



## Report of the Chief Planning Officer

### *PLANS PANEL EAST*

Date: 9TH AUGUST 2012

**Subject: APPLICATION 08/01776/FU – One three storey block of 3 ground floor retail units with 14 flats over and one four storey block of 43 flats at the former Compton Arms public house site, Compton Road, Burmantofts, Leeds LS9**

**APPLICANT**

Courtyard Developments Ltd

**DATE VALID**

18/04/2008

**TARGET DATE**

18/07/2008

**Electoral Wards Affected:**

**Burmantofts & Richmond Hill**

Yes

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: REFUSE permission for the following reasons:**

1. The proposed development is considered to represent an over intensive form of development due to its excessive scale and massing and fails to provide a satisfactory package of Section 106 planning obligations to meet the social, environmental and economic policy requirements of the Local Planning Authority for a development of this size. Whilst a viability assessment has been submitted to support the applicant's position in terms of the level of contributions which can be provided and that the delivery of housing on what is currently a vacant site will bring some advantages and benefits, it is considered that these are outweighed by the development's over intensive nature resulting in a poor form of development and a planning obligations package which falls well short of the policy requirements and will result in a development which is unsustainable as the required levels of affordable housing, greenspace enhancements and measures to improve public transport accessibility cannot be delivered as part of the scheme. The development is therefore contrary to policies GP5, GP7, N2, N3, N4, , N12, N13, H11, T2, and T2D of the Unitary Development Plan (Review 2006); Supplementary Planning Guidance documents SPG3 - Affordable Housing as updated, SPG4 - Greenspace relating to housing development (July 1998); Supplementary Planning Documents - Public Transport Improvements and Developer Contributions (adopted August 2008), Travel

Plans (consultation main report August 2011), the Interim Affordable Housing Policy 2011 and the advice contained within the National Planning Policy Framework which seeks to ensure all development is sustainable and well designed.

## **1.0 INTRODUCTION:**

- 1.1 This long standing application is brought to Plans Panel East as viability has been an issue for some time in bringing forward a scheme that can be delivered on the site. The latest proposal does not deliver the S106 requirements set down by policy including the reduced affordable housing requirement brought in by the interim policy a year ago. Viability appraisals have been submitted and considered. Whilst viability is recognised as being an important material planning consideration, in respect of this application the balance between the benefits which stem from the development based on the reduced level of S106 contributions offered compared to the policy ask are not considered to weigh in favour of supporting the application, particularly in view of the scheme's over intensive nature resulting in a poor development overall. The application is therefore recommended for refusal.

## **2.0 PROPOSAL:**

- 2.1 The proposal comprises two main elements. The first is the erection of a three storey, part brick and render, mixed commercial and residential block, to be built largely on the footprint of the former Compton Arms public house, fronting onto Compton Road. This three storey block will consist of 3 ground floor retail units with 14 flats over spread over two floors and consisting of 10, 2 bed and 4, 1 bed units. The second element is a four storey block of 43 flats sited to the rear of the site, in a matching brick and render design comprising 20, 2 beds and 23, 1 bed units over four floors with the top floor partly within the roofspace. A retail customer parking forecourt containing 12 parking spaces is included at the front of the site with a substantial area for servicing and parking between the two blocks containing 41 car parking spaces to serve the 57 flats. A 9-10 m strip of sloping land to the rear of the second block is shown as amenity space for the flats. The car parking area between the two blocks includes some space for tree and landscape planting.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site is the site of the former Compton Arms public house, which was an imposing, two storey, part red brick and render building with substantial hipped roof which was demolished in 2006. The site was then cleared and enclosed by palisade fencing. The site is situated in a mixed commercial and residential area, partly within Harehills Lane Local Centre, in an inner city area of predominantly high density terraced housing with little greenspace. A two storey, red brick, parade of shops (with residential accommodation above) adjoins the site but is set back in the street scene compared to the front of the former Compton Arms. There is a single storey day nursery to the other side of the site on the north-east boundary. Red brick 2 storey terraced housing with accommodation in the roofspace faces the site on the opposite side of Compton Road. To the rear of the site are commercial / industrial buildings and behind the shops/ flats to the south east is a club which backs onto the rear of this site where the second residential block is proposed.

#### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 06/00299/FU – One three storey block of three retail units with 14 flats over and one four storey block of 43 flats to former public house, - Refused 19/10/07 (lack of a S106 contributions relating to affordable housing, greenspace and public transport contributions)

#### **5.0 PUBLIC/LOCAL RESPONSE:**

- 5.1 The application was advertised by site notices posted on 23/04/08, with publicity expiring on the 14/05/08.
- 5.2 One letter of representation was received from “Residents of Harehills” (unsigned and no address provided), objecting to the proposed development on the following grounds:
- the area is already densely populated
  - residents are never vetted fully
  - overlooking of an early years nursery
- 5.3 Any material planning considerations raised by the above comments are addressed within the appraisal section of the report.
- 5.4 Although no comments have historically been received from Ward Members, they have been advised of the intention to refuse the current application at this Panel meeting and invited to comment. Any comments received will be reported verbally as part of the officer presentation.

#### **6.0 HISTORY OF NEGOTIATIONS:**

- 6.1 The application has been the subject of protracted discussions regarding viability as the site’s planning history clearly indicates that a very similar scheme was submitted in 2006 and refused the following year due to the S106 shortfall.
- 6.2 When originally considering the current application, officers were mindful of the previous reason for refusal and did not therefore seek to raise design as a concern. However, due to the passage of time (as the current application was submitted in April 2008) and also the introduction of the National Planning Policy Framework in March 2012 which seeks to ensure all development is not only sustainable but also well designed, officers have recently reviewed the application and consider it is appropriate to raise a number of design concerns arising from the intensity of the scheme. On this basis, the reason for refusal advanced by officers also makes reference to the development’s over intensive nature combined with the lack of an acceptable S106 package being offered.

#### **7.0 CONSULTATION RESPONSES:**

- 7.1 Environmental Health – Significant potential for residential occupants to be disturbed by the proposed commercial units, as well as from nearby existing commercial activities including the working men’s club, unless appropriate mitigation measures are implemented. Conditions recommended for sound

insulation and restriction of hours of opening and delivery for commercial units.

Highways – no objections.

Highways (NGT) – Development generates a public transport contribution of £15,150

Flood Risk Management – Standard conditions relating to surface water and infiltration drainage required.

Yorkshire Water – Agreement to proposed stand-off distance from public sewer.

Architectural Liaison Officer – High crime area, general advice provided regarding Secured by Design

Land Contamination – No objections subject to standard conditions including intrusive investigation.

Access – no adverse comments.

## **8.0 PLANNING POLICIES:**

### Development Plan

8.1 The Development Plan for the area consists of the Regional Spatial Strategy (RSS) and the adopted Unitary Development Plan Review 2006 (UDPR), along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDPR but at the moment this is undergoing production with the Core Strategy still being at the draft stage.

8.2 The Publication Draft of the Core Strategy was issued for public consultation on 28<sup>th</sup> February 2012 with the consultation period closing on 12<sup>th</sup> April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy set sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.3 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 including housing. Although the Government has indicated its intention to abolish RSS, it is still relevant at this stage.

### 8.4 Regional Spatial Strategy (adopted May 2008)

H4 – Affordable housing

YH4 – Focus development on regional cities

YH4(b) Informs detailed design considerations

### 8.5 Leeds Unitary Development Plan Review (adopted July 2006):

The front section of the site is situated in the designated S2 centre of Harehills Lane and the entire site is situated in a N3 Priority Area for Improving Greenspace provision.

- S2-S4 – Shopping policies
- GP5 – Seeks to resolve detailed planning issues including design, access and amenity
- GP7 – S106 contributions
- BD3 – Access considerations
- BD4 – Plant equipment to be well designed
- BD5 – All new buildings should respect their amenity and that of their surroundings.
- T2 – Highway safety considerations
- T2C - New development and travel plans
- T2D - Public transport contributions
- T5 - Safe access for pedestrians and cyclists
- T7A - Requirement for cycle parking
- T24 – Parking guidelines
- LD1 – Landscaping schemes
- H4 – Provision of housing on unallocated sites
- N2 – Hierarchy of greenspaces
- N3 – Priority Area for Improving greenspace provision
- N4 – Provision of greenspace for residential developments
- N12 – Urban Design Principles
- N13 – High quality design
- N25 – Boundary treatments
- N26 – Requirement for landscape scheme

#### 8.6 Supplementary Planning Guidance/Documents:

- Leeds City Council Street Design Guide
- Greenspace relating to New Housing Development
- Neighbourhoods for Living: A Guide for Residential Design in Leeds
- Revised Affordable Housing Policy Guidance – Housing Need Assessment and the interim policy
- Public Transport Improvements and Developer Contributions
- Travel Plans

#### 8.7 National planning policy guidance documents:

National Planning Policy Framework - March 2012 (NPPF). The basis for decision making remains that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration and a golden thread running through it is the presumption in favour of sustainable development. The core planning principles include proactively driving and supporting sustainable economic development to deliver the homes, business and thriving local places that the country needs, always seeking high quality design and a good standard of amenity for all existing and future occupants of land and buildings, encouraging the effective reuse of land that has been previously developed and promoting mixed use developments. In the design section in paras 56 to 68 planning decisions should aim to ensure developments that function well and add to the overall quality of the area over the lifetime of the development, establish a strong sense of place to create attractive places to live and visit, optimise the potential of the site, respond to local character, create safe and accessible environments and are visually attractive as a result of good architecture and appropriate landscaping. NPPF at para 64 states that permission

should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

## **9.0 MAIN ISSUES**

1. Principle of development
2. S106 requirements and viability
3. Design issues and visual amenity
4. Impact on residential amenity
5. Greenspace
6. Affordable Housing
7. Highways
8. Conclusion

## **10.0 APPRAISAL**

### Principle of Development

- 10.1 This is an important site which is currently vacant and is close to the centre of Harehills. It has been previously developed with an imposing building (the Compton Arms). The building was demolished some years ago and this is the type of site which it is important to bring forward for development. The front section of the application site is situated within the designated local centre of Harehills Lane so the principle of retail units with flats above is in character and acceptable in principle.
- 10.2 The proposed rear block of flats is situated outside of the S2 centre and would be sited on what was originally the beer garden associated with the former Compton Arms public house use. In principle housing on this site could be acceptable subject to detail and taking account the amenity considerations given the close proximity of a club and industrial / commercial.

### S106 contributions & Viability

- 10.3 The proposed development for a total of 57 flats, consisting of 30 two bedroom flats and 27 one bedroom flats, generates a requirement to secure affordable housing, green space and public transport in accordance with Council policies. Education contributions are not considered necessary due to the nature of the development being 1 and 2 bed flats. All contributions would normally be secured through a S106 legal agreement.

At the time application was originally submitted in 2008, the relevant contributions were;

- Affordable Housing 15% ( inner area) : 9 dwellings
- Greenspace: £103, 398
- Public Transport: £15, 150

- 10.4 The applicant considered that the development would not be viable if the required contributions, as above, were to be secured in full and as such, submitted a Viability Assessment (VA) for the proposal. The VA concluded that the proposed development without any of the S106 contributions would yield a rate of return of just over 16%. Officer's reviewed the VA and confirmed that the conclusions made appeared to be realistic and that in the market at that time, with far greater levels of risk, a 20% profit margin (or more) would be the norm.

10.5 Notwithstanding this, the applicant presented two options relating to the required S106 contributions as follows;

Option 1 – no provision of affordable housing and £55,000 towards greenspace.

Option 2 – 1 x one bedroom affordable flat and £15,000 towards greenspace.

10.6 Further to assessment of the above offers, the applicant was advised the scheme would be unlikely to receive officer support without any offer of affordable housing. The applicant was also advised, that because the site is located within a priority area for improving greenspace provision as defined by UDPR policy N3, it would be unacceptable to support such an intensive, predominantly residential development, in a densely populated inner city area, without a substantial contribution towards the required greenspace provision. This was particularly so in light of the relatively small provision and poor quality of communal on-site amenity space proposed as part of the development. It is also notable neither option makes any contribution towards the required public transport contribution.

10.7 The applicant then came forward with a third option towards the S106 contributions;

Option 3 - 1 x one bedroom affordable flat and £25, 000 towards greenspace.

The applicant was again advised that it was still not considered to be an adequate contribution relative to the scale of the development proposed and accordingly could not be supported.

10.8 The introduction of the Interim Affordable Housing Policy on 1<sup>st</sup> June 2011, reduced the affordable housing requirement for the development from 15% to 5% (equating to 3 submarket dwellings in this case). As such, the applicant was asked to submit an updated VA to reflect this change in circumstance and importantly to update the figures due to the length of time since the original VA had been prepared in Jan 2010.

10.9 The updated VA still concluded the scheme would not be viable with any contributions (in fact it was shown to be worse as the greenspace contribution had increased to £131,605) but the applicant was nonetheless willing to accept a reduced profit and the previous improved offer as outlined in option 3 above remained on the table.

10.10 In assessing the revised VA, officers have expressed some concern about the build costs used within the appraisal as they appear to be on the high side. Nevertheless, general agreement is reached about the overall viability position and that the scheme is unable to deliver the contributions requested.

10.11 Whilst officers could potentially spend further time reviewing detailed figures as contained within the VA, in this particular case this is not considered to be a productive exercise as ultimately the applicant's position is unlikely to change since the current S106 offer is already reported as eating into the developers profit and reducing it to below 16%.

### Design issues and visual amenity

- 10.12 The front block would be sited in a similar position to the Compton Arms which is forward of the adjoining parade to the south east. In massing terms there is reasonable space to the side boundaries meaning it will be set well within the site. However, comparison with the former building indicates that the eaves line of the new block will be some 2.3m higher and the ridge about 2m higher than the eaves and ridge of the Compton Arms. In considering the acceptability of this element of the development, it should be noted the much smaller Compton Arms building was itself an imposing building within the streetscene. As such, the overall scale and massing of the frontage block relative to its context is considered to be excessive. The design is also considered to be poor in this respect as gables are proposed (whereas the Compton Arms was hipped which reduced its visual impact at the site boundaries) and the more generous floor to ceiling height of the ground floor retail units is such that it pushes up the window positions on the floors above and creates a higher elevation and therefore a more dominant building overall.
- 10.13 With respect to the second block which would be completely residential in nature, at four storey's it is taller again than the front block and even more so relative to the surrounding buildings. Whilst it is accepted the block would be set well back towards the rear boundary of the site meaning it wouldn't be as prominent when viewed from Crompton Road itself, it would still be visible and from a number of other surrounding streets also. In this respect the design and visual impact of the rear building also needs careful consideration.
- 10.14 The eaves height of the rear block is noted to be 10m although the ridge is only 3m higher as the top floor accommodation is provided within the roof. This gives the building a rather squat appearance which is exacerbated by its width which extends to within a couple of metres of the side boundaries. These issues, when combined with the use gable ends and the lack of space (including any meaningful green space) around the block result in a very cramped form of development which is clearly over intensive. The fact most outside space is to be hard-surfaced to provide parking and servicing supports this position.
- 10.15 Notwithstanding the above, the development is noted to introduce some new trees and greenery along the site's frontage which is welcomed from a streetscene perspective and helps integrate the frontage parking. However, these features are not considered to outweigh the overall harm caused by the development's over intensive nature and accordingly the application is recommended for refusal.

### Impact on residential amenity

- 10.16 The predominantly residential nature of the development is such future residents living conditions need to be fully considered, particularly as 3 ground floor retail uses are also proposed. Existing residents also need to be protected although it is important to note the 'town centre' context of the site and accordingly a higher level of activity should be expected compared to an area that was purely residential in character.
- 10.17 With regard to the potential impact the retail element of the scheme could have, this is primarily limited to noise from activities carried out within the units themselves and



also due to servicing requirements and customer activity (both pedestrian and vehicle related). As such, a sound insulation could be attached to the units to keep noise levels to within acceptable limits and any requirement for plant or equipment (e.g. air conditioning units or chillers) could also be controlled by condition. In addition, opening and delivery hours would have been limited by condition had the application been recommended for approval.

- 10.18 With respect to other amenity issues, therefore are not considered to be any issues relating to overlooking or overshadowing of nearby residential properties due to the intervening distance between the proposed front block and the properties on the opposite side of Compton Road. The gap between the two blocks is also considered to be adequate in this respect.
- 10.19 The letter of objection from “residents of Harehills”, expressed concerns regarding overlooking of the adjacent nursery, however, neither block has main windows facing towards the day nursery. As such, this is not considered to be an issue in this case.

### Greenspace

- 10.20 The application site is situated within a Priority Area for Improving Green space provision (Policy N3). Harehills is an inner city area which has been identified by the City Council as lacking in greenspace in both quantitative and qualitative terms, where priority should be given in efforts to improve provision. These areas suffer inadequate access to greenspace, because of the dense built up character and population of the area and as such there is considerable pressure on the limited existing greenspace. Where the existing quantity or quality of greenspace falls below the accessibility thresholds, the City Council will seek from developers of new development schemes, through planning obligations, additional land or commuted payments, to acquire greenspace or to improve existing space to serve the needs of residents of the new development.
- 10.21 In this case, the applicant would not be providing the required greenspace on-site due to the overall size of the site, therefore, the greenspace provision is to be required through a commuted sum. Although the submitted VA demonstrates that the scheme is economically unviable with the payment of the commuted sum for greenspace, no such mechanism exists within the policy to negotiate a lesser sum, so this discretion lies with the decision maker. In this respect, the offer towards the greenspace contribution is considered to be completely inadequate for the needs of the residents in this Priority Area for Improving Greenspace Provision.
- 10.22 Whilst development of the site is clearly desirable, this should not be at the expense of achieving a high quality, sustainable scheme. To be sustainable it should include adequate provision for public green space. The NPPF, like PPS1 before it, emphasises the importance of improving the environment and promoting health communities in achieving sustainable development and states that policies and decisions should aim to achieve places which promote high quality public space (paragraph 69). Sustainable development and positive economic growth must also incorporate environmental and social progress. As the scheme is predominantly residential, there is also a limited argument as regards the generation of long term employment for the area. As such, the proposal is considered to be unacceptable and contrary to greenspace policies.

### Affordable Housing

- 10.23 The application site is situated within an “inner area” for the purposes of affordable housing policy, where the affordable housing requirement for the proposed development of 57 flats was 15% at the time the application was submitted. This requirement equated to 9 submarket dwellings. However, during the process of the application the interim affordable housing policy came into effect on 1 June 2011, and reduced the requirement to 5%. As such, the revised affordable housing requirement now equates to 3 submarket dwellings.
- 10.24 Whilst recognising the main conclusion of the updated VA, the introduction of the interim affordable housing policy is the Council’s response to the current economic situation. As such, the development’s failure to provide even the reduced level of affordable housing as required by the interim policy can be considered to be sufficient reason to refuse the application and is advanced in this case.

### Highways & Public Transport Contribution (PTC)

- 10.25 The proposal raises no specific road safety concerns. As such, the proposed development is considered to be acceptable on highway grounds. With regard to the PTC, whilst recognising the position on viability the development is very intensive relative to the size of the plot yet the required contribution can still not be delivered, despite it being relatively low. This is clearly very disappointing and in the light of other concerns regarding the overall acceptability of the development features within the suggested reason for refusal.

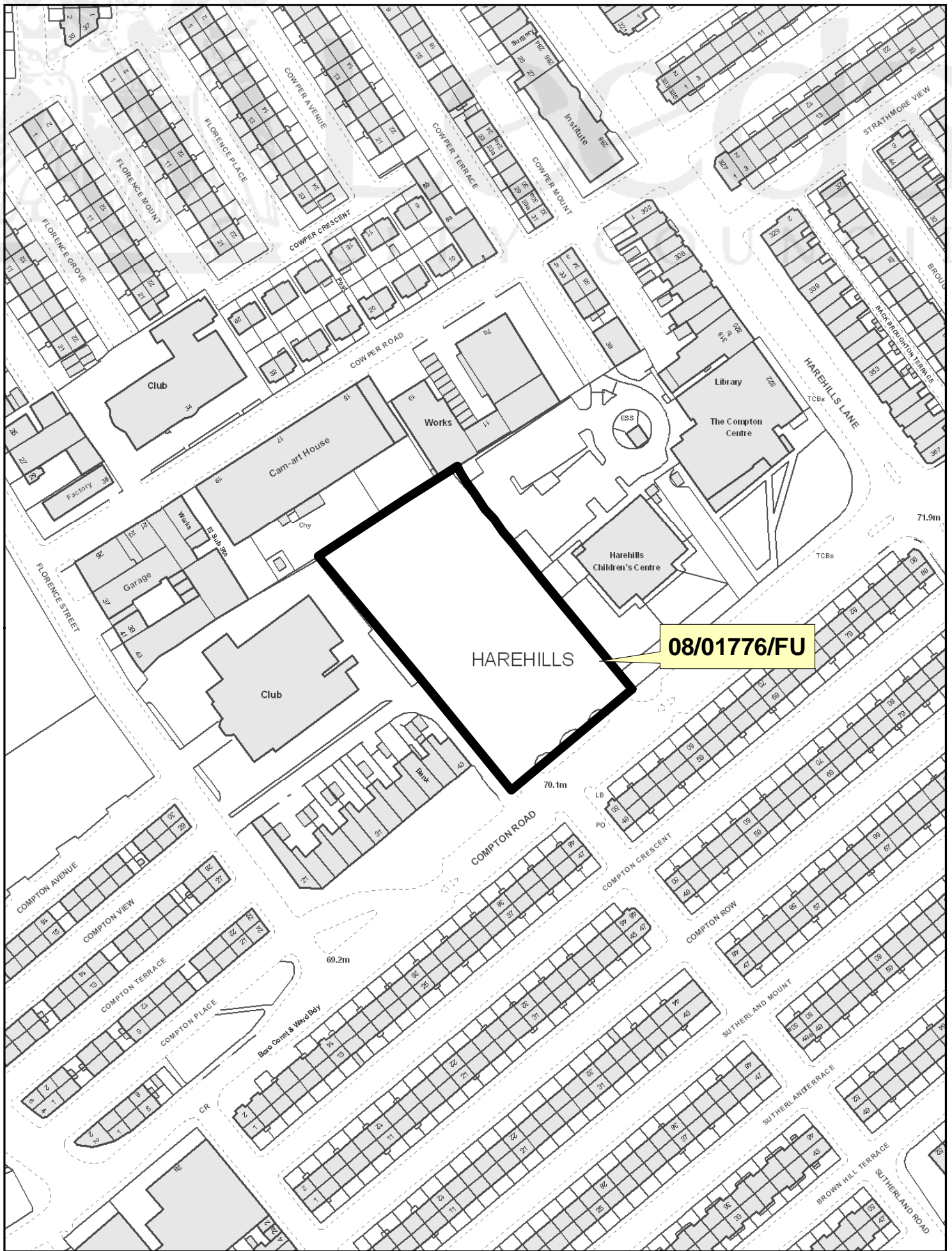
## **11.0 CONCLUSION**

- 11.1 Whilst officers recognise the redevelopment of this important site within the Harehills area is clearly very desirable, the current development is not considered to provide an acceptable design solution or offer an adequate package of S106 contributions that would help make it truly sustainable. For the reasons stated in this report and as advocated in the NPPF the application is therefore recommended for refusal. Notwithstanding this recommendation for refusal, officers are happy to work with the applicant on a revised scheme but feel it is appropriate in this situation to do so from a clean slate in recognition that the planning policy background has changed significantly since the scheme was original conceived.

### **Background Papers:**

Application file: 08/01776/FU

Certificate of Ownership: the applicant Courtyard Developments Ltd



# EAST PLANS PANEL

