



**Leeds**  
CITY COUNCIL

Originator: Michael Howitt

Tel: 0113 247 8000

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**Report of the Chief Planning Officer**

**PLANS PANEL SOUTH AND WEST**

**Date: 23<sup>rd</sup> April 2015**

**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**

29<sup>th</sup> November 2013

**TARGET DATE**

24<sup>th</sup> January 2014

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**Electoral Wards Affected:**

**Morley North**

☐ Yes

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

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**RECOMMENDATION:**

**If Members are minded to refuse planning permission then the following reason is suggested:**

The proposed development by reason of the increased activities close to the common boundary with the properties on Kenilworth Avenue will result in noise and disturbance that will significantly harm the residential amenity of the occupiers of those properties. As a result, the proposal is contrary to Leeds Unitary Development Plan (Review 2006) saved Policy GP5 and the guidance within the National Planning Policy Framework (2012).

## **1.0 Introduction**

- 1.1 This application was considered at the South and West Plans Panel meeting of 3<sup>rd</sup> April 2014 where Members resolved to approve the application in principle and to defer and delegate approval to the Chief Planning Officer subject to the conditions set out in the submitted report with an additional condition to ensure parking was marked out on site prior to first use; consultation with Ward Members was to take place regarding the provision of acoustic fencing to the northern boundary and swapping of car parking on the southern boundary with storage of unpalletised gas containers on the northern boundary, with a revised plan being submitted showing these alterations.
- 1.2 In the event that agreement on these matters could not be achieved, that the application be brought back to Panel for determination. A Members site visit also took place at the last meeting.

## **2.0 Summary of issues**

- 2.1 The key issue raised by Members of Panel at the April 3<sup>rd</sup> 2014 meeting related to noise nuisance from the movement of non-palletised gas cylinder storage. The proposal was previously 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 was 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 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. A noise report has been submitted to explain and elaborate on these points but it is considered that this report does not prove that there are no issues raised by the proposal. The Environmental Health officer has commented that the report considers the continuous equivalent energy levels which are not overly useful in this case as the method 'averages out' noise levels. As the complaints from residents highlight impact noises, the method used is not appropriate and therefore the harm, or lack of it, cannot be assessed using this data and as such, the report does not prove that the business is not harmful in this respect.
- 2.2 Members of Plans Panel were very concerned about the location of the proposed parking and un-palletised storage near to the boundary with residential properties. It was suggested therefore that these two areas should be handed to minimise noise caused by the handling of empty gas containers which can make a piercing clanging noise when accidentally banged together. In addition Members of Panel felt that an acoustic fence along the boundary would also help to minimise disturbance to residents caused by the operation. Members of Panel were therefore minded to support the application subject to the aforementioned amendments (full details of the issues and policy/guidance relating to the application are contained in the appended original report to panel for Members information)
- 2.3 Despite meetings with Ward Member Councillor Robert Finnigan, the applicants' agent and the planning case officer, a satisfactory scheme has not been agreed between all

parties. The application is therefore returned to South and West Plans Panel for further consideration.

### **3 Conclusion**

- 3.1 Whilst the applicants have provided information with regard to noise emissions from the site, they have been unable to agree a scheme which would address Members concerns expressed at the 3<sup>rd</sup> April Panel meeting and therefore if members are minded to refuse the application, it is suggested that this be as a result of the negative impact upon residential amenity to neighbouring residents (reason for refusal stated above).

#### **Background Papers:**

Application files 13/05511/FU

#### **Certificate of ownership:**

Signed as applicant



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**Report of the Chief Planning Officer**

**PLANS PANEL SOUTH AND WEST**

**Date: 3<sup>rd</sup> 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**

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(referred to in report)

**Specific Implications For:**

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

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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 26<sup>th</sup> 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 1<sup>st</sup> 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.

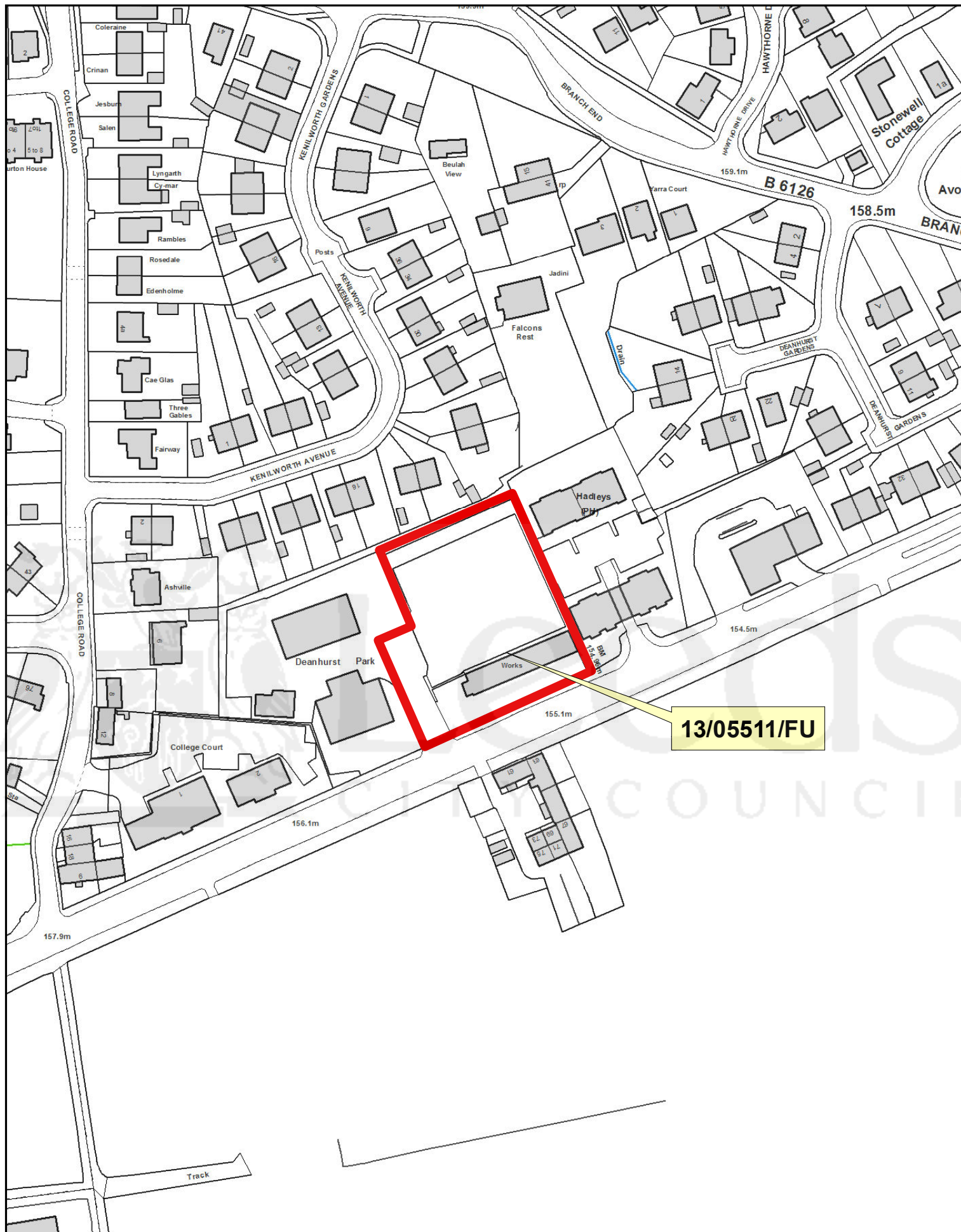
### **Background Papers:**

Application files 13/05511/FU

### **Certificate of ownership:**

Signed as applicant





# SOUTH AND WEST PLANS PANEL

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SCALE : 1/1500

