



Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 8th November 2012

Subject: APPLICATION 12/02491/OT - Outline application for residential development and retail store at Victoria Road, Headingley

APPLICANT	DATE VALID	TARGET DATE
Chartford Homes And Holbeck Land	03.07.2012	02.10.2012

Electoral Wards Affected:

Headingley

Yes Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Refuse for the following reasons:

1. The proposed development would result in harm to the character and appearance of this part of the Headingley Conservation Area and would adversely affect the setting of the neighbouring listed building. The harm arises due to the creation of a new access road, loss of protected trees (provisional TPO), loss of a historic boundary wall and also due to the siting and scale and massing of the retail unit and apartment building. As such the proposal is contrary to policies GP5, BD5, LD1, N19 and N12 of the adopted Leeds Unitary Development Plan (Review) 2006 and the guidance within Neighbourhoods for Living SPG and the Hyde Park and Headingley Neighbourhood Design Statement and the Conservation Area Appraisal for Headingley Hill, Hyde Park and Woodhouse Moor. The development is also contrary to guidance in the NPPF on the importance of good design and the protection of heritage assets.

2. Insufficient information has been submitted to enable the LPA to adequately assess the impact of the new internal access road and associated infrastructure and how these elements of the proposed development would relate to the character and appearance of the Conservation Area and setting of the neighbouring listed building. As such the proposal is contrary to policy GP5 of the adopted Leeds unitary

Development Plan (Review) 2006. The development is also contrary to guidance in the NPPF on the importance of good design and the protection of heritage assets.

3. The indicative masterplan shows proposed terraced rows of dwellings being sited in close proximity to protected trees (provisional TPO) located on the boundary with Back Chestnut Grove and on the boundary with Ash Grove. The proposed siting of the dwellings would likely result in the loss of trees through the construction of the dwellings or through long term pressure to fell or substantially prune these trees which make an important contribute to visual amenity and local character. As such the proposal is contrary to policies GP5, LD1 and N12 of the adopted Leeds unitary Development Plan (Review) 2006. The development is also contrary to guidance in the NPPF on the importance of good design and the protection of heritage assets.

4. The proposed areas of public open space as shown on the indicative masterplan are not considered to be well sited. The area of public open space located to the rear of the gardens of plots 19-21 is particularly poor as it is covered in trees, the land is sloping on all sides and it is also not overlooked sufficiently by proposed or existing dwelling. As such the proposal is contrary to policies GP5, LD1 and N12 of the adopted Leeds Unitary Development Plan (Review) 2006. The development is also contrary to guidance in the NPPF on the importance of good design

5. The proposed retail and apartment building as shown on the indicative masterplan would due its height, length, siting, design and scale result in an over bearing and dominant form of development which would be detrimental to the amenity of the residents of No 4,6,8 and 10 Ash Grove. As such the proposal is considered contrary to contrary to policies GP5, BD5, N12 and N13 of the adopted Leeds Unitary Development Plan (Review) 2006 and the guidance contained within Neighbourhoods for Living SPG. The development is also contrary to guidance in the NPPF on the importance of good design

6. The proposed retail unit would be reason of its siting in close proximity to residential properties on Ash Grove result in noise and disturbance concerns by reason of comings and goings of customers to the detriment of residential amenity. As such the proposal is contrary to policies GP5 of the adopted Leeds unitary Development (Review) 2006. The development is also contrary to guidance in the NPPF on the need to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;

7. The proposed development fails to adequately provide for greenspace in accordance with policy N2 of the adopted Leeds Unitary Development Plan (Review) 2006 and the SPG4. The development is also contrary to guidance in the NPPF on the importance of good design

8. The proposed development fails to adequately provide for affordable housing in accordance with the interim affordable housing policy 2012 and adopted Leeds Unitary Development Plan (Review) 2006 policies H11, H12 and H13 and the SPG3. The development is also contrary to guidance in the NPPF on provision of affordable housing

1.0 INTRODUCTION:

- 1.1 This application is brought to Panel at the request of Ward Councillor Martin Hamilton and also due to the level of community interest in the application.

2.0 PROPOSAL:

- 2.1 The application is submitted in Outline with all matter reserved except for access.
- 2.2 The indicative masterplan shows 25 new houses arranged in 6 terraced rows. These dwellings would be two storey houses. The masterplan also shows a new building fronting Victoria Road and running parallel to Back Ash Grove. This building would be 3 storeys in height with an undercroft car park for the apartments located below, effectively creating 4 levels within the building. This building would house the retail unit on the ground floor with 2 levels of apartments above. A surface car park with 14 spaces for shoppers is proposed at the rear of the building. Two areas of public open space are also proposed. One area is located to the rear of the neighbouring listed building and the other area is located adjacent to the rear of the terraced row of two storey flats on Ash Grove.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is the swimming pool, sports hall and playing field of the former Leeds Girls High School. The site is rectangular in shape and is bounded by Victoria Road to the north. To the east and west boundaries of the site are located residential properties which back onto the site. To the south is located a new build block of 3-4 storey flats and a lock up garage compound.
- 3.2 The site is partially within the Headingley Conservation Area. The Headingley conservation area partially projects into the site from Victoria Road and includes the trees on the frontage, the stone boundary wall, the existing access location and the front half of the swimming pool building. The playing field and sports hall building are not within the conservation area. To the north east of the site on Victoria Road is a grade II listed building. This building adjoins the application site. It is currently in residential accommodation as flats. This building is a two storey brick and slate Georgian villa set back from the highway with a modest but attractive frontage curtilage.
- 3.3 There is a substantial change in levels from Victoria Road immediately into the site of approximately 3metres fall within the first 11 metres of the site from Victoria Road. Within the site the playing field slopes away gently to the southern boundary of the site. On the edges of the site adjoining Ash Grove and Back Chestnut Grove are located existing trees which have the benefit of a provisional Tree Preservation Order (TPO).
- 3.4 The character of the area is predominantly residential with dense rows of Victorian terraces as the main defining character, with mature trees and boundary treatments visible along Victoria Road, there are some post war houses and flatted schemes also around the site. There are some commercial uses in the locality and Hyde Park Corner is within 300 metres of the Victoria Road entrance to the site.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 08/04218/OT (current application site) - Outline application for residential use. Withdrawn 2009.
- 4.2 08/04217/CA (main school site) seeks Conservation Area Consent for the demolition of a number of buildings used by Leeds Girls High School on the main school site. Allowed on appeal.
- 4.3 Applications 08/04219/FU and 08/04220/LI (main school site) for full Planning Permission and Listed Building Consent for the conversion and extension of Rose Court to form 12 apartments. Allowed on appeal
- 4.4 Application 08/04216/FU (main school site) for full planning permission for the conversion and extension of the Main School Building to form 32 dwellings and the conversion of the stable block to form 3 dwellings. Dismissed on appeal.
- 4.5 08/04214/OT: (main school site) Outline Application for residential development. Dismissed on appeal.
- 4.6 12/1236/FU: (main school site) Outline application for residential development and Full application for conversion of Main school building to apartments. Approved August 2012. Decision notice pending issue on completion of Section 106 Agreement.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The application has been the subject of pre-application discussions and presentations with the local community and ward councilor before submission. No discussions with the Local Planning Authority were done prior to submission of the application.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been publicised by means of site notices and press advert. Members may recall the extensive planning history associated with this site and the Main School site and also Ford House Gardens. Over 1250 objections were received to the planning applications in 2008. The majority of these objections referred to the loss of this application site to housing. There have been 110 objections received to the current application and 2 further letters of representation.

- 6.2 The following issues have been raised:

- Objection to the loss of N6 protected playing pitches and building.
- No need for new housing due to vacant properties in the locality
- Objection to the retail unit due to impact on existing local shops
- Loss of trees and historic boundary wall
- Impact on highway safety and car parking
- Scale of retail building inappropriate for the area
- Harm to the conservation area and the listed building
- The community had access to the facilities at this site and their loss would be harmful to health and well being of the community

- Loss of open space harmful to amenity
- The site should be compulsory purchased for community use
- The development does not accord with the Olympic legacy agenda
- 5 local primary schools would like to use the facilities
- Contrary to NPPF (various paragraphs cited)
- Over development of the site
- Too many houses proposed
- Harm to amenity from the coming and going of the retail store
- The existing facilities could be brought back into beneficial use and are not beyond repair.
- Lack of football pitches in the area for local teams to use. Also lack of training facilities. Republica F.C wants to collaborate with community groups to develop the site as a sports facility.

6.3 Councillors Hamilton, Illingworth, Walshaw, Jerry Harper, Mulherin and Atha have all objected to the applications. The following issues have been raised by the Councillors:

- The site is in a densely populated area which has a poor provision of sports and recreation facilities.
- The scheme is contrary to para 74 of the NPPF
- The loss of greenspace is harmful to the area
- The community has had access to the swimming pool, sports hall and the playing pitch.
- The loss of playing facilities is harmful to the local residents and primary schools.
- Contrary to the Olympic Legacy
- Health and Social Care Act 2012 is a new material planning consideration that should be afforded substantial weight in the determination of this application.
- The HaSCA2012 accords with the City Priority Plan to make sure the people who are the poorest improve their health the fastest.
- This area suffers from poor health including high rates of diabetes and obesity.
- Contrary to para 73 of NPPF.
- The development will exacerbate existing highway and accessibility problems
- The retail unit would be harmful to the conservation area.
- There is no housing demand for new build in the area evidence by a recent study by UNIPOL demonstrating that students are moving out of the old housing stock towards new build accommodation.
- Kings Camp used the facilities in the summer and Easter between 2005-2007. They used the facilities for roughly 29 days per year and had roughly 40-60 children attend per day. They offered included sports such as football, hockey, cricket, basketball, benchball, dodgeball as well as arts and crafts activities, drama games, treasure hunt games etc.
- The development is over intensive for the site.
- The greenspace offered is inadequate for the development of this size.
- The convenience store will harm local businesses
- The proposed access is problematic.
- The design of the convenience store is not in keeping with the area.
- The fact the community had access to the facilities prior to them closing is a change in circumstances from the Main School site application and Inquiry. The Inspectors decision does not carry the same weight as previously.

- 6.4 Hilary Benn MP and Greg Mulholland MP have both objected to the application. They raise the following issues.
- Loss of playing fields and sports hall in an area in which local schools could make good use of them.
 - Development is too intensive with too many houses proposed on a small site
 - New homes will exacerbate problems in a very densely populated area
 - Negative impact on local businesses.
 - Already 2 national food retailers in the local area
 - UNIPOL report highlights empty properties in the area
 - New facilities at Alwoodley Gates has not re-provided for the students. For examples the swimming pool has not been replaced.
 - The proposal would deprive the area of greenspace.
 - The area needs sporting facilities to improve public health. The proposals do not meet this need for the area
 - The area has higher than average levels of child obesity
 - The swimming pool could be restored as a sports centre at cheaper costs than the figures for repairing the swimming pool.
- 6.5 The Friends of Woodhouse Moor, Open XS Cluster of schools, Cardigan Triangle Community Association, South Headingley Community association and Leeds Civic Trust objected to the application and they raise the following issues:
- 5 primary schools in the area need an extra 40,846sq.m of space to comply with School Premises Regulations. 3 of the primary schools are without any playing fields at all.
 - Contrary to Olympic spirit and legacy.
 - Detrimental to health and improving obesity
 - Woodhouse Moor should not be used to compensate for the loss of playing fields from this application. Using Woodhouse Moor would result in a net loss of open recreation space, that according to Council's own 2009 "A Parks and Green Space Strategy for Leeds", is already the most intensively-used urban park in Leeds, and the second-most-visited.
 - We are concerned at the increase of housing within this already densely-populated area and the loss of green space and playing space of which there is a shortage within Headingley and is needed by the many families with young children that are moving into the area.
 - The development would add to pollution problems
 - Increase in traffic on Victoria Road is harmful to highway safety and amenity.
 - The retail unit would harm the local shops
 - The retail unit is too big and out of character with the conservation area
 - The retail unit would cause noise problems in the area
 - The loss of playing fields is contrary to para 70 and 74 of NPPF
 - 34 objectors voted at the community meeting held by the developers to reject the development of 48 people who attended the meeting
 - No pre-application discussions with LPA
 - Civic Trust's concerns for this proposal lie in its relationship to the recently approved (May 2012) Conservation Area Appraisal for Headingley Hill, Hyde Park and Woodhouse Moor.
 - The Conservation Area Appraisal also makes particular reference to the fact that stone walls and stone gate piers are part of the character of the area and should be retained and restored. It should be noted that there is a stone boundary wall along the Victoria Road frontage which continues in front of the adjoining listed building. It is essential that it be retained and that any building fronting Victoria

Road be set back allowing tree planting in front to add to the mature treescape along Victoria Road and to mirror the setting of the adjoining listed building.

6.6 The Leeds HMO Lobby and Headingley Development Trust have made the following representations about the application.

- Since the development goes over the threshold of eligible units, the Trust understands that it will be liable to a contribution to affordable housing provision, under a Section 106 Agreement. The Trust wishes to recommend that that this contribution takes the form of a commuted sum, spent locally in consultation with Ward members.
- a commuted sum is clearly identified as one of three options in the Council's current SPG3 on Affordable Housing and also, more extensively, in the draft SPD on Affordable Housing of 2008. It is also explicitly identified as an option in national policy, in the National Planning Policy Framework, where paragraph 50 says, "To deliver a wide choice of quality homes, widen opportunities for home ownership, and create sustainable, inclusive and mixed communities, local planning authorities should ... where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities." One thing the Area of Housing Mix needs (by definition) is 'more effective use of the existing housing stock' in order to 'create a mixed and balanced community.'
- This approach was agreed at the Main school site in August 2012.
- A condition should be added to ensure the properties are built as C3 dwellings.

6.7 The Joint Director of Public Health and the Consultant in Public Health Head of Healthy Living & Health Inequalities of NHS Airedale Bradford and Leeds have submitted the following comments:

"The Leeds City Priority Partnership Plan includes priority indicators leading to improved health and wellbeing. These include increased healthy life expectancy for all, and reduction in the differences in life expectancy and healthy life expectancy between communities. Achieving these outcomes will be a measure of the success of actions taken across the whole business of Leeds City Council and partners.

This has been re-enforced by the new Health and Social Care Act 2012 (HSCA) Section 12. This states that each local authority must take such steps as it considers appropriate for improving the health of the people in its area. Planning policies and planning decisions are not exempted from this new mandatory requirement.

The Chestnut Avenue/Victoria Rd playing fields are situated in the centre of a residential area that houses people living with greater socio-economic disadvantage than the average for Leeds. The consequent impact of this disadvantage is to increase the physical and mental health problems that affect the local population, and ultimately lead to higher levels of premature mortality.

The presence of the urban green space provided by the playing fields can impact positively on the health of the local population in many ways. Proximity and accessibility of green spaces to residential areas leads to:

- increased overall levels of physical activity across age groups which contribute to the prevention of many health problems such as cardiovascular disease, diabetes, stroke, some cancers and osteoporosis

- improved mental health and well-being providing effective relief from everyday stress, improved self esteem, and alleviation from anxiety and depression
- increased opportunities for education, social inclusion and cohesion by supplying space for social mixing, creating networks and relationships. Playing in local green spaces helps children to develop intellectually and learn about social interaction
- a contribution in reducing flood risk, reducing atmospheric pollution and traffic/residential noise

Whilst the site has apparently not been available to the public this does not mean that this amenity cannot be made available to the public in the future. This will provide a visible and useable urban green space contributing to the health and wellbeing of the community.

The availability of the green space provided by Chestnut Avenue/Victoria Rd playing fields should be allocated as central when considering the needs of this community”.

7.0 CONSULTATION RESPONSES:

- 7.1 Highways – Require further minor revisions to the revised layout but do not object in principle to the development, mix of uses or the new access.
- 7.2 Mains Drainage – In principle no objections. Conditions to cover surface water drainage would be required
- 7.3 Environmental Health – No objections to residential development. The impact of noise from the surrounding area on the proposed residential dwellings would need to be considered to protect the amenity of future residents. In respect of the retail unit consideration should be given to the siting of plant and machinery and the Development Department may want to condition any permission with regards to opening hours and the hours for delivery, loading and unloading. Consideration should also be given to the proposed scheme for lighting.
- 7.4 Metro – Supports the use of metrocards for the development and request a contribution of £14,792.25.
- 7.5 Sport England – No objections to the development proposals. They note the previous appeal decision and consider that the main users of the facilities the students of LGHS have been re-provided for at Alwoodley Gates. They also note that the community had some access to the facilities and Sport England's comments on this matter are as follows:

“The local community action group has however found evidence about the site being used by an organisation called ‘Kings Camps’, who run school holiday activity schemes, and a netball club, who used the sports hall for training.

Firstly dealing with Kings Camps, we understand this organisation operates from a range of sites across Leeds and offers sport and activity sessions during the summer and Easter holidays. It is understood they made use of the playing field at the application site before the school closed. The organisation charges commercial rates for this service which is provided outside local authority support or any support from GSAL or former LGHS. We note that this offered a very limited community use and that children attending would have come from a far wider catchment than that of the local community.

It is interesting to note that the closure of the LGHS site has not stopped this business operating in north Leeds. Not only is the Alwoodley GSAL site listed as a previous venue,

Leeds University (0.8 miles from the application site) and Leeds Metropolitan University campus at Becketts Park in Headingley (2 miles from the application site) are both current venues listed for Kings Camps sessions.

The action group have also made contact with Fusion netball club who used the sports hall on the LGHS site and have records of booking invoices dating from 2008. When the LGHS site closed the club moved to another private school site, Woodhouse Grove, over 7 miles away. While this appears to demonstrate some club competitive sports use of the application site, (as yet not substantiated by the applicant) it does not show entirely that the facilities at GSAL do offer an adequate replacement. It is understood the netball club moved towards Bradford as this is where their members came from. It does not appear the club considered moving to GSAL because of this, even though it is closer at 5.8 miles away.

Conclusion

Therefore we conclude that GSAL has superior facilities and management arrangements compared with LGSH. LGSH site had some very limited community access and this has in two instances been migrated to GSAL. The netball club appear to have migrated to nearer their customer base and Kings Camps have found other sites in the north city area, which questions whether both were meeting local needs in any case.

While local people cannot walk to GSAL as they could LGHS it is evident that they only had very limited access to this site. The vast majority of users of the LGHS site, the pupils, have moved with the facilities to GSAL as previously stated. Other user groups have either migrated to GSAL or found other venues in North Leeds and Bradford.

Outside this application there is evidence of unmet demand in this area of the city, something the council should be planning to resolve strategically. Sport England has offered on various occasions to assist the council in developing solutions to this by building on work produced in the 2008 open space, sport and recreation assessment by working with sport national governing bodies and developing an action plan to resolve the deficits. However it must be acknowledged that this is something outside the scope of this application.

While the planning inspector at the appeal considered the pupils the sole users of the facilities, who moved with the sports provision to the new school; we have considered the nature of the very limited community users and consider that they have found adequate replacement facilities at GSAL or elsewhere.

Taking the above into account we consider this can meet all elements of E4 and Sport England does not raise a statutory objection to this application”.

- 7.6 Sport England has however requested a developer contribution towards sports facilities of £75,257.

8.0 PLANNING POLICIES:

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan consists of the Regional Spatial Strategy for Yorkshire and the Humber adopted in May 2008 and the Leeds Unitary Development Plan Review (2006).

- 8.2 The most relevant Policies in the adopted Leeds Unitary Development Plan are outlined below.

Policy GP5 refers to detailed planning considerations and states that development proposals should seek to avoid loss of amenity.

Policy GP7: Guides the use of planning obligations.

Policy BD5 refers to new building design

Policy N2 refers to the provision of greenspace

Policy N6: Protected Playing Pitches

Policies N12 and N13 refer to the good urban design considerations and placing making

Policy S2 refers to the protection of the vitality and viability of town centres.

Policy S9 refers to out of centre small scale retail development.

Policies T2 and T24 seek to maintain adequate vehicle access and levels of vehicle parking provision with no undue detriment to other highway users.

Policy H1: Provision for completion of the annual average housing requirement identified in the Regional Spatial Strategy.

Policy H3: Delivery of housing land release.

Policy H4: Residential development on non-allocated sites.

Policies H11, H12 and H13 Affordable Housing.

Policy LD1: Criteria for landscape design.

Policies N14 to N22: Listed buildings and conservation areas.

Policy N19, Conservation Area assessment for new build and extensions

SPG3: Affordable Housing;

SPG4: Greenspace Relating to New Housing Development;

SPG13: Neighbourhoods for Living;

Street design guide SPD,

Headingley and Hyde Park NDS

Headingley Hill, Hyde Park and Woodhouse Conservation Area Appraisal

8.3 National Planning Policy Guidance:

The National Planning Policy Framework came into effect on 27th March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development:

“At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.” (para 14). Development which fails to give adequate regard to heritage assets and good design is not however considered to be sustainable development.

8.4 The Government’s pursuit of sustainable development involves seeking a wide variety of positive improvements including:

1. making it easier for jobs to be created in cities, towns and villages
2. replacing poor design with better design
3. improving the conditions in which people live, work, travel and take leisure

8.5 Paragraph 24 of the NPPF states:

“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations only if suitable sites are not available should out of centre sites be considered. When considering

edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale”.

8.6 Paragraph 204 refers to the CIL tests which all Planning Obligations should be assessed against. Paragraph 56 refers to the impact of good design as being a key aspect of sustainable development. Paragraph 58 bullet point 3 refers to the desire to optimise the potential of the site to accommodate development. Paragraph 131 refers to the requirement of Local Planning Authorities to take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

8.7 Paragraphs 69 and 74 deal with matters relating to health and well being and existing recreation facilities. Paragraph 74 states that: Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Emerging Core Strategy

The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy 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.

8.8 Nearby Hyde Park Corner is designated as a 'Lower Order Local Centre' in the centres hierarchy set out in Policy P1 of the Draft Publication version of the Core Strategy.

8.9 Draft Policy P4 sets out development guidelines for shopping parades and small scale standalone food stores serving local neighbourhoods and communities.

8.10 Emerging Core Strategy Policy P8 sets out the thresholds above which a sequential assessment and impact assessment are required for retail proposals. The amount of retail floorspace proposed falls below this. Policy P8 indicates that all centres within 500 metres walking distance of the application site should be used for the sequential assessment

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- Development of Playing Pitches and the principle of residential development
- Retail Development
- Impact on the Conservation Area and adjacent listed building
- Highway considerations
- Landscaping/trees
- Residential amenity
- Section 106 contributions

10.0 APPRAISAL:

10.1 The site comprises some previously developed areas where the existing buildings and associated hard standings are sited and an open grassed area. The whole site is allocated in the Unitary Development Plan as N6 Playing pitches. The site frontage from Victoria Road up to half of the swimming pool building is also within the Headingley Conservation Area. In assessing the principle of the development there are three main issues to consider. Firstly whether development on protected playing pitches and buildings is acceptable; secondly whether the site is then suitable for redevelopment for residential use and whether the creation of a retail unit outside of a defined local or town centre is acceptable. Taking each issue in turn:

Development of Playing Pitches and the principle of residential development

10.2 The proposal to redevelop land designated as a protected playing pitch is perhaps the most contentious and of greatest public interest. As with the recent application at the Main school site across Victoria Road, this site was part of the former Leeds Girls High School (LGHS). The site was private land and the main users of the facilities were the pupils of LGHS. It has been shown by the applicant during this application and the previous application at the Main school site that the pupils of LGHS have had their sporting facilities re-provided and enhanced at the Alwoodley Gates site. Accordingly therefore the exceptions test of policy N6 would be considered satisfied. This is the same approach that Leading Counsel advised the Council to adopt during the consideration of the main school site application. It is also the approach the planning inspector at the Inquiry in 2010 took when he concluded that redevelopment of the main school site's protected playing pitches was also acceptable. There are two changes in planning circumstances that are considered material to the determination of this current planning application that differ from the applications and Inquiry at the Main School site. They are that there was public access of the facilities at this site and secondly the Health and Social Care Act 2012 has come into effect. Taking each issue in turn.

10.3 Councillor Illingworth has raised the issue of the implications for the Health and Social Care Act 2012 and in particular section 12 of the Act to be taken into account in the determination of the current application. It is agreed that the site is located within a high density area where the existing sporting facilities, except for Woodhouse Moor, are in short supply. It is also agreed that the local population has high rates of obesity and those with South Asian ancestry in the community suffer the effects of obesity, diabetes and cardiovascular disease to a greater degree. By way of background, the Planning Inspector in his findings of the appeals in 2011

stated *“the tennis courts have never been available to the public and so their potential loss to development of the site cannot in itself be harmful to the health and well-being of the community”*. The Inspector's decision letter for the 2011 appeal at the former Leeds Girls High School site is an important material planning consideration in the determination of this current application. The Health and Social Care Act 2012 imposes a duty to improve public health in Section 12 and this may be a material consideration in the context of the current development proposals. The legal requirement for planning applications does however remain that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Members may recall that they considered the implications of the Health and Social Care Act 2012 when they determined to grant planning permission for the recent planning application at the Main School site reference 12/01236/FU. Members view was that as the Main school site was private facilities and had no public access that it could not be seen as having any effect upon the health and well being of the community as the community had never had access to the facilities at the Main School site.

- 10.4 The PPG17 open space audit carried out by the Council does identify this site as being within an area of the City which has a lack of sporting facilities and outdoor playing pitches. The application site however is private land and in this regard gives rise to similar issues to those raised in the Main School site appeal in 2011. The Inspector considered that the principle of development on the N6 designated land was justified because the facilities have been re-provided at Alwoodley Gates. In the case of the current application site, the applicants have confirmed that there were formal arrangements to allow the public to have limited use of the facilities at the Victoria Road site. These were Kings Camps who run school holiday activity schemes, Fusion netball club also used the sport hall and 3 Swimming groups also used the facilities.
- 10.5 There is a change in circumstances between the current application and the Main School site. There has been limited formal use of the swimming pool, the sport hall and the playing pitch by the community. Most of the community groups who used the facilities and who still operate have found new homes, e.g., Kings Camp have relocated to the LMU Carnegie and Leeds University facilities, the netball has have relocated to Woodhouse Grove school at Apperley Bridge and 2 of the 3 swimming groups have relocated to the LGHS school site at Alwoodley. It is also noted that there is formal community access arrangement to use the facilities at Alwoodley Gates which is an improvement on the previous situation at the Victoria Road site where the limited community use of the facilities was not set out in legal agreements. It is recognised that the distance between the Victoria Road site and the LGHS site at Alwoodley means that some residents of Headingley may not be able to travel to Alwoodley to use the facilities there. Sport England's view which officers also support is that the community use aspect is not sufficient to warrant refusal of the planning application given the limited nature of the community use and also because the previous users have found new facilities.
- 10.6 In the light of the above the principle of developing the site for a residential use is considered acceptable. The site is within the main urban area and in a location well served by public transport and local amenities. The local character of the area is predominantly residential. The Council has also accepted the principle of development on unallocated small greenfield sites that are located within sustainable locations and are acceptable in all other planning regards as being suitable for development for housing. Clearly the re-use of previously developed land is also acceptable in light of the above.

Retail Development

- 10.7 In terms of retail policy, the site is an 'edge of centre' location lying within 300 metres of the nearest centre (Royal Park Local Centre). UDP policy S9 refers to out of centre small scale retail development proposal. This policy is the current Development Plan policy for this development. The proposed retail development is considered to comply with UDP policy S9 as there are no suitable sites in the Hyde Park Centre that are available and the proposal is not envisaged to have an impact on that centre's vitality or viability. The emerging Core strategy policies that will replace Policy S9 are also used in the assessment of the current application and are the most up to date policies which conform with the NPPF. However, they only have limited weight as the Core Strategy is yet to be examined by an Inspector. Draft Policy P8 of the Core Strategy requires that retail proposals in edge of centre or out of centre locations (200-372 sqm gross floor area) within residential areas should be subject to a sequential assessment with a catchment area of 500 metres walking distance. The application proposes a gross internal area of 372 sqm (280 sqm net). Royal Park Local Centre and Hyde Park Corner lie within 500m distance of the site. The applicant undertook a sequential assessment of a 5 minute drive time, significantly in excess of the P8 requirement. None of the sites identified in the assessment were sequentially preferable to the application site. Draft Policy P4 of the Core Strategy relates specifically to stand alone food stores serving local neighbourhoods and communities: *"Proposals for stand alone small scale food stores up to 372 sqm gross within residential areas, will be acceptable in principle where there is no local centre or shopping parade within a 500 metre radius that is capable of accommodating the proposal within or adjacent to it..."* There are no sequentially preferable sites available within either the Hyde Park or Royal Park Local Centre boundary, however the application site lies adjacent to the centre, which is the next sequentially preferable location after a site within the boundary of a local centre. So on the basis of draft Policy P4 and adopted UDP policy S9 the retail use within a residential area should be acceptable in principle.

Impact on the Conservation Area and adjacent listed building

- 10.8 The site is partially within the Headingley Conservation Area (HCA) (the site frontage and access is located within the HCA). No 63 Victoria Road is a grade II listed building and adjoins the site. There are trees on site which have been protected with a Tree Preservation Order. Trees are particularly important in the mature landscape of the area and need positive management both in the public and private green spaces. On 15th February 1984 the Headingley Conservation Area was significantly extended to include Hyde Park Corner, with the terraced houses around St. Augustine's Church and Little Moor, and the area between Headingley Lane and Victoria Road, which had the same characteristics of 'mature trees, stone buildings and stone boundary walls' as the existing Conservation Area to the north of Headingley Lane. In May 2012 the Headingley Hill, Hyde Park and Woodhouse Moor Conservation Area was created by dividing off the southern part of the Headingley Conservation Area and including areas which were not within a CA, notably Woodhouse Moor.
- 10.9 The site frontage has a positive impact on Victoria Road due to the existing dense tree belt and high stone boundary wall which make a positive contribution to the character and appearance of this part of the Conservation Area. The neighbouring property is a grade II listed building. This building also makes a positive contribution to the street scene and local character. Its boundary treatments also compliment the application site's boundary treatment.

- 10.10 The impact of creating a new access and associated road is that at least an 11 metre wide opening into the existing stone boundary wall would be created. This would be significantly detrimental to the character and appearance of the Conservation Area and would also adversely affect the setting of the listed building next door. The implication of the creation of a new access road would also result in the loss of all of the existing trees of the Victoria Road frontage. Again this impact is considered significantly harmful to the Conservation Area and the neighbouring listed building. The site has an existing vehicular access onto Victoria Road. Officers have discussed this access and consider there is scope to re-use the existing access, subject to some widening and improvements along with alterations to Victoria Road's TRO's and re-siting of the pedestrian crossing. Re-using the existing access would mean that the current siting of the retail and apartments building could not be retained.
- 10.11 The proposed new access road and internal road connecting to the access are substantial pieces of infrastructure and would require a large engineering operation to construct them. Due to the substantial change in levels between Victoria Road and the swimming pool building in the site substantial work would be required to construct this new road. The applicant has not supplied sufficient information to enable proper assessment of the impacts of the formation of the new access road including its appearance and impact on trees. Officers are concerned that the works required to make the new access would be likely to have a significant detrimental impact on the character of the Conservation area and the setting of the adjacent listed building.
- 10.12 The indicative masterplan submitted with the application is a requirement of the Town and Country Planning (Development Management Procedure) Order 2010. Part 2 of this Order requires applicants to submit with Outline applications details of those matters reserved. The current application has all matters reserved except for access. Accordingly the indicative masterplan submitted with the current application is considered a material planning consideration against which an assessment of the approximate layout and scale of the proposed development can be made.
- 10.13 The proposed retail and apartments building has a footprint of between 25 and 27metres in length by 19 metres in width. The building could at its highest point measure 13metres in height when viewed from the centre of the site looking up towards Victoria Road. The building would be split over 4 levels. It would appear 3 storeys in height when viewed from Victoria Road and would step down in height towards the rear of the building. It is considered due to the buildings size, height, length and siting that it would be a form of development that is out of keeping with the street scene and the Conservation Area. The building would be visible from Victoria Road and Back Ash Grove as well as from within the site which would highlight the building's bulk and size. This building is considered harmful to the setting of the neighbouring listed building. Officers consider that the detrimental impact caused by the access and the harm caused by the siting and scale of the retail and apartments building mean this element of the scheme needs wholesale review and revision.
- 10.14 Guidance in the NPPF is that development that fails to adhere to the historic environment policies, because it fails to give due weight to conservation for example, is not sustainable development and the proposal is therefore considered to be contrary to NPPF guidance.

Landscaping

- 10.15 The indicative masterplan also shows terraced rows of dwellings. Whilst the use of terraced rows is considered compatible with the local area the siting of the terraced rows in close proximity to trees on the boundary of the site is considered likely to result in pressure to fell these trees either through the construction process or from future occupiers. The trees on the edge of the site have the benefit of a provisional TPO as they have been initially assessed as not being dead, dying or dangerous and have a high visual amenity benefit. The sites owners (the Morley House Trust) who are different to the applicants have submitted an objection to the creation of the TPO. They have submitted an objection letter and also a tree survey to challenge the TPO. It is noted that the tree survey submitted by the site owners is not from the same company as the tree survey submitted by the applicants and comes to different conclusions on the health and status of the trees than the tree survey submitted by the applicants in support of the planning application. The owners tree survey downgrades the ratings of some of the trees made by the applicant's tree survey. Although there are differences between the landowners survey and the tree survey submitted by the applicants, the important trees around the Victoria Road frontage and around the side boundaries by Back Chestnut Avenue have not been downgraded below a C classification. Although Officers are considering the objection to the provisional TPO, Members are advised that Officers consider the trees in question to have high amenity value and should be retained.
- 10.16 The two areas of proposed public open space as shown on the indicative masterplan are considered poorly planned. The area of public open space shown behind the listed building backing onto the gardens of plots 19-22 is inappropriate and unusable due to levels issues and tree coverage. This area does not meet the requirements of usable and safe public open space. The larger area of public open space located opposite plots 12-18 and backing onto the rear gardens of the two storey flats on Ash Grove is more acceptable in terms of natural surveillance and usability.

Residential amenity

- 10.17 The proposed new build houses are considered likely to afford future occupiers with an acceptable level of amenity, outlook, privacy and private garden space on the whole. The parking provision for the houses is acceptable. Further information on the level of parking proposed for the flats within the retail building is still required but it is envisaged the applicant could supply this information to address this comment. As such it does not warrant a reason for refusal.
- 10.18 The proposed impacts of the retail and apartments building is considered likely to harm the amenity of the existing neighbouring residents who live on Ash Grove and whose properties face the proposed building. The properties on Ash Grove would be around 18 metres from their rear elevations to the side elevation of the proposed building. Due to the siting of the proposed building screening the side elevations would be difficult. In addition due to the change in levels the concerns over the over bearing and dominance of the side elevation and rear elevation would be exacerbated.
- 10.19 The proposed retail unit would generate some concerns over the comings and goings in relation to residential amenity considerations. The car parking provision and servicing arrangements have been assessed by highways officers and they do not object to the number of spaces or the servicing proposals. Most of these issues could be adequately addressed through the use of planning conditions controlling hours of use, deliveries, sound insulation etc. However, the relationship of the

proposed retail building to the existing residents on Ash Grove may create conflict in terms of customers coming to the store which is sited next to residential back gardens and potentially creating noise nuisance and disturbance and generating parking in the side street, Back Ash Grove. As such a reason for refusal in relation to residential amenity concerns from the operation of the retail store is proposed.

Section 106

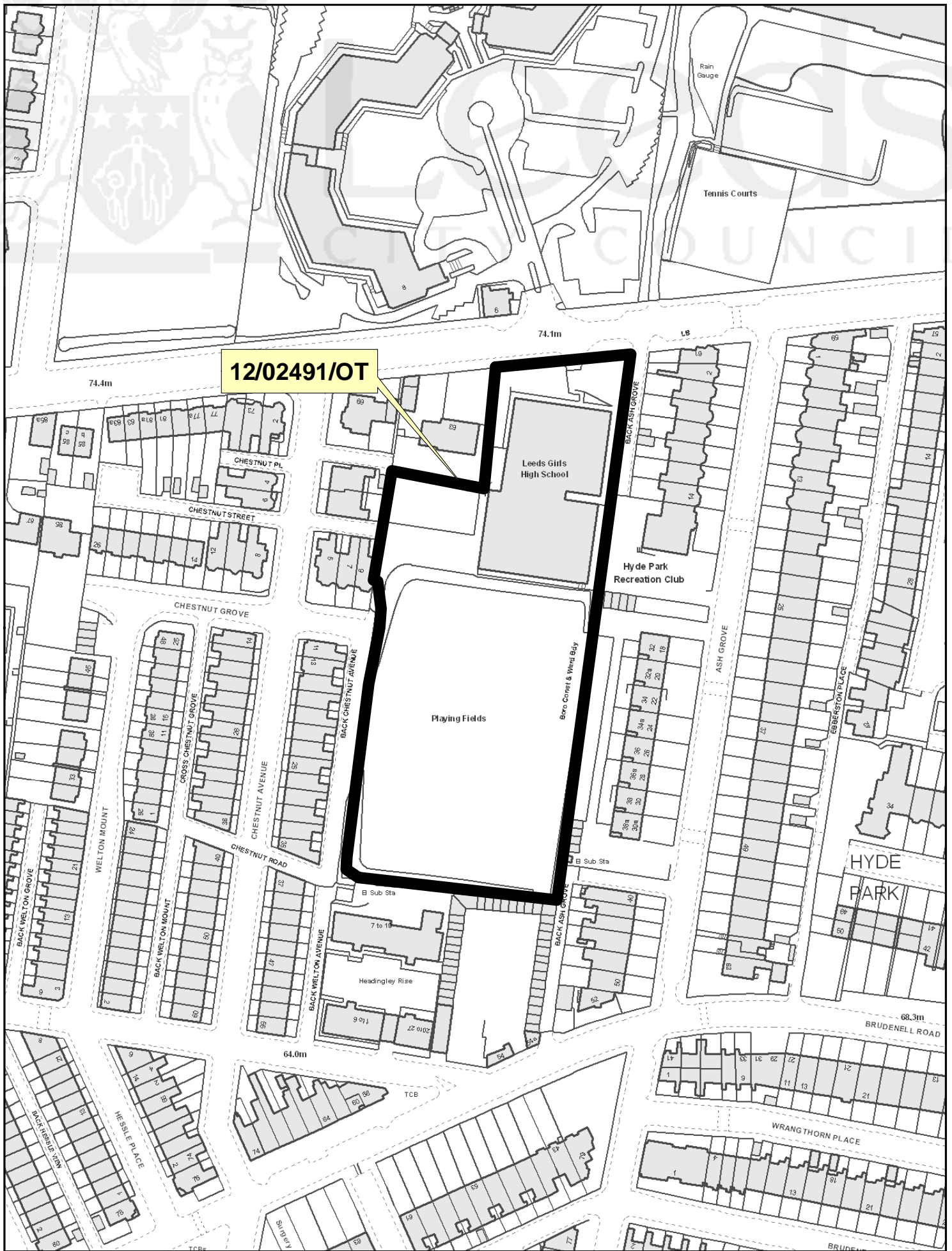
- 10.20 The proposal triggers requirements for affordable housing and greenspace contributions. Although the developer has offered to provide these in their Heads of Terms submission the developer has not provided a signed S106 agreement to ensure these elements are delivered. Should a revised application be submitted that could be supported or if the applicants go to appeal a Section 106 Agreement could be drawn up and completed to deliver these policy requirements. Subject to this happening the reasons for refusal 7 and 8 in the recommendation box above could be overcome.

11.0 CONCLUSION:

- 11.1 Officers recognise that this application is very sensitive and very important to the local community and very careful consideration has been given as to whether grounds for refusal could be substantiated in relation to the loss of the protected playing pitches and buildings. The principle of an out of centre retail development has similarly been carefully appraised. Officers are of the clear view however that refusal is not justified on these grounds and could not be defended on appeal. The proposed development is nevertheless considered unacceptable on the grounds set out above and refusal is recommended accordingly.

Background Papers:

Application file;
Certificate of Ownership.



SOUTH AND WEST PLANS PANEL