



Report of the Chief Planning Officer

PLANS PANEL (EAST)

Date: 25th November 2010

Subject: APPLICATION 10/02584/EXT - Extension of time period for planning permission 07/03820/FU change of use of mill into 33 flats, Park Mills, South Street, Morley

APPLICANT
AHF Projects

DATE VALID
14/07/2010

TARGET DATE
13/10/2010

Electoral Wards Affected:

Morley South

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 conditions specified (and any others which he might consider appropriate) and the completion of a legal agreement within 3 months from the date of resolution unless otherwise agreed in writing by the Chief Planning Officer, to include the following obligations:

- 1. The provision of off-site Greenspace in the form of a commuted sum.**
- 2. 'recession proofing' clauses in respect of affordable housing and enhanced greenspace contributions, should the development not proceed.**

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

Conditions

1. Time Limits
2. Approved plans
3. Area to be used by vehicles to be laid out
4. Scope of works for site investigation report
5. Site investigation report

6. Remediation statement
7. Unexpected remediation to be dealt with.
8. Means of preventing mud etc on highway
9. Details of surface water drainage
10. Details of infiltration method drainage
11. Details of cycle parking

Details of greenspace to be dealt with by a Section 106 Agreement.

Reasons for approval: The application is considered to comply with policies GP5, BD5, N2, N4, N13, T2, T24, LD1 of the UDP Review, as well as guidance contained within SPG13 and in light of the financial appraisal submitted it is considered that requirements of policy H12 (as well as guidance contained within SPG3 – Affordable Housing) and policies N2 and N4 in respect of greenspace can be relaxed and having regard to all other material considerations, the application is acceptable.

1.0 INTRODUCTION:

- 1.1 Two previous applications to convert the mills into 24 flats and 33 flats in 2004 and 2007 were approved under officer delegated powers. Details in relation to greenspace and affordable housing were subject to planning conditions.
- 1.2 The proposal relates to an application to extend the time limit of the 2007 approval. The details of the built scheme proposal are the same as those previously submitted, but important changes are proposed to the greenspace and affordable housing conditions. A viability assessment has been submitted to show that the scheme is not viable to provide affordable housing and a full greenspace contribution, and these items are the principle areas under consideration in the report.
- 1.3 Morley Town Council has requested that the application be considered by Plans Panel
- 1.4 The planning merits are considered to be finely balanced, as the proposal will bring a long standing vacant mill back into re-use. The merits of the proposal will need to be balanced against the lack of affordable housing and the reduced greenspace contribution.

2.0 PROPOSAL:

- 2.1 This application is the extension of an application (07/03820/FU) that was approved in July 2007 for the conversion of the mill building on the site to 33 flats. The approved scheme comprised the following:

Conversion of the existing three storey red brick mill building fronting onto South Parade into 33 one bedroom flats. Access is to be taken to the south of the site, off South Street. 41 car parking spaces are proposed. Secure motorcycle and cycle provision facilities are proposed within the car park.

- 2.2 Condition 2 of application 07/03820/FU states:

“Development shall not be commenced until details for the provision of affordable housing as part of the development have been submitted to and approved in writing by the Local Planning Authority. Such details shall address and contain the following matters:

- a) The delineation of the area or those areas of land upon which the affordable housing units shall be constructed;
- b) The type and nature of the affordable housing provision to be made as part of the development;
- c) The number of affordable housing units to be provided, that being a minimum of (complete as appropriate) of the total number of dwellings to be provided on the site;
- d) The arrangements for ensuring that such provision is affordable for both initial and subsequent occupiers;
- e) The occupancy criteria to be adopted for determining the identity of prospective and subsequent occupiers of such affordable housing and the means by which the affordable housing will be marketed for such occupancy;
- f) The phasing and timescale(s) for provision and bringing into use of the affordable housing units; and
- g) The means by which the occupancy criteria shall be enforced to ensure the affordable housing is retained thereafter for its intended use by those in need of affordable housing.

The affordable housing shall thereafter be provided in accordance with the approved phasing and timescale(s). There shall be no occupation of any dwelling within the development unless it is in accordance with the approved phasing and timescale(s) for the provision of the affordable housing units.

To ensure the provision of affordable housing in accordance with National Policy, Leeds Unitary Development Plan Review 2006 (policies H11, H12 and H13) and Revised Supplementary Guidance No.3, Affordable Housing.”

2.3 The applicant is not proposing to provide any affordable housing on viability grounds - this is considered in the appraisal section below.

2.4 Condition 3 attached to the grant of permission requires greenspace to be provided as part of the development. The wording of the condition is set out below;

“The development shall not commence until arrangements for the provision of off-site Greenspace have been submitted to and agreed in writing by the Local Planning Authority, and the development shall not be occupied until such arrangements as agreed are in place.

To ensure adequate provision of greenspace in the locality in accordance with UDP policies.”

2.5 The applicant is proposing a financial contribution in lieu of greenspace, and considerations of this are set out in the appraisal section below.

3.0 SITE AND SURROUNDINGS:

3.1 The application site is a 0.4ha site comprising mainly brick industrial buildings arranged around a courtyard. The site is dominated by a red brick/substantial glazed mill building. Single storey and two storey industrial/office buildings front both South parade and South Street.

3.2 The surroundings are mainly two storey terraced back-to-back houses, in brick and stone. A working men's club is located to the north of the application site, with its car park to the east side of South parade. An entrance to Lewisham Park is approximately 50m from the front face of the mill building.

4.0 RELEVANT PLANNING HISTORY:

4.1 Approval for change of use to 24 flats in May 2004. (23/129/04/FU)

4.2 23/130/04/OT - outline application for redevelopment of the remainder of the site for residential development. Reserved matters approval for 10 houses on that site. (07/02336/RM)

4.3 Approval for change of use to 33 flats in July 2007. (07/03820/FU). This permission has now lapsed.

4.4 Approval for Change of use of mill to educational facilities in connection with nearby Joseph Priestley college in February 2009. (08/02293/FU)

5.0 HISTORY OF NEGOTIATIONS:

5.1 The applicant has submitted a full financial viability appraisal in accordance with Council Guidelines in respect of provision of affordable housing.

5.2 The appraisal has been assessed by a Council Surveyor who has advised that the development is not viable, even if affordable housing and greenspace contributions are waived. This matter is considered in detail in the appraisal section of the report.

5.3 A contribution towards off-site greenspace has nevertheless been negotiated.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 This application was advertised as Proposed Major Development by way of site notices which were posted on 21st July 2010. In addition, the application was advertised in the Morley Advertiser on 4th August 2010. To date, no representations have been submitted

6.2 Morley Town Council – The 2007 application was objected to on the grounds that there was an insufficient balance of one and two bedroom apartments, and the lack of amenity space and greenery. As the site was outside the town centre, there should be adequate car parking, and also adequate greenery. In respect of affordable housing, it is considered that the request for total exemption should be rejected, as the developer is seeking to off-set costs incurred with the development of an adjoining site and due to abortive costs associated with negotiations with a third party.

7.0 CONSULTATIONS RESPONSES:

Statutory:

7.1 Highways – no objections, as there have been no material changes in guidance affecting the application.

Non-statutory:

- 7.2 Neighbourhoods and Housing: No objections are raised.
- 7.3 Yorkshire Water – no objections, subject to conditions.
- 7.4 Main Drainage – no objections, subject to conditions.

8.0 PLANNING POLICIES:

- 8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). The RSS was issued in May 2008 and includes a broad development strategy for the region setting out regional priorities in terms of location and scale of development.
- 8.2 Policy H4 of the RSS: provision of affordable housing - This policy includes provisional estimates of the proportion of new housing that may need to be affordable. This estimate is 30 – 40% for Leeds.
- 8.3 Relevant UDP policies:
 - UDP Policy GP5 seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
 - UDP Policy BD6 requires alterations and extensions to respect the scale, from detailing and materials of original building.
 - UDP Policy H4 relates to residential development on land not identified in the UDP.
 - UDP Policy H11 & H12 relate to the provision of affordable housing.
 - UDP Policy T2 relates to highways and new development and states that development proposals should not create new, or exacerbate existing, highway problems.
 - UDP Policy T24 refers to development reflecting car parking guidelines.
 - UDP Policy N2 & N4 relate to the provision of green space.
- 8.4 Informal Housing Policy – The City Council has made some informal changes to housing policy relating to the need to increase provision of affordable housing in Leeds to address higher housing needs. For the Outer Suburbs Housing Market Zone which this site lies in, the affordable housing target has increased under the informal policy from 25% to 30%. The new targets apply to planning applications submitted after 21st July 2008. The raised targets are an interim measure until the Supplementary Planning Document on affordable housing is completed.
- 8.5 Supplementary Planning Guidance – ‘Neighbourhoods for Living’
- 8.6 In the draft (July 2009) Morley Conservation Area Appraisal and Management Plan, the application site is within ‘Character Area 6 – East’ as an extension to the existing Morley Town centre Conservation Area. This area is characterized by a dense grid-form development dated largely from the late 19th century and characterized by its mixed residential and industrial use. The management plan states that the surviving historic industrial complexes form a vital element of the area and that the area is one of Morley’s most comprehensive survival of the historic industrial mill town. Within the appraisal, the mill buildings have specifically been identified as ‘positive’ buildings which contribute to the character of the area.

National Policy and guidance

- 8.7 PPS1 'Delivering Sustainable Development'.
PPS3 'Housing'.
PPG13 'Transport'.

9.0 MAIN ISSUES

1. Principle of development
2. Amenity considerations
3. Highway safety considerations
4. Affordable housing
5. Greenspace

10.0 APPRAISAL

Principle

- 10.1 The property has previously benefited from planning approval for the conversion to 33 flats and therefore the principle of residential use has been established. Although the permission has recently expired (July 2010) the principle of bringing the building back into reuse is supported.
- 10.2 The application site is unallocated in the Leeds Unitary Development Plan and relates to a mill building that has been vacant for some time. It is therefore considered that the proposal is consistent with PPS3 which seeks to promote the re-use of vacant buildings as it is recognised they can provide an import source of housing. For this reason and given that site is located in a sustainable location, close to local facilities and with access to public transport links, residential development on this site is therefore considered to be acceptable. Furthermore, the application site is within an area which proposed to be within an extended Morley conservation area, and the mill buildings have been identified as making a positive contribution to that character.

Amenity considerations

- 10.3 In terms of activity, therefore, there will be a significant improvement in amenity. With regards to overlooking, there are main windows proposed in the first and second floors. However, these windows will look onto a blank end gable – therefore, there would be no direct overlooking of windows, but some overlooking of gardens, approximately 20m away. This in excess of the usual minimum distance to a private garden (10.5m) and even allowing for a larger bulk of building and the number of habitable rooms, as a matter of planning balance, this is considered acceptable.
- 10.4 The re-use of a substantial and attractive building will contribute to the character and appearance of the area, and is an economic and sustainable use of the building. As stated above, the application site is within an area which proposed to be within an extended Morley conservation area, and the mill buildings have been identified as making a positive contribution to that character. The conversion of the mill building would contribute to the regeneration of the area and bring about a viable reuse of the building, to ensure its longer term future.

Highway safety considerations

- 10.5 Subject to the provision of visibility splays onto South Street, no objections are raised. 41 parking spaces, including 4 spaces for users with disabilities are proposed. At 100% parking and 25% visitor spaces, this complies with parking guidelines.

10.6 Given the size of the building, the number of flats is reasonable. The previous approval had flats in excess of 1000 sq m, and made the scheme unviable. Highways requirement is for 125% parking, which requires virtually all the available space to be taken for car parking. The existing site is either covered by building or car parking areas. On balance, and as this is a conversion, and given the planning history, the proposal is considered acceptable.

Affordable housing

10.12 The original approval required 25% of the units to be affordable, to comply with requirements at that time. Under the Informal Housing Policy (set out in 8.2 above), the new target is 30%.

10.13 Section 3 of SPG3 – Affordable housing, at paragraph 3.9 relating to site development costs, states that the Council will have regard to economics of provision and costs of development. Where in exceptional circumstances, the development value of a scheme would be insufficient to cover all development costs (normal and abnormal) as well as all necessary planning benefits and provide a reasonable land value, the Council may consider relaxing the requirements for planning benefits in order to enable the development to proceed. In these circumstances, the SPG states that the developer will be required to provide justification by submission of a full financial appraisal.

10.14 The submitted viability appraisal has been assessed by a surveyor in Asset Management. The conclusions on the appraisal are summarised below:

“The results are quite clear cut even where sales revenues for the proposal are raised by 10% and 20% of those currently anticipated-

1) Affordable housing at 30% together with the S106 greenspace contribution of £76,000 would further undermine an already unviable scheme.

2) Dropping the requirement for greenspace provision, therefore, does not have any significant impact on the overall viability.

3) It is considered that the scheme won't sustainably start to generate any surplus income to fund any Section 106 items including affordable housing until sales revenues pick by 15/20%.”

10.15 The advice received progresses to state:

“Unfortunately, the apartment/flat market has been hit disproportionately hard to housing generally and coupled with generally high costs often associated with conversions (rather than new build) doesn't make this an attractive proposition for generating the benefits required under UDP policy in the current market or for the foreseeable future.

As a footnote it is worth keeping in mind the points made by the applicant in respect of the price paid for the land and that it is not accepted as a point of principle that this scheme has to absorb the full cost of this when responding to the applicant. In this case, however, the conclusions of the assessment are accepted despite this elemental cost being included.”

10.16 In light of the financial appraisal which shows that the scheme is not viable, it is not considered reasonable for the Council to pursue the additional affordable housing required by the conditions attached to the original consents for the site or indeed the

increased requirement of the informal housing policy. In the current economic climate it is considered that it is beneficial for the scheme to be completed and this should be taken into account in the consideration of the issue of relaxing the affordable housing requirement for the site.

- 10.17 However, it is recommended that the Section 106 Agreement provides for “recession proofing”, that is if the site is not substantially developed (50% of the flats) within 2 years, a revised financial viability statement is to be resubmitted, and if the market has picked up, then some affordable housing would be required.

Greenspace

- 10.18 No public greenspace is proposed on site, therefore under policies N2 and N4, the developer is required to make a financial contribution towards the provision of off-site greenspace. The cost of laying out the appropriate amount of greenspace, its maintenance, provision of child’s play and professional fees has been calculated to be £76,192.59.

- 10.19 The financial appraisal has demonstrated that even without a contribution towards greenspace, the project is not viable. However, unless a contribution is made towards greenspace, the proposal would be contrary to Council’s policies in respect of greenspace. There is no formal mechanism within the policy for reducing the greenspace requirement (as there is for affordable housing), even when the applicant has demonstrated that the scheme is unviable. In these circumstances, the applicant has offered 50% of the assessed greenspace amount. In the current economic climate it is considered that it would be beneficial to the local environment and local economy if the scheme were to be completed and this should be taken into account in the consideration of the issue of relaxing the greenspace requirements for the site.

- 10.20 As with the affordable housing, it is recommended that the Section 106 Agreement provides for “recession proofing”, that is if the site is not substantially developed (50% of the flats) within 2 years, a revised financial viability statement is to be resubmitted, and if the market has picked up, then additional greenspace would be required.

- 10.21 The applicant is to enter into a Section106 agreement to pay the above commuted sum towards greenspace provision. Members will be aware from previous officer reports that new tests relating to the legality of planning obligations have been introduced by way of new secondary legislation in the form of the Community Infrastructure Levy (CIL) Regulations introduced by Central Government as of 6 April 2010 which impact on planning obligations.

- 10.22 Whilst the focus of the CIL is to give local authorities the ability in future to levy a charge on a wide range of development proposals within their area the regulations also introduce a new legal test relating to the use of planning obligations based on the existing policy tests. The effect of this is that it will be unlawful for a planning obligation to be taken into account in a planning decision to authorise development if the obligation is not:

- (a) necessary to make the development acceptable in planning terms (test (a))
- (b) directly related to the development (test (b)); and
- (c) fairly and reasonably related in scale and kind to the development (test (c)).

- 10.23 These legal tests have been applied to the obligation in the S106 agreement which the applicant has entered into as part of the application relating to the greenspace

contribution and this obligation is considered particularly necessary as future residents will rely on off site greenspace provision, the requirement is directly related to the development as it will secure provision in locations which as closely as possible meet the needs of the residents of the development and the contribution has been calculated on the basis of the location of the site and the number of residential units and is therefore reasonably related to the scale and kind of development. As such, the obligation is considered to be compliant with the three new legal tests. This contribution is in accordance with policy clearly set out in SPG4 and the development would not be considered acceptable without this obligation.

11.0 CONCLUSION

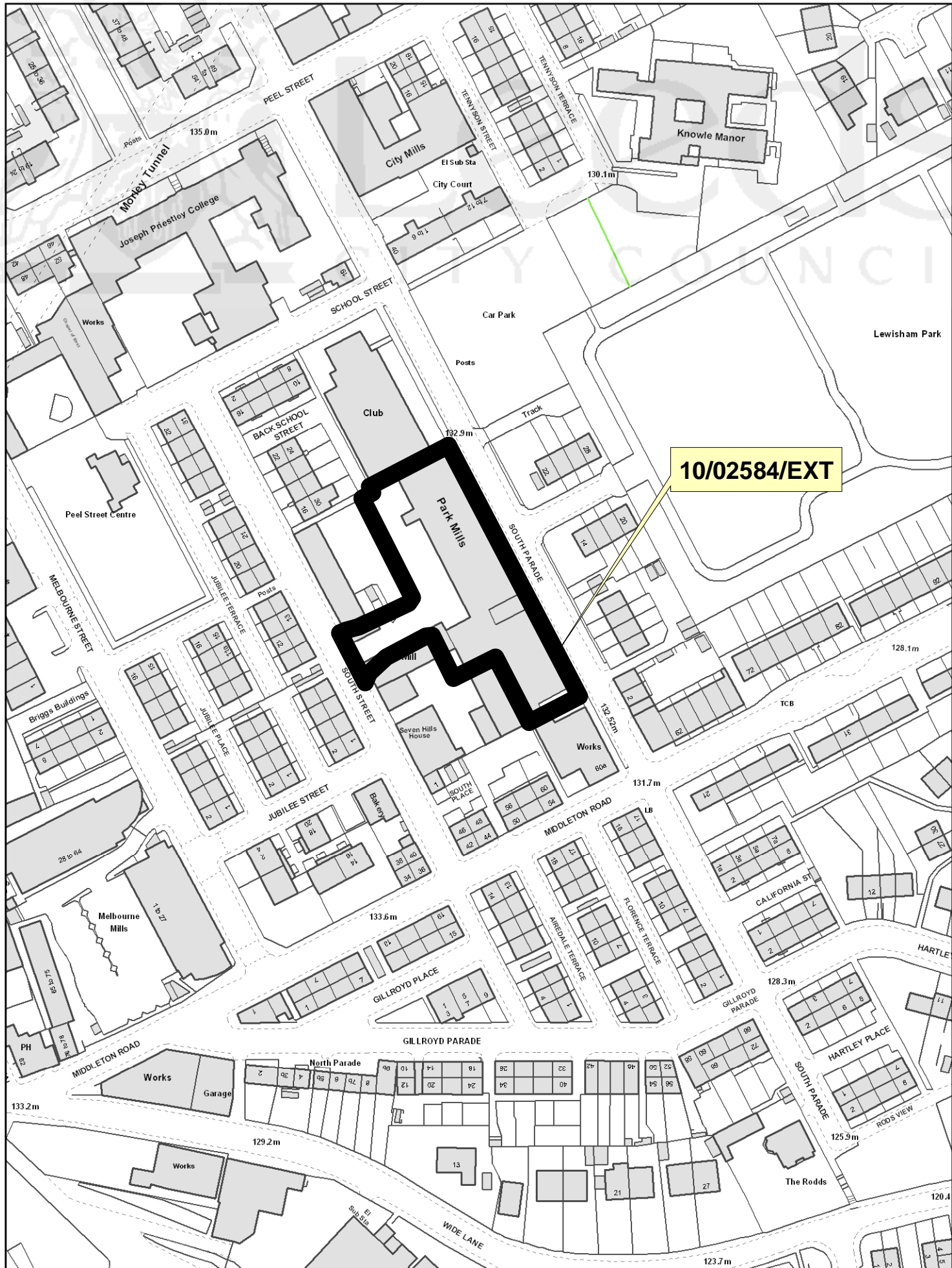
- 11.1 In light of the guidance within SPG3, the applicant has demonstrated that is not viable to provide affordable housing on the scheme. In the circumstances, a contribution of £38,000 towards local greenspace improvements is to be supported and it is reasonable for the Council to relax the requirement for affordable housing and greenspace provision to allow for the development to be completed on this site.

Background Papers:

Application file

07/02584/FU and 23/129/04/FU

Certificate of Ownership: As owner



EAST PLANS PANEL