



Leeds
CITY COUNCIL

Originator: Aaron Casey

Tel: 0113 378 7995

Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 11 January 2018

Subject: Retrospective Application 17/06814/FU for a variation of condition 3 (opening hours) of approval 16/03208/FU to allow opening hours Monday to Thursday 10:00 to 01:00, Friday and Saturdays 10:00 to 02:00 and Sunday 10:00 to 00:00 at Unit 2 Ledgard Way, Armley, Leeds, LS12 2ND

APPLICANT

Mr P Hemmingway

DATE VALID

17 October 2017

TARGET DATE

12 December 2017

Electoral Wards Affected:

Armley

Yes

Ward Members consulted.
Referred to in report

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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

1.0 INTRODUCTION:

- 1.1 This application is brought to South and West Plans Panel at the request of all three Ward Members.

- 1.2 The Members reasons for referral is based on material planning considerations (see paragraph 6.2 below) that affect more than neighbouring properties and having a wider community impact and therefore, in light of the terms of the scheme of delegation, it is appropriate to report the application to Panel for determination.
- 1.3 The local planning authority (LPA) has been investigating complaints about breaches of planning control at the site, first in relation to the advertisement on the unit, and secondly in relation to the hours of use extending beyond those permitted under condition 3 of 16/03208/FU. The applicant was advised to either cease the extended hours of use or to make a planning application to seek to regularise the position; which is what they have chosen to do. This is their legal right, and importantly it gives the LPA the opportunity to consider the planning merits of the extended opening hours and any environmental effect that this may have.
- 1.4 There has not been a material change of use of the premises as the function through the day would be a private adult members club.

2.0 PROPOSAL:

- 2.1 Planning permission was granted by Members in August 2016 for a change of use of a retail/warehouse unit to a private adult member's club (sui generis).
- 2.2 The opening hours approved were:
- 19:00 – 00:00 Monday to Thursday and Sunday (including Bank Holidays); and
 - 19:00 – 02:00 Fridays and Saturdays.
- 2.3 The application now before Members seeks permission to operate between the following hours:
- 10:00 - 01.00 Monday to Thursday
 - 10:00 - 02.00 Fridays and Saturdays.
 - 10:00 – 00:00 Sundays
- 2.4 Since the August 2016 planning permission was granted the sauna "Steam Complex' that operated within close proximity to the application has commenced operation from the application site. Its former venue having burnt down. This use is of the same general character and nature, and consequentially has the same or similar environmental effects, as the original and ongoing use of the property and therefore there has been no material change of use of the premises. However, the Steam Complex has been operating within times outside those approved under the 2016 change of use application and within the daytime hours now applied for through this s73 application to vary condition 3.

3.0 SITE AND SURROUNDINGS

- 3.1 The 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 palisade fencing. The site is of a commercial/industrial character and prior to the change of use to the private adult members club it was utilised as a shoe and clothing retail unit and internet warehouse.
- 3.2 The main building is a single storey 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 be available as they would for the other uses that occur on site.
- 3.4 The site has a hand car wash to the west of the club, a retail pet and aquatic store (with its main frontage onto Armley Road) to the south and a wholesale catering supply company to the east side. All these businesses will be open during the day at the same times that the club now wishes to operate. The closest residential properties are located on Salisbury Road, approximately 50m from the application premises entrance and are 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 sited in close proximity to Armley Town Centre and to the Stanningley Road corridor with the cycle highway and a good public transport routes.

4.0 RELEVANT PLANNING HISTORY

- 4.1 16/03208/FU - Change of use from retail/warehouse unit (sui generis) to Private Adult Members Club (sui generis) – Approved at South & West Panel August 2016 subject to conditions.
- 4.2 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

September 2015. This venue was granted planning permission for the below times:

- Monday to Thursday and Sundays (including Bank Holidays) – 11:00 – 00:00.
- Fridays and Saturdays – 11:00 – 02:00.

5.0 HISTORY OF NEGOTIATIONS

5.1 None.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by site notice dated the 3 November 2017. In response four letters of objection have been received from local residents, objections from all three Ward Councillors and Rachel Reeves MP.

6.2 The resident's issues are raised are summarised below:

- Parking conflicts with other on-site uses.
- The parking facilities could not cater for the 250 capacity of the club.
- Highway safety.
- The day time use would be more conspicuous to passing members of the public i.e. families/children/users of adjacent services and school.
- The nearest residential properties on Canal Road (recent planning for a conversion to two flats at 6-8 Canal Road) would be 20m from the Club.
- Impact on house prices.
- Detrimental to the character and reputation of Armely.
- The use is not discreet i.e. the signage.
- Unauthorised signage.
- The establishment objectifies women.
- The establishment already operates outside its permitted hours.
- The property now houses a steam complex which advertises future plans to offer all day and night events.
- Technical impropriety given that the steam complex operates from the premises.
- Questionable integrity of the operators of the steam complex given previous complaints and activity at their former site.
- The Applicant has previously disregarded Planning and Enforcement.

6.3 The Ward Members comments are summarised below:

- This premises is entirely unsuitable and inappropriate for a residential area.

- Tarnishes people's perceptions of Armley and fails to positively contribute to the area.
- The current location for the swingers club is much too close to existing businesses, residential homes and the local Primary School.
- This location is anything but discreet.
- The premises is 300 metres away from Armley Primary School and the proposed hours will coincide with school times when parents will be walking their children home from school.
- Noise and disturbance to nearby residents by reason of the 01:00 midweek and 02:00 weekend opening hours.
- Parking conflict during the day with other operators on the site.
- There is not enough parking on-site to facilitate the 250 premises capacity.
- Highway and pedestrian safety implications.
- Impact on house prices
- The possibilities for illegal or exploitative activities with no checks in place.
- Integrity of the Applicant given current planning breaches regarding opening hours

6.4 Rachel Reeves MP issues are raised are summarised below:

- This location for the swingers club is much too close to centres of population and to the town, I believe that this type of establishment should only ever be in a very discreet area well away from family housing and town centres.
- Pandora's is not discreet and currently advertises with signage on the side of the building.
- A quick google search by anyone, including children, brings up the clubs website which contains pornographic material.
- Currently, with its hours being 7pm – 00.00, at least activities are restricted to less busier times.
- Increase in noise, anti-social behaviour and crime by reason of the extended hours into the early morning.
- Parking issues due to conflicting parking demand and insufficient parking to cater for the 250 capacity of the site.
- Close to Armley Primary School and the proposed opening hours coincide with school times when parents will be walking their children home from school.
- The club are already advertising on their website that they are open till 2am, whilst not currently having planning permission for this. This raises serious questions about the integrity of the proprietors.
- Pandora's Swingers Club does not bring anything positive to the area.

7.0 CONSULTATION RESPONSES:

- 7.1 Highways: A change in hours would not open opportunities for other types of uses given the sui generis use of the application site (i.e. planning permission would be required for other uses). Therefore no objection has been raised as the impact will not be sufficient to justify a highway objection.
- 7.2 Environmental Protection: No objections have been raised and there are no records of any complaints against the private members club since it commenced operation from the application site.

8.0 PLANNING POLICIES

- 8.1 Section 38(6) 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.

Local Policy

- 8.2 The Development Plan for Leeds currently comprises:
- (i) The Leeds Core Strategy (Adopted November 2014). This is the main document of the Local Development Framework (LDF).
 - (ii) Saved UDP Policies (2006) – Appendix 1 of the Core Strategy.
 - (iii) The Natural Resources and Waste Local Plan (2013).
 - (iv) Any made neighbourhood plan.
- 8.3 The below Core Strategy and saved UDP (2006) policies, supplementary planning documents/guidance (SPDs/SPGs) and national guidance are considered to be relevant to this application.

Core Strategy:

- General Policy – Sets out the presumption in favour of sustainable development
- Policy SP1 - Seeks to concentrate the majority of new development within the main urban areas and ensure that development is appropriate to its context.
- Policy T2 – Accessibility requirements and new development

Saved UDP (2006):

- Policy GP5 - Development should not cause loss of amenity and resolve detailed considerations.
- Policy BD5 - Seeks to ensure new development protects amenity.

Supplementary guidance:

Parking, adopted January 2016 – Sets out parking guidelines for new development

National Policy

- 8.4 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 following section is considered to be of relevance:

Section 1 – Building a strong, competitive economy

- 8.5 Guidance on the use conditions in planning permissions is provided within the Planning Practice Guidance.

9.0 MAIN ISSUES

- Impact on Amenity.
- Highways.
- Other matters.

10.0 APPRAISAL

Impact on Amenity

- 10.1 The proposal is for extended opening hours beyond those approved in 2016 as set out in paragraphs 2.2 and 2.3 of this report. The additional hours sought may be summarised as follows:
- Monday to Thursday – Introduce daytime opening with a 10.00am start. Extend late night opening by an hour with closure at 1.00am.
 - Fridays and Saturdays - Introduce daytime opening with a 10.00am start. Closure remains at 2.00am.
 - Sundays - Introduce daytime opening with a 10.00am start. Closure remains at midnight.
- 10.2 The site is located within a mixed use area with a strong commercial presence, although there are residential properties and a school nearby. The site is also a short way from the junction of Ledgard Way and the Armley Road (A647). As such the area has a busy character and background noise levels reflect this busy and urban character. The ongoing use is contained within the envelope of the building. As a consequence the proposed daytime use should not adversely

affect the amenities of the neighbouring commercial, residential or school uses in respect of noise or anti-social or public disorder. The existing use as an adult private members club was not considered during the 2016 assessment of the change of use planning application to be unduly noisy, or particularly people intensive, when compared to other uses e.g. a nightclub, which can result in anti-social behaviour and noise outside their premises.

- 10.3 The extended hours will see more visitations to the premises during the day by the very reason that it is open but it is likely that numbers would not be excessive or that capacity levels would be reached at any one time, especially during the week when members of the private club may very well have other daytime commitments (i.e. employment). Weekends including the Sunday opening will clearly have the potential to attract greater numbers of users but it is not considered that the operations would be unduly more problematic than the approved opening hours given the contained activity within the building. The Councils Environmental Protection Team have confirmed that they have received no noise complaints since the adult private members club commenced operation from this site.
- 10.4 At present no alcohol is sold on the premises but the Pandora's website states that they do not have a licence at present; this is suggestive that one may be sought. However, patrons can bring their own alcohol into the premises. In light of the nature of the use both during the day and after 19:00, excessive alcohol consumption would be at odds with the environment and context of the premises. The club remains to have a policy of expected and acceptable behaviour. As stated in the 2016 Panel report such establishments are often self-policing with patrons themselves not tolerating such behaviour as presumably there would need to be an atmosphere of safety and trust. 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.
- 10.5 The nearest existing 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. The previous findings during the 2016 change of use application that the well-used highway in union 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. The extended hours do not lead Officers to any other conclusions. Two new flats have recently being approved at No's 6-8 Canal Road which are some 68m from the rear elevation of the application site premises. The site would be visible from the residential units once/if they are completed for residential purposes but the application site premises will appear as a commercial unit within a commercial context with a road, car-park and other commercial building between the two sites. The activity within the application premises would have

no undue harm to future occupants' living conditions and the noise associated to the surrounding commercial functions that operate during that day offers more chance of noise disturbance than a use that would be contained within the building i.e. larger vehicles associated to the wholesale food operation that has its main entrance on Canal Road.

- 10.6 There are enforcement cases against the unauthorised signage (reference 17/00856/US3). The planning permission (reference 16/03208/FU) had a condition added that restricted new adverts being placed on the building without first gaining consent. The large sign on the gable of the building has been in situ for a number of years and is not covered by this imposed condition on the 2016 permission. The owners have changed the wording of the advert but not replaced it; this does not represent a breach of planning control. Whilst the LPA have no control over the content of adverts the owners have recently removed the reference to swingers from this advert. Enforcement are investigating the placement of any new adverts. A condition regarding signage is suggested to be once again imposed and in light of the enforcement action it would be prudent of the applicant to comply with the requirements of this condition.

Highway Issues

- 10.7 Leeds Core Strategy Policy T2 seeks to ensure that all developments achieve safe and secure access and are located in accessible locations. The premises sits on an island site that includes a former public house (now a vacant restaurant), the Living World pet superstore and a hand car wash. There are 89 car parking spaces within the site, shared between the above uses. During the proposed additional early morning hours of operation there would be the whole sites parking available as all other operations would have ceased; as with the findings of the 2016 application under 16/03208/FU the available parking will be more than sufficient to meet the needs of the number of its users who will be present at any one time.
- 10.8 During the day there would clearly be some competition for parking spaces in the same way that the existing day-time uses do. The applicant advises that during the day that Steam Complex would be the only operation. As with the potential impact regarding noise and disturbance the impact on parking requirement within the site and the wider highway network would be dependent on the number of patrons through the day. There would be a greater number of visitations during the weekends but it is the view of Highways that the impact of the extended hours does not justifies any objection to parking levels or presents any undue detriment to highway safety. Therefore the proposal complies with Policy T2.

Other Matters

- 10.9 Objections have been received regarding the extended opening hours from four residents, all three Ward Councillors and Rachel Reeves MP. Matters of the change of use to an adult members club, perception of the Armley area and location of the use were considered under the 2016 change of use application and impact on property values is not material to the determination of this application. With respect to the proximity of the local Primary School it is noted the day time hours will in part coincide with school having hours and children will walk past the site. Officers remain of the views set out in the 2016 Panel Report to Members that the premises is located in a discreet location in and amongst existing commercial and industrial uses with the use thereby limiting any overtly conspicuous presence. The use will continue to be at its busiest during the evenings and outside of school hours. Advertisements will be controlled through the Advert Regulations so that harmful or inappropriate advertising of the premises is not allowed. The LPA are currently enforcing regarding breaches of a conditions regarding signage.
- 10.10 Matters raised by representation regarding the character and integrity of the operators/applicant by reason of planning breaches are not material to the assessment of this application and it is the planning merits that guide Officers recommendations to Members. A planning breach in itself is not illegal and this application is seeking to remedy the breaches of planning by applying for the change of hours.
- 10.11 With regards to the points raised by representation of the objectification of women and the possibilities for illegal or exploitative activities with no checks in place; the function is for consenting adults of varying gender and sexual orientation and it is not planning legislation that would combat illegal or exploitative activities as such this point is not material to the consideration of this application. However, a view was sought from West Yorkshire Police who advise that this type of establishments tend to run without issue and calls to the Police are rare. Officers are advised by West Yorkshire Police that they are not aware of any incidents outside Steam Complex when it was at its previous location.
- 10.12 In response to comments made that an internet search by anyone, including children, brings up the clubs website which contains pornographic material are noted but are not material to the determination of this application.
- 10.13 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. Sexual orientation of users is not relevant to the determination of this application and consideration of this proposal must only be on sound planning grounds.

11.0 CONCLUSION

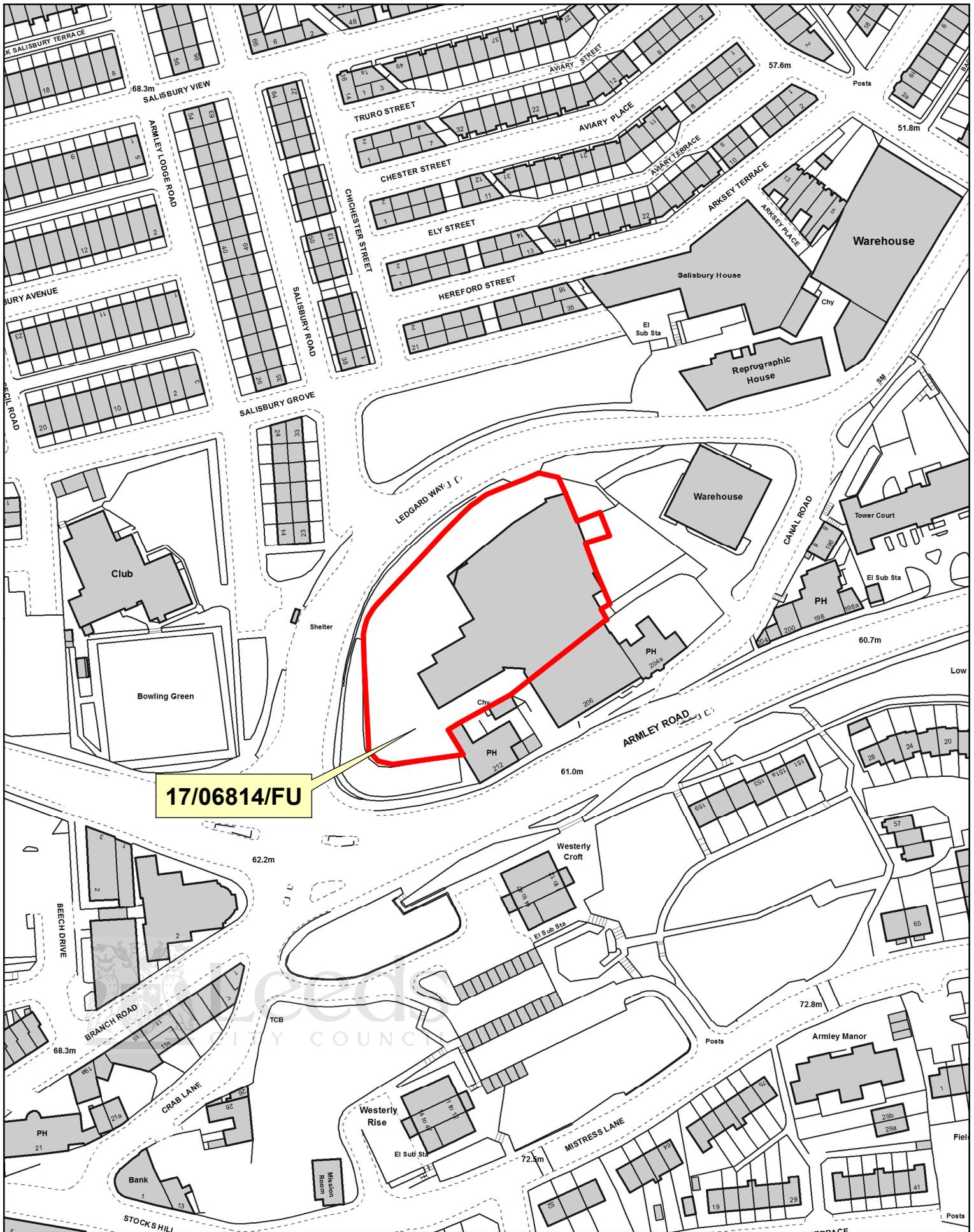
11.1 It is not considered the proposed hours of operation now proposed would have an unduly adverse impact on residential amenity, parking requirements, highway safety or the character and appearance of the immediate or wider area. The premises sits within a commercial setting and all activities would by their nature be restricted within the building other than the smoking shelter where patrons are unlikely to use undressed or in robes. In light of the above and all other material planning considerations it is Officers view that the proposal are compliant with the relevant policies and guidance set out in this report and subsequently it is recommended that the proposal to extend the hours be granted planning permission subject to the conditions set out at the head of this report.

Background Papers:

Application file

Previous Planning Approval 16/03208/FU

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



17/06814/FU

SOUTH AND WEST PLANS PANEL

© Crown copyright and database rights 2017 Ordnance Survey 100019567

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

SCALE : 1/1500

