



Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 25th April 2013

Subject: APPLICATION 13/00620/FU- Change of use of ground floor office to form hot food takeaway with flue to rear at 151A Otley Old Road, LS16 6HN

APPLICANT

Mr S Miah

DATE VALID

06.02.2013

TARGET DATE

03.04.2013

Electoral Wards Affected:

Weetwood

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

- 1. GRANT PLANNING PERMISSION subject to conditions listed below.**

List of planning conditions:

1. Commencement of development within 3 years.
2. Approval of plans
3. The external flue shall be installed and painted black and thereafter retained and maintained for the lifetime of the development.
4. The flue shall be operated and maintained in accordance with the submitted statement
5. Prior to commencement details of refuse, cycle and motorcycle facilities to be submitted and approved by the LPA.
6. Provision for a grease trap.
7. The combined noise from fixed plant shall not exceed a rating level as defined by BS4142 by more than 5dB(A) below the lowest background (L90) during which the plant will operate. Details of said plant shall be submitted to the Local Planning Authority.
8. The hours of operation of the hot food takeaway 17.30hours to 2300hours Monday to

Saturday and 1730hours to 2200hours on Sundays and Bank Holidays shall be restricted to 0700 hours to 2300 hours.

9. Hours for delivery, loading and unloading 8:00 - 18:00 Monday to Saturday, no deliveries Sunday or Bank Holidays.
10. A5 Use only, no permitted change to A3 or A4 due to car parking considerations
11. Customer parking to be on the external car park on Otley Old Road only, with the rear car park to be for staff. A sign shall be erected on the building to indicate this, details to be submitted.

In reaching a decision the case officer dealing with the application has worked with the applicant/agent in a positive way to produce an acceptable scheme in accordance with paragraphs 186 and 187 of the National Planning Policy framework.

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 National Planning Policy Framework and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan consisting of the Leeds Unitary Development Plan Review 2006 (UDPR), the Natural Resources and Waste Local Plan 2013 (NRWLP) and the emerging Publication Draft Core Strategy Nov 2012 (DCS).

SF15, GP5, BD6, T2, T24,
Neighbourhoods for Living SPG

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 application is presented to Plans Panel at the request of Ward Councillors Sue Bentley and Judith Chapman who both object to the planning application on the grounds of harm to visual amenity from the flue, lack of car parking, highway safety, inappropriate location for a take away, no demand for a take away in this location, late night noise and disturbance, smells and odours and litter.

2.0 PROPOSAL:

- 2.1 The proposed change of use from an office to a hot food take away includes details of the proposed external flue to be mounted on the rear of the property. This flue would project above the eaves of the roof but site below the ridge of the roof. The applicants have prepared a detailed management plan of how the flue would operate and be maintained to prevent issues of smells, noises and odours arising. This document would form part of the approved list of documents to ensure compliance with the applicants recommendations.
- 2.3 The proposed A5 use would operate from 17.30 to 2300 hours Monday to Saturday and 17.30 hours to 2200 hours on Sundays and Bank Holidays.

- 2.4 Any changes to the premises external appearance would be dealt with under a separate planning application. This current application is only for the principle of the change of use and the proposed rear flue.
- 2.5 Customer parking is to be in the external car park opposite the unit only. The applicant has confirmed in writing that he has permission to use this parking area and that he will agree to erecting a sign to advise customers not to use the rear car park.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is located in a predominantly residential area although there are several commercial, retail and community uses in close proximity. The premises is located next to a restaurant and a dental practice. To the rear is a shared car park. Beyond the car park is the back gardens of residential properties. There is a car park located in front of the premises used by the restaurant and other business in the locality. There are residential properties located further along Otley Old Road.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 12/04778/FU Change of use of office to hot food takeaway (A5 use) with external flue to rear – Withdrawn.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 There have been no negotiations prior to the submission of this application.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been publicised by means of site notices. There have been 13 objections received including a request from Ward Councillor Sue Bentley that this application be referred to Plans Panel due to the level of local representations and the potential impact on amenity. The following issues have been raised.

- There are already plenty of takeaways in the local area;
- The noise disturbance of having such a business;
- Potential food smell that will come from the takeaway and flue;
- Concerns relating to the disposal of rubbish from the takeaway - if not done appropriately, this could appear unsightly and may also attract vermin;
- Potential increase of rubbish in the local area (i.e. food/packaging);
- Concerns that people may congregate around the takeaway on an evening and the possible disturbance this could cause;
- A Takeaway would not be in keeping with the local area;
- Car parking is already an issue on the road, particularly on an evening. The road and car park are usually congested which can often result in neighbours being unable to park outside their homes.
- Concerns that the proposed use may restrict access to existing parking spaces used by the adjacent business and also restrict access for the disabled
- The plans are inaccurate as the car park opposite the premises is not available for the applicant's use
- The application is inaccurate as the adjacent Dental Practice is closer than stated to the proposed site.

- Concerns over impact on neighbouring business and the Health Practices
- Concerns over the impact on visual amenity from the flue
- Loss of residential amenity

7.0 CONSULTATION RESPONSES:

- 7.1 Highways – no objections subject to condition to prevent permitted change of use to restaurant or a bar.
- 7.2 Environmental Health – Have concerns over the flue due to the proposed flue not projecting 1metre above the ridge of the roof but they do not formally object to the application as the revised siting of the flue is designed in accordance with DEFRA guidance. They recommend conditions relating to hours of use and grease traps and also ensuring the flue is operated in a way to minimise noise and smells

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.
- 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 BD6 refers to alterations and extensions to buildings

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 SF15 – refers to changes of use of premises to hot foot takeaways. This policy seeks to ensure the change of use would not adversely affect amenity.

Neighbourhoods for Living SPG.

- 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).

- 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

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.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- Principle of the development
- Impacts on visual amenity
- Neighbours amenity considerations
- Highway considerations
- Other matters

10.0 APPRAISAL:

10.1 A5 Use Class businesses are not Main Town Centre Uses. As such they can potentially be located in any sustainable location. The main considerations with change of use to A5 business relate to the impact they have upon residential amenity and car parking and highway safety.

10.2 Currently the premises is used as an office with a health practitioner operating at the first floor. The neighbouring properties either side of the application site are all within commercial uses. In front of the premises is located a car park which the applicants state they have access to use. This car park is currently well used by visitors to the restaurant and other business. To the rear of the premises is located a shared car park and service yard. Beyond the car park is located the nearest residential properties 10 and 12 Luttrell Gardens. The flue would be located about 12 metres from the rear shared boundary fence with these properties and around 25 metres from the flue to the rear elevations of these properties. The proposed flue would be located on the rear of the property it would not project above the ridge of the roof so would not be visible from Otley Old Road. The proposal is to paint the flue black to lessen its visual impact. The flue would only be visible from the rear of 4 properties (two pairs of semi detached dwellings) on Luttrell Gardens and from very limited oblique angles between the two pairs of semi detached dwellings. In light of the limited views of the flue and as there is a good deal of separation distance between the flue and the nearest residents who could see it, it is not considered that the visual impact from the flue would be significant or harmful to visual amenity.

10.3 The proposed change of use of the office to an A5 premises does not involve any changes to the front elevation of the property. Should the applicants wish to install

any signage or alter the appearance of the premises this would require separate Advert Consent and planning permission.

- 10.4 One of the main concerns with this type of application is from the impact of the cooking on the surrounding area in relation to noise, smells and odours. The need for a flue is therefore essential. The applicants have produced a detailed supporting operating statement to accompany the planning application. It is suggested that this document should be approved as part of the approved documents list. The operators of the hot food take away would then be required by planning condition to ensure they carried out the recommendations contained within the supporting statement. The statement seeks to ensure that the flue is managed, maintained and operated in such away as to mitigate the effects of the cooking smells and odours and noise on the surrounding area. The design and siting of the flue is an integral part of this process. Environmental Health officers have reviewed the applicant's submitted information and although they would recommend a flue which projects 1 metre above the ridge they do not object to the current application as it is in accordance with the DEFRA guidance. Officers have resisted extending the flue 1 metre above the ridge of the roof as this would cause a concern with visual amenity. The siting of the flue as proposed by the applicants and accepted by Environmental Health is such that it should ensure that there are no serious problems of noise, smells and odours. As such it is considered that the proposed change of use would not be harmful to the amenity of neighbouring residents or businesses in relation to noise or smells and odours.
- 10.5 The proposed hours of use of the premises have been conditioned. The premises would principally operate from 5.30pm to 11pm Monday to Saturday and 10pm finish on Sundays. These hours of opening should not cause any serious conflict with the neighbouring business premises. It is not envisaged the potentially comings or goings from the takeaway would significantly affect either the neighbours to the rear on Luttrell Gardens or the residents of Otley Old Road in relation to concerns over noise and disturbance from a night time activity. This is because these residential properties are located sufficiently far enough away from the premises to not be affected by general noise and disturbance from customers who are either waiting for their order in or outside the premises or from those customers entering and exiting the premises. A condition has been proposed to restrict the use of the rear car parking area to staff only so as to prevent customers from parking close to the boundary with the properties at the rear on Luttrell Gardens.
- 10.8 The premises shares car parking with adjacent businesses, the existing office uses space through the day time whilst the takeaway use would be likely to attract some demand for parking in the evenings. Adjacent businesses peak times are also in the evening and the shared car park is well used. However, the number of vehicles requiring a parking space to visit a takeaway would not be significant and a highway objection would be difficult to justify. A restaurant use would attract longer stay parking in the evenings and a condition has been attached to any approval restricting the use to A5 only, with no permitted change to A3 or A4 as these Uses generate significantly higher car parking demands than an A5 business.
- 10.9 One of the main areas of objection to this application relates to the impact on car parking and highway safety. It is acknowledged that the shared parking area opposite the premises is well used and that on street parking is already at a premium. However, the premises has the benefit of use of the shared parking area and the limited number of people that drive to a takeaway are likely to be accommodated within the daily fluctuations in use of the car parking area. Furthermore, the applicant has provided written confirmation that he has consent

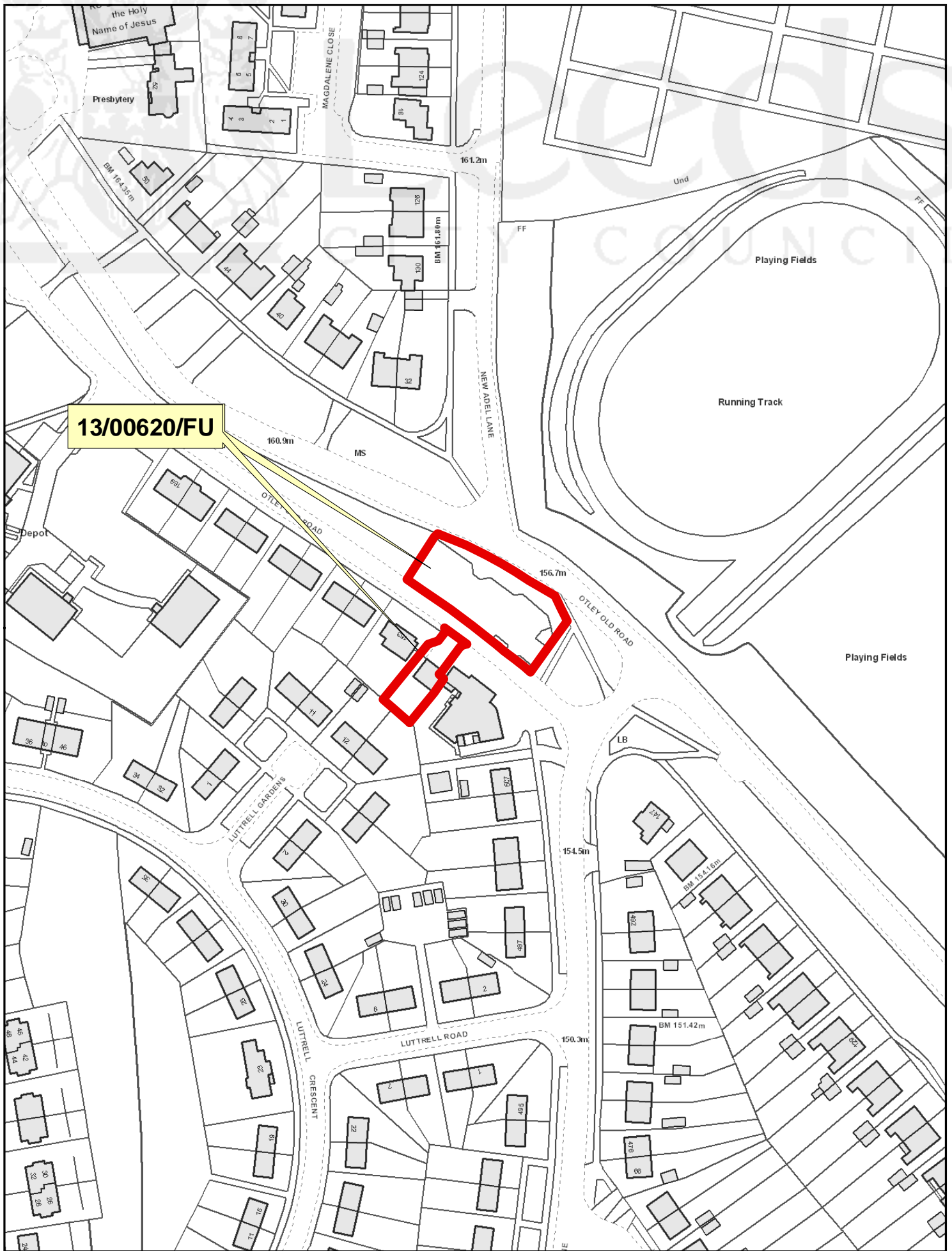
within his lease to use shared parking area and that he will agree to erect a sign advising customers that they cannot park at the rear of the building to protect residential amenity. The rear parking area will be available for staff use. In light of these parking options and given the relatively low level use of the proposal a highway objection would be difficult to justify on this basis.

11.0 CONCLUSION:

- 11.1 After careful consideration of all relevant planning matters it is considered that the proposed development is acceptable subject to the imposition of suitable conditions. The proposal is therefore recommended for approval.

Background Papers:

Application file;
Certificate of Ownership.



13/00620/FU

SOUTH AND WEST PLANS PANEL

