



**Report of the Chief Planning Officer**

**PLANS PANEL WEST**

Date: 10<sup>th</sup> November 2011

**Subject: PLANNING APPLICATION 11/02847/FU: Retrospective change of use of shop (A1 Use Class) to hot food take-away (A5 Use Class) at 21 Lower Wortley Road, Wortley, Leeds 12**

**APPLICANT**

Mr R Firth

**DATE VALID**

1<sup>st</sup> August 2011

**TARGET DATE**

26<sup>th</sup> September 2011

**Electoral Wards Affected:**

Farnley and Wortley

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 Extraction / ventilation system details to be submitted to, approved in writing, and implemented within one month of this approval.
- 4 Restrictions on opening hours: 08:00 until 19:00 on all days
- 5 Restrictions on deliveries 08.00-1800 Mon-Sat only
- 6 Details of refuse storage
- 7 Provision of grease trap
  
- 8 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 The scheme is brought before the West Plans Panel at the request of Councillor David Blackburn. This application was deferred from the last Plans Panel West meeting on 13<sup>th</sup> October 2011 at the request of Councillor Hardy for a panel site visit.

## **2.0 PROPOSAL**

- 2.1 The proposal is for the retrospective change of use of shop (A1) to hot food take-away (A5), the proposal seeks consent to open until 19:00 on all seven days of the week.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site consists of an end terraced property which lies within a parade of local shops, which include a convenience store, and a fish and chip shop. The property is brick built, with a tiled hipped roof. The property has a glazed shop frontage facing onto Lower Wortley Road, and appears to be single storey in height from the front elevation and is two storeys in height at the rear, due to the slope of the site. The rear of the property has an enclosed yard area which appears to be shared with the adjacent commercial uses.
- 3.2 The site lies in an established residential area, which is characterised by both stone and brick built properties. The property lie opposite a row of stone built terraced properties, across Lower Wortley Road. A converted chapel lies to the east, and semi-detached properties lie to the south. The site offers no dedicated off-road parking facilities.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 There have been two previous applications upon this site for changes of use from A1 to A5 at these premises, in 1997 and 1998 (ref 24/61/97/FU and 24/144/98/FU).
- 4.2 Both of these applications were refused due to the adverse impact on adjacent occupiers in terms of cooking odours and levels of activity and the threat to highway safety/ lack of parking. These previous applications sought consent to open until 00:30 hours.

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The application has been submitted in response to a Enforcement case regarding the unauthorised A5 use of the premises.

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

6.1 The application was publicised by a site notice which was posted adjacent to the site on 12<sup>th</sup> August 2011. To date 4 objections were received, in addition to a letter of objection from Councillor David Blackburn. The points raised in these objection are highlighted below.

- The use results in high levels of on street litter
- There are enough fast food outlets within the locality
- There is not enough on street parking
- The use attracts 'youths' who hang around outside the premises
- The proposed use will result in additional 'noise and smell'
- Previous applications upon these premises for hot food take-aways have been refused

6.2 Councillor David Blackburn has objected on parking/ highway grounds, saying the proposed use would not attract customers by foot and the highway arrangements have not altered since the previous refusal on highway grounds.

6.3 Cllr Blackburn also objects on the loss of shopping diversity, and has pointed out that a numbers of previous applications for A5 uses have been refused in the past, and another A5 use is 'likely to lead to detrimental effects to proper shopping facilities in the area' and that the proposal will create litter.

## **7.0 CONSULTATION RESPONSES:**

7.1 Neighbourhoods and Housing – No objection subject to conditions which related to extraction, opening and delivery hours.

7.2 Highways – Have raised no objection, the unit is very small and is unlikely to bring with it a very high parking demand.

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.

## **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:

PPS1 Delivering Sustainable Development.

### **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. Residential Amenity
3. Highways
4. Other Considerations

### **10.0 APPRAISAL**

#### **10.1 Principle of Development**

The application is concerned with the partial change of use of an existing A1 use to A5. Policy SF15 is explicitly concerned with changes of use to A5 uses. Policy SF15 states that proposals for new A5 uses will not normally be considered acceptable unless the following criteria can be met.

- The proposal will not impact on residential amenity by virtue of visual intrusion of flues, cooking smells, litter, food spillage, operation at unsocial hours, congregating of customers, parking and vehicle movements and noise
- All highway, road safety and environmental health requirements are met
- They will not adversely affect the character or appearance of a listed building or Conservation Area
- They conform with the policies which relate to the loss of A1 uses within defined centres.

10.2 The site does not lie within a Conservation Area, near a listed building nor within any defined shopping frontage, as such the latter 2 criteria are not applicable in this assessment.

10.3 The site lies unallocated within the Leeds UDP and outside any local centre. therefore in policy terms there is no protection to the retention of an A1 unit in this location. The application is therefore, considered acceptable in principle, subject to an assessment of amenity, environmental and highway issues.

10.4 Residential Amenity

It is not considered the proposed use would harm the general levels of amenity of adjacent residential occupiers. The proposal only seeks consent to open until 19:00 hours, and this would be conditioned on approval. A later evening use is unlikely to be supported by the Local Planning Authority due to the levels of noise and activity that an A5 use is likely to result in, in the quieter evening hours when the background noise levels are lower.

10.5 It is considered the reduced opening hours overcome the previous reasons for refusal which relates to the impact on adjacent occupiers, as the previous applications for an A5 use at these premises sought to open until 00:30 hours. It is also important to note that the application site lies at the end of a commercial parade where other uses include a late opening off-licence/ convenience store and a fish and chip shop.

10.6 Environmental Health have recommended conditions which relate to extraction and ventilation to ensure there are no issues concerned with cooking odours, this will be imposed on the approval of the application. To date no complaints have been received to Environmental Health regarding cooking odours from these premises.

10.7 Highways

The gross internal floor area is 34sqm. In UDP parking terms a shop of this size would generate a maximum parking requirement of 2 parking spaces (1 staff, 1 customer), there is no specific parking guidance for a Hot Food Take Away (only for A3 'food and drink' as the UDP predates the introduction of the A4 and A5 use classes) which would have a maximum parking requirement of 5 parking spaces (1 staff, 4 customer) A Hot Food Take Away would normally be expected to have a lower parking requirement than a restaurant because people do not stay as long (although there are often more comings and goings). Parking guidelines are maximum provisions (not minimums) and we still have to take into account the statement in PPG13 which says:

10.8 "Local authorities should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls "

In this case it is not considered that any harm associated with the change of use on highway grounds could be demonstrated as:

- a) The unit is very small and does not bring with it a very high parking demand
- b) The use is retrospective and there have not been any highway safety concerns reported to the Highways Authority as a result of the current (unauthorised) use
- c) There is not any road safety accident history which has been caused by on-street car parking (3 recorded injury accidents in the last 12 years) but none specifically related to on-street parking
- d) On-street parking is available outside the parade of shops
- e) The opening hours of the premises is restricted

10.9 There may not have been any significant change to the provision of on-street parking since 1998 when the change of use was refused permission, but from a review of the

1999 and 2002 aerial photographs it does appear that the build out at the Greenside Road junction, associated layby markings and a slight re-alignment of the centreline on Lower Wortley Road have been implemented since the previous refusal, ie between 1999 and 2002. Although this does not mean that there is any additional on-street parking provision is now available, it does formalise the use of kerbside parking outside the shops. In view of this, it is not considered the proposal for an retrospective A5 use could now be refused on highways grounds, and as such the proposal would not threaten highway safety and follows the policy guidance of T2.

#### 10.10 Other Considerations

Objectors have raised concerned regarding the number of A5 uses within this locality and litter the proposal would create. The number of A5 uses within this locality does not warrant grounds to refuse the application, as stated in paragraph 10.3 the site is not protected by any shopping frontage.

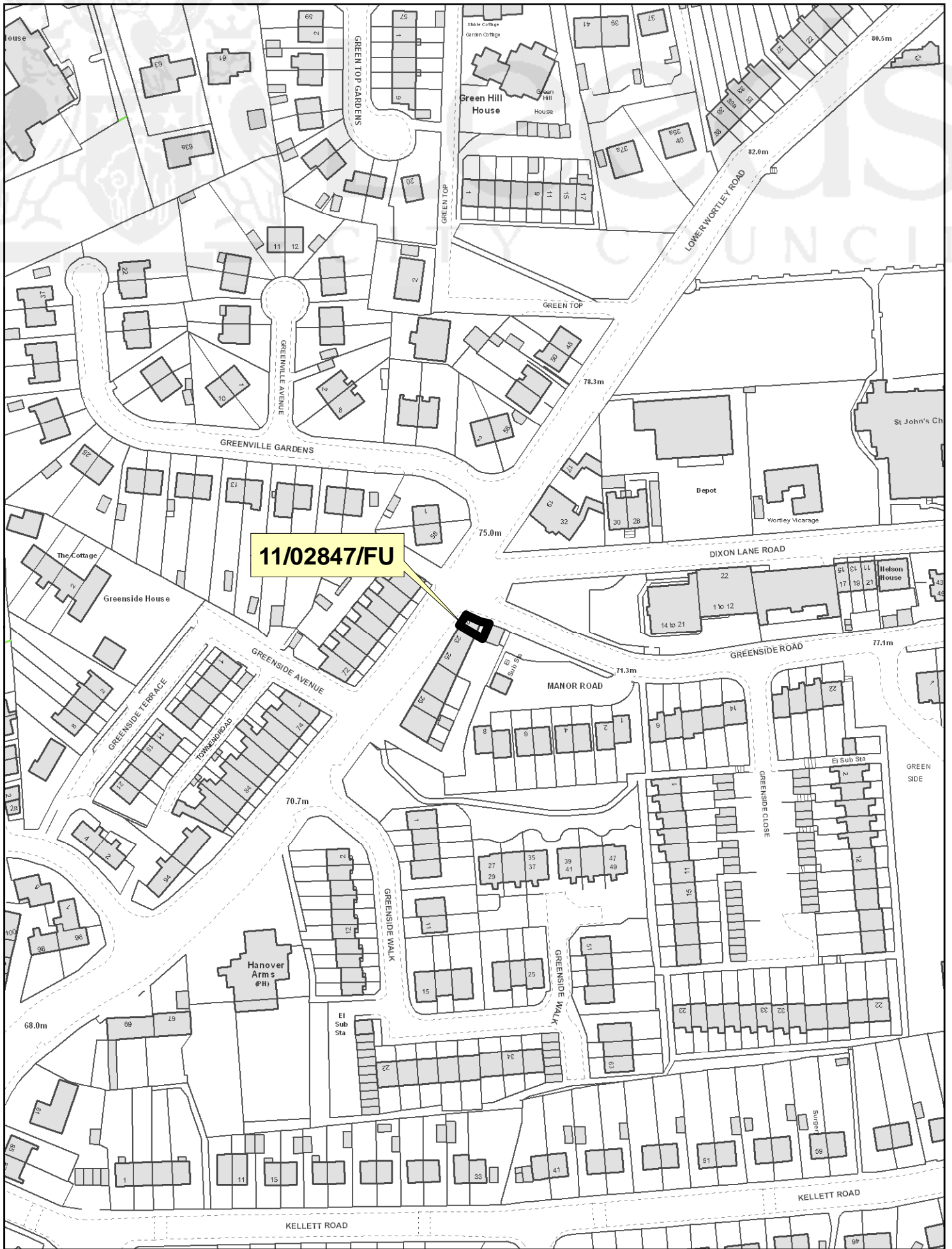
10.11 It is unlikely the proposal would create a litter problem and concern also does not warrant grounds to refuse the application. Similarly it is not considered the application could be refuse don the fact it does attract youths outside the premises. The premises close at 19:00 hours, and there are other adjacent A1 uses which have later opening hours.

### 11.0 CONCLUSION

11.1 To conclude, it is considered the proposal overcome both of the previous reasons for refusal for a hot food take-away at these premises, due to the reduced opening hours, and formalisation of the parking lay-by outside the premises, and therefore is now recommend for approval subject to conditions.

#### **Background Papers**

Application Files 24/61/97 and 24/144/98



# WEST PLANS PANEL

