



Leeds
CITY COUNCIL

Originator: Michael Howitt

Tel: 0113 247 8000

Report of the Chief Planning Officer

PLANS PANEL SOUTH AND WEST

Date: 3rd April 2014

Subject: APPLICATION 13/05511/FU – Variation of condition number 5 (external storage) of planning permission 12/01608/FU (Change of use of former haulage office and HGV parking area to a use class B8 unit with ancillary offices and trade counter/showroom with external storage to the rear yard area and additional parking provision) – Deanhurst, Gelderd Road, Gildersome, Leeds, LS27 7LG

APPLICANT
Innergy LPG Ltd

DATE VALID
29th November 2013

TARGET DATE
24th January 2014

<p>Electoral Wards Affected:</p> <p>Morley North</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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RECOMMENDATION:
GRANT PERMISSION subject to the conditions referred to in the report below:

Conditions

1. Plans to be approved
2. Opening hours restrictions
3. Hours of delivery
4. Areas to which palletised external storage is restricted
5. Areas to which trailer storage is restricted

1.0 INTRODUCTION:

- 1.1 This application is brought to Plans Panel (South and West) at the request of Ward Councillor Robert Finnegan as he considers that the proposal raises issues of noise and environmental intrusion to local residents. A Members site visit is requested.

2.0 PROPOSAL:

- 2.1 The proposal is to allow for a variation of a condition of planning permission 12/01608/FU (Change of use of former haulage office and HGV parking area to a use class B8 unit with ancillary offices and trade counter/showroom with external storage to the rear yard area and additional parking provision) restricting the areas available for external storage so that areas on the Western, Northern and Eastern boundaries can also be used for this purpose. The original permission allowed only for storage along the Southern boundary of the yard and also on trailers located centrally within the yard. The application is retrospective as the business has been operating in this manner, ever since opening in 2012.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is located on the northern side of Gelderd Road on a small employment site known as Deanhurst Park, which contains a couple of small office blocks and the application site. The application site comprises of a brick built single storey building (with basement) that is set back slightly from Gelderd Road but runs parallel to it, with a storage yard located to the rear. The site was formally used as a haulage office and HGV parking area but has been used by the current user for around 18 months.
- 3.2 There are residential properties situated opposite the site, immediately north (to the rear) and east. The site is situated on the outer edge of the built up-limits of development (Gildersome) with open land located on the southern side of Gelderd Road in the vicinity. This open land is designated as E4 land (employment use) in the UDP.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 There have been a number of planning applications relating to this site with the most recent / relevant as follows.
12/01608/FU - Change of use of former haulage office and HGV parking area to a use class B8 unit with ancillary offices and trade

counter/showroom with external storage to the rear yard area and additional parking provision. Approved 1 June 2012.

11/01427/FU - Change of use and extension of former haulage yard/ ancillary office building to fish and chip restaurant and ancillary take away. Refused 1 June 2011. Subsequent appeal dismissed.

09/04919/FU - Change of use and extension of former haulage yard/ ancillary office building to fish and chip restaurant and ancillary take away with associated car parking. Refused 14 May 2010. Subsequent appeal dismissed.

23/63/97/FU - Use of cleared site as commercial vehicle parking area. Approved 9 May 1997.

23/64/96/RE - Extension of permission for use of cleared site as commercial vehicle parking area. Approved 26 April 1996.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 There were no pre-application enquiries prior to the submission but the application was submitted following a compliance investigation which found that storage of gas canisters was taking place outside of areas that were designated on the approved plan of planning application 12/01608/FU.

6.0 CONSULTATION RESPONSES:

Statutory Consultations:

- 6.1 None.

Non Statutory Consultations:

- 6.2 Neighbourhoods and Housing – No objection to the areas requested being used for the storage of gas cylinder pallets, but given that it is trailer storage that they perceive to be the issue in terms of noise generation, they request that no trailer loads be located in these areas.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour notification letters on 9 December 2013 and by site notice on 13 December 2013. 17 letters of objection from 15 separate addresses have been received with one letter of support and the remainder objecting.

- 7.2 The issues raised are
- a) The noise from moving the cylinders severely harms residential amenity and prevents the usage of garden areas particularly in summer.
 - b) There is a health and safety risk of storing such cylinders close to residential properties.

c) The business has been operating in this manner ever since it was first opened in 2012.

8.0 PLANNING POLICIES:

8.1 Emerging Core Strategy

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. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination and an Inspector has been appointed. The examination commenced in October 2013.

As the Council has submitted the Publication Draft Core Strategy for independent examination some weight can now be attached to the document and its contents recognising that the weight to be attached may be limited by outstanding representations which have been made which will be considered at the future examination.

8.2 Unitary Development Plan Policies:

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 Leeds Unitary Development Plan Review (2006).

GP5 Refers to proposals resolving detailed planning considerations (access, landscaping, design etc), seeking to avoid problems of environmental intrusion, loss of amenity, danger to health or life, pollution and highway congestion and to maximise highway safety.

8.3 National Planning Policy Framework

The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is

indivisible from good planning, and should contribute positively to making places better for people.

9.0 MAIN ISSUES:

1. Overview of previous approval
2. Residential Amenity
3. Visual Amenity
4. Hazardous Substances

10.0 APPRAISAL:

1. Overview of previous approval.

- 10.1 The change of use to the current use as a B8 storage and distribution depot was granted on 1st June 2012 and the delegated report dealing with the issues considered at the time is attached to this report.

2. Residential Amenity

- 10.2 The proposal has been considered by Neighbourhoods and Housing (Environmental Health) and the response was that the majority of the noise generated from the site, was emanating from the loading and unloading of canisters and cylinders that are located within the central part of the yard. It is considered that the palletised gas cylinder storage areas, which are the subject of this revision of the condition, do not contribute to the noise nuisance that is raised by the residents adjacent to the site. The applicant has informed the Council that the noise on the site emanates from the collisions of loose gas bottles that are contained on the trailers for individual collection, rather than from removal of the bottles from the trailers. The cylinders are removed by forklift, rather than dropped for obvious safety reasons. As such, the variation of this condition is not objected to by Neighbourhoods and Housing, subject to the areas being used for palletised cylinder storage and not trailer storage.

3. Visual Amenity

- 10.3 At the time of the original permission, a condition was applied, to restrict the area available for external storage. The reason for this condition was stated on the decision notice was to protect visual amenity, preventing the storage of gas cylinders in areas that would be visually detrimental. This application proposes to use areas that are all contained within the yard that is well screened with fencing, landscaping and is located behind the main building. It is therefore considered that any visual intrusion will be minimal and certainly not harmful from any public vantage point and would therefore remain acceptable in terms of visual amenity.

4. Hazardous Substances

- 10.4 This matter was considered at the time of the previous application but to reinforce the issue and to respond to public concerns, the matter is addressed again here
- 10.5 Whilst the concerns of local residents are appreciated and understood it is not considered that planning can get involved in the issue of what exactly is to be stored on this site from a safety point of view because, in this instance, it is a duplication of powers contained in other legislation, namely the Planning (Hazardous Substances) Act 1990.
- 10.6 During the processing of the original application, the Fire Service, Health and Safety Authority and the Health and Safety Executive (HSE) were all contacted with regard to the proposals. The HSE advised that the HSE's role in providing land use planning advice is as a statutory consultee on proposed developments in the vicinity of major hazard sites and major accident hazard pipelines, and on applications for hazardous substances consent. That application involved neither of those. As planning permission was granted, the site is subject to the HSW Act and associated legislation, which is enforced by HSE. HSE had no comment to make on the proposed change of use which was a planning legislation matter.
- 10.7 The HSE went on to advise that hazardous substances consent legislation (Planning (Hazardous Substances) Act 1990) is a matter for Leeds City Council, acting in their capacity as the Hazardous Substances Authority. If the site stores less than 25 tonnes of LPG then it is HSE's understanding that they do not require hazardous substances consent.
- 10.8 It was also noted that both the Fire Service and the Health and Safety Authority advised that it was not within their remit to comment on the proposals.

11.0 CONCLUSION:

- 11.1 On balance, it is considered that as discussed above, the application is acceptable. The proposal complies with the relevant provisions of the Development Plan and there are no other material considerations that outweigh this finding.

Background Papers:

Application files 13/05511/FU

Certificate of ownership:

Signed as applicant



Planning Services

Leonardo Building
2 Rossington Street
Leeds LS2 8HD

DELEGATION REPORT

REPORT OF THE CHIEF PLANNING OFFICER

WARD: Morley North
Address: Deanhurst Park
Gelderd Road
Gildersome
Leeds
LS27 7LG

Application: 12/01608/FU
Applicant: C/O Agent

Proposal: Change of use of former haulage office and HGV parking area to a use class B8 unit with ancillary offices and trade counter/showroom with external storage to the rear yard area and additional parking provision

RECOMMENDATION:

Approve subject to the following condition(s):-

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Imposed pursuant to the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

For the avoidance of doubt and in the interests of proper planning.

- 3) The opening hours of the premises shall be restricted 0800 hours to 1730 hours Monday to Friday and 0900 hours to 1200 hours on Saturdays with no opening on Sundays and Bank Holidays.

In the interests of the amenity of nearby residents.

- 4) The hours of delivery, including loading and unloading, to and from the premises shall be restricted to 0800 hours to 1730 hours Monday to Friday, 0900 hours to 1200 hours Saturday with no such operations on Sundays or Bank Holidays

In the interests of amenity.

- 5) There shall be no external storage within the site other than in the areas identified for LPG storage and for caged, palletised gas cylinder storage on drawing number A859.2009.SD.04 Rev A.

In the interests of visual amenity.

- 6) 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 Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan Review 2006 (UDPR).

GP5 and T2

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.

For information:-

This permission does not absolve the applicant(s) from the requirements for compliance with a Building Regulation approval, or the duty of compliance with any requirements of any Statutory Body, Public Utility or Authority, including the City Council's Leeds Environment Department, Department of Highways and Transportation (Highways Maintenance and Main Drainage Divisions), and Department of Housing Services; the West Yorkshire Fire Officer or the Health and Safety Executive.

All reports addressing land contamination should be compiled in accordance with best practice, taking into account national and Leeds City Council's planning guidance.

Prior to preparing any reports in compliance with conditions related to land contamination the applicant is also advised to refer to the Leeds City Council guidance leaflets in the series:- The Development of Contaminated Sites:

The Blue Leaflet (CL2) - Reports in Support of Planning Applications

The Green Leaflet (CL3) - Human Health Quantitative Risk Assessment
The Yellow Leaflet (CL4) - Residential Development on Land Affected by
Contamination

These leaflets can be obtained from the council at the Leonardo Building Reception, 2 Rossington Street, Leeds, LS2 8HD or from our website www.leeds.gov.uk/contaminatedland.

The applicant is advised that remediation of any contaminated site is required to a standard such that the site would be suitable for use pursuant to national and Leeds City Council's planning guidance. This includes the quality of imported soils and soil forming materials. The developer is responsible for ensuring that development is safe and suitable for use for the intended purpose.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

This recommendation relates to the following Approved Plans

Plan Type	Plan Reference	Version	Received
Block Plan/Layout Plan	A859.2009.SD.04	A	30.05.2012
Site Location Plan/Red Line/OS Plan			10.04.2012
Other	VEHICLE MOVEMENTS		10.04.2012

Introduction:

Subject to the recommended conditions, the proposal is considered to be acceptable for the reasons set out in the appraisal section of this report. The application is suitable for determination under delegated powers.

Proposal:

Planning permission is sought for a change of use of a site located at Deanhurst Park, Gelderd Road to a Use Class B8 unit with ancillary offices and trade counter / showroom with storage to the rear yard area.

The site will be occupied by Innergy LPG a company involved in the storage and distribution of Liquid Petroleum Gas (LPG). The amount to be stored on the site at any one time will be less than 25 tonnes (in accordance with the Hazardous Consent Regulations) and no LPG will be stored inside the building. Most of the product will be kept on one of 3 trailers in the rear yard until loaded onto a vehicle for delivery to customers. Some gas cylinders will be stored externally along the southern side of the yard, adjacent to the existing building.

The submitted information explains that the company currently operates from Ashfield Way in Leeds but has outgrown the premises and requires a new site with good access to the principal highway network as they serve a customer base which extends throughout the north of England.

There are no works to the building proposed other than some slight internal alterations to create a trade counter. The submitted information states that only 5% of the company's turnover is from the trade counter.

The intended opening hours are 0800 hours to 1730 hours Monday to Friday and 0900 hours to 1200 hours on Saturdays with no use on Sundays and Bank Holidays.

The existing car parking area at the entrance to the site will be extended to provide 3 additional parking spaces, including one disabled space.

Site and Surroundings:

The application site is located on the northern side of Gelderd Road on a small employment site known as Deanhurst Park, which contains a couple of small office blocks and the application site. The application site comprises of a brick built single storey building (with basement) that is set back slightly from Gelderd Road but runs parallel to it, with a storage yard located to the rear.

The site was formally used as a haulage office and HGV parking area but is currently vacant.

There are residential properties situated opposite the site, immediately north (to the rear) and east. The site is situated on the outer edge of the built up-limits of development (Gildersome) with open land located on the southern side of Gelderd Road in the vicinity. This open land is designated as E4 land (employment use) in the UDP.

Relevant Planning History:

There have been a number of planning applications relating to this site with the most recent / relevant as follows.

11/01427/FU - change of use and extension of former haulage yard/ ancillary office building to fish and chip restaurant and ancillary take away – refused 1 June 2011. Subsequent appeal dismissed.

09/04919/FU - change of use and extension of former haulage yard/ ancillary office building to fish and chip restaurant and ancillary take away with associated car parking – refused 14 May 2010. Subsequent appeal dismissed.

23/63/97/FU - use of cleared site as commercial vehicle parking area – approved 9 May 1997.

23/64/96/RE - extension of permission for use of cleared site as commercial vehicle parking area – approved 26 April 1996.

Statutory Consultations:

None due to the nature of the application.

Non Statutory Consultations:

Highways raise no objections commenting that the access is sufficient to accommodate the size of vehicles proposed to visit the site, parking is provided to UDP requirements and the larger sized bays are adequate for light van and car parking.

Environmental Health has no objections but recommends a condition restricting delivery hours.

The Coal Authority does not object to the application but requests the addition of an informative requiring the applicant to report to them any coal mining features found during development.

Public/Local Response:

The application was advertised by site notices posted on 27 April 2012 and by neighbour notification letters dated 18 April 2012. To date (23 May 2012) 9 letters have been received from local residents who object to the application on the following grounds.

- Concerns that chemicals will be stored on the site.
- Surrounding area is residential and chemicals present a fire and explosion risk.
- Gas storage is highly dangerous.
- It is too close to residential properties.
- Concerns on safety and environmental grounds.
- The application fails to deal adequately with means of storage and safe distances.
- The proximity to residential properties fails to meet the minimum separation distances laid down by the HSE.
- HSE guidance states that from buildings, boundary, property line or fixed source of ignition there should be a minimum separation distance of 7.5m for an LPG capacity of 12.5 tonnes.
- Double this volume is proposed.
- Despite the indicative layout the applicant will be able to store LPG cylinders anywhere in the site area.

Gildersome Parish Council has also commented on the scheme stating that the plans may be a good use of the site however there are concerns regarding the safety of the storage area of gas canisters so close to a residential area. It is assumed that this aspect will be looked at carefully prior to any decision being taken on the application. A number of local residents are anxious about the risk of fire or explosion and these concerns are shared.

Planning Policies:

The development plan for the whole of the Leeds District is the Leeds Unitary Development Plan (UDP) Review (2006). Relevant policies in the Local Development Framework must also be taken into account. Planning proposals must be made in accordance with the development plan unless material considerations indicate otherwise.

The application site has no UDP designation and the following are the relevant Leeds Unitary Development Plan (Review) 2006 Policies:

- GP5 seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
- T2 states that development proposals should not create new, or exacerbate existing, highway problems.

MAIN ISSUES

Visual amenity.
Residential amenity.
Highway safety.

APPRAISAL

Visual amenity.

The proposal will have no additional impact on visual amenity as the application relates to primarily to a change of use of the site. There will be some storage within the external yard area but given this will be located in the area directly adjacent to the existing building it will not be prominent in views from the public domain. In the interests of visual amenity a condition is recommended to ensure that external storage only takes place in the area identified on the submitted plans.

Similarly, the creation of additional car parking spaces adjacent to existing areas of hard standing will not be visually intrusive. Some existing planting will be removed to allow for this but this is low level and has no real value in terms of visual amenity. The plans also indicate that it will be replaced to the rear of the proposed parking spaces.

In light of the above, there are no concerns with regard to visual amenity.

Residential amenity.

The premises were last in use as a haulage office and HGV parking area. Given the nature of this previous use and the intended use for B8 purposes it is not considered that there will be any significant or additional impact on the amenity or living conditions of nearby properties as a result of the proposals. B8 uses relate to storage and distribution (including open air storage) and the application site is considered to be appropriate for such a use.

Similarly, the ancillary office use with associated trade counter is not considered to have any additional impact to the previous use when the existing building on the site was also used for offices. The trade counter does introduce an element of retail sales but given this accounts for approximately 5% of the business it is considered to be ancillary and not significant enough to warrant concerns in respect of neighbouring impact.

There are residential properties to the north and east of the site as well as directly opposite but, given their location in relation to the application site, the degree of spatial separation, the nature of existing boundaries, the nature of the former use, how the proposed business will operate (see proposals section above) and the intended hours of use it is considered that the living conditions of nearby properties and the amenity of nearby office users will not be adversely affected.

Highway safety.

Given Highways comments (above) it is considered that the proposal will not have any adverse impact on highway safety in the vicinity of the site and adequate parking will be provided.

Other matters – response to neighbour comments.

Whilst the concerns of local residents are appreciated and understood it is not considered that planning can get involved in the issue of what exactly is to be stored on this site from a safety point of view because, in this instance, it is a duplication of powers contained in other legislation, namely the Planning (Hazardous Substances) Act 1990. .

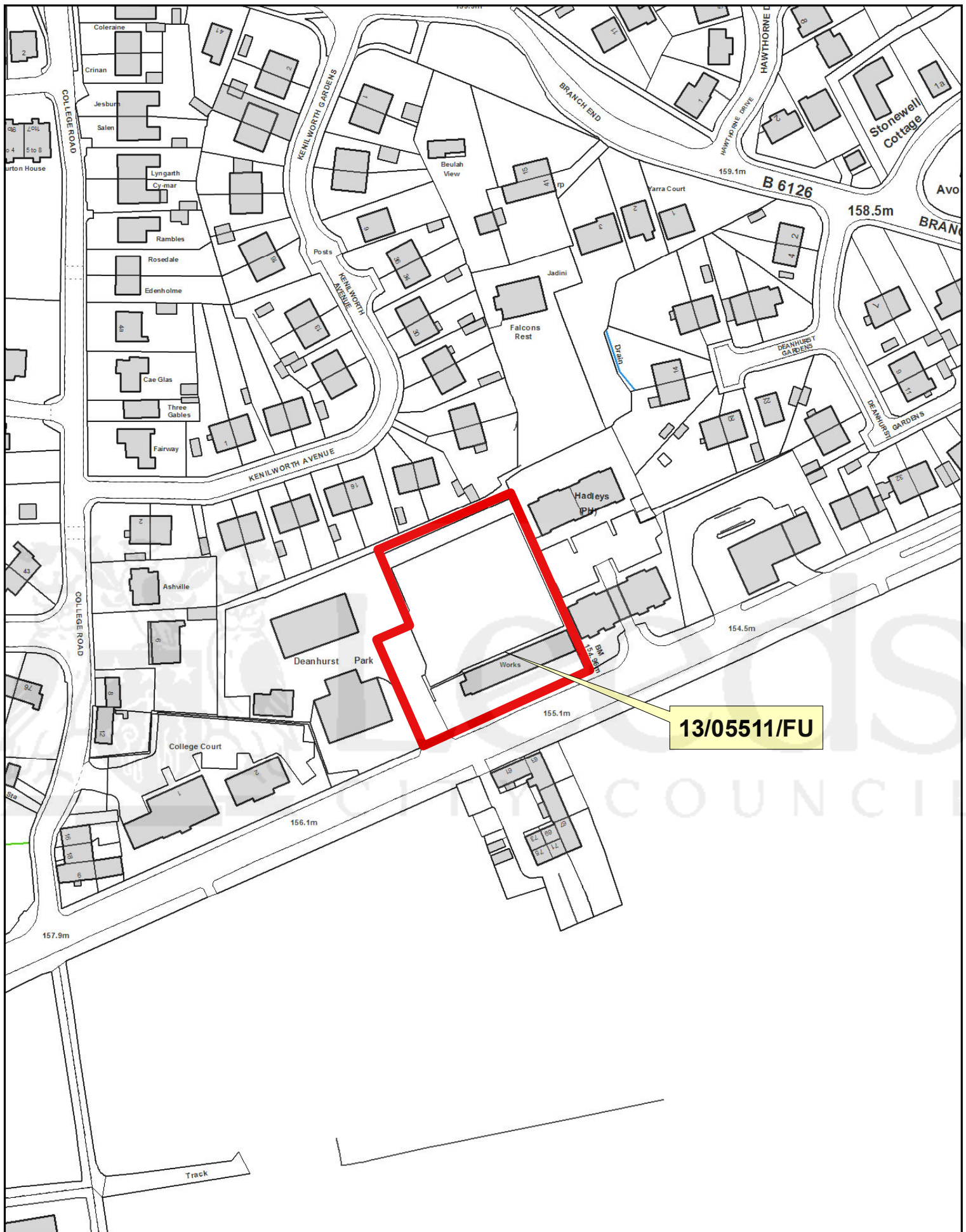
During the processing of the application the Fire Service, Health and Safety Authority and the Health and Safety Executive (HSE) have all been contacted with regard to the proposals. The HSE have advised that the HSE's role in providing land use planning advice is as a statutory consultee on proposed developments in the vicinity of major hazard sites and major accident hazard pipelines, and on applications for hazardous substances consent. This application involves neither of those. Should planning permission be granted, the site will be subject to the HSW Act and associated legislation, which will be enforced by HSE. HSE has no comment to make on the proposed change of use which is a planning legislation matter.

The HSE goes on to advise that hazardous substances consent legislation (Planning (Hazardous Substances) Act 1990) is a matter for Leeds City Council, acting in their capacity as the Hazardous Substances Authority. If the site proposes to store less than 25 tonnes of LPG then it is HSE's understanding that they will not require hazardous substances consent.

It should be noted that both the Fire Service and the Health and Safety Authority have advised that it is not within their remit to comment on the proposals.

Conclusion.

In light of the above the proposal complies with Policies GP5 and T2 of the Leeds Unitary Development Plan (review 2006) and the application is therefore considered to be acceptable and approval is recommended.



SOUTH AND WEST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

