



Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 1st May 2014

Subject: APPLICATION 14/01245/FU: CHANGE OF USE OF OUTBUILDING TO ICE CREAM SHOP/PARLOUR at 173 SMALEWELL ROAD PUDSEY LS28 8HT

APPLICANT

E Eccles

DATE VALID

27/3/14

TARGET DATE

22/5/14

Electoral Wards Affected:

Pudsey

No

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Approve in principle and defer and delegate for determination by the Chief Planning Officer, subject to the receipt of no material adverse comments being received before the expiration of the advertisement period (2 May 2014), and subject to the following conditions:

- 1. Standard time limit 3 years.**
- 2. No outside seating or tables to be placed on the land for use of customers without the written permission of the LPA**
- 3. Building to be used solely for the purposes specified in the application and not for any other use.**
- 4. No advertisement signs to be displayed without written permission of LPA.**

1.0 INTRODUCTION:

The application is reported to Panel because the applicant is the Partner of a City Councillor.

2.0 PROPOSAL:

- 2.1** The application is for full planning permission to change the use of an existing domestic outbuilding at 173 Smalewell Road Pudsey to an ice cream shop/parlour.

The building is a small part of an existing building and has internal dimensions of 2.6 metres x 2.8 metres.

2.2 The building is constructed of natural stone under a single pitched roof.

2.3 The only alteration proposed to the building is the insertion of a serving hatch measuring 0.5 x 0.8 metres in the end wall of the building.

2.4 The application does not specify opening hours.

3.0 SITE AND SURROUNDINGS:

3.1 173 Smalewell Road is a relatively isolated bungalow set in a large garden located in the Green Belt south west of Pudsey. The bungalow and southern part of the gardens as well as the outbuilding which is the subject of this application is located on a relatively level plot, with land rising to the north and falling steeply to the south. Along the southern edge of the site is a track which runs from the surfaced part of Smalewell Road, to the east, and terminates just west of the bungalow. From the western end of the track a footpath runs west and then north towards the western part of Pudsey. The track and footpath comprise a public right of way.

3.2 The nearest residential properties to the application site are located 70 metres to the south, beyond the steep sloping woodland, and 90 metres to the south east. Both are accessed off Tyersal Lane and because of the topography and extensive tree cover cannot be seen from the application site. Land to the north, between the curtilage of the property and the southern edge of Pudsey comprises a former landfill, now a large open field, allocated in the LUDPR as proposed recreational open space.

3.3 The northern part of the garden of the property comprises the stone faces of a quarry which have been modelled and planted as part of the garden.

3.4 The building which comprises the proposed ice cream parlour is, because of topography and vegetation, only visible along a short length of the track to the south from where it has the appearance of a stone built stable block.

4.0 RELEVANT PLANNING HISTORY: None

5.0 HISTORY OF NEGOTIATIONS:

5.1 Pre-application discussions were held with the applicant and the views of Highways and Local Plans were sought. The applicant was advised that in the opinion of officers there was no objection to the proposed use subject to conditions to restrict future changes of use permitted by the Use Classes Order, and to prevent the provision of outside facilities (such as chairs and tables) or the display of advertisement signs without the written consent of the Local Planning Authority.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was advertised by way of a site notice posted on 11 April 2014. The Consultation period runs to 2 May 2014.

6.2 No public representations had been received before the Panel report was written.

7.0 CONSULTATIONS RESPONSES:

7.1 Non-statutory:

Highways: The bridleway is not very suitable for cars. However, it is anticipated that the ice cream parlour would be a small scale business that would be unlikely to attract much vehicular activity. Customers are more likely to be in the area for leisure walks and it may be appropriate to limit signage directing people on foot rather than by car.

A personal permission may be appropriate or even a temporary permission to enable vehicle activity to be monitored.

Local Plans: Consider proposal is acceptable in Policy terms, but suggest conditions to prevent change of use to other A1 uses.

8.0 PLANNING POLICIES:

National Planning Policy Framework (2012):

- The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.
- The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- Relevant guidance includes that on: development in the Green Belt (paragraph 90); town centre development (paragraphs 24 to 26) and supporting the rural economy (paragraph 28).

Leeds Unitary Development Plan (2006 Review)

- Proposals Map: the site is shown as Green Belt
- GP5: General planning considerations.
- N33: Developments in the Green Belt.
- S9: Smaller retail development outside defined centres
- GB4: Change of use of buildings in the Green Belt

Core Strategy

The Core Strategy was submitted to the Secretary of State for Communities and Local Government on 23rd April 2013. The Secretary of State appointed a Planning Inspector to conduct the examination of the plan, which commenced on 7th October and ended on 23rd October. The Inspector's report is awaited. At this stage the only issues which the Inspector has raised concerning the soundness of the plan relate to the affordable housing policy and the Council's evidence on Gypsies and Travellers. As the Core Strategy has been the subject of independent examination (October 2013) and its policies attract some weight, albeit limited by the fact that the policies have been objected to and the Inspector's Report has yet to be received (currently anticipated in Spring 2014).

In relation to Green Belt Policy the Core Strategy makes reference to National Green Belt policy in relation the use of land in the Green Belt.

With regard to Policy P8 of the Core Strategy the Inspector had suggested in modifications that a sequential assessment will not be required for rural offices or other rural development with a floorspace of less than 500sqm.

9.0 MAIN ISSUES

1. Principle

A) Green Belt Policy

B) Shopping Policy

2. Other Issues

10.0 APPRAISAL

1. Principle of Development

A) Green Belt Policy

10.1 The application proposes a retail use in an out of centre, Green Belt location.

10.2 Within the Green Belt Policy N33 of the LUDPR allows the change of use of buildings providing the criteria set down in Policy GB4 are met.

10.3 Considering the current proposal against the seven criteria of GB4:

- The physical changes proposed are very limited and would maintain the openness, character and appearance of the Green Belt;
- The building is clearly in a sound structural condition and is suitable for the use proposed without significant alteration and without extension;
- There will be no alterations to the access and therefore no impact on the character and appearance of the countryside;
- There are no cost implications for public utilities or services;
- There are no implications relating to the need to construct new farm buildings as the building is in domestic use;
- The building is not to be converted to residential use;
- The proposal would not harm the local economy.

10.4 It is therefore concluded that the proposal is compliant with development plan policy relating to change of use of buildings in the Green Belt.

10.5 The National Planning Policy Framework (NPPF) postdates the LUDPR. Paragraph 90 of the NPPF deals with inter alia, the change of use of buildings in the Green Belt stating that the reuse of buildings of permanent and substantial construction is acceptable in the Green Belt provided the openness of the Green Belt is preserved and the development does not conflict with the purposes of including land within the Green Belt.

10.6 In the case of the current proposal it is considered that the physical alterations to the building are minimal and the use itself low key. On this basis it is considered that the proposal will not affect the openness of the Green Belt or impact on the purposes of the Green Belt and therefore is acceptable when considered against the advice in the NPPF.

10.7 In summary the proposal is considered acceptable in terms of Green Belt Policy and will not harm the openness of the Green Belt.

B) Shopping Policy

- 10.8 The proposal is for a retail use in a rural location and therefore needs to be considered in the context of LUDPR policies and the advice in the NPPF. Both documents advise that retail development outside of town centres should normally be the subject of a sequential test to demonstrate that alternative town centre sites are not available and that the development will not affect the viability and vitality of town centres. However it is also recognised in both the LUDPR and the NPPF that the approach to small scale development and development in rural areas should be different from large scale retail.
- 10.9 The LUDPR contains two separate policies for assessing the retail development. In the case of smaller developments policy S9 applies, and includes five criteria for assessment. In considering the current proposal against these criteria it is considered that: the current proposal is site specific (it is to provide for refreshment facilities for those on the adjacent footpath); the very limited scale and specific type of development could not realistically be seen as having potential to undermine the viability and vitality of any local centre; the proposal is to specifically cater for walkers not those in private vehicles; and it does not impact on land allocated for residential or employment use. On this basis it is considered that the proposal complies with Policy S9 of the LUDPR.
- 10.10 The NPPF takes a more permissive approach to developments such as that proposed, and encourages economic growth in rural areas. Paragraph 25 specifically states that the sequential approach should not be applied to small scale rural offices or other small scale rural development. Paragraph 28 specifically encourages support: for rural tourism and leisure developments for communities and visitors which respect the character of the countryside; and support the sustainable growth of all types of business and enterprise in rural areas, including through the conversion of existing buildings.
- 10.11 In essence the size and nature of the proposed development are such that the proposal will realistically have no impact on town centres. It represents a small rural development that will provide a very specific facility for residents and visitors using the adjacent footpath.
- 10.12 It is therefore considered acceptable in principle in terms of both LUDPR shopping policies and the advice in the NPPR.

2. Other Issues

- 10.13 The application site is located at least 70 metres from the nearest residential property (other than the applicants house) and is considered unlikely to attract any significant increase in the use of Smalewell Lane, instead providing for those who would already be walking along the footpath. In view of this, and the very small scale of the development it is considered that it will not result in noise or disturbance to existing residents of the area.
- 10.14 Similarly, because of the scale of development it is unlikely to have any significant impact on local highways. The comments of the Highway Authority in relation to vehicular traffic and the potential inclusion of a personal or temporary condition are noted, but it is considered that given the very small size of the development and the

conditions to restrict change of use, and use of outside areas it is not considered that the imposition of further conditions can be justified.

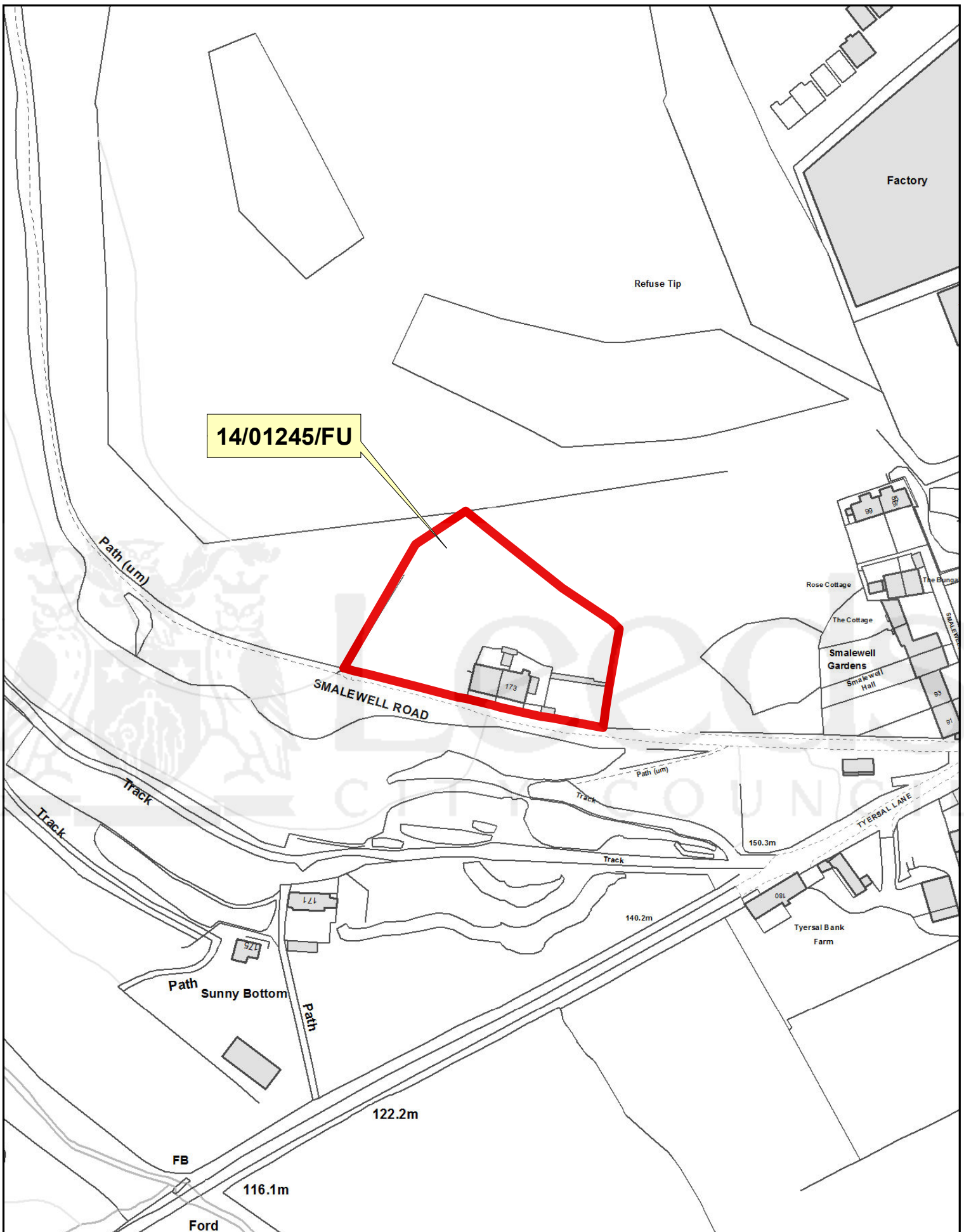
- 10.15 Finally, the very limited changes to the existing building, comprising the insertion of a small serving hatch with timber frame and doors, will have no discernible impact on the visual amenity or rural character of the area.

11.0 CONCLUSION

In conclusion it is considered that the proposal is acceptable. It will not result in any unacceptable impacts on the openness of purposes of the Green Belt and is of a scale and nature that will not undermine shopping policies, which seek to direct the majority of retail developments to defined local centres. It represents a small scale business, aimed at leisure users of the footpath network and subject to conditions, set out in the recommendation, to ensure the scale and nature of the use does not change, is considered acceptable.

Background Papers:

Application: 14/01245/FU



SOUTH AND WEST PLANS PANEL

