

Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of the Regulatory and Appeals Committee to be held on 27 April 2017

AK

Subject:

This is an outline application for the construction of a mixed-use development scheme comprising apartments and wedding venue with conferencing facilities and associated car parking on land at Trafalgar Street car park, Snowden Street, Bradford. The application is in outline form with details of the access and layout submitted for consideration at this stage.

Summary statement:

The proposal is in outline form with only details of the access and layout submitted for consideration at this stage. Indicative plans suggest that the tallest building will be 10 storeys in height. The layout of the development and proposed access arrangements are both considered acceptable subject to off-site highway works in the form of an amended Traffic Regulation Order and speed cushion. Concerns have been raised in relation to the impact on an adjacent listed building through design, materials and fenestration but this can only fully be assessed at Reserved Matters stage.

The application was first submitted to the Regulatory and Appeals Committee on the 4th August 2016 where it was resolved to grant permission subject to a Section 106 Legal Agreement (with the heads of terms highlighted in the main body of the report). Despite repeated requests the Applicant has failed to complete the Agreement within a reasonable period of time and there are no indications that it will be completed imminently. As a result the application is now recommended for refusal.

Julian Jackson
Assistant Director (Planning,
Transportation & Highways)
Report Contact: John Eyles
Major Development Manager
Phone: (01274) 434380
E-mail: john.eyles@bradford.gov.uk

Portfolio:
Regeneration, Planning and Transport

Overview & Scrutiny Area:
Regeneration and Economy



1. SUMMARY

This is an outline application for the construction of a mixed-use development scheme comprising apartments and wedding venue with conferencing facilities and associated car parking on land at Trafalgar Street car park, Snowden Street, Bradford. The application is in outline form with details of the access and layout submitted for consideration at this stage.

2. BACKGROUND

There is no relevant background to this application.

3. OTHER CONSIDERATIONS

All considerations material to the determination of this planning application are set out in the Officer's Report at Appendix 1.

4. OPTIONS

The Committee can refuse the application as per the recommendation contained within the main report, or approve the application.

5. FINANCIAL & RESOURCE APPRAISAL

The grant of planning permission with reduced or nil S106 contributions would potentially place a strain on local infrastructure.

6. RISK MANAGEMENT & GOVERNANCE ISSUES

No implications.

7. LEGAL APPRAISAL

The determination of the application is within the Council's powers as the Local Planning Authority.

8. OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

Section 149 of the Equality Act 2010 states that the Council must, in the exercise of its functions "have due regard to the need to eliminate conduct that this prohibit by the Act, advancing equality of opportunity between people who share a protected characteristics and people who do not share it, and fostering good relations between people who share a protected characteristic and people who do not share it. For this purpose section 149 defines "relevant protected characteristics" as including a range of characteristics including disability, race and religion. In this particular case due regard has been paid to the section 149 duty but it is not considered there are any issues in this regard relevant to this application.

8.2 SUSTAINABILITY IMPLICATIONS

The site is located within the urban area and is close to a relatively frequent bus route and is therefore considered to be in a sustainable location.

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

New development invariably results in the release of greenhouse gases associated with both construction operations and the activities of the future users of the site. Consideration should be given as to the likely traffic levels associated with this development against the previous use. Consideration should also be given as to whether the location of the proposed facility is such that sustainable modes of travel by users would be best facilitated and future greenhouse gas emissions associated with the activities of building users are minimised.

It is accepted that the proposed development would result in greenhouse gas emissions. However, it is considered that such emissions are likely to be relatively lower than would be the case for alternative, less sustainable locations.

In order to encourage alternative means of transport Electric Vehicle (EV) charging points are to be provided within the main car park serving the development (planning condition).

8.4 COMMUNITY SAFETY IMPLICATIONS

There are no community safety implications other than those raised in the main body of the report.

8.5 HUMAN RIGHTS ACT

Articles 6 and 8 and Article 1 of the first protocol all apply (European Convention on Human Rights). Article 6 – the right to a fair and public hearing. The Council must ensure that it has taken its account the views of all those who have an interest in, or whom may be affected by the proposal.

8.6 TRADE UNION

None.

8.7 WARD IMPLICATIONS

Ward members have been fully consulted on the proposal and it is not considered that there are any significant implications for the Ward itself.

9. NOT FOR PUBLICATION DOCUMENTS

None.

10. RECOMMENDATIONS

That planning permission is refused subject to the reasons set out in the report attached as appendix 1.

11. APPENDICES

Appendix 1 – Report of the Assistant Director (Planning, Transportation and Highways).

12. BACKGROUND DOCUMENTS

National Planning Policy Framework

The Replacement Unitary Development Plan

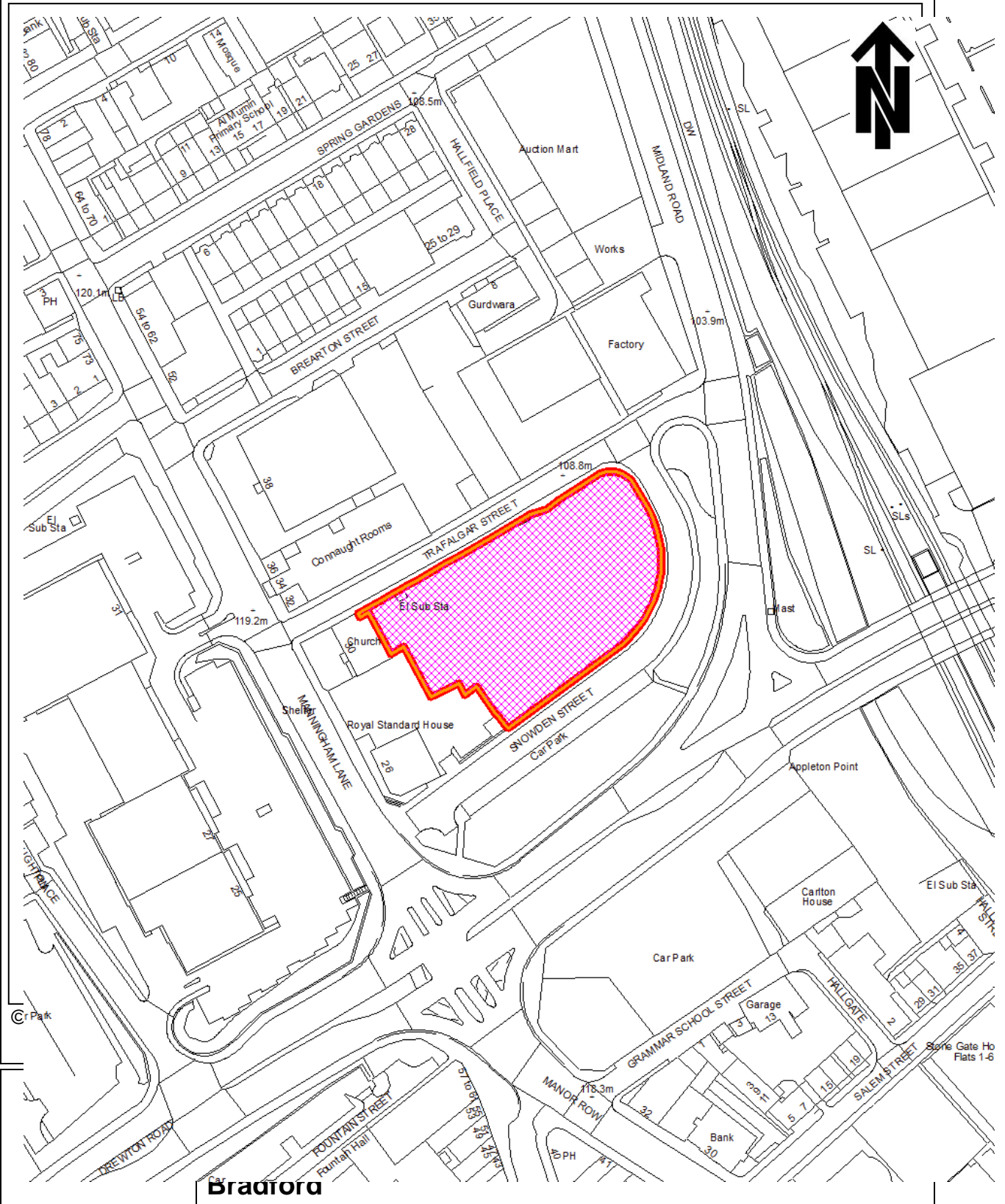
Publication Draft Core Strategy (draft subject to an examination in public in March 2015) and subject to modification which is current out to consultation

Planning application 16/02316/MAO

Regulatory & Appeals Committee

16/02316/MAO

27 April 2017



Appendix 1

27 April 2017

Ward: CITY

Recommendation:

REFUSE PLANNING PERMISSION

Application Number:

16/02316/MAO

Type of Application/Proposal and Address:

This is an outline application for the construction of a mixed-use development scheme comprising apartments and wedding venue with conferencing facilities and associated car parking on land at Trafalgar Street car park, Snowden Street, Bradford. The application is in outline form with details of the access and layout submitted for consideration at this stage.

Applicant:

Betra Ltd

Agent:

Roger Lee Planning Ltd

Site Description:

The site comprises a vacant piece of land that is bounded by Trafalgar Street to the north and Sowden Street to the east and south. To the west are existing buildings including a church. To the further north of the site are commercial and industrial buildings located on the northern side of Trafalgar Street whilst to the further east is the railway line. The site slopes gradually downwards from west to east.

Relevant Site History:

Planning permission was granted on the 15th January 2004 under reference 03/04621/OUT for the demolition of the existing warehouse units and the construction of a multi-unit apartment block.

An outline application under reference 04/05107/REM for a residential scheme comprising 300 units with associated parking was withdrawn on the 24th May 2005.

A Reserved Matters application under reference 05/08198/REM for a residential scheme of part 9 storey residential development including 171 units with car parking was withdrawn on the 14th December 2006.

Planning permission under refer 07/10500/FUL was granted on the 21st August 2008 for the construction of a residential development for 362 Residential units, including 164 Studios, 109 one bed, 89 two bed, provisions of 327 car parking spaces with 18 visitors' spaces. Plus related ancillary A1 (shops)/A3 (cafes) and B1 (offices)/D1 (leisure), landscaped courtyard and public realm improvements. This permission was subject to a Section 106 Legal Agreement which secured the following contributions:

- Affordable Housing - total sales value of all units x 15% (the Affordable Housing quota) x 35% (the required discount)

- Education – Payment of a commuted sum of £134,924 towards improving existing educational facilities in the locality
- Recreation – Payment of a commuted sum of £259,450 towards improving recreational facilities in the locality
- Provision of the public art works

Planning permission was refused on the 16th May 2012 under reference 12/00723/MAF for the renewal of planning application 07/10500/FUL. Development for 362 Residential units, including 164 Studios, 109 one bed, 89 two bed, provisions of 327 car parking spaces with 18 visitors' spaces. Plus related ancillary A1 (shops)/A3 (cafes) and B1 (offices)/D1 (leisure), landscaped courtyard and public realm improvements on the grounds that no social contributions (education, recreation and affordable housing) were offered.

Planning permission was granted on the 28th February 2013 under reference 12/03157/MAF for the renewal of planning application 07/10500/FUL for 362 residential units (including 164 studios, 109 one bed and 89 two bed); provision of 327 parking spaces plus 18 visitor spaces and ancillary A1/A3 and B1/D1 uses with landscaped courtyard and public realm improvements. The permission was subject to a Section 106 Legal Agreement which secured the following Heads of Terms:

- To pay a recreation contribution of £161,045
- To pay an education contribution of £178,049
- To pay an affordable housing contribution of £1,075,021
- To provide 12 affordable housing units on the site
- To submit details of a Public Art Scheme

An application under reference 15/06105/MAO for the construction of a mixed use development of apartments and wedding venue with conferencing facilities and associated car parking was withdrawn on the 22nd January 2016.

The National Planning Policy Framework (NPPF):

The National Planning Policy Framework is now a material planning consideration on any development proposal. The Framework highlights the fact that the purpose of the planning system is to contribute to the achievement of sustainable development and that there is a presumption in favour of sustainable development which can deliver:-

- i) Planning for prosperity (an economic role) - by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;
- ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

As such the Framework suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

Replacement Unitary Development Plan (RUDP):

Allocation

The site is unallocated within the Replacement Unitary Development Plan but is located within a Community Priority Area.

Proposals and Policies

UDP1 Promoting Sustainable Patterns of Development
UDP3 Quality of Built and Natural Environment
UR2 Promoting Sustainable Development
UR3 The Local Impact of Development
UR6 Planning Obligations and Conditions
E8 New Tourist Facilities
E9 Major Hotel and Conference Facilities
H7 Housing Density – Expectation
H8 Housing Density – Efficient Use of Land
H9 Affordable Housing
TM2 Impact of traffic and its mitigation
TM11 Parking standards for non-residential developments
TM12 Parking standards for residential developments
TM19A Traffic management and road safety
D1 General Design Considerations
D4 Community Safety
D5 Landscaping
D11 Gateways
D12 Tall Buildings
BH4A Setting of Listed Buildings
CF2 Education Contributions in New Residential Development
CF6 Development of Unallocated Land in Community Priority Areas
OS5 Provision of recreation Open Space and Playing Fields in New Development
NR15B Flood Risk
NR16 Surface Water Run Off and Sustainable Drainage Systems

Parish Council:

Not applicable in this instance

Publicity and Number of Representations:

The application has been publicised by press notice, site notice and neighbour notification letters. The expiry date for the publicity exercise was the 13th May 2016.

As a result of the publicity exercise 1 representation has been received objecting to the proposal.

Summary of Representations Received:

- The proposed venue will impact on existing businesses in the locality
- The redevelopment of the site will result in the loss of on-street car parking

Consultations:

Environmental Health (Nuisance) – No objection subject to conditions relating to the incorporation within the scheme of the mitigation measures to reduce potential noise impact

Environmental Health (Land Contamination) – No objection subject to the imposition of conditions relating to the submission of both Phase I and II Reports and appropriate Remediation Strategy where appropriate

Environmental Health (Air Quality) – No objection subject to the imposition of appropriate conditions relating to the provision of electric vehicle charging points and a construction environmental management plan

Conservation – Concerns regarding the lack of detail submitted and the impact on the adjacent heritage assets

Sport and Leisure Services – No objection but seek a contribution of £41,261 that will be used towards enhancing the existing recreational infrastructure due to the increase pressure that will be placed on it by the development

Education – No objection but seek the payment of a financial contribution of £77,067 towards improving the educational infrastructure in the vicinity of the site. This is split into £33,629.40p at primary sector level and £43,437.60p at secondary sector level

Development and Enabling – No objection subject to the provision of on-site affordable housing equating to upto 15% of the number of units

Landscape Design Unit – No objection to the principle of the development but state that a sense of place needs to be established which functions well for the users due to the lack of open spaces in this area of the City and movement through to the facilities in and around the Northern Quarter of Bradford

Highways – No objection subject to conditions

West Yorkshire Police – No objection to this application providing crime prevention matters were adequately dealt with at reserved matters stage

Yorkshire Water – No objection subject to the imposition of conditions relating to the disposal of both foul and surface water

Lead Flood Authority – No objection subject to the imposition of conditions relating to the disposal of surface water

Summary of Main Issues:

1. Principle of development
2. Visual amenity
3. Residential amenity
4. Highway safety
5. Drainage
6. Conservation issues
7. Recreation open space
8. Affordable housing
9. Education
10. Secure by design
11. Contaminated land
12. Other issues

Appraisal:

The proposal relates to the construction of a mixed use development comprising apartments and wedding venue with conferencing facilities and associated car parking. The application is in outline form with details of the access and layout submitted for consideration at this stage with all other matters reserved for consideration at a later stage.

1. Principle of development

The site is unallocated within the Replacement Unitary Development Plan but is located within a Community Priority Area (BN/CF6.2 – Manningham). Policy CF6 of the Plan supports the development of open space or other land in community use providing that there is adequate provision of such land and that priority is given to the following uses (in order):

- Community facilities where there is a demonstrable need for such facilities;
- Housing to meet local needs; and,
- Employment generating uses.

The site has previously been granted permission for a mixed-use scheme comprising residential units and ancillary A1 (shops)/A3 (cafes) and B1 (offices)/D1 (leisure). As such the principle of residential development of the site has previously been accepted. The proposal does incorporate a number of apartments that will be self-serviced in relation to their use associated with the wedding venue and conference facility to allow delegates/attendees to reside during events. These apartments will be secured for that use through a Section 106 Legal Agreement and will be assessed separately from the market dwellings.

Policies E8 and E9 of the RUDP are generally supportive of the creation of tourist facilities (including hotels) providing that it is of a scale appropriate to the locality, has good access to the highway network and public transport services, and, provides infrastructure works to accommodate the increased visitor pressure brought about by the development. The proposal is considered to be of a scale which is suitable for its location and the site is in close proximity to the city centre and is considered to be in a very sustainable location in relation to its access to the public transport services.

Overall therefore it is considered that the principle of the development is acceptable subject to the detailed design.

2. Visual impact

Policy D1 of the RUDP states that all development proposals should make a positive contribution to the environment and quality of life through high quality design, layout and landscaping. It contains a number of criteria against which development proposals are assessed and includes, amongst others, proposals should be well related to the existing character of the locality in terms of design, scale, massing, height and materials. The site is also adjacent to a Gateway Road and as such policy D11 states that development proposals should be of the highest possible standard in terms of design, materials, landscaping and boundary treatment.

The application is in outline form with details of the scale and external appearance reserved for consideration at a later stage. Indicative plans suggest that the buildings will be of varying heights with the tallest being 10 storeys with an additional 2 floors of undercroft parking. The proposed height is lower than the tallest part of the previously approved scheme under reference 07/10500/FUL which was 18 storeys in height. Whilst the proposed building will be taller than the neighbouring buildings it is considered that, subject to an appropriate design and use of materials, they will not be visually intrusive in relation to either the streetscene or wider locality and will have less impact than the previously approved scheme.

The application site has no inherent landscape features in that it is an area of open land that has become overgrown. However, the surrounding area is a well-established planted area implemented as part of the Ring Road. There is an opportunity to enhance the visual character of the area through an appropriate landscaping scheme incorporating both public and private spaces. A sense of place needs to be established which functions well for the users due to the lack of open spaces in this area of the City and movement through to the facilities in and around the Northern Quarter of Bradford.

The layout plan shows landscaped areas proposed along both the northern and southern boundaries of the site together with a garden deck in the centre of the site that will incorporate a pedestrian route through the site. Landscaping of the site has been reserved for consideration at a later stage and there is the opportunity therefore to create a high quality landscaped scheme on what will be a visually important development.

3. Residential amenity

Policy D1 of the RUDP states that all development proposals should make a positive contribution to the environment and quality of life through high quality design, layout and landscaping. It contains a number of criteria against which development proposals are assessed and includes, amongst others, proposals should not harm the amenity of prospective or existing users and residents.

There are no residential properties adjacent to or within the immediate vicinity of the site that will be affected by the proposed development.

A Noise Report has been submitted which assesses both the existing and future noise sources that could impact on the development and proposes a number of mitigation measures that should be incorporated within the development to minimise the impact on the future residents because of the mixed-use nature of the development.

The two main existing noise sources are the surrounding road network and the nearby commercial premises. With regard to the surrounding road network both Trafalgar Street and Snowden Street, which are immediately adjacent to the site, generate very little traffic whilst both the Manningham Lane and Hamm Strasse, which are close to the site, generate more continuous traffic noise on a more consistent basis. In relation to the commercial development the noise is generally restricted to normal working hours but some noise has been recorded from a nearby warehouse between the hours of 23.15-00.15 in the form of loading and unloading.

In relation to the proposed development it will introduce a number of new potential noise sources including the wedding and conference venue where the main noise source will be entertainment noise such as amplified music and mechanical building service systems. The Noise Report submitted with the application proposes a number of mitigation measures to be incorporated within the development aimed at reducing the potential impact on the future residents of the scheme and the area in general. Such measures include the incorporation of appropriate standards of double glazing ventilators in the proposed apartments, and, adequate sound proofing in the construction of the external walls and the ceilings of the apartments.

The Environmental Health Department have not raised an objection to the proposal subject to the noise mitigation measures contained within the supporting Noise Report being implemented and this is conditioned accordingly.

As such it is not considered that the proposal will have a detrimental impact on the residential amenities of the future occupiers and residents of the development.

4. Highway safety

Policies TM2 and TM19A of the RUDP support proposals for new development providing that, amongst other things, the Council is satisfied that the proposal does not adversely affect existing and proposed transport infrastructure or services, including public transport and walking and cycling facilities, in the vicinity of the site or the local environment. Policy TM12 requires the provision of parking in accordance with the Councils adopted standards.

Details of the access arrangements have been submitted for consideration at this stage with the main points of access being off both Snowden Street and Trafalgar Street. A Transport Assessment and Travel Plan have been submitted in support of the proposal.

The Highways Department have assessed the proposal in relation to both the access/parking arrangements for the development and the impact on the wider highway network. In relation to the proposed access points these are considered to be acceptable and appropriate visibility splays can be provided in each case. There are existing access points serving the site that will not be used to serve the development and these will need to be permanently closed off and reinstated as footways and this would be achieved through appropriate conditions.

In terms of the level of car parking to serve both the apartments and the community facility it is slightly lower than the maximum standards recommended within Appendix C of the Replacement Unitary Development Plan. However the site is in a very sustainable location being close to the city centre and having good access to alternative methods of transport including bus and rail. The submitted travel plan, when implemented, will also assist in reducing car use.

Off-site highway works include a raised platform to be provided across Snowden Street at the pedestrian connection to Hamm Strasse and an amendment to the existing Traffic Regulation Order on Trafalgar Street will need to be implemented and these would normally be secured within a Section 106 Legal Agreement.

An objection has been received in relation to the loss of on-street car parking. There will likely be some spaces lost through the amendments to the Traffic Regulation Order on Trafalgar Street but the site is in close proximity to a number of car parks, such as the Foster Square Retail Park and Kirkgate Market, as well as other areas of on-street parking. As such it is not considered that the loss of any on-street parking resulting from the development will impact on the level of available car parking to serve visitors to the area and neighbouring businesses

The Applicant initially agreed to the provision of the off-site highway works and they would have been incorporated within a Section 106 Legal Agreement. The application was presented to the Regulatory and Appeals Committee on the 4th August 2016 with a recommendation for approval subject to a Section 106 Legal Agreement to secure

these works. However despite repeated requests the Applicant has not completed the Section 106 Legal Agreement and there is no indication that it will be completed imminently. It is considered that an appropriate length of time (over 8 months) has been afforded to the Applicant to complete the Agreement. With there being no indication from the Applicant that they intend to complete the Agreement it is now recommended that the application be refused on the basis that the off-site highway works will not be secured and the proposal is therefore contrary to policy TM2 of the Replacement Unitary Development Plan.

5. Drainage

Policy NR16 of the RUDP relates specifically to the provision of adequate surface water drainage systems whilst policy UR3 states that proposals should not have an adverse impact on the surrounding environment.

In relation to the disposal of both foul and surface water it is intended to connect to the main sewer. No objection has been received to this subject to the imposition on a planning permission of appropriate conditions.

6. Conservation Issues

Policy BH4A states that development will not be permitted if it would harm the setting of a Listed Building.

The site affects the settings of 2 listed buildings, Connaught Rooms (the former masonic hall) on Manningham Lane, and 30 Manningham Lane, an early 19th century former villa.

In assessing the impact on these listed buildings it is important that the history of the site is taken into account in that it did benefit from having planning permission for a predominantly residential development with built form of greater height than now proposed. Whilst this application is in outline form, with details of only the access and layout submitted for consideration at this stage, indicative plans have been submitted that show the height of the buildings (10 storeys) and the relationship with the adjacent buildings, including the afore-mentioned listed buildings.

The Conservation Officer has stated that the application proposes 2 built elements, the tallest at the lower end of the site towards Midland Road, taking advantage of the decreasing topography. The L-shaped block towards the west of the site would have more impact on the listed buildings. This is proposed at some 8 stepping up to 10 storeys above ground level. Connaught Rooms is a substantial structure which does not diminish in height with the decreasing ground levels. It is considered that despite the new built form being taller than Connaught Rooms it would not compete with the listed building to an unacceptable degree.

30 Manningham Lane is of domestic scale, although set on a platform when viewed from the rear. The new built form would be in fairly close proximity to the rear of the listed building, and would be very obvious as a backdrop to the listed building, dominating it in views from Manningham Lane. A number of the massing views are taken from aerial positions, and hence are of limited benefit in assessing the impact, as these are unrealistic to actual human appreciation of the visual impacts. The Conservation Officer suggests that there is insufficient information on the appearance

and palette of materials to enable a full understanding of the impact of the proposed development. A bland and monotonous fenestration on the scale of building proposed could result in a harmful impact, whereas an exceptional appearance might have the potential to mitigate this.

It must be stressed that the application is in outline form and that details of the scale and appearance have been reserved for consideration at a later stage. This will include the design of the buildings, the materials to be used together with details of the fenestration, all the matters the Conservation Officer has raised as lacking in this application. The opportunity to comment on these aspects of the proposal will be afforded to the Conservation Officer at Reserved Matters stage with the Applicant being fully aware of what has been raised and will hopefully take them on board in the final design of the building. The development, at the height proposed, will be visually significant and it is important that the design is acceptable in terms of the relationship with the streetscene, wider vicinity and the listed buildings.

7. Recreation open space

Policy OS5 of the RUDP states that new residential development will be required to make appropriate provision of or equivalent commuted payment for recreation open space and playing fields.

The proposed layout does not incorporate any formal recreational open space. Due to residential element on the site the proposal is likely to increase the pressure on the existing recreational infrastructure in its vicinity. As such Parks and Greenspaces Service require a recreation contribution of £41,261 due to the extra demands placed on the locality by this development. The level of contribution secured is lower than that previously sought in the original consultation response due to the number of market apartments being reduced because of the inclusion of 63 self-serviced apartments.

The money would be used towards the provision and/or enhancement of existing recreational facilities and infrastructure work including but, not exclusive, to drainage works, footpath works and fencing at Thurnscoe Road Play Area & Lupton Street Play Area & contribution towards delivery of CBMDC's Playing Pitch Strategy in the area.

The Applicant initially agreed to pay this contribution and the application was presented to the Regulatory and Appeals Committee on the 4th August 2016 with a recommendation for approval subject to a Section 106 Legal Agreement to secure this contribution. However despite repeated requests the Applicant has not completed the Section 106 Legal Agreement and there is no indication that it will be completed imminently. It is considered that an appropriate length of time (over 8 months) has been afforded to the Applicant to complete the Agreement. With there being no indication from the Applicant that they intend to complete the Agreement it is now recommended that the application be refused on the basis that the contribution will not be secured and the proposal is therefore contrary to policy OS5 of the Replacement Unitary Development Plan.

8. Affordable housing

Policy H9 of the RUDP states that the Council will negotiate for a proportion of affordable housing based on, amongst other things, the extent and type of need, and, the economics of provision.

The affordable housing quota for this area is up to 15% of total number of units proposed and in this instance it equates to 25 affordable homes. The need is for on-site provision with the mix made up of 19x1bedroom apartments and x2bedroom apartments. The affordable units should be delivered via a Registered Provider at Affordable Rent (ie 80% of the market rent). The purchase price would have to be determined by the Registered Provider when carrying out the financial appraisal based on net affordable rent after deducting their management and maintenance charges.

The Applicant initially agreed to pay this contribution and the application was presented to the Regulatory and Appeals Committee on the 4th August 2016 with a recommendation for approval subject to a Section 106 Legal Agreement to secure this contribution. However despite repeated requests the Applicant has not completed the Section 106 Legal Agreement and there is no indication that it will be completed imminently. It is considered that an appropriate length of time (over 8 months) has been afforded to the Applicant to complete the Agreement. With there being no indication from the Applicant that they intend to complete the Agreement it is now recommended that the application be refused on the basis that the contribution will not be secured and the proposal is therefore contrary to policy H9 of the Replacement Unitary Development Plan.

9. Education

Policy CF2 of the RUDP states that where new housing proposals would result in an increased demand for educational facilities which cannot be met by existing schools and colleges, the Council will seek to enter into a planning obligation in order to secure the provision of, or contribution towards, new or extended facilities.

At primary sector level there are no near primary schools however the nearest ones accessible from the development include Heaton St Barnabas, Lilycroft, Lister, Margaret McMillan, Miriam Lord, Poplars Farm, St Francis and Westbourne. Based on data available as at March 2016 despite some expansion, current capacity in the primary schools is being exceeded in some year groups and allowing for the desire to operate at 95% occupancy to allow for population changes this is being exceeded in nearly all year groups. Overall these schools are overcrowded now and future forecasts show an increasing pupil population. As such Education Services are seeking a financial contribution of £33,629.40p towards improving the education infrastructure at this level.

In relation to the secondary sector, the schools which are reasonably accessible from the development are 11-18 schools are Feversham College, Oasis Academy Lister Park, One In A Million and St Bede's & St Joseph's Catholic College. Based on data available as at March 2016 and the current capacity in there are places in some of the year groups but a shortfall when allowing for the desire to operate at 95% occupancy to allow for population changes. As such Education Services are seeking a financial contribution of £43,437.60p towards improving the education infrastructure at this level.

The level of contribution secured is lower than that previously sought in the original consultation response due to the number of market apartments being reduced because of the inclusion of 63 self-serviced apartments.

The Applicant initially agreed to pay this contribution and the application was presented to the Regulatory and Appeals Committee on the 4th August 2016 with a recommendation for approval subject to a Section 106 Legal Agreement to secure this contribution. However despite repeated requests the Applicant has not completed the Section 106 Legal Agreement and there is no indication that it will be completed imminently. It is considered that an appropriate length of time (over 8 months) has been afforded to the Applicant to complete the Agreement. With there being no indication from the Applicant that they intend to complete the Agreement it is now recommended that the application be refused on the basis that the contribution will not be secured and the proposal is therefore contrary to policy CF2 of the Replacement Unitary Development Plan.

10. Secure by Design

Policy D4 of the RUDP states that development proposals should be designed to ensure a safe and secure environment and reduce the opportunities for crime.

The application is in outline form with details of both the scale and external appearance reserved for consideration at a later stage. As such the West Yorkshire Police have no objection to the proposal providing crime prevention matters are adequately dealt with at reserved matters stage, where the main concerns will be access control of both the undercroft car parking and the apartments.

11. Contaminated land

A Phase I Site Investigation Report has been submitted which was prepared in 2005 and as such is over 10 years old. Since this report was prepared there has been very little activity on the site and it has simply become overgrown. The findings of the report need updating to take into account current guidance and accepted good practice.

As the proposal is for a more sensitive end use on the site the Environmental Protection Team have no objection to the proposal subject to the imposition of appropriate conditions relating to the submission of Phase I and II Site Investigation Reports together with an appropriate Remediation Strategy if required.

12. Other issues

One other issue has been raised during the consultation exercise that has not been addressed in the above sections of the report, this being that the proposed venue will impact on existing businesses in the locality. Unfortunately the matter competition on other existing uses is not a material planning consideration and as such cannot be taken into account in assessing this application.

Community Safety Implications:

There are no other community safety implications other than those referred to in the main body of the report.

Equality Act 2010, Section 149:

Section 149 of the Equality Act 2010 states that the Council must, in the exercise of its functions "have due regard to the need to eliminate conduct that is prohibited by the Act, advancing equality of opportunity between people who share a protected characteristic and people who do not share it, and fostering good relations between

people who share a protected characteristic and people who do not share it. For this purpose Section 149 defines “relevant protected characteristics” as including a range of characteristics including disability, race and religion. In this particular case due regard has been paid to the Section 149 duty but it is not considered there are any issues in this regard relevant to this application.

Reasons for Refusal:

1. Education and recreation contributions

The proposal is of a type and scale that would normally require contributions to be made due to the additional pressures placed on local infrastructure in relation to education and recreation open space provision. The developer has neither offered any commitment to such contributions nor given any justification as to why they should not be made. For this reason, the proposal fails to comply with policies CF2 and OS5 of the adopted Replacement Unitary Development Plan.

2. Affordable housing

The proposal is of a type and scale that would normally require contributions to be made due to the additional pressures placed on local infrastructure in relation to affordable housing. The developer has neither offered any commitment to such contributions nor given justification as to why they should not be made. For this reason, the proposal fails to comply with policy H9 of the adopted Replacement Unitary Development Plan.

3. Highways

The proposal would result in an increase in the level of traffic in the vicinity and without appropriate restrictions in place would lead to a significant increase in the level of on-street parking to the detriment of highway safety. The developer has neither made any commitment to provide such restrictions nor provided a justification as to why they should not be provided. As such the proposal is considered to be contrary to policy TM2 of the adopted Replacement Unitary Development Plan.