



## Report of the Chief Planning Officer

### *PLANS PANEL WEST*

Date: 18<sup>th</sup> August 2011

**Subject: PLANNING APPLICATION 11/01656/FU: Change of use of solicitors' office to hot food takeaway including flue to rear at: 23-25 Station Road, Horsforth, LS18 5PA**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
Mr H Georgallis	21 <sup>st</sup> April 2011	16 <sup>th</sup> June 2011

#### **Electoral Wards Affected:**

Horsforth

N

Ward Members consulted  
(Referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

**GRANT planning permission, subject to the following conditions**

- 1 3 year time limit
- 2 Development completed in accordance with approved plans
- 3 First floor accommodation ancillary to ground floor takeaway use
- 4 Extraction / ventilation system provided and maintained in strict accordance with submitted specifications and manufacturers' details
- 5 Painting of flue pipe in dark non-reflective finish
- 6 Restrictions on opening hours: 11.30hrs to 14.00hrs and 16.00hrs to 20.30hrs Monday to Wednesday, 11.30hrs to 21.00hrs Thursday to Saturday and 11.30hrs to 20.00hrs on Sundays and Bank Holidays
- 7 Restrictions on deliveries 08.00-17.00 Mon-Fri only
- 8 Details of refuse storage
- 9 Provision of grease trap
- 10 Car / cycle parking including disabled space laid out and made available prior to first operation

In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the Planning Policy Guidance Notes and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), the Regional Spatial Strategy 2008 (RSS) and The Development Plan, the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5, SF15, T2 and T24

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

## **1.0 INTRODUCTION**

- 1.1 This revised application for the change of use of a former solicitors' office (A2 use) to a fish & chip shop (A5 hot food takeaway) has been revised to address the reasons for the refusal of a previous application which incorporated a restaurant area. It is now considered acceptable on balance and subject to conditions that the proposal is acceptable in terms of its principle and its likely impact on the amenity of local residents and highway safety. The scheme is brought before the West Plans Panel due to considerable local interest and objections from two of the local Ward Members (Councillors Cleasby and Townsley).

## **2.0 PROPOSAL**

- 2.1 Permission is sought to convert this double-fronted unit, previously occupied by a series of A2 uses including a bank and most recently a firm of solicitors, into a hot food takeaway (fish & chip shop).
- 2.2 Externally there will be no alterations bar the erection of a metal extraction flue pipe to the rear elevation. This will be routed internally through the building via the first floor and exit through the roof with the top approximately 1.5m above the top of the nearest windows. The existing car park will be marked out, with four angled, marked bays to the rear and a disabled bay and 'Sheffield' style cycle stand to the forecourt.
- 2.3 Internally the existing layout will mostly be retained. The large area to the front of No. 23 will form a customer waiting area including a high table and bar stools, and the existing kitchenette will be converted to an accessible WC cubicle with lobby. The existing meeting rooms will be opened up and converted to a kitchen with food preparation area.
- 2.4 The first floor will be used as ancillary storage and staff toilet, changing and office facilities. The internal link door to the ground floor takeaway will be retained, and a cycle storage cupboard provided beneath the existing stairs.
- 2.5 The applicant has requested opening hours of 11.30-14.00 and 16.00-20.30 Monday – Wednesday, 11.30-21.00 Thursday – Saturday and 11.30-20.00 Sundays. Maximum staffing levels of 2 full-time and 5 part-time staff are proposed.

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 This application refers to a double-fronted former retail unit forming the western half of a 1950s parade of four units. These are located in a hillside position within the Station Road centre (which although not subject to policy S2 is defined as an 'other centre with shopping frontage policy, and is hence subject to policy SF9).
- 3.2 The premises were originally used as a banking hall with flat above; this was converted to ancillary offices in September 1974. The bank use ceased around 2003 and since that point both floors were occupied by a firm of solicitors, who in turn also recently vacated the premises. There are five air conditioning condensers to the rear elevation, located around the first floor level. A disabled access ramp with handrails was installed to the main entrance whilst the premises were in use as a bank, and this remains.
- 3.3 The other two units in the parade are used as a hair salon and a tattoo studio. There is a flat above the latter accessed via a door to the side of the shopfront (a similar front access to the upper floor of Nos. 23-25 has been bricked up in the past, and access to this area is now from the rear and through the ground floor).
- 3.4 The area has a mixed character, with some retail units interspersed with residential properties. The site is close to Horsforth railway station and is served by several high-frequency bus routes. The adjacent pair of dwellings at Nos. 19-21 Station Rd have been extended to form a block of five flats, several of which have windows overlooking the side driveway and rear parking area, whilst No. 31 remains in use as a single dwelling.
- 3.5 There is a mixture of terraced and back-to-back stone cottages and small ground floor commercial uses on the southern side of Station Road, a car repair garage and motorcycle shop to the rear of these and an office block to the south-west. There is a pizza shop at No. 9 and a second pizza / curry shop at No. 17, both of which lie to the west of the proposal site.
- 3.6 An informal, hard surfaced parking area to the front of the premises is separated from the highway by a low stone wall. A larger communal parking area is available to the rear of the premises and is accessed via a driveway to the western side of the premises. Marked bays with one-hour time limits interspersed with TROs (double-yellow lines) are available at various points along Station Road, including four spaces outside the parade in question.

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

- 4.1 A previous application by the same applicant for conversion of the premises to a fish and chip restaurant with takeaway counter was refused in January 2011 on the grounds of harm to the amenity of surrounding residents through noise and cooking odours, and on the lack of adequate parking provision for the proposed use. Other applications relate to the previous use of the premises as a bank and solicitors' offices, and the conversion of the first floor flats to additional A2 floorspace in the 1970s.

10/05567/FU – Change of use of solicitors office to hot food takeaway (a5) and restaurant (A3) (refused 27<sup>th</sup> January 2011)

07/07056/FU – Change of use including 2-storey rear extension, of two flats and semi-detached house to 3 two-bedroom flats, 2 one-bedroom flats and 1 three-bedroom flat (approved 21<sup>st</sup> January 2008)

27/137/00/FU – Satellite dish to roof of bank (withdrawn 27<sup>th</sup> July 2001)

27/4/97/FU – Addition of access ramp to bank (approved 24<sup>th</sup> March 1997)

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 As outlined above, an initial application submitted in December 2010 was refused on the grounds of residential amenity and highway safety. This application proposed a restaurant with takeaway counter and separate first floor area, open until 10pm daily. Following this decision the Agent met with officers to discuss revisions to address the reasons for refusal. The resubmitted scheme under consideration, which was submitted in April 2011, incorporates a number of changes including the deletion of the A3 element to address concerns over long-stay car parking, the relocation of the flue extract pipe and fan motor within the building, clarification that the first floor would remain ancillary and not be sub-let, and amended closing times of 8pm Sundays, 8.30pm Monday-Wednesday and 9pm Thursday-Saturday.

## **6.0 PUBLIC/ LOCAL RESPONSE:**

6.1 A general site notice was posted on 6<sup>th</sup> May 2011 and Neighbour notification Letters sent to selected addresses on 28<sup>th</sup> April 2011. 16 objections to the scheme have been received (including representations from Councillors Cleasby and Townsley, and Horsforth Town Council) and 9 in support of the proposals.

6.2 The main concerns raised to the proposal can be summarised thus:

- Excessive concentration of food outlets on Station Road
- Lack of on-street parking provision
- Increased traffic movements
- Impact of noise, smells and disturbance on surrounding residents;
- Takeaway food is unhealthy and contributes to people becoming obese;
- Anti-social behaviour from potentially intoxicated patrons;
- Potential damage to / blockage of drains;
- Generation of food waste and litter which then attracts vermin;
- Opening hours are excessive for the type of business;
- Potential for garish lighting and signage;
- Too many 'problem' uses such as HFTAs, tattoo studio etc give negative first impression of the area to visitors.

6.3 Of the comments in support of the change of use, the following themes emerged:

- Proposal would bring a vacant unit back into use, creating jobs and enhancing the vitality and viability of Station Rd centre through increased footfall;
- Provision of a local facility which would be well-used;
- Existing Cove fish restaurant in Otley is popular, of high quality and responsibly run; an alternative operator might not have such high standards.

## **7.0 CONSULTATION RESPONSES:**

- 7.1 Neighbourhoods and Housing – Rised concerns that noise and cooking odours associated with the extraction system and flue pipe would have a detrimental impact on a number of surrounding properties including a flat above the adjacent tattoo shop and a new development at Nos 19-21 Station Rd.
- 7.2 Highways – Initially objected on the basis that the 6 existing parking bays to the rear of the premises would be inaccessible due to the limited aisle depths, and recommended provision of 4 angled bays which have been incorporated into the revised plans along with bin storage and a cycle hoop. Parking and access arrangements are acceptable following deletion of the restaurant element of the scheme and incorporation of the first floor accommodation as ancillary to the ground floor operation.
- 7.3 Licensing – Advised that since the premises will not be providing food, drink or licensable entertainment after 11pm, a premises license is not required.
- 7.4 Horsforth Town Council – Objected on the grounds of the cumulative impact of food businesses on parking in the area, and that the noise and odour generated by the extraction system would have a detrimental impact on residents.

## **8.0 PLANNING POLICIES:**

### **Local Planning Policies:**

- 8.1 The Local Development Framework for Leeds is currently in development. In the interim a number of the policies contained in the Leeds Unitary Development Plan Review (“UDP”), which was adopted in 2006, have been ‘saved’. The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below: -
- UDP policy GP5 seeks to ensure all detailed planning considerations are resolved as part of the application process including the protection of local residents amenities.
  - UDP policy SF15 sets out criteria for new hot food takeaways.
  - UDP policy T2 seeks to ensure that new development should be served adequately by existing or programmed highways and by public transport, make adequate provision for cycle use and parking, and be within walking distance of local facilities.
  - UDP Policy T24 seeks to ensure parking provision reflects the guidelines set out in UDP Appendix 9.

### **Government Planning Policy Guidance/Statements:**

- 8.2 In addition to the principal elements of planning policy other advice contained in Planning Policy Guidance Notes and replacement national Planning Policy Statements (PPS) may be of relevance to the submitted proposal. This includes:

## **9.0 MAIN ISSUES:**

9.1 Having considered this application and representation, it is the considered view that the main issues for consideration are:

1. Principle of Change of Use
2. Visual Amenity
3. Residential Amenity
4. Highways
5. Other Considerations

## **10.0 APPRAISAL**

### 10.1 Principle of Development

The premises are located on Station Road in Horsforth, which whilst not a designated town centre as identified in Policy S2 is nevertheless one of a small number of other retail areas with a shopping frontage policy. However since this unit is located outside the primary and secondary frontages and is already in non-retail use there is no objection to the principle of the change of use, subject to other considerations.

### 10.2 Design/ Appearance

Similarly, the proposed external alterations to the premises are limited to the provision of new signage (to be covered under a separate application for advertisement consent) and erection of a flue extract pipe to the rear of the building. The premises are not of particular architectural merit or historical interest and lie outside the Horsforth Conservation Area. Given the general 'service yard' character of the rear area, which features air condensers and security grilles and which is used to store bins and park vehicles, the proposed flue is deemed visually acceptable subject to an appropriate dark, non-reflective finish being applied to enable it to blend in with the roof.

### 10.3 Residential Amenity

The earlier application was refused on the grounds that it would have a detrimental impact on the amenity of surrounding residents through noise nuisance from customer movements and odour from the extraction system. Although parts of Station Road are designated as an S2 Centre, the area has a mixed character which includes a large number of houses and flats. Of these the closest are at No. 27a (a flat located above the adjacent tattoo studio) and the recently converted block at Nos. 19-21, including a number of windows / French doors which directly overlook the side driveway and rear parking area of the proposed development. There are also terraced houses on the opposite side of Station Road (Nos 24-40 inclusive) and properties on Brownberrie Walk and Sussex Avenue also back onto the site.

Following negotiations with the Authority the applicant has made a number of amendments to the proposal in order to attempt to address this aspect of the refusal. As previously mentioned, the restaurant element has been deleted from the scheme, reducing the time spent by patrons on site and associated car parking. Detailed specifications of the cooking ranges, flue extraction and filtration systems and even the proposed biodegradable packaging have been supplied in support of the application, with the former being of high specification. The flue pipe and fan motor

have been relocated inside the structure with only a short length of less than 1.0m projecting beyond the roof. This will have the effect of lifting the outlet above nearby windows, reducing the visual impact and ensuring that noise from the fan motors is contained within the premises. The operating hours have also been reduced, from 08.00 – 22.00 daily to a closing time of 20.30 Mon-Weds, 21.00 Thurs-Sat and 20.00 on Sundays, and a condition suggested to restrict deliveries.

The Environmental Health Officer accepts that the amended operating hours are appropriate and that the relocation of the flue addresses the issue of motor noise audible to residents of adjacent properties. However concerns are maintained regarding the potential for surrounding dwellings to be affected by cooking odours, particularly if economic considerations or the acquisition of the premises by another, less diligent operator prevent proper maintenance (ie filter replacement) being carried out according to schedule. On balance however it is considered that such concerns are speculative and that the proposal must be assessed on the basis of the information supplied. As such it is considered that subject to the installation of the specified level of extraction equipment and subsequent servicing being conditioned, the submitted information is sufficient to address concerns that the proposed operation will impact on surrounding residents by way of cooking odour.

#### 10.4 Highways

The Highways officer objected to the previous scheme on the basis that the restaurant element could generate demand for long-stay parking which could not be accommodated on site or within the marked bays which are limited to 60 minutes occupation. In addition the proposed use of the first floor area was ambiguous; its independent access meant that it could potentially be sub-let separately as offices without need for a further application and again the level of available parking would not be adequate for the existing floorspace. The proposal has now been revised to address these concerns, including removal of the restaurant element of the scheme and clarification that the first floor accommodation will remain ancillary to the takeaway use. Further revisions to the layout were requested to angle the parking bays (improving manoeuvrability) and indicate bin storage, cycle parking and a disabled person's parking space. The proposal is now considered acceptable in Highways terms and the reason for the refusal of the previous application adequately addressed.

#### 10.5 Other Considerations

Of the concerns raised by objectors to the scheme, the majority relate to highway safety and residential amenity which are discussed in greater detail within the relevant sections above. Furthermore, of the remaining issues some, such as the risk of drains becoming blocked and the storage of refuse can be controlled by means of condition, and appropriate conditions have been suggested to deal with these. Station Road does not constitute a 'Cumulative Impact Area' for licensing purposes and with only two existing late-night food outlets along its length it is not considered that the concentration of such operations would be excessive compared with some other centres even were this proposal successful. Other concerns are covered by separate frameworks – in the case of drunken and disorderly patron behaviour by existing criminal laws prohibiting this, signage by the Advertisement Regulations, and public health issues by other council and local NHS strategies promoting healthy lifestyles.

### 11.0 **CONCLUSION**

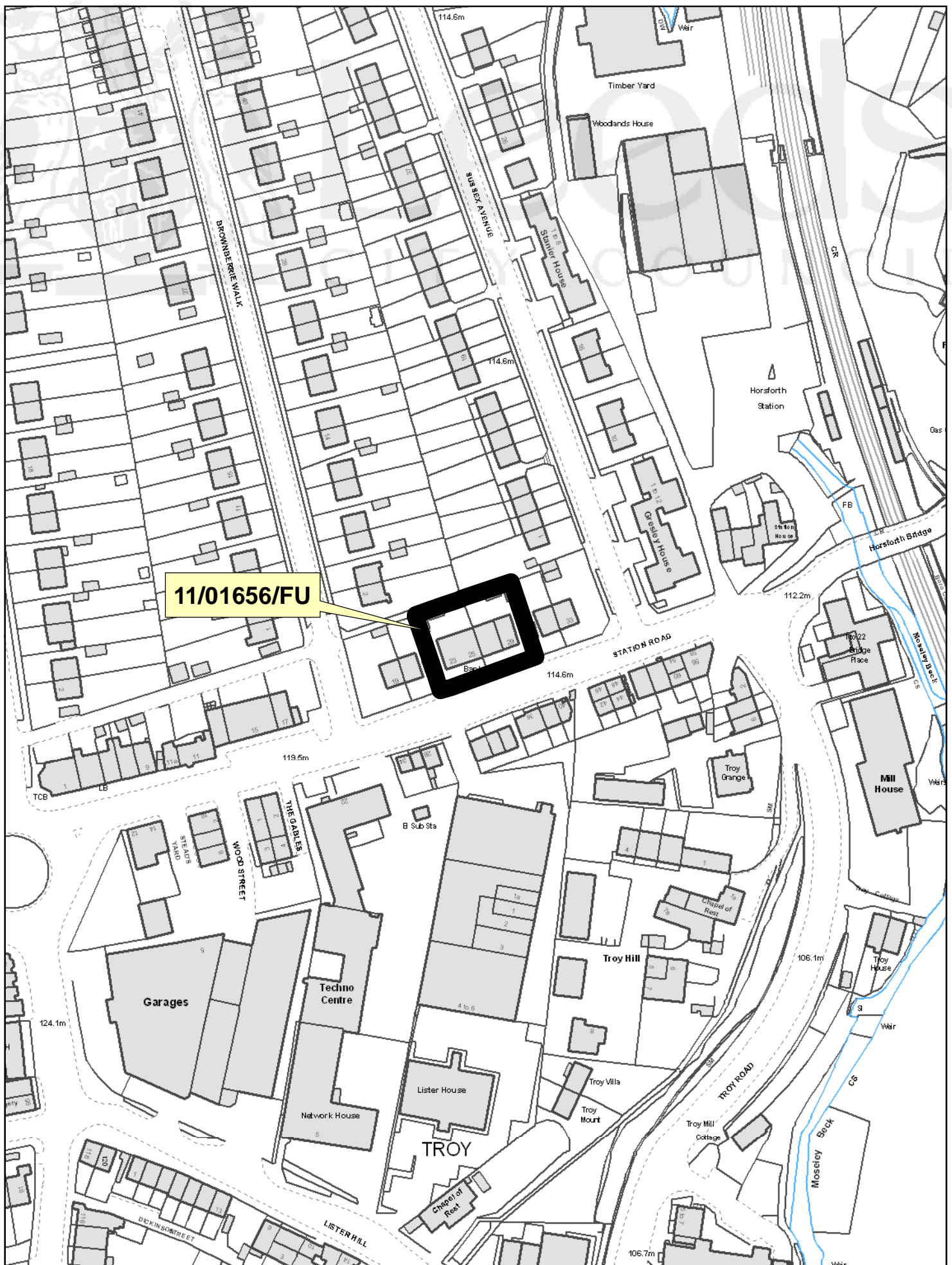
11.1 To conclude, an initially unacceptable proposal has through a process of negotiated revision been amended to address concerns of residential amenity and highway

safety. It is now considered acceptable in planning terms and is recommended for approval subject to conditions.

**Background Papers**

Application Files 11/01656/FU and 10/05567/FU





# WEST PLANS PANEL