



Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 26th April 2012

Subject: APPLICATION 12/00654/FU - CHANGE OF USE FROM RETAIL SALES SHOP (A1) WITH FLAT OVER TO HOT FOOD TAKE AWAY (A5) WITH STORAGE AT 50 OTLEY ROAD, GUISELEY LS20 8AH.

APPLICANT

Northside Developments Ltd

DATE VALID

13th February 2012

TARGET DATE

9th April 2012

Electoral Wards Affected:

Guiseley & Rawdon

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

REFUSE for the following reasons:

- 1) The Local Planning Authority considers that the proposed hot food take away would cause a significant loss of amenity for occupiers of the first floor unit above by reason of visual intrusion of the flue, cooking odours, operation at unsocial hours, congregating of customers, noise and general disturbance. The proposal is therefore contrary to policies GP5 and SF15 of the Leeds UDP Review (2006).
- 2) The Local Planning Authority considers that the proposal would be detrimental to the vitality and viability of the Primary Shopping Frontage as it would result in over 50% of the frontage being in non-retail use and as such would be contrary to policies GP5 and SF7 of the UDP Review (2006).
- 3) The Local Planning Authority considers that the proposal would be detrimental to the vitality of the local centre due to the loss of day time opening to the ground floor, and the loss of living accommodation above in favour of the creation of an unproductive dead space. The proposal is therefore contrary to policy GP5 of the Leeds UDP Review (2006).

1.0 INTRODUCTION:

1.1 This application has been brought to the Panel at the request of Councillor Graham Latty.

2.0 PROPOSAL:

2.1 The proposal is the change of use of a shop to a hot food take away.

3.0 SITE AND SURROUNDINGS:

3.1 The site is an existing shop unit located on Otley Road in Guiseley. The unit is currently vacant.

3.2 The site is located within the Guiseley Town Centre boundary as well as the Guiseley Towngate Conservation Area. The parade is identified as a Primary Shopping Frontage, and includes a total of five units. Presently three of these are in retail use.

4.0 RELEVANT PLANNING HISTORY:

4.1 11/04823/FU - Change of use from class A1 – retail sales shop to class A5 – hot food take away including new flue to rear – refused

4.2 11/03480/FU - Change of use of shop to financial and professional services - approved

5.0 HISTORY OF NEGOTIATIONS:

5.1 The application has been the subject of previous applications as above.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been publicised by means of site notices; no representations have been received.

6.2 Correspondence has been received from Councillor Graham Latty. While neither expressly objecting or supporting the application, the Councillor has requested that the matter be referred to Panel for consideration.

7.0 CONSULTATIONS RESPONSES:

7.1 Highways – no objections

7.2 Licensing - According to the application the premises would operate until 24:00 Monday to Saturday and 23:30 on Sunday and Bank Holidays. The applicant will therefore have to make an application for the grant of a premises licence in accordance with the Licensing Act 2003 for the Provision of Late Night Refreshment.

The sale or supply of hot food and beverages after 23:00 would be illegal without such a licence. I would also be mindful of possible noise nuisance/public nuisance caused by customers using the premises and the possibility of litter being caused by discarded food containers.

- 7.3 Environmental Health - If planning permission is to be granted this Department would recommend conditions are imposed in order to protect the amenity of the existing residential area regarding noise, delivery hours and provision of a grease trap.

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. The development plan consists of the Regional Spatial Strategy for Yorkshire and the Humber adopted in May 2008 and the Leeds Unitary Development Plan Review (2006).

- 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 S2 refers to the protection of the vitality and viability of town centres.

Policy SF7 refers to primary shopping frontages. The policy stipulates a 30% total threshold for non-retail frontage length, or 20% continuous frontage.

Policy SF15 sets out four specific criteria for hot food take aways. These refer to residential amenity, highway safety, character and appearance and protection of shopping frontages.

Policies T2 and T24 seek to maintain adequate vehicle access and levels of vehicle parking provision with no undue detriment to other highway users.

- 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.

Section 2 of the NPPF is entitled 'ensuring the vitality of town centres'. This requires Local Planning Authorities to pursue policies to support the viability and vitality of town centres. More specifically it requires LPA's to define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and to set policies that make clear which uses will be permitted in such locations. The NPPF also requires LPA's to recognise that residential development can play an important role in ensuring the vitality of centres.

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 set 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:

- Impact on the vitality and viability of the local centre
- Neighbour amenity
- Highway safety

10.0 APPRAISAL:

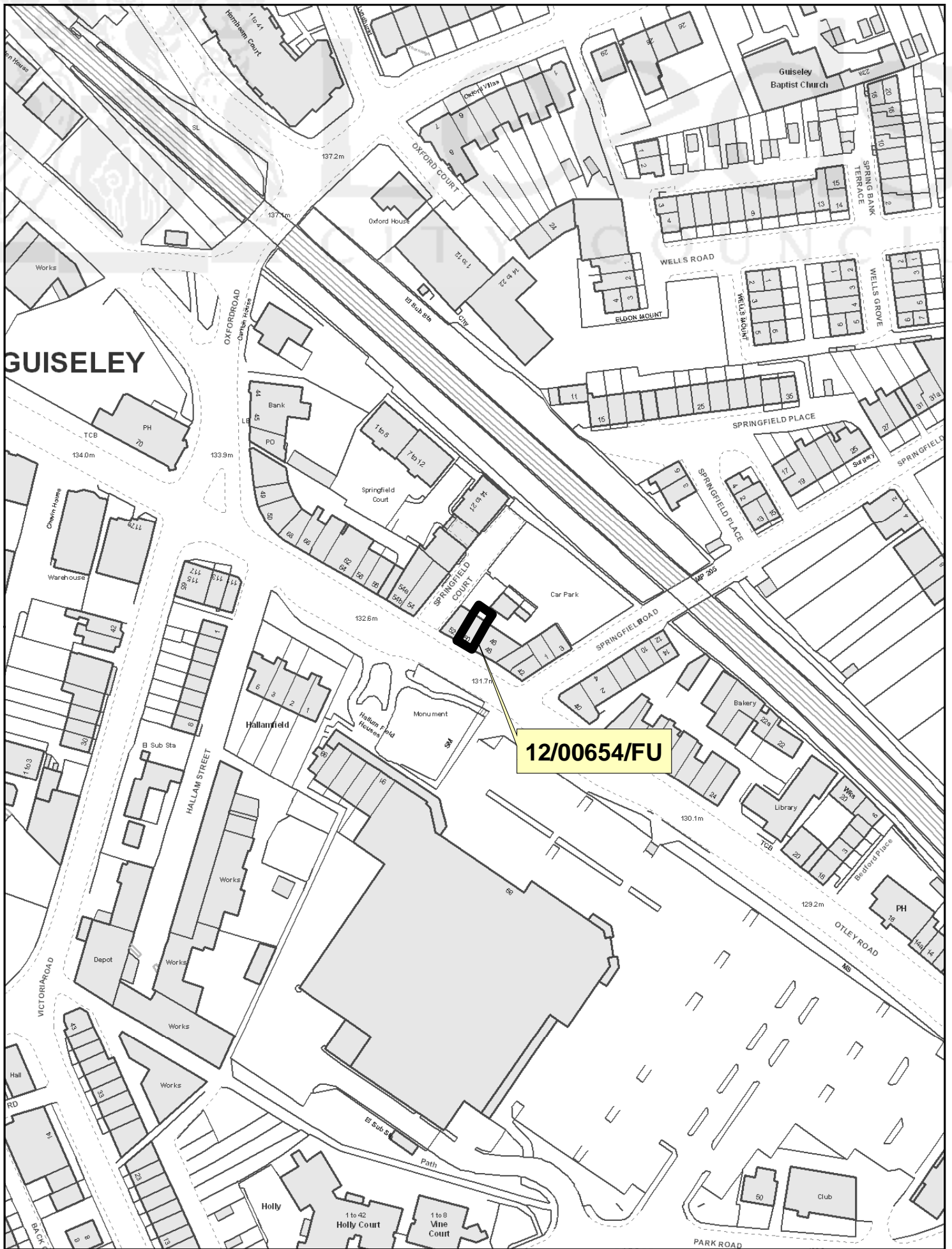
- 10.1 This application is almost identical to application 11/04823/FU which was recently refused consent under delegated powers. The difference between the current application and the previous one is the addition of an annotation to the plan which reads “former flat over to be used for storage for business”. Other than this, the submitted plans are the same. The issues raised by the current application are therefore the same.
- 10.2 Policy SF15 outlines four criteria for the consideration of hot food take aways.
- 10.3 The first concerns residential amenity. There is presently a flat above the unit. Notwithstanding the annotation regarding the proposed change in use of this flat, the submitted plans still show that the first floor would be accessed via an existing separate external staircase which is situated to the rear of the premises. The use of this unit for storage would therefore not be particularly practical as moving goods between the ground and first floor would involve carrying them externally from one floor to the other. The ground and first floors are currently separate planning units which operate independently, and this would continue to be the case as the proposal includes no internal works to connect the two units together.
- 10.4 The potential loss of the first floor flat would be detrimental to the vitality of the local centre. Residential occupation of town centres is something which generally should be encouraged as it brings life, vitality and a degree of security to areas which often suffer from being uninhabited. This is particularly noticeable overnight when such areas can become unwelcoming, due in part to a lack of natural surveillance. The replacement of an existing flat with nothing more than an unproductive storage space would only serve to exacerbate this effect.
- 10.5 The application proposes opening hours until midnight most days of the week, and it is considered that the proposal would have an unacceptable impact upon the amenity of residential occupiers by reason of cooking smells, noise and general disturbance caused by congregating of customers etc, particularly late at night. Additionally the application proposes a large flue to the rear elevation which would be adjacent to the existing external staircase used to access the first floor. This would be likely to be visually intrusive for occupiers of the first floor unit..
- 10.6 The property is centrally located in a sustainable location, and there is public parking provision both to the rear and opposite the site. The proposal does not therefore raise highway safety concerns.
- 10.7 The building is located within the Guiseley Conservation Area. The proposal does not involve external alterations other than the addition of a flue to the rear. This is

proposed to be attached to the rear elevation at ground floor level and would terminate above the eaves. It would be of galvanised construction but would be painted black. Overall it is considered that the addition of the flue would have a small impact upon the character of the street scene and wider Conservation Area

- 10.8 The site is located within a Primary Shopping Frontage identified in the UDP. A survey of the existing parade reveals that approximately 14m out of 36m, or around 39% of units are currently in non-A1 use. The proposal would increase this figure to 53% of the parade (19m) in non-retail use.
- 10.9 Policy SF7 indicates that proposals to change to non-retail may be acceptable where the proportion of non-retail does not exceed 30%. Clearly this threshold has already been significantly exceeded and the proposal would exacerbate this. The short parade in which the property is located currently includes a betting office and a building society, and the proposal would tip the balance further away from retail as it would result in three out of five units being in non-retail usage. These would be adjacent to each other, hence there would be 53% of the continuous frontage in non-retail usage, exceeding the 20% target expressed in SF7.
- 10.10 In terms of the entire Primary Shopping Frontage, which runs all the way up to and including the post office on Oxford Road, a survey of the existing parade reveals that only approximately 56m out of 81m, or around 70% of units are currently in A1 use. The proposal would therefore exceed the 30% threshold expressed in SF7 in respect of the wider centre also.
- 10.11 While change of use consent has previously been granted for change of use of the unit to an A2 use, this is considered preferable to the current proposal. An A2 use is more akin to an A1 use in that activity would take place during the day. A hot food takeaway would typically expect to be an evening only use with no activity taking place during the day to generate activity in the parade. During day time hours the unit would be likely to be closed. The property has a roller shutter, which would present an unattractive facade to the daytime street scene. The impact of such a use is therefore considered to be greater than an A2 use in terms of its effect on the vitality and viability of the local centre.
- 11.0 CONCLUSION:**
- 11.1 After careful consideration of all relevant planning matters it is considered that the proposed development is unacceptable and does not comply with the planning policies set out in the Leeds Unitary Development Plan Review (2006), supplementary planning guidance and national planning guidance. The proposal is therefore recommended for refusal.

Background Papers:

Application file;
Certificate of Ownership.



GUISELEY

12/00654/FU

WEST PLANS PANEL

