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**Report of the Chief Planning Officer**

**PLANS PANEL SOUTH & WEST**

**Date: 25<sup>th</sup> August 2016**

**Subject: 16/03208/FU. Change of use of retail warehouse unit (sui generis) to private adult members club (sui generis) at Unit2, Ledgard Way, Armley, LS12 2ND.**

**APPLICANT**

Miss Aneta Gniwek

**DATE VALID**

10<sup>th</sup> July 2015

**TARGET DATE**

2<sup>nd</sup> September 2016  
(extension of time)

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**Electoral Wards Affected:**

**Armley**

Yes

Ward Members consulted  
referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**RECOMMENDATION: GRANT PERMISSION subject to following conditions;**

1. Time Limit of 3 years for implementation.
2. Plans to be approved.
3. Restriction on hours of use (as stated in para. 2.3)

**1.0 INTRODUCTION:**

- 1.1 This application is brought to South and West Plans Panel at the request of Councilors James McKenna and Alison Lowe, due to the local interest in the application.
- 1.2 The proposal is similar in terms of the use and operation to an application that was approved at South and West Plans Panel on 18<sup>th</sup> September 2015. (See Section 4.1 'Relevant Planning History' for more details).

## **2.0 PROPOSAL:**

- 2.1 Permission is sought for the change of use of an existing retail/warehouse unit (sui generis) to a private adult member's 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 a 'swingers 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 12 private rooms. Other facilities include changing areas, WCs 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 proposed opening hours are:
- 19.00 - 00.00 weekdays, including Bank Holidays; and
  - 19.00 – 02.00 Fridays and Saturdays.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The existing building is of brick construction with a shallow pitched metal roof and is situated within a large car park. The whole site is surrounded by an industrial style palisade fence. It is of a commercial / industrial character and most recently has been used as a shoes and clothing retail unit and internet warehouse.
- 3.2 The main building is a single story unit with a mezzanine floor area. There is a small three storey office part to the east side of the unit. The unit is currently served by a single entrance and which has roller shutters. The building was originally designed for use as a light industrial unit and as such has no glazing except for the entrance door.
- 3.3 Access is via a gated vehicular and pedestrian entrance to Ledgard Way. A secondary access is available from Armley Road, which requires visitors to use a circuitous route around the south and west of the premises. The wider site has access for up to 89 car parking spaces (including four accessible spaces) which will all be available during the opening times of the club, although it is not anticipated that any more than a handful of these would be required.
- 3.4 The site has a hand car wash to the west of the proposed club, a retail pet and aquatic store (with its main frontage onto Armley Road) to the south and a wholesale catering supply company (international supermarket) to the East side. All these businesses will be closed during the proposed hours of the clubs opening times. The closest residential properties are located on Salisbury Road, approximately 50m from the premises entrance and separated by Ledgard Way, a busy cut-through linking Armley / Stanningley Road with the Kirkstall Road corridor to the opposite side of the Aire Valley.
- 3.5 The site is not located in a flood risk area. It is unallocated in the Development Plan and is located close to Armley Town Centre, close to the Stanningley Road corridor with the newly constructed cycle highway and a wide range of frequent bus services.

#### **4.0 RELEVANT PLANNING HISTORY:**

4.1 There is no directly relevant planning history for this site, which has most likely always been used for storage/distribution with the retail element having evolved over time from an ancillary trade counter or similar. However, there have recently been several successful applications for similar operations in other parts of the city:

- 15/04091/FU - Change of use from motor vehicles and accessories sales and service (sui generis) to private adult members club (sui generis) at 73A Low Road, Hunslet, Leeds, LS10 1RH – Approved at South & West Panel on 18<sup>th</sup> September 2015.

#### **5.0 HISTORY OF NEGOTIATIONS**

5.1 None.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

6.1 A General site notice was posted adjacent to the site entrance on Ledgard Way on 1<sup>st</sup> July 2016. Eleven letters of objection have been received, including comments from Councillors Alison Lowe and James McKenna, as well as one general comment from a local church and two from the applicant, used as correspondence to clarify/provide additional information about the proposal.

6.2 The points raised in the objections received are summarised below:

- The proposed use is likely to encourage criminal activity, including prostitution, payment for sexual services, public nudity, drug use/dealing and drunken/disorderly behavior, and attract problematic elements to the area.
- The premises are not located in an industrial / commercial zone but close to residential dwellings in the 'Aviaries' neighbourhood, close to the main access and egress point to this area and in close proximity to Armley Town Centre, the busy Stanningley Road and Canal Road, which is the main crossing point across the Aire valley for several miles in either direction.
- There is a primary school less than 300m from the site and the Armley Mills museum which is popular with children and school groups; the proximity of this use to children is not acceptable.
- The size of the club will attract large numbers of patrons, potentially generating traffic at an already busy road junction and river crossing, demand for on-street parking in the adjacent residential area, and noise, disturbance and anti-social behavior outside the premises, including those using the proposed external smoking area.
- There are several other sex-related establishments in close proximity including 'Steam' (a sauna aimed at gay men) and 'Cocktails' (an adult store close to Armley Prison). The area is being targeted by such establishments with the potential to undermine regeneration efforts including the refurbishment of the 'Mike's Carpets' building and decontamination of the Aviaries from asbestos resulting from the presence of a factory on Canal Road until the 1960s.

- The nature of the use is 'abhorrent' and immoral, encouraging the undermining of traditional family values and raising the prospect of money changing hands and abuse of participants, particularly if members are under the influence of alcohol or illegal drugs. Staffing levels do not appear sufficient to effectively supervise activities at the club.
- The proposal will deter potential housebuyers and impact upon property values in a neighbourhood already beset by low house prices, houses in multiple occupancy, troubled families and historical asbestos contamination.

## **7.0 CONSULTATION RESPONSES:**

- Highways – No objections subject to conditions.
- Licensing - A sexual entertainment license is not required due to the nature of the premises.

## **8.0 PLANNING POLICIES:**

### Development Plan

8.1 The Development Plan for Leeds consists of the Core Strategy, saved policies from the Unitary Development Plan, and the Natural Resources and Waste DPD. Relevant policies include the following:

- Core Strategy SP1 – Location of development in main urban areas on previously developed land.
- Core Strategy T2 – Accessibility.
- UDP - GP5 – General planning considerations
- UDP - BD5 – General amenity issues.

### Supplementary Planning Guidance

8.2 Alongside the Development Plan there are a suite of documents that provide additional guidance around a particular theme or area. Of relevant to this proposal is the following Supplementary Planning Document:

- Car Parking

### National Planning Policy Framework (2012)

8.3 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.

8.4 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.

8.5 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, minimize waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

## 9.0 MAIN ISSUES:

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

## 10.0 APPRAISAL:

### Principle of development

- 10.1 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 is unallocated within the Leeds Site Allocations Plan. 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 retail warehouses and distribution/storage premises such as this.
- 10.2 The proposed private members’ club is not a designated town centre use, nor would it be appropriate for the use to be located in a centre, since it is designed to be discreet and walk-in/passing trade would not be welcomed. 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.
- 10.3 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 is therefore the impact on amenity and general character of the immediate and surrounding locality. It should be noted that if permission for this use is granted then any future changes to incorporate the sale of sexual literature, toys, clothing, or for the use of the premises as a night club etc. would require further planning permission.

### Impact on Residential Amenity

- 10.4 The proposal is for a late night use (closing at midnight on five days out of seven, and 2am on Friday and Saturday nights). However, unlike nightclubs, strip/lap-dancing clubs or other types of leisure establishment, the proposed use is unlikely to generate 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 nightclub for example which can result in anti-social behaviour and noise outside their premises.
- 10.5 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 but will be entirely between willing and active participants.

- 10.6 Whilst a soft drinks bar and booth seating are to be installed to the ground floor, no alcohol is to be sold on the premises, since excessive alcohol consumption is at odds with the environment the applicant is trying to create, impairing judgement/sexual performance and can lead to problems with violence and anti-social behaviour. Members will be allowed to bring moderate quantities of alcohol onto the premises for their own consumption. However, intoxication is prohibited and for this reason the operators will not sell alcohol and have no intention of doing so. Were this to change, an alcohol licence would be required.
- 10.7 Given the nature of the proposed use, which can best be described as a 'swingers club' giving sexually like-minded people a private venue in which they can explore their sexuality with their partner or with other like-minded individuals, it is considered that those who 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 or result in people loitering outside the premises etc. Many of the intended patrons will be married couples who may have families and consequently not given to anti-social, lewd or inappropriate behaviours. Such establishments are often self-policing with patrons themselves not tolerating such behaviour. A smoking area is provided to the side of the building, adjacent to the existing fire door where it is well-screened by vegetation and situated away from the entrance and any residential properties.
- 10.8 The nearest housing is a row of garden-fronted back-to-back terraces, located approximately 50m to the north-west on Salisbury Road. Ledgard Way runs between these houses (which are elevated by around 2.5m) and the application site, forming a major road barrier. It is considered that this busy road coupled with the operational hand car wash would have a significantly greater impact on these properties in terms of noise and activity when compared to the proposal. As discretion is key to the operation, there will be no external alterations to the building or large-scale signage, since publicity for the operation will be via word of mouth and online.

#### Highway Issues

- 10.9 The venue is part of a larger island site which includes the former Nelson Inn (now a vacant restaurant), the Living World pet superstore, and a hand car wash operation. There are approximately 89 car parking spaces within the site, shared between the various uses and buildings. As the pet store and car wash are closed during the times that the members' club is likely to be in operation, it is considered that the available parking will be more than sufficient to meet the needs of the relatively small number of its users who will be present at any one time.
- 10.10 There are two accesses to the site, one a steep, narrow single-width track which emerges onto Armley road between the pet shop and restaurant, next to a bus stop and the new cycle highway. However, whilst this is clearly substandard and difficult to negotiate, a gated main entrance is available from Ledgard Way. This is of full width with a dropped kerb and sufficient to allow two vehicles to pass and access the site at the same time. It is not considered that the demands placed on this access will be any greater than those arising from the existing use(s).

#### Other Issues

- 10.11 One point raised by objectors is the potential impact on property values; however this is not a material planning consideration. It is not considered the fact a Primary School lies within the adjacent neighbourhood has a bearing to the outcome of this application, there will be no direct line of sight and the premises will not be in use

during school hours. 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. Advertisements will be controlled through the Advert Regulations so that harmful or inappropriate advertising of the premises is not allowed.

- 10.12 Concern is also raised regarding the concentration of such uses in this area. Unlike licenced sexual industries there is no policy that restricts the location or concentration of such uses. It is not apparent within the area that there are a number of such uses, or that harm is currently being caused by such uses. As stated already the type of use is discrete and such uses already operate in a few locations without apparent outward signs. It is not therefore accepted that the proposed use will lead to a harmful concentration of the sex industry, or that it will encourage unlawful sexual behaviour, anti-social behaviour, or promote an unfavourable view of the local area.
- 10.13 An objection is raised to the positioning of a smoking shelter outside the building, such structures are commonplace outside pubs and restaurants, and this one is proposed to be located to the side where it will be largely screened from main views on the road. It is not likely that patrons would stand around in towels in this open sided structure. This would be no different to a leisure centre with sauna and steam rooms providing a smoking shelter.
- 10.14 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. To rule against this proposal on the grounds that the use or patrons are considered inappropriate would in itself be discriminatory. The consideration of this proposal must only be on sound planning grounds.

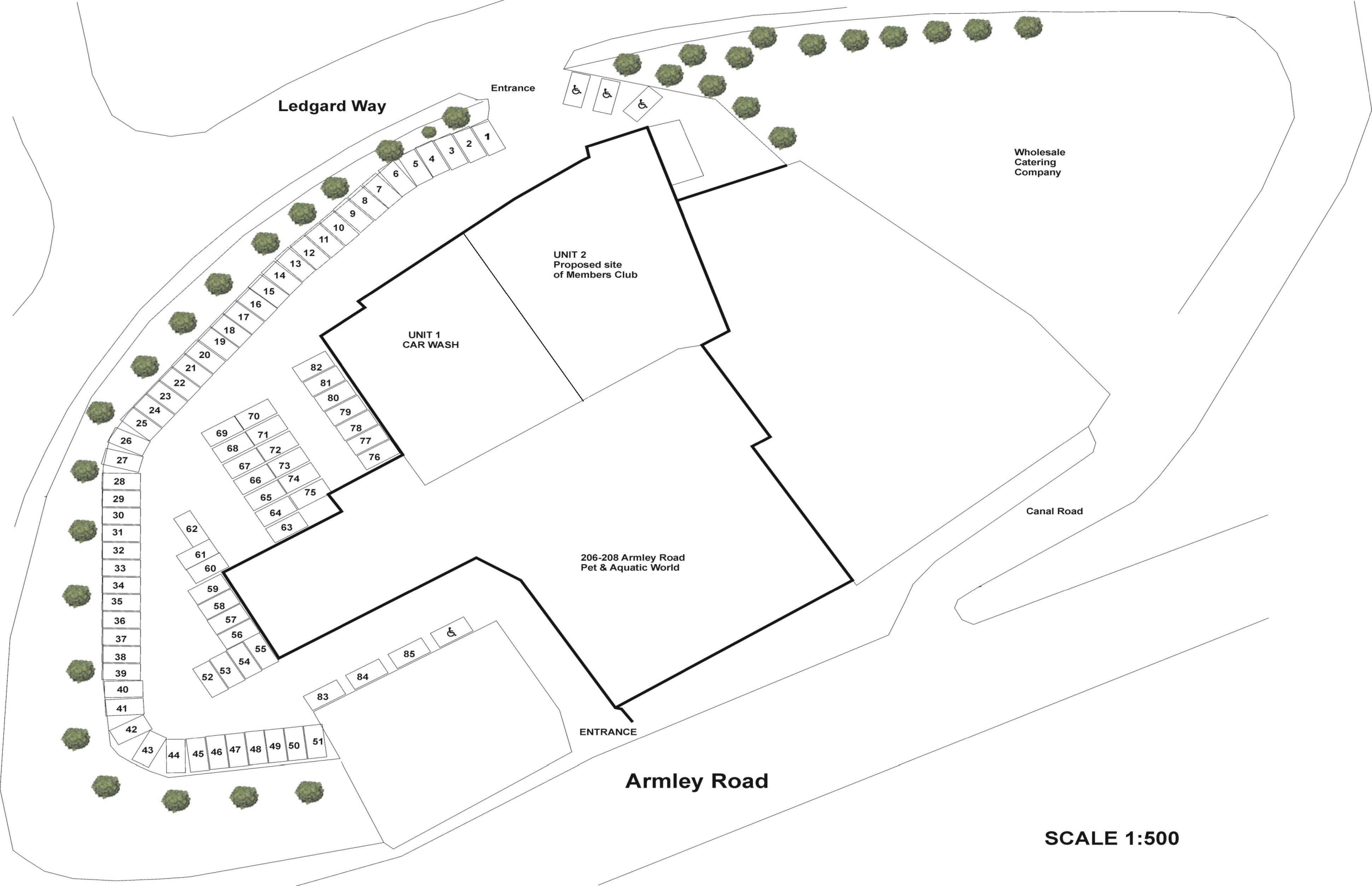
## **11.0 CONCLUSION**

- 11.1 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 and the nature of the use. 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 would ensure that a soon-to-be-vacated property remains occupied, 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, and is recommended for approval.

### **Background Papers:**

Application files 16/03208/FU

Certificate of ownership: Notice served on Shangri-La Properties Ltd



Ledgard Way

Entrance



Wholesale  
Catering  
Company

UNIT 2  
Proposed site  
of Members Club

UNIT 1  
CAR WASH

206-208 Armley Road  
Pet & Aquatic World

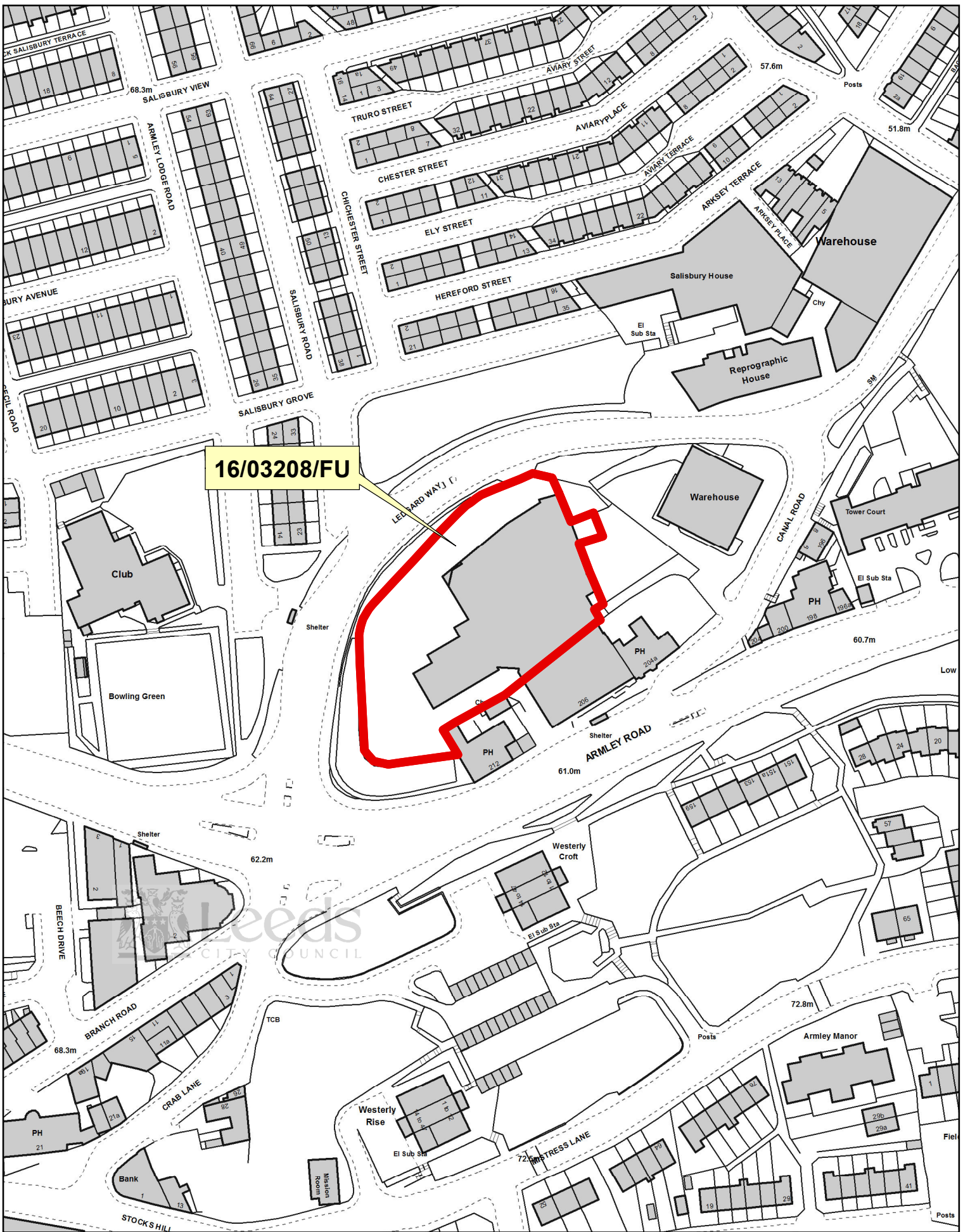
Canal Road

ENTRANCE

Armley Road

SCALE 1:500





# SOUTH AND WEST PLANS PANEL

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

SCALE : 1/1500

