a new crossing to be put in.
- 9) We would ask that signs are displayed in the pub for people leaving, to notify them that this is a residential area and for them to be considerate to those neighbours when leaving.
- 10) We would require a full security plan, including but not limited to CCTV inside and out, and the car park.
- 11) A plan would be needed for taxis and private hire vehicles which may be dropping off and collecting from the venue. It would be unacceptable for this drop off and collection point to be in a cycle line and to compromise the safety of cyclists, especially given that this is one of the most frequented cycle routes in the city.

Alex Sobel MP has commented on the development reiterating the comments of the Ward Councilors

5 letters of support for the development have been received.

7.0 CONSULTATION RESPONSES:

7.1 Flood Risk Management: No objections subject to condition

Highway Services: No objections subject to the provision of a pedestrian crossing, electric vehicle charging points and funding for a Traffic Regulation Order in the vicinity of the site

Contaminated Land Team: No objection subject to conditions

8.0 PLANNING POLICIES:

Development Plan

8.1 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 (as amended 2019), Leeds Site Allocations Plan (2019), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013) the Aire Valley Leeds AAP and any made neighbourhood plan.

8.2 Policy SP1: Location of development in main urban areas within settlements
Policy P8: Out of centre developments
Policy P10: High quality design
Policy P11: Conservation
Policy P12: Landscaping
Policy T1: Transport management
Policy T2: Accessibility requirements

8.3 Saved UDPR policies:

Policy GP5: General planning considerations;
Policy N19: Conservation areas and new buildings
Policy BD6: Extensions and alterations
Policy LD1: Criteria for landscape design;
Policy T7A: Cycle parking
Policy T24: Parking provision

8.4 Supplementary Planning Documents:

Street Design Guide SPD
Neighbourhoods For Living SPG
Headingley and Hyde Park Neighbourhood Design Guide SPD
Headingley Hill and Hyde Park Conservation Area Appraisal SPD

Neighbourhood Plan

8.5 The Headingley Neighbourhood Plan is currently in preparation and has not yet been subject to consultation so at this stage is considered to carry limited weight

National Planning Policy

8.6 The National Planning Policy Framework (NPPF) sets out the Governments Planning Policies and contains policies on a range of issues including housing, sustainable development, green belt, conservation, the local economy and design.

8.7 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.

9.0 MAIN ISSUES

The following main issues have been identified:

- Principle of the change of use and out of centre development
- Impact on visual amenity and the character of Headingley Conservation Area and the affect upon the of the special character of the listed building
- Residential amenity
- Highways and parking

- Other matters
- Conclusions

10.0 APPRAISAL

Principle of the change of use and out of centre development

- 10.1 In assessing the principle of the development the starting point is that decisions should be made in accordance with the Development Plan unless other material considerations indicate otherwise.
- 10.2 The site is located midway between the defined centres of Hyde Park Corner and Headingley. The change of use from an educational facility to a Public House results in a form of development which in the first instance would normally be located in a defined centre as it is what is known as a 'Main Town Centre Use'. The NPPF and the Core Strategy require applications for out of centre Main Town Centre Uses to undertake a sequential assessment (ie locate Main Town Centre Uses in town centres first, then edge of centre locations before considering out of centre options) or depending on the size of the building an impact assessment might be required. The site is defined as being Out of Centre in sequential assessment terms.
- 10.3 As this application relates to a total of 1589sqm (gross) floorspace then both a sequential test and an impact assessment is required as the threshold of 1500sqm set out in Core Strategy Policy P8 is exceeded. This involves a review of all sites that could accommodate the proposed A4 Public House Use within a 15 minute driving time catchment radius. In assessing proposals for main town centre uses the Council will require development proposals to follow a sequential approach to site selection. This requires development proposals for town centre uses to assess sites for their availability, viability, and suitability within existing centres of their catchment area in the first instance. Where no in-centre sites exist, preference will be given to 'edge of centre' locations which are well connected to the centre by means of easy pedestrian access. Edge of centre is defined as up to 300 metres from the primary shopping area for retail uses. If there are no sites available, viable or suitable in or edge of centre, out of centre locations that are well served by a choice of transport modes and that are close to the centre with the potential of forming linkages with the centre in the future will be favored before other less sustainable sites. Developers must demonstrate flexibility in their business model in terms of the scale, format, car parking provision and scope for disaggregating specific parts of the development to enable them to locate within the centre before considering less central sites.
- 10.4 One of the main concerns with out of centre development proposals is what effect they would have upon existing businesses within the defined town centres and would they harm the vitality and viability of the town centres by drawing trade away. This is particularly important for small and independent traders. The impact assessment carried out by the developer as part of the original application set out the likely trade that will be taken from the existing centres by the introduction of the proposal and this impact has been updated as part of the current application. The proposal is envisaged to generate a turnover of around £2,300,000 per year. As can be seen the predicted impact on the existing businesses in the centres shown below is likely to be low and not have a noticeable impact.

Location	Turnover	Trade loss	Impact
Hyde Park Corner	£3.159m	£0.057m	1.8%
Meanwood	£7.264m	£0.111m	1.5%
Headingley	£24.524m	£0.588m	2.4%
Wetherspoons Chapel Allerton	£2.854m	£0.208	7%
Wetherspoons Bramley	£1.427m	£0.071m	4.9%
Leeds	£180.703	£1.534m	0.8%
Other		£0.285m	
Total		£2.854M	

- 10.5 All town centre use proposals should consider the accessibility of the proposal to public transport and none private car based travel options. They should also be assessed against the need to ensure high quality and inclusive design- which improves the character and quality of the area and the way it functions. The proposal should also be considered against the impact on economic and physical regeneration of the area and also on the impact on local employment. When considering the application in light of these considerations the proposal is considered to perform well.
- 10.6 Given the proximity of this site to surrounding centres of Kirkstall Road, Kirkstall town centre, Weetwood, Butcher Hill, Hawksworth, Burley Lodge, Headingley, Hyde Park Corner, Chapel Allerton, Meanwood, Horsforth and the City Centre a considerable number of sites could potentially emerge that are likely to be more sequentially preferable than the application site and a small number of available units within Headingley but have been identified, assessed and discounted as they do not meet the applicant's requirements. The applicant's particular business model does often seek out unusual, characterful and challenging historic buildings that require substantial investment that they can convert into Public Houses. The Elinor Lupton Centre is one such building and clearly it cannot be moved into a more sequentially preferable location. Given the building is 'out of centre' the application does not accord with the aims of Policy P8 of the Core Strategy however, the harm that arises from this breach of policy is mitigated by the other positive economic elements and factors set out in the preceding paragraph. Officers are of the view that non compliance with Policy P8, in these specific circumstances are be outweighed by the other material considerations set out in this report and chiefly the substantial weight that is required to be afforded to the re-use and restoration of the important heritage asset, the Elinor Lupton Centre.

Residential amenity

- 10.7 Careful consideration has been given to the impact the development will have on the residential amenity of nearby residents. During the daytime the proposal is not envisaged to cause any serious harm to local residents by reason of noise and disturbance but there is potential for noise and disturbance to occur during the evening, particularly on a Friday and Saturday. The servicing arrangements are set out in the highway section of the report but overall subject to recommended planning conditions the impact from the servicing of the site is not envisaged to cause demonstrable harm to the amenity of nearby neighbours. The likely harm to the neighbours amenity if it arises is considered to be from the 'comings and goings' from

the premises by patrons either arriving on foot from surrounding streets or coming by car or taxi.

- 10.8 Officers initially expressed significant concerns with the proposal due in part to the scale of the public house that would be created. The proposed public house would require car parking and servicing facilities. It would also need an outdoor space for smokers. The premises is also located on Headingley Lane which is known as being a thoroughfare for its busy night time economy and being a route that links Headingley town centre to Hyde Park Corner and on to the City Centre as part of the 'Otley Run'.
- 10.9 The most concerning of all the elements that might cause harm to amenity from the activity associated by patrons being on the premises is from activity in the large outside drinking and eating area that was initially proposed with its own dedicated bar in the rear yard area of the site. This part of the site is in closest proximity to the neighboring premises of Buckingham House and Richmond Road that would be the most affected by the activity associated with the public house. The mitigation proposed by the applicant to support this element of the application included hours of use controls and acoustic fences and management plans. In proposals for this outside space the applicants were supported by their acoustic consultant's report. The findings of which were also accepted by LCC Environmental Health officers. However, planning officers considered that the amenity impact of this outside area was beyond what could be mitigated by planning conditions and good management even having regard for the acoustic report. The applicant therefore removed this element completely from the plans through negotiations on the original application. This space was also needed for car parking and servicing, which on its own will generate some noise and disturbance to surrounding residents but officers consider this can be controlled by planning condition and good management. This revision to the plan was significant in shifting the planning balance in favour of the application.
- 10.10 The applicant has provided additional details of the proposed management plan for the site. The applicant also clearly has a good track record of managing establishments in the City and this has been endorsed by the Police however this cannot be taken into account in the determination of this application. The management plan has been developed to protect all persons who will live, work or engage in other activities in the immediate vicinity of Elinor Lupton Centre including noise disturbance from the outside terrace areas and other outside areas ancillary to the operation of the premises. In formulation of this plan, regard has been had in a particular to the proximity of nearby residential properties surrounding the premises, with a view to ensuring the public house is compatible with them. Ensuring implementation of this plan will be the responsibility of the Premises Manager and their team with the support of the premises Area Manager and Regional Manager. All staff at the premises will be expected to be familiar with its contents. The key points of the plans are set out below:
- The premises will operate as a traditional JD Wetherspoon without music of any type so there will be no music noise escape when customers exit or enter the premises before or after using the external area.
 - The arrangements for smokers will be reviewed with the LPA three months after opening, to confirm that it is operating satisfactorily.
 - There shall be no consumption of food or drink in the beer garden after 2300 in order to minimise noise disturbance. Signage advising of this restriction will be placed adjacent to the entrance of the front beer garden. Smokers will be allowed to use the canopy area after 2300 up until the close of the premises but will not be allowed food or drinks after 2300. The area will be checked and

monitored regularly by the Duty Manager and the area will have CCTV coverage which can be monitored from behind the bar. JDW will operate a zero tolerance policy for this area and will review the management plan on a regular basis to ensure the plan is being enforced.

- Large groups in fancy dress will not be permitted entry into the premises or external areas.
- Members of staff will conduct regular checks of the terrace areas at all times the premises are open to the public. The site will also be subject to CCTV coverage. Coverage will operate for 24 hours with images retained for 30 days.
- Signage will be erected within the outside terrace areas and by all exits to the premises to remind customers of the need to respect the rights of our neighbours to the quiet enjoyment of their homes, businesses and other activities.
- If on occasion customers are found to be making excessive noise a member of staff will take immediate action to rectify the situation, e.g. ask the customer to talk more quietly or if problems persist, ask them to return inside the premises or leave the premises entirely.
- Information as to local private hire/taxi operators will be displayed at the premises and customers who have ordered a vehicle will be allowed to wait inside the premises until that vehicle arrives.
- The premises will liaise with local private hire/taxi operators to establish a “pick – up protocol” which will require drivers not to sound horns, leave engines running for prolonged periods of time or play music at levels likely to cause disturbance whilst waiting for customers. A recommended location for ‘pick-ups’ will be provided (in the rear car park area off street).
- A telephone number will be circulated to residents to allow any complaints as to noise from the premises or as to any other elements of its operation to be communicated easily.
- If any complaints of noise disturbance are received by a member of staff, the complaint will be brought to the attention of the manager on duty and immediate steps will be taken to prevent a recurrence of the situation.
- Deliveries, collections and outside disposal of waste and bottles from the premises will be at times which will not disturb our neighbours. Glass bins will not be emptied between 2000 and 0900 the following day.
- The staff car park will be locked once all staff have left the premises.
- The premises management will ensure that staff are made aware of the need to respect the rights of our neighbours to the quiet enjoyment of their homes, businesses and other activities and staff will be advised to keep their noise levels to a minimum when they are using the external areas and arriving and leaving the premises at the beginning and end of trading hours.
- Regular residents meetings will be convened unless it is apparent through poor attendance that such meetings are no longer necessary. The meetings will allow for issues which arise from the operational issues of the premises to be discussed.

10.11 In assessing this management plan the vast majority of the bullet points are considered well thought out, achievable and manageable. They are also considered to be matters that staff and patrons and surrounding residents should all be able to abide by without too much difficulty. The main area that seems challenging is related to the rejection from entry into the premises of large groups in fancy dress. This seems difficult to enforce but one the applicant is prepared to commit to. However, given the application only proposes a small outside area to the front of the premises and noise will be contained within the building and controlled by conditions there is not considered any significant harm that might occur when people are in the premises. Groups in fancy dress doing the ‘Otle run’ would be walking along

Headingley Lane regardless of this current application. Although the introduction of a new A4 venue midway between Headingley and Hyde Park might become an attractive stop for revelers given the route on foot along Headingley Lane is already well used no serious concerns are raised in this regard. It is noted that many of the objectors are concerned about the 'Otley Run' but given this exists and people already go past the ELC towards Hyde Park it is difficult to qualify any significant additional harm being caused by another A4 premises along this route.

- 10.12 The applicant is required to apply for a premises license which, if granted, would include a bespoke risk assessment which is regularly reviewed and which informs day to day management of the premises in so far as promoting the licensing objectives and will also dictate the door supervisor management plan. Responsibility for compliance with the requirement will rest with the Public House manager on duty. Members are advised the license can be revoked at any time if it is not being complied with and therefore to a large extent, these controls need to be relied upon as part of the consideration of the planning application as it is an extra layer of compliance which is designed to ensure the premises are managed correctly.
- 10.12 When patrons arrive by car or on foot they could add to the noise and disturbance in the locality. However, when considering pedestrians this is difficult to qualify because of the sites location on a busy main road and in an area with significant number of people already moving about on foot both during the day and night. Any increase of pedestrians could be difficult to attribute directly to patrons of the proposed public house but it is acknowledged that introducing a Public House in the area will add to general levels of existing noise and disturbance and more people generally in the area. Overall it is considered that the development will not result in any significant harm which cannot be controlled through planning conditions and good management practice to the nearby residents and other nearby properties. As such, the proposal accords with Policy GP5 of the saved UDPR (2006).
- 10.13 The impact of car based travel and people waiting for taxis at the end of the night is considered likely to generate the biggest impacts on residential amenity. Although the rear yard of the premises has been used as car parking historically the nature of the previous school use coupled with a lower frequency of events and overall numbers of people will undoubtedly add to noise and disturbance in the area. The extent of this is not envisaged to be so significant as to warrant a refusal of the application.
- 10.14 Planning conditions governing the hours of use, where patrons can drink and congregate will mitigate most of the effects, good management plans will further help. The erection of an acoustic fence provides further mitigation. The previously main challenge of the NGT scheme that would have created a significant number of car movements in the surrounding residential streets is no longer an issue and the existing access arrangements should mean that the actual harm from car travel is not as significant on the neighbouring residents because the distance from Headingley Lane onto Richmond Road into the car park does not take cars past a lot of residential properties.

Impact on visual amenity and the character of Headingley Conservation Area and the special character of the listed building

- 10.15 In assessing the proposal it is important to consider the impact on visual amenity and character to ensure the development meets the legal test to preserve or enhance the character of appearance of the Conservation Area. The proposal must also be assessed by the decision maker having special regard to the desirability of

preserving or enhancing the character and appearance of the listed building. The desirability of preserving the setting of listed buildings should not simply be given careful consideration by the decision maker for the purpose of deciding whether there would be some harm, but should be given considerable importance and weight when the decision maker comes to balancing out the planning considerations.

- 10.16 The NPPF is very clear that significant weight should be attached to the reuse and restoration of heritage assets. The more important the asset, the greater the weight should be. It does not distinguish between heritage assets but clearly a listed building in a conservation area is very important. The building also makes a positive contribution to the character and appearance of this part of the conservation area. The proposed works to the listed building, granted under the separate listed building application are considered sensitive and well thought out. Although some harm will arise from the creation of an outdoor seating area to the front of the premises this harm is less than substantial and will largely be screened behind the hedge and the detail design of the garden furniture can be controlled through condition. The NPPF tells us 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 securing its optimum viable use.
- 10.17 The proposed change of use is considered the optimum viable use for the building. This is based upon the amount of interest in the building from other operators that failed to materialise into formal planning application or actual purchase of the building.
- 10.18 The repair and restoration of the internal elements of the building take significant investment. The applicant have provided some cost estimates from their QS, Turner and Townsend to set out what is involved with bringing the listed building back into use and to achieve a high quality internal and external refurbishment for an A4 Use. The applicant is seeking to invest around £3.2 Million into the refurbishment project. Members should bear in mind that some of the costs relate to the fitting out of the building for an A4 use public house use (around £1m) which would not apply to other uses. The estimate provided by Turner and Townsend doesn't include the purchase cost of the building. The figures are not submitted in support of any viability argument and therefore are not in the public domain as they contain sensitive commercial costs around the operation of a Public House but they do show that costs involved in refurbishing the building are considerable, possibly over £2m just to get the building to first fix which alternative operators such as social enterprises would still need to achieve in order to have a building fit for purpose. Significant weigh should be afforded to the reuse and restoration of the listed building in the conservation area as part of the application when determining the proposal.
- 10.19 Having considered that the harm to the heritage asset is less than substantial and overall the detail of the scheme should result in a high quality restoration project of an important listed building in a prominent location it is important to assess its impact within the conservation area. When considering any planning application decision that affects a conservation area a local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Currently the building is becoming an eye sore and suffering from anti-social behavior, including graffiti. The building is a substantial local landmark and the proposal is considered to respect its setting within the conservation area. Although the creation of small outside area to the front of the building (principal elevation) will create some clutter in the form of tables and chairs and ancillary garden furniture this is not considered to detract from the overall appearance of the building and as the features are not permanent additions they will not result in significant harm to the

setting of the building . In addition the retention of the hedge boundary treatment further softens the outside elements and planning conditions to control the landscaping including the garden furniture should adequately deal with this detail. To the rear the intervention to the listed building is acceptable and will create a modern contrast with the insertion of a window of glazing. Therefore overall the proposal brings back into use a vacant building for public benefit and is envisaged to have a positive impact on the desirability to preserve or enhance the character and appearance of this part of the conservation area. In addition, the development will not harm the setting of any listed building within the Conservation Area or within the immediate area.

- 10.20 The applicant's Transport Statement advises that there are likely to be at least two large delivery vehicles per day and the tracking provided shows that it would not be possible to negotiate the route if cars were parked on street. As such a TRO is required to protect the junction with Richmond Road and at the mouth of the site access. As such no serious harm from the servicing arrangements or TRO proposals is envisaged.
- 10.21 With regards to the parking implications of the development, the revised scheme increased the number of spaces available in the rear yard area to 17 spaces. This is the most that can be achieved off street allowing for space for servicing to take place off street. Considering the size of the building there is some concern about customers and in particular restaurant customers bringing a car to the site and not being able to park off street. Although some on street parking existing in the locality this would not be in the best interest of highway safety due to existing on street parking demands in the locality. This will mostly affect the residents of the Manors' and Richmond Road who may experience a degree of increased on street parking demand. Ideally more spaces would be sought but given this is a conversion scheme and a site in a highly sustainable location with a higher proportion of people walking than in other parts of the City on balance the parking provision is acceptable.

Other matters

- 10.22 The retention of the hedge to the front and side of the site is a positive outcome of negotiations. The hedge will both provide screening from the outside eating and drinking area and also provides a positive boundary treatment for the listed building. The trees both within the site and adjoining should not be adversely affected by the proposed development. Some remedial tree works may be required to those trees which overhang the eastern access route to prevent conflict with motorists but that should not have any serious effects on the trees.
- 10.23 Of the other issues raised by the representations not covered within the report, devaluation of property prices is not a relevant material planning consideration. The proposal is not considered likely to force families out of the area. The proposal will open up a previously private listed building, that is becoming an eye sore in a very prominent location as a Public House that is available to all of the community. The proposal is not targeted as a student premises, clearly the area has a high concentration of students but the premises is not likely to become student focused given it is part of a nationally operated chain which in its management plan has set out how it intends to be inclusive and available for all of the community.
- 10.24 The proposal is not envisaged to have any serious impacts on health and wellbeing or to add significantly to issues associated with alcohol. The management plans coupled with the planning conditions are designed to ensure this premises can operate effectively without causing harm to the neighbours. The Police have been

contacted about the proposal and recognize the applicant's ability to operate effectively and to help reduce crime and disorder and antisocial behaviour. These elements accord with the aims of the Core Strategy and the Vision for Leeds. The effects on health for patrons, staff and neighbours associated with the proposed public house are also considered to be acceptable which again accords with one of the central aims of narrowing the health inequality gap which is part of the Vision for Leeds.

- 10.25 It is noted that local residents have advised that since the original approval there has been a demographic change within the adjacent streets where there has been an increase in the proportion of family occupation of properties with a corresponding reduction in student occupation. Whilst this demographic change is not disputed it is not considered that this modest change materially alters the consideration of the development with respect to residential amenity. Indeed, the impact is assessed on the impact on all residents and not differentiated on the basis of tenure type
- 10.26 The Management Plan will form part of a Section 106 Agreement as will the need to fund the TRO and pedestrian crossing as well as a local employment and skill training obligation. The requirement for both a Management Plan and an employment initiative is considered to meet the 3 tests set out as being necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development
- 10.27 Following the granting of permission 15/02489/FU the applicant submitted an application to discharge a number of prior commencement conditions relating to materials, landscaping, drainage, bin stores and contractors storage, deliveries and car parking. To avoid these conditions being required again the applicant has submitted the approved details as part of the application submission. This will allow the approved details to form part of the approved plan list and therefore preventing the need to repeat these conditions.

11.0 Conclusions

- 11.1 In reaching a recommendation to approve the proposed development it is important to acknowledge that the recommendation is finely balanced. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development and give significant weight to previous planning decisions unless there are material changes in circumstance which dictate otherwise.
- 11.2 The elements that cause harm are set out in detail in this report. The principal amongst these is the potential for harm to the living conditions of nearby residents from noise and disturbance arising from the comings and goings of patrons from those travelling in cars and taxis. Planning conditions restricting the hours of use, delivery arrangements and the applicant's management plan will mitigate a large degree of this harm.
- 11.3 The creation of an A4 establishment in an out of centre location is contrary to Policy P8 of the Core Strategy. However, as the site relates to an existing building that is in need of a viable reuse and is located in an out of centre location there is a reasonable justification to accept a Main Town Centre use here in this circumstance. In addition it is acknowledged the site scores well on the accessibility criteria for sustainable development. The actual effect on trader's vitality and viability within the nearby centres has been accepted as being low and should not cause any serious demonstrable harm to these existing businesses. Therefore the harm that is afforded

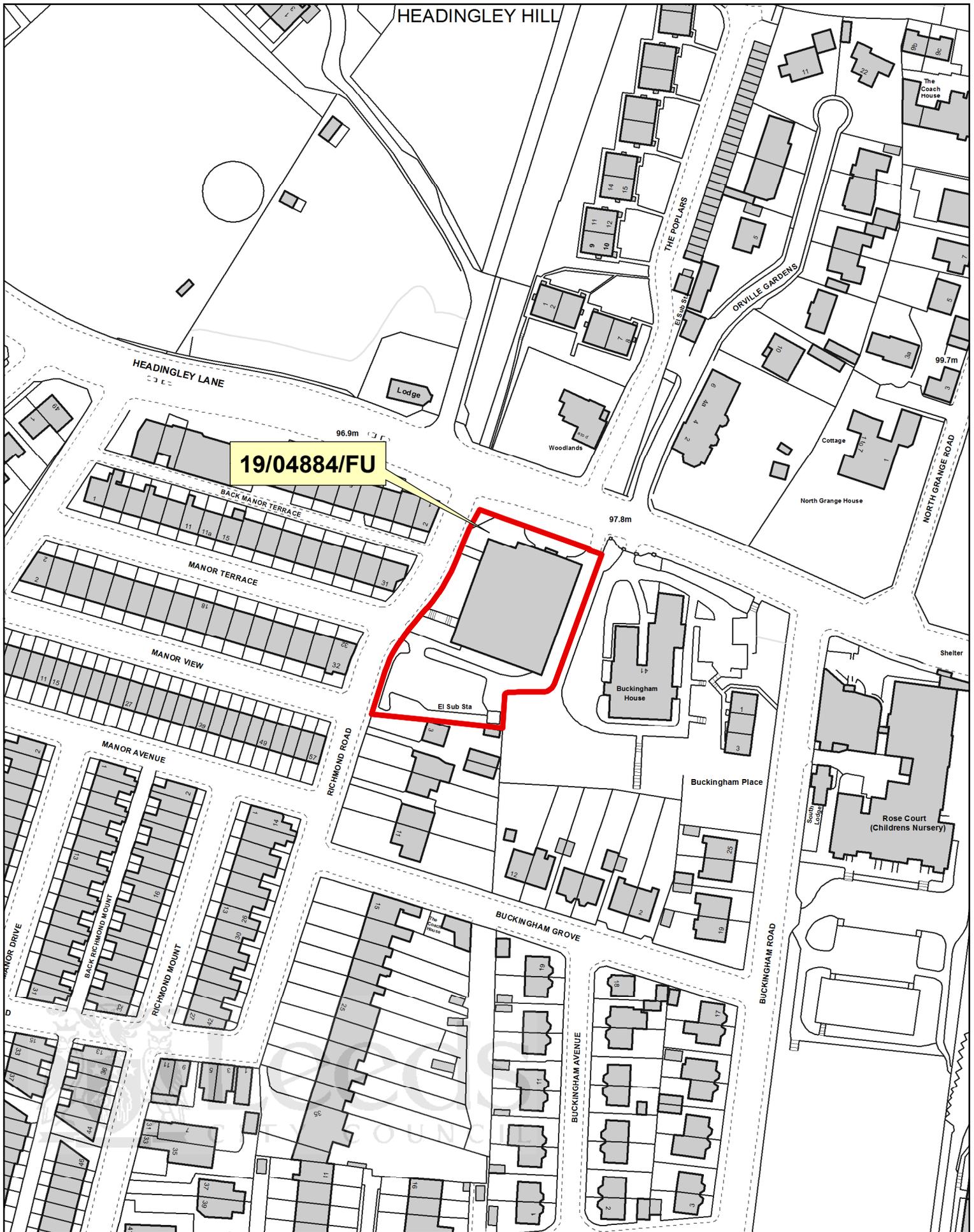
to this departure from the development is mitigated by the material planning considerations and is also therefore less than substantial.

- 11.4 Weighing in favour of the development is the considerable weight which should be afforded to the re-use and restoration of the listed building in this conservation area setting. The scheme will have a positive effect on bringing this building back into beneficial use and will have a positive effect upon the character and appearance of this part of the conservation area. This strongly accords with the aims of policy P11 of the Core Strategy and the aims of the NPPF to reuse and restore heritage assets.
- 11.5 It is considered that the management plans and planning conditions should adequately mitigate any substantial harm that might arise from the noise and disturbance generated by the comings and goings of patrons and cars and taxis. There are no serious concerns arising from the delivery arrangements, pre or post NGT. The use of planning conditions is encouraged to help overcome issues that could warrant reasons to refuse a planning application.
- 11.6 The economic benefits of creating around 50 full time equivalent jobs is also a considerable boost for local employment opportunities which is a material planning consideration in favour of the development.
- 11.7 These elements accord with the relevant provisions of the development plan and the NPPF. Overall Members are advised that these material considerations when considered in combination and added to the considerable weight given to the reuse of the listed building amount to substantial weight in favour of the application. They outweigh the harm that has been identified. In addition to the specific details of the development significant weight is also given to the previous application being allowed at appeal. Overall therefore officers conclude on the planning balance that the application can again be recommended for approval subject to conditions and a s.106 agreement.

Background Papers:

Application file.

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