



**Report of the Chief Planning Officer**

**PLANS PANEL SOUTH AND WEST**

**Date: 19<sup>th</sup> November 2015**

**Subject: APPLICATION 15/02692/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**  
12<sup>th</sup> May 2015

**TARGET DATE**  
7<sup>th</sup> July 2015

**Electoral Wards Affected:**

**Morley North**

Yes

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**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 and fails to overcome previous concerns of Plans Panel at the time of the determination of planning application 13/05511/FU.

## **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. This proposal also provides acoustic fencing along the Northern boundary of the site with Kenilworth Avenue in line with the request of the previous South and West Plans Panel resolution.

## **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.

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). Refused 24 April 2015

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 of the previous application and 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. Subsequently, several meetings and site visits have taken place with both complainants and applicants to attempt to resolve the outstanding issues.

## **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 site notice on 18 May 2015. No letters of representation have been received although representation of local resident concerns has been relayed by Councillor Finnigan.

7.2 The issues raised is that the aims and requirements of the Plans Panel have not been met in terms of their advice following the refusal of planning application 13/05511/FU as to what would be acceptable in terms of mitigation to remove the harm in terms of noise and disturbance to the residents of Kenilworth Avenue.

## **8.0 PLANNING POLICIES:**

8.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds comprises the Adopted Core Strategy (November 2014), saved policies within the Leeds Unitary

Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

#### Saved Policies - Leeds UDP (2006)

- 8.2 The following saved policies within the UDP are considered most relevant to the determination of this application:

Policy 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 approvals.

- 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. The previously submitted application 13/05511/FU attempted to amend the same condition on that approval as this application and at its consideration by Plans Panel it was 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; an additional condition to ensure parking is marked out on site prior to first use; consultation with Ward Members 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. In the event that agreement on these matters could not be achieved, that the application be brought back to Panel for determination*

However, no acceptable scheme was submitted and the matter was referred back to South and West Plans Panel on 23 April 2015 where it was refused for the following reason.

“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).”

## 2. Residential Amenity

- 10.2 The proposal was considered by Neighbourhoods and Housing (Environmental Health) at the time of the previous application 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, that 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 was not objected to by Neighbourhoods and Housing, subject to the areas being used for palletised cylinder storage and not trailer storage and with the provision of the acoustic fencing that is provided by this application, it is considered that there will be no significant harm to residential amenity from this application and that the wishes of Panel members have been met by this proposal. (A noise report was submitted to explain and elaborate on these points at the time of the previously refused application but it was considered that that report did not prove that there are no issues raised by the proposal. The Environmental Health officer commented that the report considered the continuous equivalent energy levels which were 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, could not be assessed using this data and as such, the report did not prove that the business is not harmful in this respect) No further information has subsequently been submitted in this respect.

## 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 and has complied with the wishes of the South and West Plans Panel members at the meeting of 3<sup>rd</sup> April 2015. 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

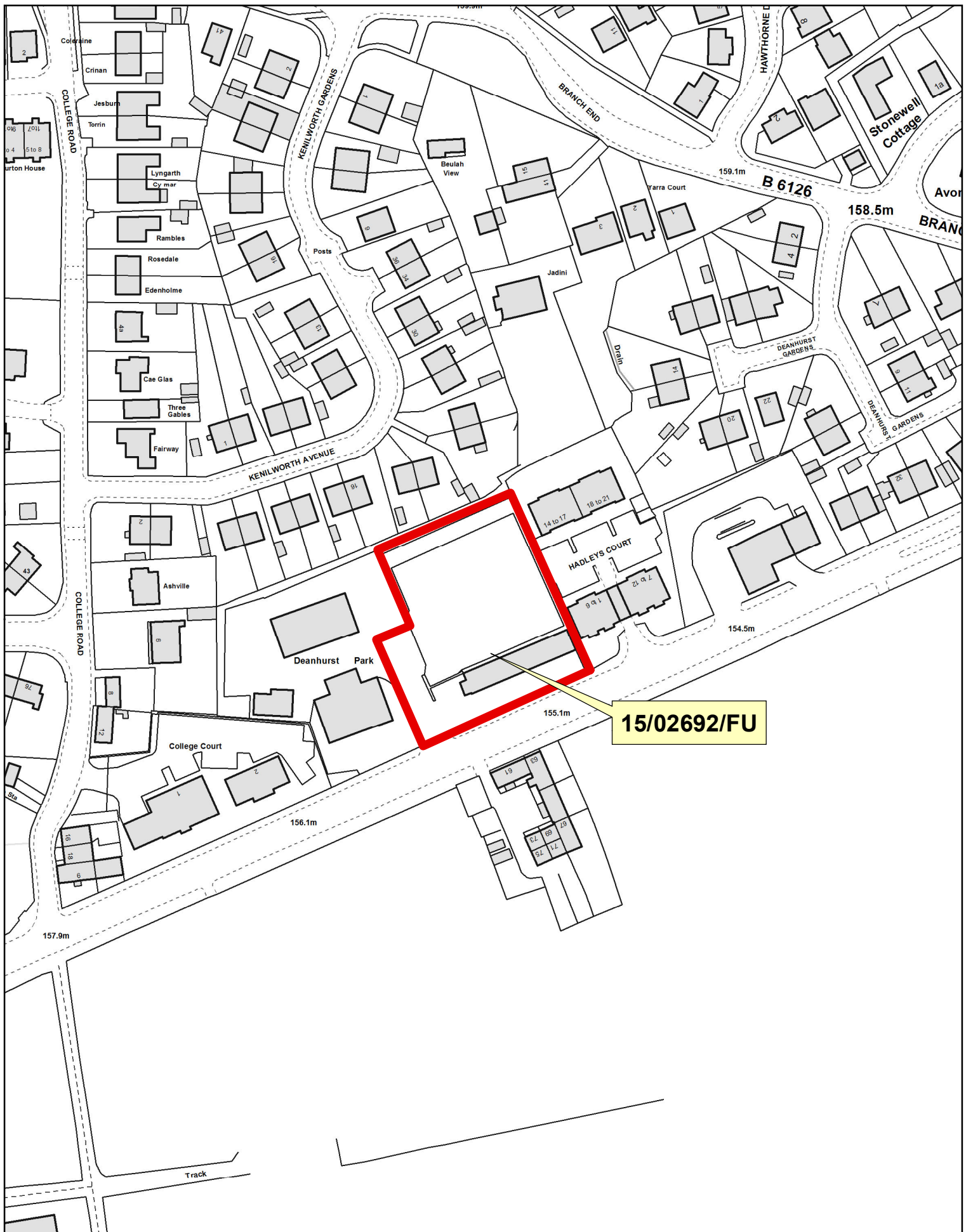
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### **Certificate of ownership:**

Signed as applicant



**15/02692/FU**

# SOUTH AND WEST PLANS PANEL

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SCALE : 1/1500

