



Originator: M Doherty

Report of the Chief Planning Officer

SOUTH & WEST PLANS PANEL

Date: 3rd October 2024

Subject: 23/01441/FU Restaurant with drive-thru (Use Class E and Sui Generis) including car park alterations, landscaping, and associated works at Land Adjacent Unit 1 , Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP

APPLICANT

NewRiver Retail (Ramsay Investment) Ltd

DATE VALID

7th March 2024

TARGET DATE

2nd May 2024

Electoral Wards Affected:

Kirkstall

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Following Members resolution on application 23/01441/FU, 5th September 2024, where they resolved minded to refuse this application and defer to allow the Chief Planning Officer to prepare and bring back detailed reasons for refusal with officer guidance on the strength these reasons the report is presented to members with a dual recommendation consider and select.

DUAL RECOMMENDATION:

RECOMMENDATION (1) REFUSAL OF PLANNING PERMISSION FOR THE REASONS SET OUT BELOW:

1. The Local Planning Authority considers that the proposals would result in increased traffic generation detrimental to the free and safe flow of traffic in the locality thus detrimental to the safety of pedestrians and cyclists, by virtue of the proposed layout crossing an existing footpath and access from Savins Mill Way in to the wider retail park, along with wider highway safety within the locality contrary to Policy T2 of the Core Strategy, GP5 of Unitary Development Plan (Review 2006) and the Transport SPD.

Or, RECOMMENDATION (2) DEFER AND DELEGATE TO THE CHIEF PLANNING OFFICER FOR APPROVAL subject to the specified conditions outlined in the Officer's First Report dated xxxxxx (outlined in Appendix 1 of this report) and (any others which he might consider appropriate) and also the completion of a S106 agreement

EXECUTIVE SUMMARY

2. The application was considered at Panel on 5th September 2024. The Panel resolved not to accept the officer recommendation to approve the proposals subject to the completion of a section 106 agreement and imposition of relevant conditions. It was requested that the application be reported back to Panel setting out a detailed reason for refusal based upon the concerns raised in respect of traffic generation and safety of pedestrians and cyclists in and around the site. Members considered that in approving the proposals for a drive-thru restaurant the scheme could result in traffic generation and an overall adverse impact upon highway safety. The suggested reason for refusal for members to consider is set out below:
3. The Local Planning Authority considers that the proposals would result in increased traffic generation detrimental to the free and safe flow of traffic in the locality thus detrimental to the safety of pedestrians and cyclists, by virtue of the proposed layout crossing an existing footpath and access from Savins Mill Way in to the wider retail park, along with wider highway safety within the locality contrary to Policy T2 of the Core Strategy, GP5 of Unitary Development Plan (Review 2006) and the Transport SPD.
4. A copy of the previous report is attached for Members information as Appendix 1.
5. As part of the previous application, member considerations and below, appended, Panel Report information has been submitted by the applicant in the form of a detailed traffic modelling assessment which has been assessed by Highways officers and found to demonstrate that the associated impacts of the proposed drive-thru restaurant are not severe and thus traffic generated by the development, subject to the implementation of red light violation cameras and improved signal technology would not be considered sufficient to warrant a refusal. The Panel may choose to accept officer's previous recommendation to approve the application and not, as previously resolved, decide to refuse the application – see the dual recommendation for your consideration.
6. In deciding whether to refuse planning permission Members need to have regard to the specific development applied for in light of the development plan and all other material planning considerations. In the event that the Panel resolves to refuse the application and thereby adopt resolution 1 the applicant has indicated that they may exercise their right of appeal, and it is likely that this would result in a hearing or Public Inquiry. Furthermore, and based upon the applicant's documentation submitted with these applications, it is highly probable that the applicant would make an application for an award of costs – this is expanded on further below with officer reasoning

7. Circular 8/93 makes it clear that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily. In this instance members attention is drawn to the fact the applicants have provided significant additional information, in the form of traffic modelling and surveys, as requested by Highways officers. Furthermore, the applicants have agreed to the proposed Section 106 mitigation measures and thus an off-site contribution of £72,000. Members are not bound to accept the advice of their officers, provided that their decision is reasonable and is reached on proper planning grounds.
8. Should an appeal, against a refusal, be forthcoming members should be aware that through the appeal an inspector may decide to grant permission subject to varied conditions and requirements as set out by the original officer recommendation and thus potentially less restrictions. In addition, there is potential that an inspector may consider the outlined off-site mitigation measures, secured via a Section 106, are not required and thus the development would be permitted without such measures in place.
9. In reaching its decision the Council must have regard to, and give proper weight to, the advice of its officers as previously given and set out in the attached report, national and local policy and all other material planning considerations. If Members refuse the application, then it must be based on grounds which can be fully justified and evidenced at any subsequent appeal and to be shown as not acting unreasonably in the event that an application for an award of costs is made.
10. In summary, Members are advised to take into account the original officer recommendation and the implications following a refusal of planning permission and resulting hearing or Public Inquiry in the decision making process. Officers would reiterate that the Panel is entitled to change its mind over the previous resolution as a consequence of the content of this report and approve the application, subject to a Section 106 Agreement. If this is the course of action that the Panel decides, then a further report would be brought back to the Plans Panel in order to give the opportunity for public speaking in accordance with the approved constitution. Opposingly, Members may decide that refusal is the appropriate decision and if so, the Panel should consider the suggested reason for refusal as set out within paragraph 1.1 of this report.



Originator: M Doherty

Report of the Chief Planning Officer

SOUTH & WEST PLANS PANEL

Date: 5th September 2024

Subject: 23/01441/FU Restaurant with drive-thru (Use Class E and Sui Generis) including car park alterations, landscaping, and associated works at Land Adjacent Unit 1 , Kirkstall Retail Park, Savins Mill Way, Kirkstall, Leeds, LS5 3RP

APPLICANT

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Electoral Wards Affected:

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Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: DEFER AND DELEGATE approval to the Chief Planning Officer subject to the planning conditions specified below and also the completion of a Section 106 agreement to include the following obligations:

Highways contributions in the sum of £72,000, consisting of £30,000 for signal timing improvement technology towards the A65/Savins Mill Way and £42,000 toward red light violation cameras within the gyratory.

In the circumstances where the Section 106 has not been completed within 3 months of the Panel resolution to grant planning permission, the final determination of the application shall be delegated to the Chief Planning Officer

1. Time limit for full permission (3yrs)
2. Permission implemented in accordance with approved plans/ specifications
3. Materials as per approved specification
4. Details of external extract ventilation systems and plant
5. Litter management plan
6. Construction practice management plan
7. Opening Hours

8. Delivery Hours
9. Signage (In and Out)
10. Cycle/Motorcycle Storage
11. Vehicle space to laid out, surfaced and drained
12. Provision for contractor parking
13. Specified highways works for dropped kerbs, pedestrian crossing etc
14. Landscaping details
15. Landscape management plan
16. Provision for replacement trees
17. Development carried out in accordance with biodiversity net gain assessment
18. Development to be carried out in accordance with approved drainage details
19. Requirement to report unexpected contamination
20. Details of any imported soil or imported materials required to be approved

INTRODUCTION:

11. This planning application involves the creation of a new drive-thru restaurant, car parking area, landscaping and associated works. The application is brought to Plans Panel at the request of ward Councillor Fiona Venner who advises a number of factors are leading to significant highway safety concerns through an increase in traffic, including nearby residential developments and thus the Kirkstall Gyratory system is in crisis leading to regular occurrences of gridlock. This request meets the requirements for referral under the scheme of delegation, giving rise to concerns affecting more than neighbouring properties.

PROPOSAL:

12. This application seeks to create a new Class E (formerly class A3) retail and Sui-Generis use to the site. The proposed development will comprise of a new single storey retail unit on the site with a drive thru facility, providing a total of 190.9sqm Gross External Floor Area on a Site Area of circa 0.44acres. The unit will be situated on an existing car park which has been out of use for several years.
13. The scheme creates a stand-alone unit which is to be accessed via the existing retail park from Savins Mill Way, via the main route into the existing car park with no changes to the existing access arrangements to the wider site. The existing pedestrian access across the site will be retained providing a link between the bus stop and the neighbouring retail units.
14. The building will sit centrally within the site with a new, one way, drive-thru route creating a circular arrangement along with additional parking, a service bay to the existing route at the east of the site (to the rear of the existing retail units), provision of new landscaping and a small area of external seating.

SITE AND SURROUNDINGS:

15. Kirkstall Retail Park is located to the south of Savins Mill Way and comprises a parade of three units along the eastern boundary (Matalan, Boots and B&M) with a Morrisons supermarket towards the southern boundary and a petrol filling station and car wash to the northern boundary; the remainder of the site is laid out for car parking with circa 505 spaces.
16. The application site was originally identified for car parking for 39 spaces (including 6 disability spaces) although these spaces have evidently been unavailable for a number of years given the previous permissions on this site for retail units under

applications 14/04851/FU and 16/02515/FU, approved by South and West Plans Panel in July 2015.

17. Vehicular access to the retail park is achieved from Savins Mill Way, adjacent to the rugby ground whose playing pitches adjoin the site to the west, with a separate dedicated service vehicle access further to the east from Savins Mill Way. An additional access road sits to the east of the site which serves the wider developments service yard allowing deliveries.

RELEVANT PLANNING HISTORY:

Planning applications:

18. Ref: 16/02515/FU

Description: Retail development (A1 Use Class)

Decision: Approved

Date: 28.11.2016

19. Ref: 14/04851/FU

Description: Construction of two new retail units (class use A1)

Decision: Approved

Date: 01.10.2015

Pre-application enquiries:

20. None.

Planning Enforcement cases:

21. None.

HISTORY OF NEGOTIATIONS:

22. The application has been the subject of negotiation with highways officers with further information requested regarding traffic and congestion with the scope of a traffic survey extended and agreed between Highways, Traffic Management and the applicants in order to fully assess vehicle movements and highway safety impacts.
23. Meetings have been held with the applicant, case officer and ward members to discuss general concerns raised regarding highway safety impacts, traffic generation and vehicle movements

CONSULTATION RESPONSES:

Statutory Consultees:

24. Coal Authority: No objections

Non-Statutory Consultees:

25. Flood Risk Management: No objections subject to conditions.

26. Contaminated Land: No objections subject to conditions.

27. Environmental Health (Pollution Control): No objections subject to conditions.

PUBLIC/LOCAL RESPONSE:

28. Site notice displays posted 27.03.2023

Newspaper Advertisement published 07.04.2023

26 Letters of objection have been received, including objections from Cllr Fiona Venner, Cllr Hannah Bithell, Cllr Andy Rontree, Cllr Adele Rae and Cllr Kevin Ritchie raising the following concerns,

- Highways safety impacts through additional traffic congestion and vehicle movements, compounded by neighbouring developments underway
- Provision of existing drive-thru restaurants within the locality and thus saturation
- Harm upon existing wildlife and biodiversity
- Air pollution and noise generation
- Additional litter and refuse
- Antisocial behaviour

PLANNING POLICIES:

LOCAL PLANNING POLICY AND GUIDANCE

The Development Plan

29. Section 38(6) of the Planning and Compulsory Purchase Act states that for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan, unless material considerations indicate otherwise. The development plan currently comprises the adopted Local Development Framework Core Strategy (as amended 2019), those policies saved from the Leeds Unitary Development Plan Review (2006), the Aire Valley Leeds Area Action Plan (2017), the Natural Resources and Waste Local Plan (as amended 2015), the Site Allocations Plan (as amended 2024) and any made Neighbourhood plan.

30. The following policies from the **Core Strategy** are of most relevance to this development proposal:

General Policy:	Sustainable Development and the NPPF
Policy SP1:	Delivery of spatial development strategy
Policy SP4:	Regeneration priority programme areas
Policy P1:	Town Centre Designations
Policy P2:	Acceptable uses in and on the edge of Town

Centres

Policy P9:	Community Facilities
Policy P10:	Design
Policy 12:	Landscape
Policy T2:	Accessibility requirements and new development
Policy G1:	Enhancing/extending Green Infrastructure
Policy G9:	Biodiversity improvements
Policy EN5:	Managing flood Risk
Policy EN8:	EVCP

31. The following saved policies from the **Unitary Development Plan** are of most relevance to this development proposal:

resolve amenity	Policy GP5:	Seeks to ensure that development proposals detailed planning considerations, including
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Policy N12:	Urban Design
Policy N13:	Design
Policy N23:	Open Space around a development
Policy N24:	Boundaries to open space

area

Policy N25: Boundaries of a site to respond positively to the

Policy BD5: Building design

32. The following policies from the **Natural Resources and Waste Local DPD** are relevant to this development proposal:

Policy Land 1: Contamination
 Policy Land 2: Development and trees
 Policy Water 1: Water efficiency
 Policy Water 6: Flood Risk Assessments
 Policy Water7: Surface water management

33. **Site Allocations Plan:**

The site lies within Kirkstall Town Centre (Retail Centre) as outlined within the adopted SAP and map 24 Town Centre Inset Maps along with Map 4 (Hierarchy of Centres) within the Core Strategy.

34. The application site lies outside the defined Aire Valley Leeds Area Action Plan (AVLAAP) and its policies are therefore not relevant to this application.

35. The site lies within the Kirkstall Neighbourhood Area boundary and thus falls within the scope of the Kirkstall Neighbourhood Plan which is not yet adopted. The Kirkstall Neighbourhood Plan is in early draft but has not yet been Made at Referendum.

Relevant Local Supplementary Planning Guidance/Documents

36. The most relevant local supplementary planning guidance (SPG), supplementary planning documents (SPD) are outlined below:

Hot Food Takeaways SPD

SPG22 Sustainable Urban Drainage (2004)

SPG13 Neighbourhoods for Living (2003)

SPD Transport (2023)

Other relevant documents and Emerging Plan Policies

37. Kirkstall Valley Strategic Green Infrastructure

38. Leeds Habitat Network

39. Climate Change Mitigation: SP0

40. Tree Replacement: G2C

41. Drive-Thru Development EN9

NATIONAL PLANNING POLICY AND GUIDANCE

National Planning Policy Framework

42. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

43. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004). The National Planning Policy Framework is an important material consideration in planning decisions.

44. The following sections of the NPPF are most relevant for the purposes of determining this application:

Chapter 4: Decision-making

Chapter 5: Delivering a sufficient supply of homes

Chapter 8: Promoting healthy and safe communities

Chapter 9: Promoting sustainable transport

Chapter 11: Making effective use of land

Chapter 12: Achieving well-designed places

Chapter 14: Meeting the challenge of climate change, flooding and coastal change

National Planning Practice Guidance

45. The Planning Practice Guidance (PPG) provides commentary on the application of policies within the NPPF. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects.

CLIMATE EMERGENCY:

46. The Council declared a climate emergency on the 27th March 2019 in response to the UN's report on Climate Change.
47. The Planning Act 2008, alongside the Climate Change Act 2008, sets out that climate mitigation and adaptation are central principles of plan-making. The NPPF makes clear that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions in line with the objectives of the Climate Change Act 2008.
48. As part of the Council's Best City Ambition, the Council seeks to deliver a low-carbon and affordable transport network, as well as protecting nature and enhancing habitats for wildlife. The Council's Development Plan includes a number of planning policies which seek to meet this aim, as does the NPPF. These are material planning considerations in determining planning applications.

PUBLIC SECTOR EQUALITY DUTY:

49. The Equality Act 2010 requires local authorities to comply with the Public Sector Equality Duty. Taking into account all known factors and considerations, the requirement to consider, and have due regard to, the needs of diverse groups to eliminate discrimination, advance equality of opportunity and access, and foster good relations between different groups in the community has been fully taken into account in the consideration of the planning application to date and at the time of making the recommendation in this report.
50. In this instance it is considered that the proposals do not raise any specific implications in these respects and therefore it is not considered that a full Equality, Diversity, Cohesion and Integration Impact Assessment (EDCI) is required.

MAIN ISSUES:

1. Principle of development
2. Impact on visual amenity
3. Impact on residential amenity
4. Highways implications

5. Landscaping and Biodiversity
6. Other matters
7. Representations

APPRAISAL:

Principle of development

Spatial Policy 1 of the Core Strategy seeks to deliver the spatial development strategy based on the Leeds settlement hierarchy and to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance of brownfield and greenfield land. the distribution and scale of development will be in accordance with the following principles:

- (i) The largest amount of development will be located in the Main Urban Area and Major Settlements. Smaller Settlements will contribute to development needs, with the scale of growth having regard to the settlement's size, function and sustainability,
- (ii) In applying (i) above, the priority for identifying land for development will be as follows:
 - a. Previously developed land and buildings within the Main Urban Area / relevant settlement,
 - b. Other suitable infill sites within the Main Urban Area / relevant settlement,
 - c. Key locations identified as sustainable extensions to the Main Urban Area / relevant settlement,
- (iii) For development to respect and enhance the local character and identity of places and neighbourhoods,
- (iv) To prioritise new office, retail, service, leisure and cultural facilities in Leeds City Centre and the town centres across the District, maximising the opportunities that the existing services and high levels of accessibility and sustainability to new development.

Spatial Policy 2 supports a centres first approach supported by sequential and impact assessments. The Council will direct retailing, offices, intensive leisure and culture, and community development to the City Centre and designated town and local centres in order to promote their vitality and viability as the focus for shopping, employment, leisure, culture, and community services. Proposals which would undermine that approach will not be supported.

The application site lies within Kirkstall Town Centre, as designed by the Site Allocations Plan and Policy P1 of the Core Strategy. The National Planning Policy Framework (NPPF) is supportive (para 86) of town centres and retail stating that Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management, and adaptation.

Policy P2 outlines acceptable uses in and on the edge of Town Centres. Town centres offer shopping and services intended to meet weekly and day-to-day requirements. The uses set out below are acceptable in principle in and, subject to a sequential assessment, edge of centre, and will be directed towards the centres listed in Policy P1.

- Shops, supermarkets and superstores,
- Non-retail services,
- Restaurants and cafes, drinking establishments and hot food takeaways,
- Intensive leisure and cultural uses including theatres, museums, concert halls, cinemas, leisure centres, gyms and hotels,

The site is considered to fall within a highly sustainable location with excellent public transport links, including bus stops within 10 meters of the site, along with the site being linked to Savins Mill Way and the A65, a main arterial route into the City Centre.

The application site is located within Flood Zone 2 and there have been no records of any recent flooding within the property or adjacent areas. An initial review has also identified that there are no known surface water flood risks which would impact on the proposed development. Wider works to reduce flood risk are now partially complete with works at Kirkstall Bridge underway as part of the Flood Alleviation Scheme (FAS)

The Council has prepared a Supplementary Planning Document (SPD) on Hot Food Takeaways (HFT). This aims to control the location of hot food takeaways that are in close proximity to secondary schools, and where clustering of several hot food takeaways can produce negative impacts. Whilst the use-class order has changed since the adoption of the SPD, it is clear from table 5 (page 7) that the guidance should be applied to fast food drive through proposals.

HFT1 makes clear that planning permission will not be granted within 500m of a secondary school main entrance, except within the boundaries of designated centres. The development site does not lie within 500m of a secondary school.

HT2 states that permission will not be granted where the proposal would result in the clustering of hot food takeaway uses which would detrimentally hard the function and vitality of centres and neighbourhood parades, or would have a detrimental impact on the amenity of occupants of the adjacent and connected properties. A definition of clustering is provided within the SPD. In the case of this application, it is acknowledged two existing HFTs are present to the A65, close to the junction with Beecroft Street (Pizza Connection and Pizza Pizza). As each of the parades contains less than 5 units and two HFTs are present this does not meet the definition of "clustering" as defined by the SPD.

HFT3 relates to amenity considerations. It identifies that when considering suitable opening times, the impact on residential amenity, whether there is an existing nighttime economy in the area, and the existing character and levels of activity and noise in the area, will need to be taken into account. An assessment of the proposals against Policy HFT3 will set out in detail within the Residential Amenity section of this report.

Furthermore, the site history identifies that two previously granted permissions for retail units (16/02515/FU and 14/04851/FU) have not been implemented with the applicant siting long term occupancy for retail provision has been unviable due to introduction of Class E on 01.09.2020 which allows flexibility to move from some 'main town centre uses', e.g. retail, food and drink, offices, but also includes other uses which are not defined as "main town centre uses", e.g. medical services and some industrial uses without the need for planning permission.

It is considered the proposals, given the use sought, are acceptable within the designated Kirkstall Town Centre meeting with the aims of Spatial Policies 1 and 2 which carry significant weight, above that of the HFT SPD. In addition, given the sites sustainable location it is considered the principle of the development is acceptable.

Impact on visual amenity (incl. design, appearance, character):

The application site lies within the Town Centre surrounded by various commercial uses and the main highway (Savins Mill Way and A65) along with existing, large scale, retail units to the south and a petrol filling station to the west. Given the commercial nature of the wider

area it is considered re-developing the site for use as a drive-thru restaurant creates a limited impact upon visual amenity, with such schemes directed toward Town centres.

The design of the building comprises of a low-rise, part single storey building, when viewed against the larger adjacent retail units. The design of the building is dictated by the drive-thru itself, providing a compact layout with the principal drive thru entrance being easily visible and accessible from the existing access road for both take away and dine in customers. The proportions of the facades have been designed to provide a contemporary style building with more glazing, bracing up any associated bulk and mass.

The building's façade feature a combination of masonry, feature timber cladding and composite cladding consisting of the following,

- Yellow Multi-Brick – Ibstock Coleridge
- Flat, smooth composite cladding (Mushroom Colour), Kingspan KS1000 FL-S
- Feature Parapet cladding (Traffic Red RAL 3020)
- Timber effect cladding, Nichiha traditional Cedar

It is considered the use of such materials within a Town Centre location is acceptable due to the mixed palette of materials and presence of various signage, advertisements and building forms. The proposed materials are subject to a condition which requires installation and use as per the approved specification.

The design of the proposed building is considered appropriate for the Town Centre location and thus, subject to the aforementioned conditions. The proposal is therefore considered to accord with policy P10 of the Core Strategy and the guidance on good design appropriate to the local context contained within the NPPF

Impact on residential amenity:

The proposals seek to create a new restaurant and drive-thru thus require the provision for external extract systems and plant to facilitate the cooking of food and odour removal. The installation of such external plant within the site is considered acceptable given its commercial, town centre, location. The development site sits isolated from any residential properties due to its location within the wider retail park. The nearest residential properties are located at the junction of Savins Mill Way and the A65 approximately 40 meters from the site along with existing flats to the east, fronting onto the A65, approximately 50 meters away. These distances are considered sufficient to prevent any significant adverse impact upon residential amenity through noise generation or odours.

Conditions are attached to the recommendation which require full details of external plant, ventilation systems and extract provision in order to ensure these do not adversely impact neighbouring amenity through noise or odours. The conditions specify that noise emitted from any external plant shall be no higher than existing background noise when measured at noise sensitive premises along with requirements that the plant is installed and maintained in accordance with any approved details.

The applicant seeks operational hours of 07:00 to 00:00. It is acknowledged this allows the restaurant to operate over the majority of the day however given the commercial location of the site it is considered to create a limited impact upon neighbouring amenity with the adjacent businesses and uses operating various hours along with an absence of residential properties in close proximity which carries further weight. It is considered the opening hours, within the site's context, are not excessive and thus are acceptable. In addition, delivery hours of 07:00 to 17:00 are sought which would prevent delivery vehicles attending the site late at night and thus preventing any noise associated with deliveries during unsociable hours.

Environmental Health officers have been consulted on the proposals and raised no objections subject to the attachment of suitable conditions requiring operational specifications of external plant and ventilation equipment are provided. These details will ensure the LPA can make a full assessment of such equipment, prior to installation, to ensure that suitable noise mitigation measures are in place or noise limiting equipment is used. In addition, Environmental Health officers have requested a condition is attached which requires a litter management plan and thus a strategy on how the applicant will prevent issues of excess litter being created.

It is considered, given the Town Centre location of the site, the proposals do not create a significant adverse impact upon neighbouring residential amenity.

Highways implications:

Access:

The proposals seek to re-establish access from the sites frontage, within the retail park, with a one-way drive-thru system. The access creates a circular route around the main restaurant which allows drivers to utilise the drive-thru windows or park and enter the restaurant.

Parking

The parking provision as set out in the Transport SPD for Restaurants, Cafés and Drinking Establishments is 1 space per 10 sqm of the customer floor area. The proposed customer floor area is 63 sqm as noted on plan MH1269-02 Rev. B, hence provision of 6 car parking spaces (including 1 disabled space) is acceptable. In addition, 2 grill bays are proposed to the south of the restaurant building by converting two existing spaces which is considered acceptable.

One of the car parking spaces should have a rapid EV charge point (50 kW), and be 2.6m in width with a requirement that the disabled parking space should also have an accessible EV charge point. These details can be secured by and appropriately worded condition.

A Transport Statement (TS) has been submitted in support of the planning application. The car park has 510 spaces in total, of which approximately 338 spaces were occupied on a Friday afternoon (i.e. 66.3%) and 404 spaces on a Saturday afternoon (i.e. 79.2%). The surveys were undertaken on Friday 18th November 2022 and Saturday 19th November 2022. From this data, it is accepted that the retail park does have capacity to accommodate parking overspill (if any) generated by the development.

In terms of cycle parking, the applicant has sought to provide Sheffield type stands near the main entrance and to the south of the proposed car park which are acceptable in principle. However, the stands should be spaced by at least 1.2m from each other and thus amended details provided via the suggested conditions. The ASGARD shed for long stay cycle parking (for staff) is also considered acceptable providing that this could be secured/locked and is covered.

Conditions are also recommended that details are provided to the LPA for contractor parking, including a statement of construction practice to ensure a suitable arrangement is provided during the development. These details are required to indicate vehicle routing, means of loading, deliveries, methods to control mud and dirt on the highway and how the statement will be made publicly available.

Traffic Impact Assessment:

The development is expected to generate 24 and 30 two-way 'primary' trips during the Friday PM peak and the Saturday peak hours respectively. Similarly, it would generate 31 and 57 two-way 'pass-by' trips during the Friday PM peak and Saturday peak hours respectively. Therefore, a capacity assessment was undertaken for the A65 / Savins Mill Way gyratory to assess the impacts. Given the proximity and how the signals interact with each other, the whole gyratory was modelled for the Friday PM peak and Saturday peak hours. Extensive discussions and consultation have taken place between the Local Highways Authority and the applicants transport consultant to agree the basis of a TRANSYT model for the A65 / Savins Mill Way gyratory, which was received on 21.03.2024.

The model for the entire gyratory recorded the highest degree of saturation on Savins Mill Way and Bridge Road during a Friday PM peak. This was tested in two assessment scenarios; the first one included committed developments in the area and the background traffic growth. The second assessment scenario included committed developments, background traffic growth and the proposed development's traffic. In the first assessment scenario, the degree of saturation was recorded at 112%. In the second assessment scenario, the degree of saturation was recorded at 107%. Similarly, during the Saturday peak, the highest degree of saturation was recorded at 125% for the first assessment scenario and 124% for the second assessment scenario.

The model therefore reflects that with an improved technology (which would be secured through a S106 contribution), the development in of itself would not result in a severe impact or exacerbate the traffic conditions on the A65. The model reflects that some delay could be reduced at the gyratory by manipulating the existing detectors / signal timings to give more responsive signals, through technology upgrades and thus near real time monitoring across a greater area. These smart changes would allow for increased queue and occupancy monitoring across the gyratory providing further gains to the operation of the gyratory. Furthermore, these improvements would allow closer monitoring of real time information to allow signal timings to be altered on demand.

Additionally, the A65 / Savins Mill Way meets the requirements to introduce red light violation cameras. Therefore, a further £42,000 would be required for such infrastructure to be provided, which would enhance safety by enforcing against red light violations.

Subject to implementing the above measures through a S106 contribution, the impact of the development on the adjacent highway network could be cost-effectively and proportionally mitigated to an acceptable degree, thereby meeting the aims of policy T2 of the Core Strategy along with the NPPF tests and the Transport SPD. The applicants accept the above recommendations and are agreeable to a S106 agreement to secure the required contributions.

Internal Layout, Servicing and Refuse Storage:

The proposed bin store to the rear of the unit is considered acceptable. Additional bins will need to be provided near the main entrance, adjacent to the car parking spaces and near the proposed grill bays in order to ensure adequate refuse capacity to avoid excessive litter. These details, in conjunction with both highways officers and environmental health officers requirements can be secured by condition, requiring a litter management plan.

Highways raise no objections to the proposed development, subject to the aforementioned conditions and S106 contributions towards the A65 and Savins Mill Way. In light of this the proposals are considered to comply with Core Strategy Policy T2 along with the Transport SPD.

Landscaping and Biodiversity

The proposed layout includes the provision for the retention of the existing ornamental shrubbery to the north eastern boundary which is included within the Leeds Habitat Network along with an existing tree (T3 – Horse chestnut). The applicant has submitted a Biodiversity Net Gain Assessment which outlines the majority of the existing scrub to the site is in poor condition with no on-going management, assessed as having a baseline score of 0.76 habitat units. The scheme seeks to remove these areas of scrub with re-planting of ornamental species along with a further four Horse Chestnut's to the northern boundary which will provide screening from Savins Mill Way and a green buffer to the site frontage. This replanting creates a post-development score of 0.82 habitat units and a biodiversity net gain of 7.64%.

It is acknowledged the above score does not achieve the current 10% mandatory net gain however, the application was validated on 07.03.2023 prior to the adoption of the mandatory requirement on 12.02.2024 thus the development is considered to provide a net gain inline with the requirements of policy G9 of the Core Strategy and is thus considered compliant. Conditions are recommended to be attached which require the development is carried out in accordance with the approved biodiversity assessment with the measures implemented prior to the commencement of operations.

The development seeks to incorporate general new landscaping measures to its layout along with the proposed planting. A condition is attached to the permission which requires details of hard and soft landscaping measures to be agreed prior to first use along with a landscape management plan to ensure landscaping is maintained for the lifetime of the development. In addition, given new tree planting is proposed a condition is recommended which requires any trees which are damaged, up rooted or die be replaced within the first five years of the development to ensure new trees are well established and maintained.

Other matters:

Drainage

51. The applicant has provided full surface and foul water drainage details. These are considered acceptable and demonstrate that the development can be drained in accordance with the relevant regulations. Therefore, subject to the works being completed in accordance with the submitted information, Flood Risk Management have no objections to the proposed development.

Contamination

52. An up-to-date desk top study has been submitted in support of the application. These details are considered acceptable by contamination officers, subject to the attachment of conditions requiring notification in the event of unexpected contamination and information regarding any imported soil to the site.

Access

53. The Disability Discrimination Act 2005 requires building designs to promote equality of opportunity for people with disabilities. Access and inclusion will be facilitated in the design through complete compliance with Building Regulations Approved Document Part M. The design of the development aims to promote access for all users and ensure that all users, including disabled people, older people and younger children, can move across the site on equal terms.

CONCLUSION:

54. The proposed restaurant and drive-thru is considered acceptable within Kirkstall Town Centre and would not unduly impact on the residential amenity or create a significant

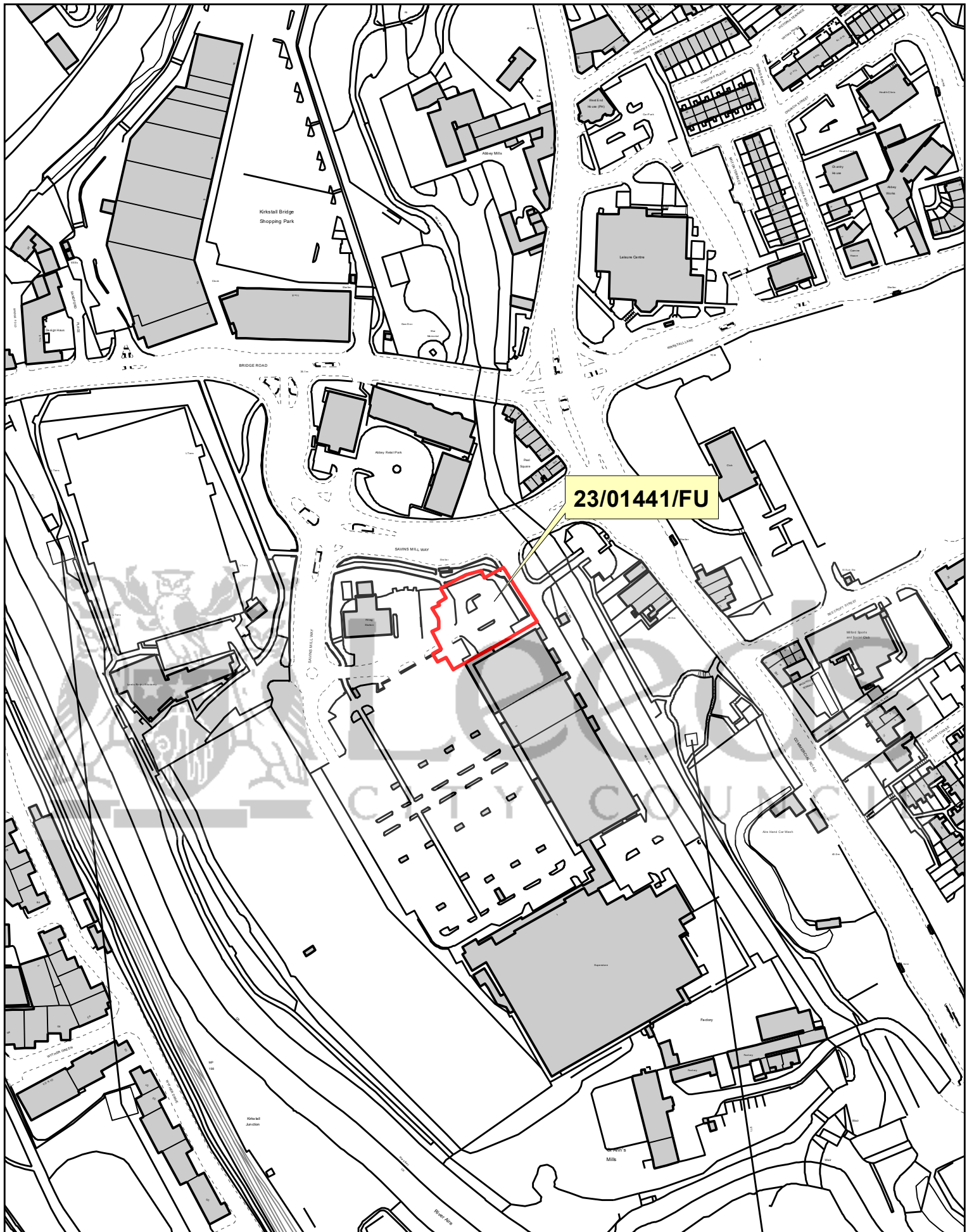
adverse impact upon the highway network, subject to the above mitigation measures secured via a S106 agreement.

55. The submitted proposal is therefore considered to accord with up-to-date planning policies within the Development Plan with no material considerations to indicate otherwise. In accordance with guidance within the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act, it is recommended that the application be **approved** subject to specified conditions.

BACKGROUND PAPERS:

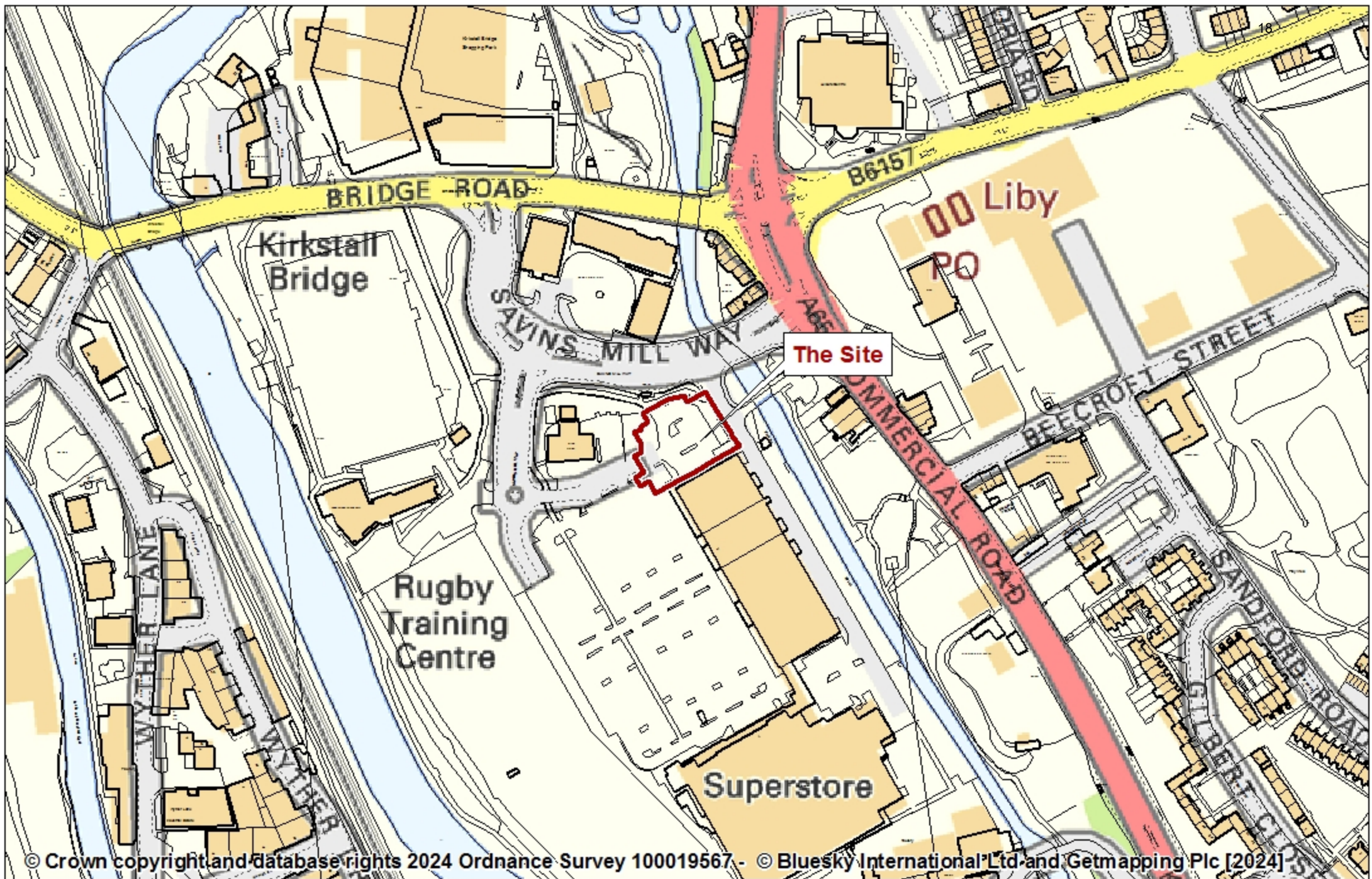
Application file reference: 23/01441/FU

Certificate of ownership: *Certificate A signed on 24th February 2024 by the appointed planning agent.*



SOUTH AND WEST PLANS PANEL





PLANS PANEL PRESENTATION

SCALE 1:2500





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PLANS PANEL PRESENTATION

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