



Leeds
CITY COUNCIL

Originator: Ian Cyhanko

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Report of the Chief Planning Officer

PLANS PANEL (SOUTH & WEST)

Date: 17TH September 2015

Subject:

APPLICATION 15/04091/FU: APPLICATION FOR CHANGE OF USE FROM MOTOR VEHICLE AND ACCESSORIES SALES AND SERVICE (SUI GENERIS) TO PRIVATE ADULT MEMBERS CLUB (SUI GENERIS) AT 73A, LOW ROAD, HUNSLET, LEEDS, LS10 1RH

APPLICANT

Mrs Joanne Winterhalder

DATE VALID

10th July 2015

TARGET DATE

18th September 2015

Electoral Wards Affected:

City and Hunslet

Yes

Ward Members consulted
(Referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION

APPROVE, subject to the specified conditions.

1. Time Limit on Permission.
2. Plans to be approved.
3. Restriction on hours of use (as stated in para 2.3).
4. Car park to be laid out, and made available prior to the occupation of the development.
5. 5 car parking spaces identified on plan, only to be used after 18:00 hours.

1.0 INTRODUCTION:

- 1.1 This application is brought to South and West Plans Panel at the request of Councillor Nash, due to the local interest in the application.

2.0 PROPOSAL:

- 2.1 The proposal is for the use of the building as a Private 'Adult' Members Club. The premises propose to provide a discreet, clean, safe and controlled environment for like-minded adults to meet and potentially engage in legal sexual activities, within the private rooms provided. The applicants state the most accurate general description would be 'swinging club'. Payment directly or indirectly between adult members for sexual services is strictly prohibited. Entry fees are charged by the applicant but they do not provide or arrange any sexual entertainment or services.
- 2.2 The proposal will offer a reception area, and bar (serving only non-alcoholic drinks) and 8 private rooms. Other facilities include changing areas, wc's and ancillary office/ staff facilities. The operation will employ 4 full-time employees, however there would only be 2 or 3 staff at any one time at the premises, as they will work in shifts.
- 2.3 The applicants are seeking to relocate their existing business, from their current premises at Macauley Street, Leeds 9, which is located on the eastern fringe of the city centre, between Mabgate and Lincoln Green. The business has operated from the current premises since 2002. The applicant's state they wish to relocate to premises which have all the facilities for patrons on a single level access, so they are fully accessible to all users, without the need to navigate stairs. The applicants state at present the peak times of the premises are Friday and Saturday nights, where 35 patrons can frequent the premises.
- 2.4 The proposed opening hours are as follows:

	Daytime	evening
Mon to Thurs	11.00- 18.00	20.30- 00.00
Friday	11.00- 18.00	20.30- 02.00
Saturday	13.00- 19.00 Closed every other week	20.30- 02.00
Sunday	11:00- 18:00	20.30- 00.00

3.0 SITE AND SURROUNDINGS:

- 3.1 The host property is brick built with a shallow pitched roof and a sales/ service yard surrounded by a palisade fence. It is of a commercial/ industrial character and has been used for a variety of uses in the past including vehicles sales and servicing, warehouse and light industrial. Most of the building is single storey but part has a second floor that has previously been used for offices and storage. The unit is served by a number of service bays and windows to the side and rear which have roller shutters. The building was originally designed for use as a light industrial unit and as such has very little glazing.
- 3.2 At the rear of the premises is a parking and delivery area which serves a number of the units. Boundary treatment consists of a 1.8m high steel palisade fence which bounds the delivery and parking area to the rear. The property is accessed via an un-adopted street that also serves Kwik Fit (69 to 73 Low Road) and Atkinson's

Fencing (75 Low Road and workshop to rear). The building is situated 'behind' the main Kwik Fit building which has a frontage onto Low Road (A61).

- 3.3 The site is located in a flood risk area (zone 2). The North of the site is bound by a substation and to the East and South by other commercial/ industrial uses including a garden centre. To the West is Low Road, a heavily trafficked (A61) road beyond which is an assisted care over 55's Care Home (Assisi Place) which lies approximately 70m away. The site is unallocated in the Development Plan and is located on the outer edge of Hunslet Local Centre.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 A planning application (reference 15/01036/FU) for 'Change of use of commercial garage (sui generis) to mixed use (sui generis) private members club, adult entertainment, beauty and holistic therapy provision' at the same premises and by the same applicant was submitted on 9th March 2015 and refused planning permission on 11th May 2015, on the following grounds:

- 4.2 1) *The proposed multi-functional use would generate a demand for car parking that cannot be satisfactorily met within the site due to the limited availability of off-street car parking spaces. As such, the use is likely to result in car parking taking place on the access road which serves other industrial units creating vehicular conflict between visitors to the proposed use and the existing nearby units alike. As such, the proposal is considered to be detrimental to highway safety. Accordingly, the proposal is considered to be contrary to Leeds Unitary Development Plan Review (2006) policies GP5, T24 and Core Strategy Policy T2.*
- 2) *The Local Planning Authority considers that by reason of the lack of a sequential test it has not been demonstrated that there are no sequentially preferable sites available for this proposed town centre use. As such the proposal could be harmful to nearby town centres and to the principles of sustainable development and is contrary to policies SP1, P2 and P8 of the Core Strategy and to guidance in the NPPF.*

- 4.2 The difference between this previous application and this current proposal is that previous application included references to 'beauty and holistic therapy provision', and as such the previous application was considered to be a D2 use, which is a main town centre use. However, after further consideration, the applicant has confirmed that the main focus of the business will remain as existing at their current Macauley Street premises, and will provide no 'beauty and holistic therapy provision'. Legal Services have confirmed the proposed use is sui generis and falls outside any Use Class. Therefore no sequential test is now required, nor the duty to consider alternative sites within town centre locations. The parking arrangements have also been amended, and parking provision has been increased. This is detailed in greater detail in paragraph 9.6.

- 4.3 There are two other records of planning applications submitted upon this property in 1990's concerning a minor extension and the previous garage use. It is not considered these have any relevance to this current proposal.

5.0 CONSULTATION RESPONSES:

- 5.1 Legal Services – The proposal does not require a sexual entertainment license and falls within the sui generis use class.
- Highways – No objections subject to conditions.
- Police Architectural Liaison Officer – No objections
- Licensing - A sexual entertainment license is not required due to the nature of the premises.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was advertised by site notice on 22nd July 2015. The site notice was posted on the main Low Road frontage, adjacent to a bus stop in order to ensure maximum coverage, rather than being posted on the side access road directly adjacent to the site. An e-mail was also sent to all three Ward Members informing them of the application. An article in the Evening Post newspaper regarding the application created further coverage and publicity of the application. Overall 6 letters of objection and one letter of support have been received to the development.
- 6.2 The points raised in the objections received are highlighted below.
- The application has not been adequately publicised
 - Research has shown sexually oriented businesses are associated with higher rates of crime within the immediate vicinity of the business
 - Proposal not suitable nearby a 'residential zone with families'
 - Proposal is located near a Primary school
 - Others uses such as a food kitchen or youth club would be more appropriate
 - Impact on property prices
- 6.3 The letter of support received is from the owners of the Timber Merchants which lies directly opposite the premises. The points raised in this support are highlighted below.
- Confirmed no objection
 - Our business is closed in the evening, and we believe the businesses can peacefully co-exist
- 6.4 Councilor Nash has objected to the proposal stating that 'there is much hostility from local residents against this planning application'.

7.0 PLANNING POLICIES:

7.1 Core Strategy Policies

- SP1 – Location of development in main urban areas on previously developed land.
T2 – Accessibility.

Relevant Saved UDP Policies

- GP5 – General planning considerations
T7A – Secure cycle parking.
T7B – Secure motorcycle parking.
T24 – Parking provision (until adoption of parking SPD).
R2 - Area based initiatives.
BD5 – General amenity issues.

A9A - Car Parking Guidelines (saved until adoption of Parking SPD)
A9C/A9D – Motorcycle/Cycle parking guidelines (saved until adoption of Parking SPD).

7.2 National Planning Policy Framework (2012)

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.

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

8.0 **MAIN ISSUES:**

- Principle of development.
- Impact on Residential Amenity.
- Highways
- Other Issues
- Conclusion

9.0 **APPRAISAL:**

Principle of development

- 9.1 The principle of the application is concerned with changing the use of a sui generis use (a use not falling within a specific use class) into another new sui generis use. The site lies unallocated within the Leeds UDP. There are no policies within the Core Strategy concerned with such changes of use, and there are no policies which are concerned with the retention of motor repairs premises. Consideration of the application has to be based on the planning merits of the case and not moral judgements on the activities which may occur within the premises. The application in land use terms is considered to be acceptable in principle, within this industrial/

commercial setting, subject to an assessment against normal development control considerations. The main consideration being the impact on amenity and general character of the immediate and surrounding locality.

9.2 Impact on Residential Amenity

The proposal is for a late night use (closing at 2:00am some mornings). The site is surrounded by industrial and commercial uses. The northern side of Low Road (A61) where this application site lies, is commercial in character accommodating uses such as Trade Counters, Car Showrooms, Car Repairs (all of which are typically housed in shed type buildings) and a 24 hour McDonalds Restaurant. Hunslet Trading Estate also lies directly to the rear of the site. The southern side of A61 is more residential in character, with the road being a defining barrier to these two different character areas. It is not considered the proposal lies within a 'residential zone' which is one point raised by an objector.

9.3 It is not considered the proposed use, would create any conflict with the surrounding land uses in terms of noise or activity. The proposed use is not considered to be noisy, or particularly people intensive, when compared to a night-club for example. The nearest residential properties are the flats at Assisi Place, which lie across the A61, approximately 70m away. However the A61 provides a substantial physical barrier to these flats, and from the existing commercial uses which lie opposite. The application site is further screened from these properties by the Kwik Fit garage, which lie to the front of the application site. The entrance to the premises is discreet and hidden from public view, being located within an enclosed yard area, at the end of unmade 'no-through' access track. It is considered the Kwik Fit garage would have a greater impact on these occupiers in terms of noise and activity when compared to the proposal.

9.4 The proposed use is not considered to be similar to a night-club or lap dancing club, which can result in anti-social behaviour and noise outside their premises. Typically sexual entertainment venues, such as a strip/ lap dancing club, will sell alcohol and encourage its consumption to both make money from the sale of alcohol and to encourage of customers to pay for private dances/ strip shows. Legal Services have confirmed the premises do not require a sexual entertainments license, as the proposed use does not include any 'performance' for patrons to pay to watch. No alcohol is to be sold from the proposed use. The applicants currently follow this model at their premises at Maculay Street, and state this is because excessive alcohol consumption is at odds with the environment the applicant is trying to create (and which it is known for by its members), it impairs judgement, impairs sexual experience and performance and can lead to problems with violence and anti-social behaviour. Members are allowed to bring moderate quantities of alcohol onto the premises for their own consumption. However, drunkenness is prohibited and the premises will not sell alcohol and has no intention of doing so.

9.5 Given the nature of the proposed use, it is considered that the people whom frequent the premises will want to be discreet and not want to draw attention to themselves. It is therefore unlikely the proposal would result in anti-social behaviour outside the premises and result in people loitering outside the premises etc. There are no complaints regarding noise or anti-social behaviour at their existing premises at Maculay Street. The Police have confirmed in the past 3 years at the current premises there has only been one recorded incident, which they state was outside the control of the management of the club. This incident was concerned with a patron who was refused entry due to being intoxicated, and the subsequent disruption he caused outside for being refused entry into the premises.

Highway Issues

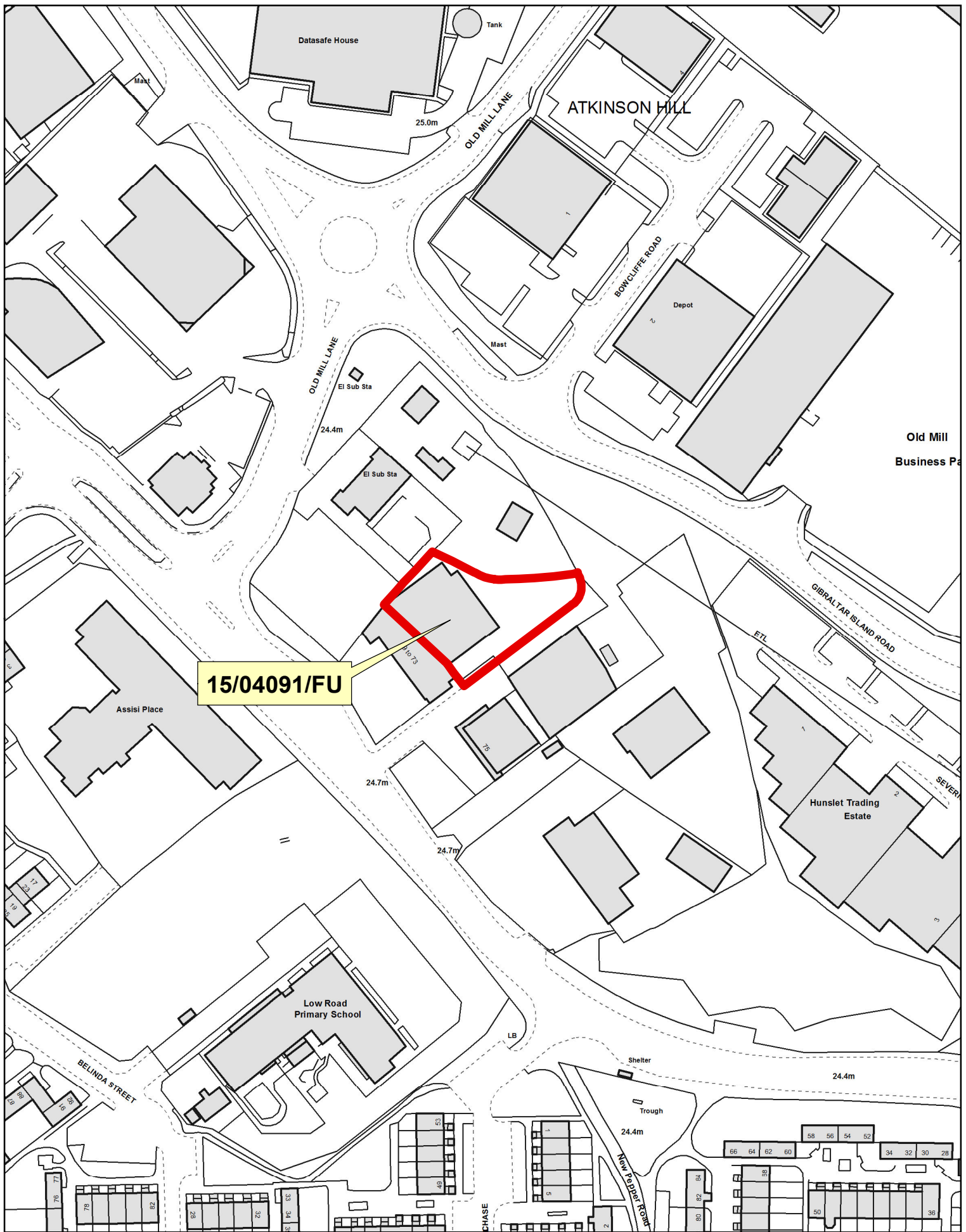
- 9.6 The parking on site has increased when compared to the previous application. This has been achieved by utilising a strip of land between the building and the access track for an additional row of parking which provides 5 spaces. This is separate from the main parking area. Highways have recommended a condition which places a duty for these bays to be closed off throughout normal working hours, to prevent any vehicle conflict with neighbouring business's which lie opposite, given the relatively narrow width of the access track.
- 9.7 The configuration of the enclosed parking area has also been amended which now means there are 18 parking spaces in total, it was considered that previously refused scheme only offered 10 spaces which were fully accessible. Further supporting information has been submitted by the applicants in support of this application which illustrates the minimal use of this establishment throughout the day. Highways have confirmed that the parking numbers are adequate. The proposal will be at peak use in the evening, when the adjacent businesses are closed. Therefore should a small element of overspill parking on the adjacent highways occur, in the unlikely event of the designated parking area's being full, it is not envisaged that this would cause an issue either in highway safety terms, or causing conflict with existing business's. As stated in paragraph 6.3, the existing Timber Merchants which lies directly opposite the premises, have confirmed they support the proposal. It is considered that the proposal complies with policy T2 of the adopted Core Strategy.
- 9.8 Other Issues
One point raised by one objector is the impact on property prices; this is not a material planning consideration. It is not considered the fact a Primary School lies on the opposite side of A61 has a bearing to the outcome of this application. As stated in paragraph 3.1, the host property is situated behind a Kwik Fit garage, and has no frontage onto the A61. The proposal is located in a discreet location in and amongst existing commercial and industrial uses. The proposed use will be busiest in the evening, outside of school hours. The application cannot be assessed on assumptions and stereotypes of the likely patrons who may use the premises. The facility is mainly aimed at couples of both sexes.
- 9.9 The application has to be assessed on the current proposals, and the fact an objector would prefer the premises to provide a community use, is just the aspiration of one individual. No other such application is before us, and the application cannot be resisted on such grounds.
- 9.10 One objection has quoted research which has shown sexually oriented businesses are associated with higher rates of crime within the immediate vicinity of the business. It appears this research is concerned with premises such as lap-dancing clubs, peep shows and brothels, where payment is taken for sexual entertainment or services, as oppose to a private club for consenting adults. In any event, as stated in paragraph 9.5 the Police have been consulted on the application, and have raised no objection and cited only one recorded incident, in the past 3 years at the applicant's current premises.
- 9.11 Consideration has been given to Section 149 of the Equality Act, which places a duty on the Public Sector to advance equality and minimise disadvantage. It is considered the proposal complies with this legislation.

Conclusion

9.12 It is not considered the proposed use would have an adverse impact on residential amenity, or the character of the locality, due to the location of the application. The proposed use is considered to be best suited to a discreet location in a commercial setting, and it is considered this application site provides this. The development also would bring a vacant property back into use, and provides an adequate level of parking for its size, and function. Accordingly, the proposal is considered also to comply with relevant local policies GP5 and T2 of the Leeds Core Strategy.

Background Papers:

Application files 15/04091/FU



15/04091/FU

SOUTH AND WEST PLANS PANEL

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